

1 [Administrative Code - Residential Rent Ordinance, Tenant Financial Hardship Applications
2 for Relief from Landlord Passthrough of Capital Improvement Costs]

3 **Ordinance amending the Administrative Code to provide standards for Residential**
4 **Tenant Financial Hardship Applications seeking relief from landlord passthrough of**
5 **capital improvement costs to a tenant, and procedures for reviewing and deciding the**
6 **applications; and to require landlord notice to tenants regarding financial hardship**
7 **application procedures when a landlord applies for certification of capital improvement**
8 **costs.**

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10 NOTE: Additions are *single-underline italics Times New Roman font*;
11 deletions are *strike-through italics Times New Roman font*.
12 Board amendment additions are double-underlined Arial font;
13 Board amendment deletions are ~~strikethrough Arial font~~.

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

15 Section 1. The Administrative Code is hereby amended by amending Section 37.7(h),
16 and adding Section 37.7(i) and (j) to read as follows:

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18 **Section 37.7. CERTIFICATION OF RENT INCREASES FOR CAPITAL**
19 **IMPROVEMENTS, REHABILITATION WORK, ENERGY CONSERVATION**
20 **IMPROVEMENTS, AND RENEWABLE ENERGY IMPROVEMENTS.**

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22 **Section 37.7(h). *Tenant Financial* Hardship Applications.**

23 (1) A tenant may file a hardship application at any time on grounds of financial
24 hardship with respect to any rent increase based on certified costs of capital improvements,
25 rehabilitation work, energy conservation improvements, or renewable energy improvements.

1 Payment of such rent increases(s) set forth in the hardship application shall be stayed for a
2 period of 60 days from the date of filing, and the stay shall be extended if the Board accepts
3 the application for hearing.

4 (2) Hardship applications shall be available in multiple languages.

5 (3) Multilingual notice of hardship application procedures shall be mailed with each
6 Administrative Law Judge or Board decision.

7 (4) Within six months after ~~the effective date of this ordinance~~ February 21, 2003 the Rent
8 Board shall implement a process for direct outreach to landlords and tenants whose primary
9 language is not English, regarding availability and use of the hardship application procedure.
10 Within three months of implementation the Board shall provide a report to the Board of
11 Supervisors regarding this outreach program, describing the implementation process and any
12 known results.

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14 **Section 37.7(i). Tenant Financial Hardship Application Standards and Process.**

15 (1) Standards for Establishing Financial Hardship. A tenant will qualify under Subsection
16 37.7(h) for relief from payment of a certified capital improvement passthrough, if the tenant
17 demonstrates that one of the following financial hardship situations applies:

18 (A) Tenant is a recipient of means-tested public assistance, such as Social Security
19 Supplemental Security Income (SSI), General Assistance (GA), Temporary Assistance for Needy
20 Families (TANF), or California Work Opportunity and Responsibility to Kids (CalWORKS); or,

21 (B) Gross household income is less than 80% of the current Unadjusted Area Median
22 Income (AMI) as published by the U.S. Department of Housing and Urban Development (HUD) for the
23 “Metro Fair Market Rent Area” that includes San Francisco; and rent charged is greater than 33% of
24 gross household income; and assets, excluding non-liquid assets and retirement accounts, do not
25 exceed asset amounts permitted by the Mayor’s Office of Housing when determining eligibility for

1 below market rate (BMR) home ownership; or,

2 (C) Exceptional circumstances exist, such as excessive medical bills.

3 (2) Procedures for Filing. A Tenant Financial Hardship Application must be filed:

4 (A) By each occupant in the unit who is 18 years of age or older, except not by any
5 subtenant who pays rent to the master tenant (the gross income of the master tenant must include the
6 amount of the subtenant's rent payment);

7 (B) Under penalty of perjury, stating that the tenant qualifies under one of the
8 standards in Subsection 37.7(i)(1)(A), (B), or (C);

9 (C) With documentation demonstrating the tenant's qualifications; and,

10 (D) With an acknowledgment that the Rent Board will provide a copy of the Tenant
11 Financial Hardship Application to the landlord.

12 (3) Stay of Payment. Payment of a certified capital improvement passthrough that is the
13 subject of a Subsection 37.7(i)(1) tenant financial hardship Application shall be stayed from the date of
14 filing until a decision is made on the tenant's financial hardship Application.

