

File No. 151122

Committee Item No. 1

Board Item No. 38

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date July 18, 2016

Board of Supervisors Meeting

Date 7/20/16

Cmte Board

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest |
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| <input type="checkbox"/> | <input type="checkbox"/> | Memorandum of Understanding (MOU) |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
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| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 - Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 700 |
| <input type="checkbox"/> | <input type="checkbox"/> | Vacancy Notice |
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OTHER (Use back side if additional space is needed)

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Planning Commission Resolution 19498</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>CEQA Determination 11/23/15</u> |
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Completed by: Victor Young Date July 15, 2016

Completed by: vYoung Date 7/18/16

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

1
2 **Ordinance amending the Administrative Code to clarify create a fourth preference for**
3 **people who live or work in San Francisco in addition to existing preferences in**
4 **allocating City affordable housing units, and to create an additional category of eligible**
5 **displaced tenants that includes tenants displaced by fire, first to Certificate of**
6 **Preference holders and second to tenants evicted under the Ellis Act, create a third**
7 **preference for residents in the neighborhood where the affordable housing is located,**
8 **create additional categories of eligible displaced tenants and provide for preference to**
9 **displaced tenants from the Neighborhood, create a fourth preference for people who**
10 **live or work in San Francisco, and make conforming amendments to provisions of the**
11 **Administrative and Planning Codes; to affirming the Planning Department's**
12 **determination under the California Environmental Quality Act; and to making findings**
13 **of consistency with the General Plan and the eight priority policies of Planning Code**
14 **Section 101.1.**

15 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
16 **Additions to Codes** are in *single-underline italics Times New Roman font*.
17 **Deletions to Codes** are in *strikethrough-italics Times New Roman font*.
18 **Board amendment additions** are in double-underlined Arial font.
19 **Board amendment deletions** are in ~~Arial font~~.
20 **Asterisks (* * * *)** indicate the omission of unchanged Code
21 subsections or parts of tables.

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

23 Section 1. Findings.

24 (a) The Planning Department has determined that the actions contemplated in this
25 ordinance comply with the California Environmental Quality Act (California Public Resources

1 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
2 Supervisors in File No. 151122 and is incorporated herein by reference. The Board affirms
3 this determination.

4 (b) On October 22, 2015, the Planning Commission, in Resolution No. 19498, adopted
5 findings that the actions contemplated in this ordinance are consistent, on balance, with the
6 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
7 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
8 Board of Supervisors in File No. 151122, and is incorporated herein by reference.

9 Section ~~32~~. The Administrative Code is hereby amended by revising ~~adding~~ Chapter
10 ~~47, consisting of Sections~~ 47.2 and 47.3, ~~47.1, 47.2, 47.3, 47.4, and 47.5~~ to read as follows:

11 **SEC. 47.2. DEFINITIONS.**

12 * * * *

13 "Displaced Tenant" shall mean any person who applies to MOHCD and who MOHCD
14 determines qualifies under either any of the categories below. If a person disputes MOHCD's
15 determination that he or she does not qualify as a "Displaced Tenant" under this Section 47.2,
16 such person shall have the right to a hearing conducted by a Rent Board Administrative Law
17 Judge (as defined in Administrative Code Section 37.2(f)), with MOHCD as the responding
18 party:

19 Category 1: A tenant residing in San Francisco who on or after January 1, 2010
20 receives a Notice of Intent to Withdraw Rental Units ("Notice of Intent to Withdraw") pursuant
21 to the Ellis Act, Government Code Section 7060 et seq., and corresponding provisions of the
22 Rent Ordinance. MOHCD shall establish a process for a tenant to verify his or her status as a
23 "Displaced Tenant" under Category 1 that, at a minimum, shall require a tenant to show: (a)
24 the landlord filed with the Rent Board a Notice of Intent to Withdraw; and (b) the tenant either:
25 (1) is listed on the Notice of Intent to Withdraw; (2) is listed on the lease for the unit in

1 question; or (3) has other evidence sufficient to establish, in MOHCD's reasonable discretion,
2 that he or she resided in the unit at the time the Notice of Intent to Withdraw was filed. If the
3 Rent Board grants a landlord's request to rescind the Notice of Intent to Withdraw before a
4 tenant moves out of his or her unit, such tenant shall no longer qualify as a "Displaced
5 Tenant."

6 Category 2: A tenant residing in San Francisco who on or after January 1, 2010
7 receives a notice that his or her landlord plans to recover possession of the unit under Section
8 37.9(a)(8) of the Rent Ordinance and who, ~~as of the date of receipt of the notice of withdrawal~~
9 ~~from the rental market, has resided in his or her unit continuously for at least ten years.~~

10 MOHCD shall establish a process for a tenant to verify his or her status as a "Displaced
11 Tenant" under Category 2 that, at a minimum, shall require a tenant to show: (a) the landlord
12 filed with the Rent Board the notice to vacate, as required under Rent Ordinance Section
13 37.9(c); and (b) the tenant either: (1) is listed on the notice to vacate; (2) is listed on the lease
14 for the unit in question; or (3) has other evidence sufficient to establish, in MOHCD's
15 reasonable discretion, that he or she resided in the unit at the time the notice to vacate was
16 filed; and (c) that the tenant has resided in the unit for 10 years as of the date of receipt of the
17 notice of withdrawal from the rental market.

18 Category 3: A tenant residing in San Francisco who is required to vacate his or her
19 unit by a public safety official due to fire, and who can provide sufficient evidence to MOHCD
20 that demonstrates that he or she cannot return to the unit within a period of six months from
21 the date of the order to vacate the unit. MOHCD shall establish a process for a tenant to
22 verify his or her status as a "Displaced Tenant" under Category 3 that, at a minimum, shall
23 require a tenant to show: (a) a public safety official provided an order to vacate the unit to
24 such tenant or to the owner of the unit; and (b) the tenant either: (1) is listed on the order to
25 vacate; (2) is listed on the lease for the unit in question; or (3) has other evidence sufficient to

1 establish, in MOHCD's reasonable discretion, that he or she resided in the unit at the time the
2 order was provided. This Category 3 "Displaced Tenant" preference shall expire by operation
3 of law on December 31, 2020, provided, however, that MOHCD may determine after
4 December 31, 2020 that a person who applied to MOHCD under Category 3 on or prior to
5 December 31, 2020 qualifies as a Displaced Tenant.

6 * * * *

7
8 **SEC. 47.3 APPLICATION OF PREFERENCE.**

9 Except to the extent prohibited by an applicable State or Federal funding source,
10 MOHCD shall give, or require project sponsors or their successors in interest funded through
11 MOHCD to give, preference in occupying units or receiving assistance under all City
12 Affordable Housing Programs. Each preference enumerated below shall be applied as of the
13 effective date of the legislation establishing each preference. The City established preference
14 for holders of Certificates of Preference in Ordinance 232-08, Displaced Tenants, Category 1
15 in Ordinance 277-13, and Displaced Tenants, Category 2 and Neighborhood Residents in
16 legislation adding this Chapter 47. The preference requirements are intended to have
17 prospective effect only, and shall not be interpreted to impair the obligations of any pre-
18 existing contract entered into by the City. Notwithstanding the prior sentence, the preference
19 requirements shall apply to contracts entered into by the City on or after the effective date of
20 the legislation establishing each preference, including contracts materially amended on or
21 after the effective date. Preference shall be given:

22 (a) First, to Residential Certificate of Preference Holders, who meet all of the
23 qualifications for the unit or assistance. Preference under this subsection (a) shall be given in
24 100% of the units in all initial sales, re-sales, initial leases, and subsequent leases.

