

LEGISLATIVE DIGEST

(11/25/2013, Amended in Committee)

[Administrative, Planning Codes – Ellis Act Displaced Emergency Assistance Ordinance]

Ordinance amending the Administrative and Planning Codes to provide a preference in occupying units or receiving assistance under all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency affordable housing programs administered or funded by the City, to certain tenants being evicted under the Ellis Act, California Government Code Section 7060 et seq.; and, making environmental findings and findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.

Existing Law

State and City law govern the right of owners of residential rental units to evict tenants in order to go out of the rental business. Chief among these laws is the Ellis Act (Government Code Section 7060 et seq.) and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance (“Rent Ordinance”).

City law currently establishes a preference in all affordable housing programs administered or funded by the City only for Residential Certificate of Preference Holders under the former San Francisco Redevelopment Agency's Property Owner and Occupant Preference Program. Neither State nor City law establishes a preference in these affordable housing programs for tenants displaced due to Ellis Act evictions.

Amendments to Current Law

This Ordinance proposes to establish a new preference for certain tenants who are subject to an Ellis Act eviction. The preference would apply in all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency housing programs administered or funded by the City, and is intended to apply after the preference for Certificate of Preference holders. To qualify for the new preference, a tenant must be someone residing in San Francisco who on or after January 1, 2012 has received a notice that his or her landlord plans to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, and, who, as of the date of receipt of the notice of withdrawal from the rental market, has resided in his or her unit continuously for: (i) at least ten years; or (ii) at least five years, if the tenant can verify that he or she is suffering from a life threatening illness as certified by his or her primary care physician (a “Displaced Tenant”). The proposed ordinance places the following limitations on the preference:

(i) a Displaced Tenant may apply the preference to existing, currently-occupied developments only for three years from the date the landlord filed with the Residential Rent Stabilization and Arbitration Board (“Rent Board”) a notice of intent to withdraw the tenant’s unit pursuant to the Ellis Act;

(ii) a Displaced Tenant may apply the preference to new developments going through the initial occupancy process only for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant’s unit pursuant to the Ellis Act; and

(iii) for any new residential development going through the initial occupancy process, the preference shall apply only to twenty percent (20%) of the units in such development.

The preference continues to apply even if a Displaced Tenant declines a unit offered through application of the preference, but once a Displaced Tenant accepts and occupies a unit obtained using the preference, such Displaced Tenant’s preference terminates.

In addition, the proposed ordinance requires the Mayor’s Office of Housing and Community Development to develop procedures and regulations to implement the new preference, which will be subject to review and approval by the Board of Supervisors, and requires a Board of Supervisors hearing to assess the impact of the preference one year after the effective date of the proposed ordinance.

Background Information

There is an urgent need to assist San Francisco residents who are presently being displaced by Ellis Act evictions and facing, even by San Francisco standards, an unusually extreme housing shortage and crisis. While a longer term solution to the negative impacts of the Ellis Act is important, today’s victims need help now. The intention of the new Displaced Tenant preference is to provide greater, and faster, access to the City’s existing affordable housing programs for those tenants affected directly by an Ellis Act eviction.

This Legislative Digest accompanies the substitute ordinance introduced to the Board of Supervisors on November 5, 2013, which provides the following material changes to the proposed ordinance originally introduced on October 9, 2013:

(i) clarifying that if at any time prior to moving out of his or her unit, a tenant’s landlord rescinds the notice of withdrawal from the rental market, such tenant shall no longer qualify as a “Displaced Tenant”;

(ii) establishing a tenant’s right to a hearing conducted by a Rent Board Administrative Law Judge, with MOHCD as the responding party, in the event that a person disputes a MOHCD determination that he or she does not qualify as a “Displaced Tenant”; and

(iii) amending the Rent Ordinance to establish the Rent Board's authority to hear such disputes.