15 (4) Hearing Options, Decision.

16 (A) A decision on the Application will be issued administratively by a Rent Board
17 Administrative Law Judge unless a hearing is requested by the landlord within fifteen days of the date
18 the completed Tenant Financial Hardship Application is mailed to the landlord by the Rent Board, or
19 unless a Rent Board Administrative Law Judge otherwise determine that a hearing is needed.

20 (B) Landlord Request for Hearing, Procedures.

21 (i) A landlord's request for a hearing on the Application shall specify the
22 claim(s) in the Application that the landlord disputes, and attach any relevant documentation.

23 (ii) A Rent Board Administrative Law Judge will review any landlord request for
24 hearing, to determine whether a hearing is necessary to resolve disputed facts.

25 (iii) If the landlord's request for a hearing is granted, it will be the landlord's

1 burden to demonstrate that the tenant's financial hardship eligibility under Subsection 37.7(i)(1)
2 criteria, as stated in the Application, has not been established.

3 (iv) If it is determined that a hearing as requested by the landlord is not needed
4 to determine the facts, a decision on the Application will be issued administratively by a Rent Board
5 Administrative Law Judge.

6 (5) Term of Relief. Relief from payment of a certified capital improvement passthrough may be
7 for an indefinite period, or for a limited period of time, all subject to the landlord's request to reopen
8 the case if the landlord has information that the tenant is no longer eligible.

9 (6) Change in Tenant Eligibility Status. If a tenant is granted relief from payment of a
10 certified capital improvement passthrough under Subsection 37.7(i)(1), and subsequently the tenant is
11 no longer eligible for such relief:

12 (A) The tenant shall notify the Rent Board of this changed eligibility status in writing
13 within 60 days, with a copy to the landlord.

14 (B) Whether or not the tenant notifies the Rent Board and landlord as provided in
15 Subsection 37.7(i)(6)(A), the landlord may notify the Rent Board if the landlord has information that
16 the tenant is no longer eligible, with a copy to the tenant.

17 (C) Upon receipt of notice under Subsection 37.7(i)(6)(A) or (B), a Rent Board
18 Administrative Law Judge shall decide whether to grant or deny the previously granted relief. That
19 decision may be made administratively by a Rent Board Administrative Law Judge without a hearing
20 unless the Administrative Law Judge determines that a hearing is needed, or unless the landlord
21 requests a hearing. Any such hearing shall be promptly scheduled.

22 (7) Any decision granting or denying the Tenant Financial Hardship Application, or any
23 subsequent decision on a previously granted Tenant Financial Hardship Application, may be appealed
24 to the Rent Board. The Rent Board's final decision will be subject to judicial review by writ of
25 administrative mandamus in the San Francisco Superior Court.

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Section 37.7(j). Notice to Tenants Regarding Tenant Financial Hardship Applications.

The Rent Board shall provide written notice of the tenant financial hardship application procedures to each affected unit, with a copy of the landlord’s petition for certification of capital improvement costs.

Section 2. This section is uncodified.

Subsection 37.7(i) of this Ordinance as adopted (“Tenant Financial Hardship Application Standards and Process”) shall apply to Tenant Financial Hardship Applications filed under Administrative Code subsection 37.7(h) that are pending at the time this Ordinance becomes effective; except that, tenants shall be permitted to amend their applications to comply with Subsection 37.7(i)(2) “Procedures for Filing.” Subsection 37.7(i) shall fully apply to all applications filed after the date this Ordinance becomes effective.

Subsection 37.7(j) of this Ordinance as adopted (“Landlord Notice to Tenants Regarding Tenant Financial Hardship Applications”) shall apply only to applications that are filed after the effective date of this ordinance.

Section 3. This section is uncodified.

Effective Date. This ordinance shall become effective 30 days from the date of passage.

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1 Section 4. This section is uncodified.

2 In enacting this Ordinance, the Board intends to amend only those words, phrases,
3 paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any
4 other constituent part of the Administrative Code that are explicitly shown in this Ordinance as
5 additions, deletions, Board amendment additions, and Board amendment deletions in
6 accordance with the "Note" that appears under the official title of the Ordinance.

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10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By: _____
13 Marie Corlett Blits
14 Deputy City Attorney

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