1 (b) Second, to any Displaced Tenant who meets all of the qualifications for the unit or
2 assistance. For any Displaced Tenant displaced prior to the effective date of this Chapter 47,
3 preference under this subsection (b) shall expire six years from the effective date of this
4 Chapter 47. For any Displaced Tenant displaced after the effective date of this Chapter 47,
5 preference under this subsection (b) shall expire, for Category 1, six years from the date the
6 landlord filed with the Rent Board a Notice of Intent to Withdraw, for Category 2, six years
7 from the date ~~or the landlord filed with the Rent Board the notice to vacate pursuant to the~~
8 Rent Ordinance Section 37.9(c), or, for Category 3, three years from the date of the order to
9 vacate. Preference under this subsection (b) shall be applicable to:

10 (1) 20% of the units in any new residential development that is part of a City
11 Affordable Housing Program going through the initial occupancy or sale process; and

12 (2) units in all re-sales and subsequent leases until 20% of all units that are
13 part of a City Affordable Housing Program in a building are occupied by tenants who have
14 exercised this preference.

15 The Displaced Tenant's preference shall still apply even if such Displaced Tenant
16 declines a unit offered through application of the preference, but upon accepting and
17 occupying a unit obtained using the preference, such Displaced Tenant's preference
18 terminates.

19 (c) Third, to a Neighborhood Resident, who meets all of the qualifications for the unit
20 or assistance. Preference under this subsection (c) shall be given:

21 (1) for units located in the same Neighborhood as the person resides;

22 (2) only for any new residential development in that Neighborhood going
23 through the initial occupancy or sale process, and only to 40% of the units in such
24 development.
25

1 (d) Fourth, to any person who lives or works in San Francisco who meets all of the
2 qualifications for the unit or assistance. Preference under this subsection (d) shall be
3 applicable to:

4 (1) any unit in any new residential development that is part of a City Affordable
5 Housing Program going through the initial occupancy or sale process; and

6 (2) units in all re-sales and subsequent leases.

7
8 Section 63. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor's veto of the ordinance.

12 Section 74. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
13 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
14 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
15 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
16 additions, and Board amendment deletions in accordance with the "Note" that appears under
17 the official title of the ordinance.

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

20 By:

21 
22 JON GIVNER
23 Deputy City Attorney

24 n:\legana\as2016\1700001\01118819.doc

REVISED LEGISLATIVE DIGEST

(7/11/2016, Amended in Committee)

[Administrative Code - Preferences in Affordable Housing Programs]

Ordinance amending the Administrative Code to create a fourth preference for people who live or work in San Francisco in addition to existing preferences in allocating City affordable housing units, and to create an additional category of eligible displaced tenants that includes tenants displaced by fire, affirming the Planning Department's determination under the California Environmental Quality Act, and making findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.

Existing Law

Currently, three 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.

Third, current law provides a "Neighborhood Preference." "Neighborhood" is defined as any one of San Francisco's 11 supervisorial districts plus a buffer such that for each unit or project that is part of a City Affordable Housing Program "Neighborhood" means the Supervisorial District in which the unit or project is located, plus a ½ mile buffer around the location of the unit or project. "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 40% of the units in newly constructed affordable housing during initial sale or lease, and only after the COP and Displaced Tenant preferences.

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 makes no changes to the COP preference or the Neighborhood preference. The proposed ordinance adds to the Displaced Tenant preference a new category for tenants residing in San Francisco who have been required to vacate a unit by a public safety official due to fire, and who can demonstrate that they cannot return to the unit within a period of six months from the date of the order to vacate the unit. This new category will expire on December 31, 2020.

The proposed ordinance also creates a fourth preference for people who live or work in San Francisco. The preference applies to newly constructed affordable housing units during initial sale or lease and to units in all re-sales and subsequent leases.

In all cases, the preference does not apply if prohibited by an applicable State or Federal funding source. And, 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.

Background

On November 2, 2015 at the Land Use and Transportation Committee, the Committee duplicated the file, forwarding on version to the full Board and amending the second version to add the fourth preference for people who live or work in San Francisco. The Committee referred that second version to the Planning Commission. On December 1, 2015, the Board of Supervisors finally passed the original ordinance. The Mayor signed and the ordinance became effective on January 2, 2016. The ordinance that is currently pending is the second version. On July 11, 2016, the Land Use and Transportation Committee amended the second version to add a preference for tenants displaced by fire. Because the original ordinance has already become law, this second version includes only the amendments proposed by the Land Use Committee to create the fourth preference and the preference for tenants displaced by fire.

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SAN FRANCISCO PLANNING DEPARTMENT

October 21, 2015

Ms. Angela Calvillo, Clerk of the Board of Supervisors
Honorable Mayor Lee
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Re: Transmittal of Planning Department Case Number 2015-008208PCA
Clarifying/Creating Preferences for Affordable Housing Units
Board File No. 150622-
Planning Commission Recommendation: Approval with Modification

Dear Ms. Calvillo and Mayor Lee:

On September 24, 2015 and October 22, 2015 the Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed Ordinance that would amend Planning Code Sections 413.10, 415.5, 415.6, and 415.7, introduced by Mayor Lee and Supervisor Chirstensen, Cohen, Breed and Wiener. At the hearing the Planning Commission recommended approval with modifications.

The Commission's proposed modifications were as follows:

- Remove the proposed amendments that would expand the existing Displaced Tenant preference beyond the existing preference for tenants evicted under the provisions of the Ellis Act. A separate piece of legislation should address the Displaced Tenant preference and should be sent to the Planning Commission for review.
- Approve the Neighborhood Preference at the Supervisorial District plus a half mile buffer from a selected project. The half mile buffer would include any parcel touched by the half mile radius. The Commission also asked the Board to consider geographic boundaries smaller than the Supervisor District.
- Recognize that there continue to be no changes to the Certificate of Preference (COP) program, but that the new structure from the Proposed Legislation related to housing preference for Affordable Housing Units be retained. The new structure places the primary Preference requirements in the Administrative Code with references as appropriate in the Planning Code.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) (2) and 15378 because they do not result in a physical change in the environment.

Mayor Lee please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Transmittal Materials

CASE NO. 2015-008208PCA
Clarifying/Creating Preferences for Affordable Housing Units

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,



Aaron D. Starr
Manager of Legislative Affairs

cc:

Susan Cleveland Knowles, Deputy City Attorney
Kanishka Burns, Aide to Supervisor Christensen
Andrea Bruss, Aide to Supervisor Cohen
Conor Johnston, Aide to Supervisor Breed
Andres Power, Aide to Supervisor Wiener
Nicole Elliott, Office of Mayors Edwin M. Lee
Sophie Hayward, Mayor's Office of Housing and Community Development
Alisa Somera, Office of the Clerk of the Board

Attachments:

Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19498

HEARING DATE OCTOBER 22, 2015

Continued from the September 24, 2015 Hearing

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Project Name: Clarifying/Creating Preferences for Affordable Housing Units
Case Number: 2015-008208PCA [Board File No. 150622]
Initiated by: Mayor Ed Lee, Supervisors Christensen, Cohen, Breed, and Wiener
 Introduced June 30, 2015
Staff Contact: Menaka Mohan, Legislative Affairs
Menaka.Mohan@sfgov.org, 415-575-9141
Reviewed by: Aaron Starr, Manager Legislative Affairs
Aaron.Starr@sfgov.org, 415-558-6362
Recommendation: Recommend Approval with Modifications

