

File No. 140679

Committee Item No. 5

Board Item No. 15

# COMMITTEE/BOARD OF SUPERVISORS

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Committee: Land Use and Economic Development Date July 7, 2014

Board of Supervisors Meeting

Date July 22, 2014

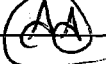
### Cmte Board

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OTHER (Use back side if additional space is needed)

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Completed by: Andrea Ausberry Date July 2, 2014

Completed by:  Date 7.9.14

1 [Administrative Code - Temporary Severance of Rental Housing Services During Mandatory  
2 Seismic Retrofit]

3 Ordinance amending Administrative Code, Chapter 37 "Residential Rent Stabilization  
4 and Arbitration Ordinance," and adding Chapter 65A "Compensation, or Substitute  
5 Housing Service, for Tenants Affected by Temporary Severance of Specified Housing  
6 Services During Mandatory Seismic Work Required by Building Code, Chapter 34B," to  
7 address temporary severance of specified housing services during mandatory seismic  
8 retrofit required by City Building Code, Chapter 34B "Mandatory Earthquake Retrofit of  
9 Wood-Frame Buildings."

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

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

18 Section 1. The Administrative Code is hereby amended by revising Section 37.2(r),  
19 to read as follows:

20 **SEC. 37.2. DEFINITIONS.**

21 \* \* \* \*

22 (r) Rental Units. All residential dwelling units in the City and County of San Francisco  
23 together with the land and appurtenant buildings thereto, and all housing services, privileges,  
24 furnishings and facilities supplied in connection with the use or occupancy thereof, including  
25 garage and parking facilities.

1 Garage facilities, parking facilities, driveways, storage spaces, laundry rooms, decks,  
2 patios, or gardens on the same lot, or kitchen facilities or lobbies in single room occupancy  
3 (SRO) hotels, supplied in connection with the use or occupancy of a unit, may not be severed  
4 from the tenancy by the landlord without just cause as required by Section 37.9(a). Any  
5 severance, reduction or removal permitted under this Section 37.2(r) shall be offset by a  
6 corresponding reduction in rent. Either a landlord or a tenant may file a petition with the Rent  
7 Board to determine the amount of the rent reduction.

8 Notwithstanding the preceding paragraph, a landlord may temporarily sever one or more  
9 housing services listed in that paragraph in order to perform seismic work required by Building Code  
10 Chapter 34B "Mandatory Earthquake Retrofit of Wood-Frame Buildings" ("mandatory seismic  
11 work") if: (1) the landlord has given the notice to temporarily sever as required by Administrative  
12 Code Section 65A.2; (2) the landlord has obtained all necessary permits on or before the date the  
13 notice to temporarily sever is given; (3) the housing service(s) will only be severed for the minimum  
14 time required to complete the mandatory seismic work and in no event for a longer period than  
15 provided by Building Code Section 106A.4.4, Table B; and (4) the temporarily severed housing  
16 service(s) will be fully restored immediately upon completion of the mandatory seismic work. For such  
17 temporary severance of one or more of the specified housing services due to mandatory seismic work  
18 required by Building Code Chapter 34B, tenants will not be entitled to a reduction in rent, but tenants  
19 shall be entitled to either compensation or a substitute housing service as provided in Administrative  
20 Code Chapter 65A.

21 The term "rental units" shall not include:

22 \* \* \* \*

23 //

24 //

25 //

1 Section 2. The Administrative Code is hereby amended by adding Chapter 65A,  
2 to read as follows:

3  
4 **CHAPTER 65A: COMPENSATION, OR SUBSTITUTE HOUSING SERVICE,**  
5 **FOR TENANTS AFFECTED BY TEMPORARY SEVERANCE OF SPECIFIED**  
6 **HOUSING SERVICES DURING MANDATORY SEISMIC WORK**  
7 **REQUIRED BY BUILDING CODE CHAPTER 34B.**

8  
9 **Sec. 65A.1. Applicability.**

10 **Sec. 65A.2. Notice of Temporary Severance of Housing Services.**

11 **Sec. 65A.3. Calculation and Distribution of Compensation.**

12 **Sec. 65A.4. Substitute Housing Service as an Alternative.**

13 **Sec. 65A.5. Rent Board Petitions.**

14 **Sec. 65A.6. Inapplicability to Non-Tenants.**

15  
16 **SEC. 65A.1. APPLICABILITY.**

17 **This Chapter shall apply to residential rental units subject to Administrative Code Chapter 37**  
18 **“Residential Rent Stabilization and Arbitration Ordinance” when, in accordance with Administrative**  
19 **Code Section 37.2(r), one or more specified housing services will be temporarily severed from such a**  
20 **rental unit during the performance of seismic work required by Building Code Chapter 34B**  
21 **“Mandatory Earthquake Retrofit of Wood-Frame Buildings” (“mandatory seismic work”). Consistent**  
22 **with Section 37.2(r), the specified housing services covered by this Chapter 65A are: garage facilities,**  
23 **parking facilities, driveways, storage spaces, laundry rooms, decks, patios, or gardens on the same lot,**  
24 **or kitchen facilities or lobbies in single room occupancy (SRO) hotels, supplied in connection with the**  
25

1 use or occupancy of a unit ("services"). Tenants in an affected unit shall be entitled to either  
2 compensation or a substitute housing service, as provided in this Chapter 65A.