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND THE ADMINISTRATIVE AND PLANNING CODES; SECTIONS 24.8, 47.1, 47.2, 47.3, 47.4, AND 47.5, 10.100-110, 10.100-370, OF THE ADMINISTRATIVE CODE AND PLANNING CODE SECTIONS 413.10, 415.5, 415.6, 415.7, 413.10, 415.5, 415.6, AND 415.7 TO DEFINE AND ESTABLISH A PREFERENCE IN ALL AFFORDABLE HOUSING PROGRAMS ADMINISTERED OR FUNDED BY THE CITY; ADOPT FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on June 30, 2015, Mayor Lee and Supervisors Christensen, Cohen, Breed, and Wiener introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 15-0622, which would amend Sections 24.8, 47.1, 47.2, 47.3, 47.4, and 47.5, 10.100-110, 10.100-370, of the administrative code and planning code sections 413.10, 415.5, 415.6, 415.7, 413.10, 415.5, 415.6, to add a new category of preference for neighborhoods;

WHEREAS, neighborhood is defined as Supervisor District plus a ½ mile buffer around a project;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on September 24, 2015; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve with recommendations** the proposed ordinance. Specifically, the Commission recommends the following modifications:

1. Remove the proposed amendments that would expand the existing Displaced Tenant preference beyond the existing preference for tenants evicted under the provisions of the Ellis Act. A separate piece of legislation should address the Displaced Tenant preference and should be sent to the Planning Commission for review.
2. Approve the Neighborhood Preference at the Supervisorial District plus a half mile buffer from a selected project. The half mile buffer would include any parcel touched by the half mile radius. The Commission also asked the Board to consider geographic boundaries smaller than the Supervisor District.
3. Recognize that there continue to be no changes to the Certificate of Preference (COP) program, but that the new structure from the Proposed Legislation related to housing preference for Affordable Housing Units be retained. The new structure places the primary Preference requirements in the Administrative Code with references as appropriate in the Planning Code.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. 2010 data show that overcrowding is an issue faced by San Franciscans Citywide, and that there are specific neighborhoods, including the Mission, Chinatown, and the Tenderloin, in which the percentage of overcrowded households is close to double that of the Citywide average. A preference for existing neighborhood residents that can be applied to a portion of new affordable housing developments in San Francisco will provide an opportunity to current low- and very-low income residents that are living in overcrowded housing configurations to move into appropriately sized units without leaving the community.

General Plan Compliance. The proposed Ordinance and the Commission's recommended modifications are, *on balance*, consistent with the Objectives and Policies of the General Plan (Staff discussion is added in *italic font* below):

HOUSING ELEMENT

OBJECTIVE 5

Ensure that all residents have equal access to available units.

POLICY 5.2

Increase access to housing, particularly for households who might not be aware of their housing choices.

Residents who might face overcrowding in certain neighborhoods will be provided a new preference for the City's Affordable Housing Units allowing them increased access to housing choices with the ability to remain in the neighborhood.

8. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed amendments will not have a negative effect on neighborhood serving retail uses and will not affect opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The amendments will not affect existing housing and neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed amendments will not affect the supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed amendments will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed amendments would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed ordinance would not negatively affect preparedness in the case of an earthquake.

7. That the landmarks and historic buildings be preserved;

Landmarks and historic buildings would not be negatively affected by the proposed amendments.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed amendments.

Planning Code Section 302 Findings. The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance with the modification as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on October 22, 2015.

Jonas P. Ionin
Commission Secretary

AYES: Fong, Wu, Antonini, Johnson, Hillis, Richards

NOES:

ABSENT: Moore

ADOPTED: October 22, 2015



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change

HEARING DATE: SEPTEMBER 24, 2015

Project Name: Clarifying/Creating Preferences for Affordable Housing Units
Case Number: 2015-008208PCA [Board File No. 150622]
Initiated by: Mayor Ed Lee, Supervisors Christensen, Cohen, Breed, and Wiener/ Introduced June 30, 2015
Staff Contact: Menaka Mohan, Legislative Affairs
menaka.mohan@sfgov.org, 415-575-9141
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Recommend Approval with Modifications**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Administrative Code to clarify existing preference in allocating City affordable housing units 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; Sections 24.8, 47.1, 47.2, 47.3, 47.4, and 47.5, 10.100-110, 10.100-370, of the Administrative Code and Planning Code Sections 413.10 (Citywide Affordable Housing Fund), 415.5 (Affordable Housing Fee), 415.6 (On-Site Affordable Housing Alternative), and 415.7 (Off-Site Affordable Housing Alternative).

The Way It Is Now:

1. Preference for occupying affordable units or receiving assistance as part of San Francisco's Affordable Housing programs is defined in both the Administrative Code and the Planning Code.
2. In both the Administrative Code and the Planning Code, preference is given to Residential Certificate of Preference (COP) holders¹ who meet all of the qualifications for the unit, or for the assistance. Second preference is given to Displaced Tenants (as defined in the Administrative Code) in occupying units or in receiving assistance from any of the funds, fees, or alternatives associated with affordable housing. In the case of HOPE SF funded projects, first preference is given to occupants of existing housing, and second preference to COP holders. Displaced Tenant is defined as residents who were displaced due to an Ellis Act eviction.

¹A Certificate of Preference is a document originally issued by the San Francisco Redevelopment Agency to residents displaced by the Agency in the 1960s as a result of federally funded urban renewal programs. With the 2012 dissolution of the Redevelopment Agency, the Mayor's Office of Housing has taken over the administration and management of the COP program. Information is available online at:
http://www.sfredevelopment.org/ftp/uploadedfiles/Programs/COP_FAOs-Revised_March_2009.pdf (November 4, 2013)

The Way It Would Be:

1. Preference for San Francisco's Affordable housing program would be removed from the Planning Code and replaced with a reference to the Administrative Code. A new chapter will be created in the Administrative Code where preferences for the City's affordable housing program would be defined.
2. The Administrative Code would be amended to add additional categories of Displaced Tenants to include all no-fault evictions, tenants who are displaced due to fire and natural disasters, as well as to tenants who are living in units where the affordability restriction is ending. Additionally, a third preference will be created for residents in the neighborhood where the affordable housing is added, where neighborhood is defined as Supervisorial District.

ISSUES AND CONSIDERATIONS

The draft Ordinance makes two significant amendments to the existing two-tiered preferences that apply to affordable housing lotteries: it expands the existing Ellis Act Displacement Preference to include tenants displaced through any form of no-fault eviction, and it creates a third preference category for existing residents in neighborhoods in which affordable housing is constructed.

The units covered under this ordinance are defined under "City Affordable Housing Programs" which are all programs related to the provision of affordable housing administered or funded by MOHCD, including but not limited to the Inclusionary Housing program, multi-family, 100% affordable rental units, and Tax Exempt Bond Developments. These units are subject to income requirements, which apply to all preference categories.

Expanding the Displaced Tenant Definition

The draft Ordinance expands the definition of Displaced Tenant to include all no-fault evictions, tenants who are displaced due to fire and natural disasters, as well as to tenants who are living in units where the affordability restriction is ending. Expanding the Displaced Tenant category to include all no fault evictions would cover tenants who have been displaced due to owner move-ins, demolition, and condominium conversion as described in the Rent Ordinance Section 37.9C. "Just Cause" evictions such as tenant defaults, including breach of rental agreement, non-payment or habitual late payment of rent, and committing a nuisance are not covered under this ordinance.

The draft Ordinance expands the definition of Displaced Tenant to recognize the sharp 45% increase from 2010-2014 in the number of eviction notices filed with the Rent Board for all causes. The Annual Statistical Report 2013-2014 from the Rent Board states, "Total eviction notices filed with the Board increased by 7% from 1,934 to 2,064 while the number of tenant reports of alleged wrongful eviction decreased by 5% from 497 to 471. The number of units withdrawn from the rental market under the Ellis Act increased from 121 to 192 units."²

² San Francisco Residential Rent Stabilization and Arbitration Board Annual Statistical Report 2013-2014. Available online at <http://www.sfrb.org/modules/showdocument.aspx?documentid=2756> (September 17, 2014).

This Table highlights statistics from the Rent Board Fiscal Year 2013-2014³:

Eviction Type	Units Impacted
Ellis Act	304
Development Agreements	0
Owner Move-Ins	307
Nuisance	359
Breach of Lease	646
Other Eviction Types	448
Total Eviction Notices	2064

From 2010-2014, evictions for all causes have increased by 45% Citywide, with specific neighborhoods including the Mission (108%), the Sunset (121%), the Outer Richmond (137%), the Tenderloin and the Castro (145%) with significantly higher rates of evictions. During the same period residential rates increased 54% Citywide. Current market rate rents in San Francisco are unaffordable to more than 60% of all rental households in the City, and unaffordable to 100% of all low and moderate income households those earning less than 120% AMI-for a family of four (\$122,300). The affordability gap also extends to families who earn 150% of the AMI as the majority of households need to earn well above 175% AMI (\$160,475 for a household of 3) to afford the average purchase price of a home in San Francisco

Existing Affordable Housing Preferences: COP and Ellis Preferences

MOHCD’s procedures require that tenants who were displaced in the 1960s by the San Francisco Redevelopment Agency (“Agency”) when it implemented its federally funded urban renewal program receive first preference to apply for affordable housing units. This existing preference, called the Certificate of Preference (COP) Program, is tied to displacement by the Redevelopment Agency in the Western Addition and in Hunters Point, and applies to the head of households displaced by the Agency, eligible family members residing in the household at the time of displacement, and to households displaced by the Agency after 2008.⁴

The Ellis Act Housing Preference is a second preference category that was added through Ordinance 277-13, (BF130968), passed by the Board of Supervisors and signed by the Mayor on December 18, 2013. The Ellis Act Housing Preference was enacted in 2014 due to the increased percentage of Ellis Act evictions that occurred in 2013 (145.5% increase from February 2013 to September 2013).

From 2012 (when MOHCD took over the COP Program from the former Redevelopment Agency) to the present, 242 COPs have been issued and 50 COP holders have been housed: three in Below Market Rate Inclusionary (“BMR”) BMR ownership units, 13 in BMR rental units, and 34 in multifamily affordable developments. Since the Ellis Act Housing Preference program’s start in

³ Ibid.

⁴ <http://www.sf-moh.org/index.aspx?page=268> (November 13, 2013).

2014, 141 Ellis Act Housing Preference Certificates have been issued and 36 Ellis Act Housing certificate holders have received housing: 7 in BMR ownership units, 13 in BMR rental units, and 16 in multifamily affordable rental units.

Neighborhood Preference

This ordinance creates a third preference category- Neighborhood Preference -to provide residents who live in the neighborhood-*defined as Supervisorial District*-an opportunity to stay in the neighborhood where they reside. Data from 2010 indicates that overcrowding is an issue faced by all San Franciscans, however in certain neighborhoods including the Mission, Chinatown, and the Tenderloin the percentage of overcrowding is almost double that of the Citywide average. Given the impact of overcrowding in these neighborhoods creating a neighborhood preference can provide relief from overcrowding while providing the benefit of allowing residents to stay in their communities.

The new preference would apply to 25% of available units, after any COP holders have exercised their preference, and after any Displaced Tenants have exercised their preference.

Given that neighborhoods can sometimes be over- or under-represented by certain populations MOHCD analyzed whether the preference would result in any disparate impacts to protected groups. Analysis of a hypothetical lottery and occupant selection process demonstrates that a neighborhood preference would not likely result in a discriminatory outcome if the preference is limited to 25% of available housing units in a given lottery. In order to assess whether the proposed neighborhood preference could be discriminatory, two commonly used tests were applied to the original proposal... The application of the two tests demonstrates that a disparate impact is unlikely if the preference is limited to 25% of available housing.

Two key components to the Neighborhood Preference are discussed in greater detail below: an assessment of the proposal's potential to exclude certain ethnicities and races from access to housing, and determining the geography and boundaries of the neighborhood.

Disparate Impact Analysis

Two court informed statistical tests⁵, the Four-Fifths test and a standard deviation analysis known as the Z-score, were used by MOHCD to predict whether the 25% neighborhood preference would result in a Disparate Impact on certain populations. Both tests are used to determine adverse or disparate impact on a particular racial or ethnic group by comparing outcomes to the expected or most selected racial group.

The Four-Fifths test

The four-fifths test is used by the Equal Opportunity Employment Commission to determine if there is adverse impact, or substantially different rate of selection in hiring, which results in a disadvantage for a particular race, sex, or ethnic group. The EEOC has developed the four-fifths

⁵ The application of two tests that have been used by the courts in similar contexts to evaluate adverse impact and bias were applied to the proposed neighborhood preference to measure possible discriminatory effects. The tests are known as the "Four-fifths Test," which is a practical evaluation, and the "Z-score," which is a standard deviation statistical analysis.

test, or 80 percent of the selection rate, as best practice for ensuring that specific populations are not adversely impacted.

Standard Deviation Analysis or Z-Score:

The Standard Deviation test is a statistical test that converts the probability of a difference in different selection rates into a standard metric of deviations. The test assesses the probability of discriminatory outcome by statistically evaluating the difference between observed and expected values. For the standard deviation test, results that have greater than two or three deviations could indicate a probable adverse impact.

Determining the Geography for Neighborhood Preference

In analyzing the proposed neighborhood preference, MOHCD examined the existing patterns of diversity and segregation within San Francisco; specifically, the evaluation compares the demographics of the city as a whole to the demographics at the smaller neighborhood level. Notable points associated with MOHCD's evaluation include:

- San Francisco is very diverse, but is also moderately to highly segregated; segregation is the most important factor in predicting whether a neighborhood preference may result in a discriminatory outcome;
- A 25% neighborhood preference allows MOHCD to implement a neighborhood preference while limiting the risk of an adverse impact or discriminatory outcome.
- It is important to have sufficiently high numbers of neighborhood residents participate in lotteries in order to ensure the accuracy of the predictive analyses. Without sufficiently high neighborhood level participation, ethnic and racial groups within certain neighborhoods could be adversely impacted.

Results of MOHCD's analysis demonstrated that a 25% neighborhood preference where neighborhood is defined as Supervisorial District limits the risk of an adverse impact or discriminatory outcome.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The recommendations below are reflected in substitute legislation that will be introduced at the Board of Supervisors on Tuesday, September 22, 2015 a copy of which is included in this report as Exhibit D. The Department recommends the following specific modifications to the proposed Ordinance (Exhibit C):

1. Change Neighborhood preference to Supervisorial District plus a half mile buffer from a selected project. The half mile buffer would include any parcel touched by the half mile radius.

2. Overlay a priority for half of the Displaced Tenants' units for tenants displaced from the Neighborhood (as defined above). In practice, in a 100 unit building, 20% (20 units) would be available for Displaced Tenants, of which 10 units would be available for Displaced Tenants from the Neighborhood. Neighborhood would use the new neighborhood definition above.
3. Extend the "expiration date" of the displaced tenants from six years from the date of displacement to provide all persons who are displaced a minimum of six years to qualify from the effective date of the ordinance – and once the ordinance is effective, the six year expiration date will be triggered from the date of displacement.

BASIS FOR RECOMMENDATION

The Department is supportive of efforts to assist tenants who have faced residential evictions, which have increased across all categories in the last year. The proposed ordinance expands the definition of a Displaced Tenant to six different categories to include those not just impacted by Ellis Act recognizing that from 2010-2014, eviction notices filed with the Rent Board for all causes have increased 45% Citywide. A neighborhood preference also supports communities that face overcrowding and while providing the benefit of allowing residents to stay in their communities. The Department also supports the removal of these provisions from the Planning Code because this program is administered entirely by MOHCD, and not by the planning Department.