3 **SEC. 65A.2. NOTICE OF TEMPORARY SEVERANCE OF HOUSING SERVICES.**

4 The landlord shall provide 30-days written notice to temporarily sever the specified housing  
5 service(s), to the tenants in each affected unit. This notice shall include the length of time the specified  
6 housing service(s) will be temporarily severed. The landlord must obtain all necessary permits on or  
7 before the date the notice to temporarily sever is given.

8 **SEC. 65A.3. CALCULATION AND DISTRIBUTION OF COMPENSATION.**

9 Calculation and distribution of landlord compensation payments to tenants of affected units  
10 shall be as follows:

11 (a) If the rental unit lease or other written agreement states a rate for the housing service to be  
12 severed, that rate shall be used to calculate the amount due on a daily basis.

13 (b) If there is no rate stated in the lease or other written agreement for the housing service to  
14 be severed, the rate shall be equal to the current replacement value of the service to be severed; that  
15 rate shall be used to calculate the amount due on a daily basis.

16 (1) The amount due pursuant to this Subsection 65A.3(b) for each such temporarily  
17 severed housing service shall not exceed 15% of the monthly base rent for the rental unit, pro-rated on  
18 a daily basis.

19 (2) The replacement value of the severed housing service will depend on the facts of  
20 each case. The following factors may be considered in the determination of replacement value:

21 (A) The rates for parking or storage or other severed housing service in the  
22 same neighborhood at the time the tenant first rented the parking or storage space or other service,  
23 adjusted by the amount of the intervening annual allowable rent increases; the current replacement  
24 value of the parking or storage space or other service in the same neighborhood as the tenant's unit;  
25 and/or the amount the landlord charges other tenants in the same property for the same service.

1 (B) If the parking or storage space or other housing service was provided to the  
2 tenant after the inception of the tenancy and the tenant does not pay any additional rent for the service,  
3 no compensation will be due upon temporary severance of the service.

4 (3) One-half of the compensation payment shall be due upon service of the notice of  
5 temporary severance of housing service; the remaining one-half shall be due on the date that the  
6 temporary severance actually commences.

7 **SEC. 65A.4. SUBSTITUTE HOUSING SERVICE AS AN ALTERNATIVE.**

8 As an alternative to paying compensation as provided in Section 65A.3, the landlord may  
9 choose to provide a comparable housing service that is reasonably near the affected unit (“substitute  
10 housing service”).

11 **SEC. 65A.5. RENT BOARD PETITIONS.** Either a landlord or a tenant may file a petition  
12 with the Rent Board to determine the amount of compensation or sufficiency of the substitute housing  
13 service under this Chapter 65A.

14 **SEC. 65A.6. INAPPLICABILITY TO NON-TENANTS.**

15 If an individual rents a parking or storage space or other service on a property but that service  
16 is not rented in connection with the use or occupancy of a housing unit owned or operated by the  
17 landlord, such a rental of the service alone is a commercial transaction that is not covered by this  
18 Chapter 65A or Administrative Code Chapter 37 (Residential Rent Stabilization and Arbitration  
19 Ordinance).

20  
21 Section 3. Effective Date. This ordinance shall become effective 30 days after  
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
24 of Supervisors overrides the Mayor’s veto of the ordinance.  
25

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

7  
8 APPROVED AS TO FORM:  
9 DENNIS J. HERRERA, City Attorney

10 By:

  
11 JUDITH A. BOYAJIAN  
12 Deputy City Attorney

13 n:\leganas\2013\1400220\00900091.doc

## LEGISLATIVE DIGEST

[Administrative Code -Temporary Severance of Rental Housing Services During Mandatory Seismic Retrofit]

**Ordinance amending Administrative Code, Chapter 37 “Residential Rent Stabilization and Arbitration Ordinance,” and adding Chapter 65A “Compensation, or Substitute Housing Service, for Tenants Affected by Temporary Severance of Specified Housing Services During Mandatory Seismic Work Required by Building Code, Chapter 34B,” to address temporary severance of specified housing services during mandatory seismic retrofit required by City Building Code, Chapter 34B “Mandatory Earthquake Retrofit of Wood-Frame Buildings.”**

### Existing Law

Chapter 37 of the Administrative Code is San Francisco’s Residential Rent Stabilization and Arbitration Ordinance. Section 37.2(r) defines “Rental Units” as including “all housing services, privileges, furnishings and facilities supplied in connection with the use or occupancy thereof, including garage and parking facilities.” Section 37.2(r) prohibits a landlord from severing specified housing services, including garage and parking facilities, from the tenancy without just cause. If a housing service is severed, reduced, or removed, this must be offset by a reduction in rent. Either a landlord or tenant may file a petition with the Rent Board to determine the amount of the rent reduction.