Basis for Recommendation #1: Expanding the Neighborhood to include the Supervisor District plus a half mile buffer around a project site

The Department supports using Supervisorial Districts because smaller geographic boundaries such as MOHCD Neighborhoods, Planning Districts, and Planning Neighborhoods can result in neighborhoods that have less than 100 households. Additionally, some of the small neighborhood geographies studied have no race or ethnic group households for the AMI levels analyzed.

The general expected geography of a walkable neighborhood is defined as a quarter mile to a half mile from home. Expanding the geography to a half mile buffer area will also include residents who live near the project site, but happen to be living in the adjacent Supervisorial District. Additionally, expanding the geography generally strengthens results of the disparate impact analysis, in that expanding the geography generally does not result in an adverse impact.

Basis for Recommendation #2: Overlay a priority for half of the Displaced Tenants' units for tenants displaced from the Neighborhood (as defined above)

Creating a new category for displaced neighborhood residents offers the most preference for displaced tenants who live in the neighborhood where new affordable units are built. In practice, the overlay of a neighborhood preference within the Displaced Tenant category could result in the following: in a 100 unit building, 20% (20 units) are available for Displaced Tenants, of which 10 units would be available for Displaced Tenants from the Neighborhood. Including neighborhood preference for Displaced Tenant recognizes the importance of housing displaced tenants in the neighborhoods from which they were displaced. Additionally, if a resident was displaced but has found housing in the Neighborhood, the resident could still qualify under the Neighborhood preference category.

Basis for Recommendation #3: Extend the "expiration date" of the Displaced Tenants from six years from the date of displacement to provide Displacees a minimum of six years to qualify from the effective date of the Ordinance.

The current legislation provides six years from the January 1, 2010 for all categories under Displaced Tenant. If this legislation passes, it will most likely become effective at the end of 2015 or in the beginning of 2016, it would not provide a substantial window of time for Displaced Tenants to qualify under the proposed categories. If a resident was displaced on January 1, 2010, he or she would only have until January 1, 2016 to qualify under all of the categories as currently defined in the legislation. The proposed change would allow all displaced tenants six years from the date of the displacement to qualify under the category of Displaced Tenant- once the Ordinance is effective, the six year expiration date will be triggered from the date of displacement.

ENVIRONMENTAL REVIEW

The proposal is not defined as a project under CEQA Sections 15378 and 15060 (c) (2) because it does not result in a physical change in the environment, as determined on July 13, 2015.

PUBLIC COMMENT

As of the date of this report, the Planning Department has received one letter from Supervisor Cohen (attached). Supervisor Cohen recommends increasing the percentage of units allocated to the Neighborhood Preference (See Exhibit B). The Planning Department has received no additional public comment in support or opposition on this item. The Mayor's Office of Housing and Community Development has worked with several Supervisors and community organizations to develop the proposed legislation. The amendments included in the substitute legislation were developed in response to concerns presented to MOHCD; specifically, reserving half of all Displaced Tenants units for neighborhood residents (see Exhibit C), and expanding the geography to include a half mile buffer surrounding the project sites to include residents who live close to the affordable units, but outside of the Supervisorial district (see Exhibit C).

RECOMMENDATION: Recommendation of Approval with Modifications

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Public Comment
- Exhibit C: Proposed Changes in Substitute Legislation
- Exhibit D: Proposed Substitute Legislation
- Exhibit E: Board of Supervisor File No. 150622



SAN FRANCISCO PLANNING DEPARTMENT

Memo to the Planning Commission

HEARING DATE: OCTOBER 22, 2015
Continued from the September 24, 2015 Hearing

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

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Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Name: Clarifying/Creating Preferences for Affordable Housing Units
Case Number: 2015-008208PCA [Board File No. 150622]
Initiated by: Mayor Ed Lee, Supervisors Christensen, Cohen, Breed, and Wiener/
Introduced June 30, 2015
Staff Contact: Menaka Mohan, Legislative Affairs
menaka.mohan@sfgov.org, 415-575-9141
Reviewed by: Aaron Starr, Acting Manager of Legislative Affairs
Aaron.Starr@sfgov.org 415-558-6362
Recommendation: Approval with Modifications

BACKGROUND

The Planning Commission [Commission] held an adoption hearing for the ordinance Clarifying and Creating Preferences for Affordable Housing Units on September 24, 2015. In general, the proposed legislation contained two sets of proposals for preference for Citywide Affordable Housing: (1) a new Neighborhood Preference for applicants from the geographic area near a proposed project or unit; and (2) an expanded definition of Displaced Tenants to receive priority. At the adoption hearing, the Commission voted to continue the adoption of the proposed Ordinance for four weeks so that the Staff could analyze additional options for neighborhood boundaries for the Neighborhood Preference as well as continue outreach and discussion related to the proposed expansion of the Displaced Tenant preference; staff from the Mayor's Office of Housing and Community Development (MOHD) has met with stakeholders, including members from the Anti-Displacement Coalition to discuss the Displaced Tenant preference.

CURRENT PROPOSAL

The current, revised proposal, made by the Planning Department [Department] and MOHCD, on behalf of the Mayor as a legislative sponsor would split the ordinance into two separate pieces of legislation-one piece would focus on the Displaced Tenant category while the other would focus on the Neighborhood Preference. The proposal includes the following:

1. That the Commission recommend that the Displaced Tenant component of the legislation be stricken from the current version of the legislation to allow further discussion and outreach. MOHCD and stakeholders will continue to assess appropriate amendments to the existing Displaced Tenant preference, and will introduce those as a separate Ordinance, which will be referred to the Planning Commission for its review and;
2. That the Board of Supervisors approve the geographic preference component and;
3. That there continue to be no changes to the Certificate of Preference (COP) program, but that the new structure from the Proposed Legislation related to housing preference for Affordable Housing Units be retained. The new structure places the primary Preference requirements in the Administrative Code with references as appropriate in the Planning Code.

REQUIRED COMMISSION ACTION

The proposed Resolution is before the Commission so that it may recommend approval or disapproval to the Board of Supervisors.

PROPOSED RECOMMENDATION

The Department recommends that the Commission recommend approval with modifications of the proposed Ordinance to the Board of Supervisors. The proposed recommendations are as follows:

1. Remove the proposed amendments that would expand the existing Displaced Preference beyond the existing preference for tenants evicted under the provisions of the Ellis Act.
2. Approve the Neighborhood Preference at the Supervisorial District plus a half mile buffer from a selected project. The half mile buffer would include any parcel touched by the half mile radius.
3. Recognize that there continue to be no changes to the Certificate of Preference (COP) program, but that the new structure from the Proposed Legislation related to housing preference for Affordable Housing Units be retained. The new structure places the primary Preference requirements in the Administrative Code with references as appropriate in the Planning Code.

BASIS FOR RECOMMENDATION

At the September 24th planning commission hearing, discussion of the proposed geographic preference focused on two key components: 1) the size and boundaries of the area in which a resident would be eligible for the preference, and 2) the percentage of new units eligible for the preference. Based on the analysis summarized below, the department and the mayor's office of housing and community development continue to recommend that the geographic preference be applicable at the supervisorial district level plus a ½ mile buffer around a project, and that up to 25% of a project's units be allocated to the new preference.

The following analysis of various defined geographies and percentages was conducted by the Mayor's Office of Housing and Community Development. Please note that the proposed ordinance only applies to the Neighborhood Preference Category while the Displaced Tenant category will be addressed with a separate ordinance.

Based on the criterion detailed below, Supervisorial Districts remain the best geography for implementing a neighborhood preference in a way that creates neighborhood opportunity without excluding other San Franciscans from the development that is occurring in the eastern part of the City. Limiting the units subject to the preference to 25% of new units, the neighborhood preference at the Supervisorial District level is also less likely to result in an adverse impact on neighborhood minority groups. Below is a brief description of the Neighborhoods:

Supervisorial Districts: Supervisorial Districts are drawn by Department of Elections Task Force soon after each decennial census to ensure equal distribution of district population. Please see Sec. 13.110 (d) to 13.110 (f) of the City Charter for details on the process of changing the boundaries. The latest boundaries were established in 2012.

Planning Neighborhoods: The Planning Neighborhoods consist of 37 neighborhoods and came from the 1990s real estate definition of neighborhoods. The Planning Neighborhoods are used for the neighborhood notification system. Since the 1990s the neighborhoods have been divvied up to match the common real estate boundaries and other neighborhood boundaries have also changed. These do not match census tract boundaries and, these boundaries are not codified in the Planning Code.

Planning Districts: There are 15 Planning Districts, not including Treasure Island, in the City. These Districts do include Golden Gate Park and the Presidio though no data is reported for those Districts in the Housing Element because there are no housing units produced in these Districts. These Districts were established in the late 1960s and the names of the districts are rather general and are not neighborhoods and function more like areas of the City. In general, these boundaries follow census tracts with a few exceptions. These boundaries are not codified in the Planning Code.

City Analysis Neighborhoods: The Department of Public Health and the Mayor's Office of Housing and Community Development with support from the Planning Department created these 41 neighborhoods using common real estate and residents' definitions and census tract boundaries for the purpose of providing consistency in the analysis and reporting of socio-economic data, demographic data, and data on City-funded programs and services. They are not codified in Planning Code.

Table 1: Evaluation Criteria for Neighborhood Preference Geography

Geography	Number of Geographic Subdivisions	Evenness of Household Population	Variation of Race/Ethnicity	Size of Smallest Neighborhood	Households Excluded from Preference
Supervisory Districts	11	.3775	.6307	10,495	0
Planning Neighborhoods	37	.8963	1.2790	157	65,842
Planning Districts*	17	.6744	.9278	6,791	67,376
City Analysis Neighborhoods**	41	.8580	1.2373	20	22,976

Evenness of Household Population: Measures the variation in the number of households between geographic subdivisions: the lower the number, the more even the subdivisions.

Variation of Race/Ethnicity: Measures the variation in the number of households by race/ethnicity between geographic subdivisions: the lower the number, the more even the subdivisions.

Size of the Smallest Neighborhood: Identifies the number of households in the smallest geographic subdivision. The smaller the number of households the less likely neighborhood participation rate will meet 20%.

Households Excluded from Preference: Enumerates the estimated number of households that would not be eligible for a neighborhood preference for 100% affordable and inclusionary housing that is projected to be completed by 2020.

*There are 16 Planning Districts. An additional subdivision was added to include Treasure Island.

** Golden Gate Park is an identified neighborhood, but was excluded because there is no household population.

Table 2: Evaluation Matrix of Neighborhood Preference Percentage

Geography	25% Preference		50% Preference	
	Four-Fifths Analysis	Standard Deviation Analysis	Four-Fifths Analysis	Standard Deviation Analysis

Supervisory Districts	0% (0)	2% (1)	52% (23)	13% (7)
Planning Neighborhoods	0% (0)	3% (5)	58% (83)	23% (41)
Planning Districts	0% (0)	4% (3)	56% (38)	21% (18)
City Analysis Neighborhoods	0% (0)	3% (5)	53% (84)	22% (43)

Four-Fifth Analysis: Assesses whether a selection rate for a minority race/ethnic group is less than four-fifths (80%) of the rate for the largest race/ethnic group. A selection rate that is less than four-fifths will generally be regarded as evidence of adverse impact. The tests evaluate, for each geographic sub division, potential access to housing for five race/ethnic categories against the largest race/ethnic group. The matrix enumerates the percentage and the number of tested rates that fall below 80%.

Standard Deviation Analysis: Measures the mathematical probability that a nonbiased selection system would produce any fluctuation observed between the actual results and the predicted result for each geographic sub division for five race/ethnic categories. Results greater than two to three standard deviations indicate a possible discriminatory outcome. Matrix enumerates the percentage and the number of geographic subdivisions greater than 3 standard deviations.

The Mayor’s Office of Housing and Community Development evaluated a neighborhood preference against four criteria (evenness of household population, variation of race/ethnicity, size of smallest neighborhood, and the number of households that would be excluded from the preference) and two preference percentages (25% and 50%) using four geographic boundaries: Supervisory Districts, Planning Neighborhoods, Planning Districts, and City Analysis Neighborhoods. Of the four evaluated geographies, Supervisory Districts performed better for all four evaluated criteria and for each preference percentage tested. Supervisory Districts have a more even number of households between geographic subdivisions, the least variation in race/ethnicity, and population sizes that best support active neighborhood participation. Furthermore, a preference applied to Supervisory districts will not exclude households from benefitting from a neighborhood preference, as would be the case in all of the other geographic areas tested. With a 25% preference percentage, Supervisory Districts result in no race/ethnic group being selected at rate of less than four-fifths (80%) of the rate for the largest race/ethnic group and is the preference definition least likely to result in a biased selection system. Additionally, unlike the other geographies analyzed, Supervisory Districts are codified in the City Charter through a community process that considers equal population; voting rights act compliance; contiguity; preservation of recognized neighborhoods; preservation of communities of interest; and compactness.

RECOMMENDATION: Approve with Recommendations

Attachments:

- Exhibit A: Draft Resolution
- Exhibit B: BOS File No. 150622

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
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TDD/TTY No. 554-5227

November 4, 2015

File No. 151122-2

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On November 2, 2015, the Land Use and Transportation Committee duplicated File No. 150622 (same subject) and accepted further amendments:

File No. 151122-2

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 a fourth preference for people who live or work in San Francisco; to 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.

This duplicated legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Somera".

By: Alisa Somera, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

Joy
Navarrete

Digitally signed by Joy Navarrete
DN: cn=Joy Navarrete, o=Planning,
ou=Environmental Planning,
email=joy.navarrete@sfgov.org, c=US
Date: 2015.11.23 12:28:39 -08'00'

BOARD of SUPERVISORS



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September 29, 2015

File No. 150622

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On September 22, 2015, Mayor Lee introduced the following substitute legislation:

File No. 150622

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 provide for preference to displaced tenants from the Neighborhood; to 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.

This substitute legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

Not defined as a project under CEQA Sections 15277 and 15060(c)(2) because it does not result in physical change in the environment.

11/2/2015

File Nos. 150422 *ok* 151122
11/2/15 Presented in Committee

Neighborhood Preference Program

CITY AND COUNTY OF
SAN FRANCISCO

October 22, 2015

MAYOR EDWIN M. LEE

Lotteries: Inclusionary Housing Program

Initial Lease Up

- Outreach and Marketing by Developer;
- Lottery Conducted by MOHCD, at MOHCD:
 - COP holders are pulled and ranked first;
 - EAHP certificate holders pulled and ranked second;
 - Applicants who live/work in SF pulled and ranked third.