### Amendments to Current Law

Administrative Code Section 37.2(r) is being amended to allow a landlord to temporarily sever one or more of the listed housing services, including garage and parking facilities, in order to perform the seismic retrofit work required by Chapter 34B of the Building Code. Tenants will not be entitled to a reduction in rent, but would be entitled to either compensation or a substitute housing service as provided in Chapter 65A.

Chapter 65A is being added to the Administrative Code to provide a process by which a specified housing service may be temporarily severed from the tenancy. The landlord must provide notice to each affected tenant, including the length of time the housing service will be severed. Section 65A.3 sets forth the calculation and distribution of landlord compensation payments to tenants of affected units. Section 65A.4 allows a landlord to choose to provide for a substitute housing service as an alternative to paying compensation. Either a landlord or a tenant may request a hearing at the Rent Board to determine the amount of compensation or sufficiency of the substitute housing service. An individual who is renting a parking or storage space or other service on the property but is not renting a housing unit in connection with that service is not covered by the provisions of Chapter 65A.



Background Information

Chapter 34B was recently added to the Building Code to establish a mandatory seismic retrofit program for existing wood-frame, multistory residential buildings with five or more dwelling units that were constructed before January 1, 1978 and have "soft story" conditions. A soft story building has a ground floor that is weak and more flexible than the floors above it because the perimeter walls have large openings for garage doors or windows, it lacks interior partitions, and/or has building materials that have deteriorated over time.

In order to perform this mandatory seismic retrofit work, certain amenities described as "housing services" in Section 37.2(r) of the Administrative Code may need to be temporarily severed from the tenancy. Chapter 65A has been added to the Administrative Code in order to provide a process for temporary severance of these housing services and for either compensating the affected tenant or providing an alternative housing service.

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BOARD of SUPERVISORS



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

## MEMORANDUM

TO: Delene Wolf, Executive Director, Rent Board  
Olson Lee, Acting Director, Mayor's Office of Housing  
Tom Hui, Director, Department of Building Inspection  
Patrick Otellini, Director of Earthquake Safety, Earthquake Safety  
Implementation Program

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

DATE: June 18, 2014

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, introduced by Mayor Lee, Supervisor Chiu and Supervisor Wiener on June 10, 2014:

**File No. 140679**

**Ordinance amending Administrative Code, Chapter 37 "Residential Rent Stabilization and Arbitration Ordinance," and adding Chapter 65A "Compensation, or Substitute Housing Service, for Tenants Affected by Temporary Severance of Specified Housing Services During Mandatory Seismic Work Required by Building Code, Chapter 34B," to address temporary severance of specified housing services during mandatory seismic retrofit required by City Building Code, Chapter 34B "Mandatory Earthquake Retrofit of Wood-Frame Buildings."**

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  
William Strawn, Building Inspection Department  
Carolyn Jayin, Building Inspection Department  
Jeno Wilkinson, Earthquake Safety Implementation Program

OFFICE OF THE MAYOR  
SAN FRANCISCO



RECEIVED  
OFFICE OF SUPERVISORS  
SAN FRANCISCO

EDWIN M. LEE  
MAYOR

JUN 10 PM 3:26

TO: Angela Calvillo, Clerk of the Board of Supervisors  
FROM: *for* Mayor Edwin M. Lee *EL*  
RE: Administrative Code - Temporary Severance of Rental Housing Services  
During Mandatory Seismic Retrofit  
DATE: June 10, 2014

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Attached for introduction to the Board of Supervisors is the ordinance amending Administrative Code Chapter 37 "Residential Rent Stabilization and Arbitration Ordinance," and adding Chapter 65A "Compensation, or Substitute Housing Service, for Tenants Affected by Temporary Severance of Specified Housing Services During Mandatory Seismic Work Required by Building Code Chapter 34B," to address temporary severance of specified housing services during mandatory seismic retrofit required by City Building Code Chapter 34B "Mandatory Earthquake Retrofit of Wood-Frame Buildings."

Please note this item is cosponsored by Supervisors Chiu and Wiener.

Should you have any questions, please contact Jason Elliott (415) 554-5105.

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cc. Supervisor David Chiu  
Supervisor Scott Wiener