Re-Sale and Re-Rental

- Outreach and Marketing by Developer;
- **Lottery Process Repeated – No Waitlist.**

Lotteries Multi-Family Rental

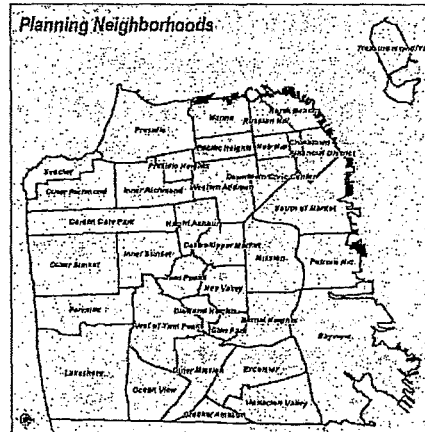
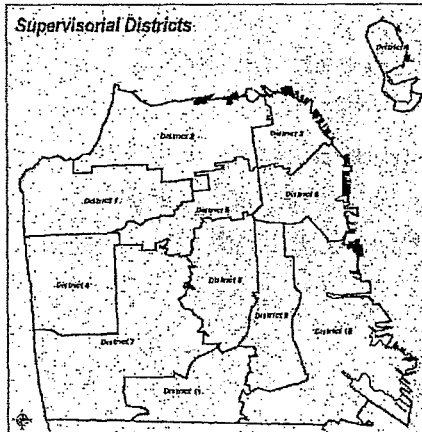
Initial Lease Up

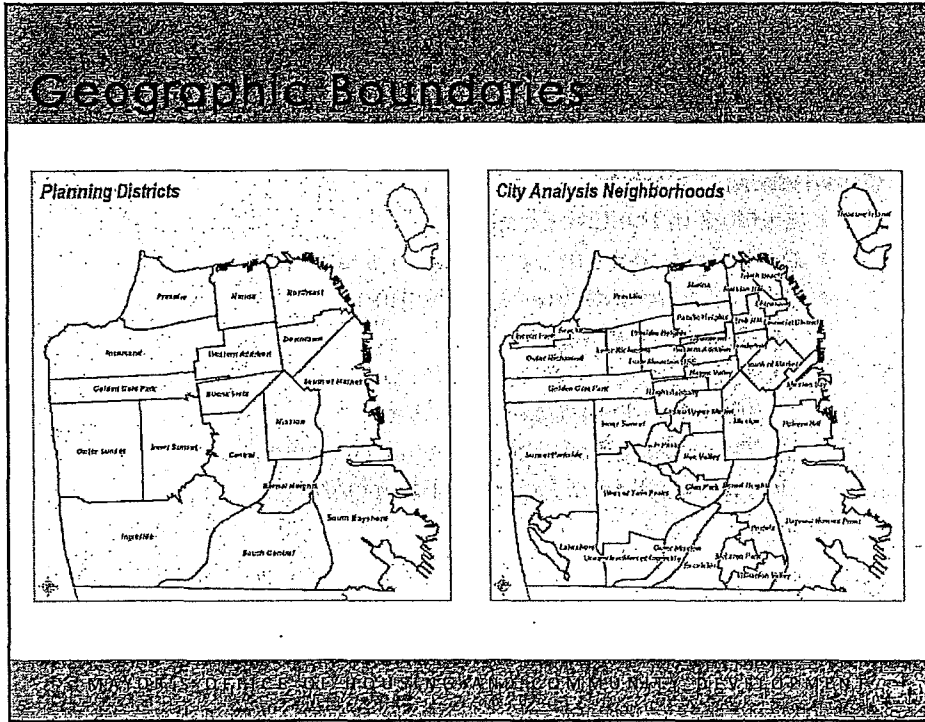
- Outreach and Marketing by Developer;
- Lottery Conducted by Developer, Off-site (not at MOHCD):
 - COP holders are pulled and ranked first;
 - EAHP certificate holders pulled and ranked second;
 - Applicants who live/work in SF pulled and ranked third.
 - **Waitlist created based on lottery results.**

Re-Rental

- COP holders move to the top of the waitlist;
- EAHP holders move to the top behind COP holders;

Geographic Boundaries





Geographic Boundaries

Table 1: Evaluation Criteria for Neighborhood Preference Geography

Geography	Number of Geographic Subdivisions	Percentage of Homehold Population	Percentage of Workday Activity	Percentage of Single-Family Households	Number of Households
Supervisory Districts	11	.3775	.6307	10,495	0
Planning Neighborhoods	37	.8963	1.2790	157	65,842
Planning Districts	17	.6744	.9278	6,791	22,976
Analysis Neighborhoods	41	.8580	1.2373	20	67,376

Geographic Boundaries

Supervisory Districts

- Codified in the City Charter
- Developed through a community process
- Created with a defined set of criteria
 - Equal population
 - Voting Rights Act compliance (racial and language minorities)
 - Preservation of recognized neighborhoods
 - Preservation of communities of interest

Disparate Impact Analysis

- Created a model neighborhood preference program using household income data by race/ethnicity to assess disparate impact
- Applied two court-informed tests:
 - Four-fifths test
 - Standard deviation analysis
- Applied tests to all four geographies
- Applied tests to multiple preference percentages

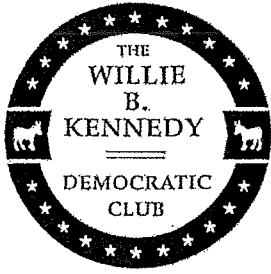
Disparate Impact Analysis

Table 2: Evaluation Matrix of Neighborhood Preference Percentage

Geography	25% Preference		40% Preference	
	From District Analyst	Standard Deviation Analyst	From District Analyst	Standard Deviation Analyst
Supervisory Districts	0% (0)	2% (1)	36% (16)	7% (4)
Planning Neighborhoods	0% (0)	3% (5)	42% (60)	14% (25)
Planning Districts	0% (0)	4% (3)	40% (27)	13% (11)
Analysis Neighborhoods	0% (0)	3% (5)	34% (55)	15% (2)

Conclusion

- Based on the geographic and disparate impact analysis, a 25% neighborhood preference using Supervisory Districts combined with a ½ mile project buffer bests creates enhanced neighborhood opportunity without excluding households because of geography or race/ethnicity.



The Willie B. Kennedy Democratic Club

PO Box 883221, San Francisco CA, 94188

Toye Moses,
President

Veronica Hunnicutt,
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San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
Room 244
San Francisco CA, 94102

November 17, 2015

Honorable President London Breed:

We write to you in support of the Neighborhood Preference for affordable housing legislation as it is currently drafted.

San Francisco is unique and desired for its neighborhoods. But those neighborhoods are quickly losing their historic character, populations and soul and we must step in and lend our voice and commitment to ensure residents stay in the neighborhoods they helped to build, grew up in and raised their families in.

A neighborhood preference of 40% for affordable housing will play a significant role in directly addressing the displacement of low and middle income families from San Francisco. While this legislation alone is not a panacea to the plight of inequitable access to affordable housing in San Francisco it a bold first step that should have been put in place years ago.

Longtime residents who apply for affordable housing units through our lottery system, get lost amongst the thousands of people that apply both from within and outside of our City limits, forcing them to compete for a small number of affordable units, this legislation will give people that are from a community a better chance at staying not only in San Francisco but in the community they are from.

The long term positive effects of a neighborhood preference for all San Franciscans will not be seen for a generation, but we must start now in order to have a chance in the future at maintaining the culture of San Francisco that we all pride ourselves on.

11/17/2015

We again respectfully request that you pass the neighborhood preference legislation in its current form: 40% neighborhood preference defined by supervisory district.

Sincerely,

The Willie B. Kennedy Democratic Club

Cc: Honorable Supervisor John Avalos
Honorable Supervisor David Campos
Honorable Supervisor Julie Christensen
Honorable Supervisor Malia Cohen
Honorable Supervisor Mark Farrell
Honorable Supervisor Jane Kim
Honorable Supervisor Eric Mar
Honorable Supervisor Katy Tang
Honorable Supervisor Scott Wiener
Honorable Supervisor Norman Yee
Ms. Angela Calvillo, Clerk of the Board of Supervisors



SPUR

San Francisco | San Jose | Oakland

October 31, 2015

Land Use & Transportation Committee
San Francisco Board of Supervisors
1650 Mission Street, Suite 400
San Francisco, CA 94103

RE: Clarifying/Creating Preferences for Affordable Housing Units
Case Number 2015-008208PCA (Board File No. 150622)yy

Dear Supervisors Cohen, Kim and Wiener:

On behalf of SPUR, thank you for the opportunity to comment on the proposed ordinance that would clarify and create preferences for the allocation of affordable housing units.

In the midst of this housing crisis, many long-time San Francisco residents are facing displacement pressures, and the city is searching for tools to help keep residents in their homes and communities. This expansion of the existing preference for affordable housing is a thoughtful effort to support tenants who have faced non-Ellis Act evictions and give existing San Francisco residents more opportunities to remain in their communities, particularly those that are experiencing growth.

SPUR supports this legislation and encourages you to recommend adoption by the full Board of Supervisors.

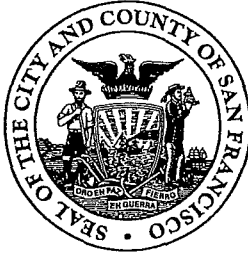
Please feel free to contact me if you have any questions.

Best,

Kristy Wang
Community Planning Policy Director

Cc: SPUR Board of Directors
Mayor Ed Lee
Supervisor London Breed
Supervisor Julie Christensen

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

November 4, 2015

Planning Commission
Attn: Jonas Ionin
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Commissioners:

On November 2, 2015, the Land Use and Transportation Committee duplicated File No. 150622 (same subject) and accepted further amendments:

File No. 151122-2

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 a fourth preference for people who live or work in San Francisco; to 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.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Somera".

By: Alisa Somera, Assistant Clerk
Land Use and Transportation Committee

c: John Rahaim, Director of Planning
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
Aaron Starr, Acting Manager of Legislative Affairs
AnMarie Rodgers, Senior Policy Manager
Jeanie Poling, Environmental Planning
Joy Navarrete, Environmental Planning

Somera, Alisa (BOS)

From: Starr, Aaron (CPC)
Sent: Wednesday, November 18, 2015 3:06 PM
To: Somera, Alisa (BOS)
Cc: Power, Andres; Mohan, Menaka (CPC)
Subject: RE: Referral: BOS File No. 151122-2

Alisa,

The changes proposed in the duplicated file only impact the Admin Code and do not impact how the Planning Department or the Planning Commission conducts its business; therefore I don't believe that this requires a hearing at the Planning Commission. Can you un-flag it as needing Planning Commission review?

Thanks,

Aaron Starr, MA
Manager of Legislative Affairs

Planning Department, City and County of San Francisco
1650 Mission Street, Suite 400, San Francisco, CA 94103
Direct: 415-558-6362 **Fax:** 415-558-6409
Email: aaron.starr@sfgov.org
Web: www.sfplanning.org



From: Somera, Alisa (BOS)
Sent: Wednesday, November 04, 2015 2:00 PM
To: Ionin, Jonas (CPC); Jones, Sarah (CPC); Navarrete, Joy (CPC); Poling, Jeanie (CPC); Rahaim, John (CPC); Rodgers, AnMarie (CPC); Sanchez, Scott (CPC); Starr, Aaron (CPC)
Subject: Referral: BOS File No. 151122-2

Attached is a referral for the following legislation that was duplicated in Land Use on November 2, 2015, from File No. 150622:

File No. 151122-2

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 a fourth preference for people who live or work in San Francisco; to 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.

This matter is being transmitted for public hearing and recommendation.

Alisa Somera

Assistant Clerk
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
415.554.4447 direct | 415.554.5163 fax
alisa.somera@sfgov.org

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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Fax No. 554-5163
TDD/TTY No. 554-5227

November 4, 2015

File No. 151122-2

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On November 2, 2015, the Land Use and Transportation Committee duplicated File No. 150622 (same subject) and accepted further amendments:

File No. 151122-2

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 a fourth preference for people who live or work in San Francisco; to 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.

This duplicated legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Somera".

By: Alisa Somera, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning


BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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MEMORANDUM

TO: Delene Wolf, Executive Director, Rent Board
Olson Lee, Director, Mayor's Office of Housing and Community Development
Bevan Dufty, Director, Housing Opportunity, Partnerships and Engagement
Theo Miller, Director, HOPE SF

FROM:  Alisa Somera, Assistant Clerk
Land Use and Transportation Committee, Board of Supervisors

DATE: November 4, 2015

SUBJECT: DUPLICATED LEGISLATION

On November 2, 2015, the Land Use and Transportation Committee duplicated File No. 150622 (same subject) and accepted further amendments:

File No. 151122-2

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 a fourth preference for people who live or work in San Francisco; to 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.

If you have any additional 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.

c: Eugene Flannery, Mayor's Office of Housing and Community Development
Sophie Hayward, Mayor's Office of Housing and Community Development
Dee Schexnayder, Housing Opportunity, Partnerships and Engagement
Christine Keener, Housing Opportunity, Partnerships and Engagement
Barbara Amaro, HOPE SF

BOARD of SUPERVISORS



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September 29, 2015

Planning Commission
Attn: Jonas Ionin
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Commissioners:

On September 29, 2015, Mayor Lee introduced the following substitute legislation:

File No. 150622

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 provide for preference to displaced tenants from the Neighborhood; to 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.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk
Land Use and Transportation Committee

c: John Rahaim, Director of Planning
Aaron Starr, Acting Manager of Legislative Affairs
AnMarie Rodgers, Senior Policy Manager
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
Jeni Poling, Environmental Planning
Joy Navarrete, Environmental Planning

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BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
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TDD/TTY No. 554-5227

September 29, 2015

File No. 150622

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On September 22, 2015, Mayor Lee introduced the following substitute legislation:

File No. 150622

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 provide for preference to displaced tenants from the Neighborhood; to 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.

This substitute legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

BOARD of SUPERVISORS



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MEMORANDUM

TO: Delene Wolf, Executive Director, Rent Board
Olson Lee, Director, Mayor's Office of Housing and Community Development
Bevan Dufty, Director, Housing Opportunity, Partnerships and Engagement
Theo Miller, Director, HOPE SF

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Transportation Committee,
Board of Supervisors

DATE: September 29, 2015

SUBJECT: SUBSTITUTE LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following substitute legislation, introduced by Mayor Lee on September 22, 2015:

File No. 150622

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 provide for preference to displaced tenants from the Neighborhood; to 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.

If you have any additional 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.

c:

Eugene Flannery, Mayor's Office of Housing and Community Development
Sophie Hayward, Mayor's Office of Housing and Community Development
Dee Schexnayder, Housing Opportunity, Partnerships and Engagement
Christine Keener, Housing Opportunity, Partnerships and Engagement
Barbara Amaro, HOPE SF

OFFICE OF THE MAYOR
SAN FRANCISCO



EDWIN M. LEE
MAYOR

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: *for* Mayor Edwin M. Lee *NE*
RE: Substitute Ordinance – File No. 150622 - Administrative, Planning Codes -
Preferences in Affordable Housing Programs
DATE: September 22, 2015

Attached for introduction to the Board of Supervisors is a substitute 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 provide for preference to displaced tenants from the Neighborhood, 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.

Please note that this item is co-sponsored by Supervisors Christensen, Cohen, Breed and Wiener.

I respectfully request that this item be calendared in Land Use Committee on October 26th, 2015.

Should you have any questions, please contact Nicole Elliott (415) 554-7940.

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