

LEGISLATIVE DIGEST

[Administrative Code - Amendments to Residential Rent Stabilization and Arbitration Ordinance]

Ordinance amending the Administrative Code to require landlords, after certain vacancies, to set the new base rent as the lawful rent in effect at the time of the vacancy; to require that there be a substantial violation of a lawful obligation or covenant of tenancy as a basis for the recovery of possession; to require a landlord, prior to seeking recovery of possession, to provide tenants an opportunity to cure the unauthorized addition of the tenant's family members to the tenant's unit; to prevent a landlord from seeking recovery of possession solely because the tenant is occupying a unit not authorized for residency; and to require landlords to plead and prove in any action to recover possession that at least one of the grounds of Section 37.9(a)-(b), stated in the notice to vacate is the dominant motive for recovering possession.

Existing Law

Chapter 37 of the Administrative Code, the Residential Rent Stabilization and Arbitration Ordinance, regulates residential rental rates in the City for certain units, and creates the Residential Rent Stabilization and Arbitration Board to safeguard tenants from excessive rent increases and assure landlords fair and adequate rents.

Section 37.3 states the condition for which a landlord may seek a rent increase and the process for the rent increase.

Section 37.9 states many of the rights and remedies of landlords and tenants regarding the recovery of possession of units. Section 37.9(a) provides the grounds for which a landlord may seek recovery of possession of a unit from a tenant. Section 37.9(a)(2) allows a landlord to recover possession if the tenant has violated a lawful obligation or covenant of tenancy and failed to cure the violation after having received a notice to cure from the landlord.

Section 37.9(a)(3) allows a landlord to recover possession when the tenant is committing or permitting to exist a nuisance in, or is causing substantial damage to, the rental unit, or is creating a substantial interference with the comfort, safety or enjoyment of the landlord or other tenant, and the landlord so informs the tenant in writing on or before serving a notice to vacate.

Section 37.9(a)(4) allows a landlord to recover possession if the tenant is using the premises for illegal purposes, but the landlord may not recover possession solely because the tenant has committed the tenant's first violation of Chapter 41A (Residential Unit Conversion and Demolition) if that violation has been cured within 30 days written notice to the tenant.

Section 37.9(c) requires that a landlord not seek to recover possession of a rental unit unless one of the basis for recovery provided in Sections 37.9(a) or (b) is the landlord's dominant motive for recovering possession.

Amendments to Current Law

The proposed ordinance amends Section 37.3 to include the Costa-Hawkins Vacancy Control of the California Civil Code Section 1954.53(a)(1). The proposed legislation does this by adding subdivision (f) to Section 37.3, which requires that the initial base rent for a subsequent tenancy be no greater than the lawful rent in effect at the time the preceding tenancy ended, if any of the following is true: (1) the preceding tenancy was terminated by a notice of termination issued under California Civil Code Section 1946.1 (for a tenancy for an unspecified term) stating the grounds for recovery of possession under Sections 37.9(a)(8),(9), (10), (11), or (14); (2) the preceding tenancy was terminated by a change in terms of the tenancy noticed under California Civil Code Section 827 (for a tenancy with a term that is month to month or shorter); or (3) where the landlord terminated or did not renew a contract or recorded agreement with a governmental agency that provided for a rent limitation to a qualified tenant.

The proposed ordinance amends Section 37.9(a)(2) to require that the tenant's violation of a lawful obligation or covenant of tenancy be a substantial violation for the landlord to seek recovery of possession. Furthermore, the amendment requires that before seeking recovery of possession based on a violation of a covenant regarding subletting or the number of occupants in the rental unit, that the landlord serve the tenant a written notice of the violation that gives the tenant an opportunity to cure in not less than 10 days. The tenant may cure the violation by submitting the written request for additional occupants allowed under Section 37.9(a)(2)(B) or using any other reasonable means to cure.

The proposed ordinance amends Section 37.9(a)(3) by requiring that the violation by the tenant (causing a nuisance, causing substantial damage to the premises, etc.) be continuing at the time the landlord seeks to recover possession of the rental unit.

The proposed ordinance amends Section 37.9(a)(4) to prevent a landlord from seeking to recover possession of a unit solely because the illegal use of the unit is the occupancy of a unit that is not authorized for residential occupancy by the City.

The proposed ordinance amends Section 37.9(c) to require that a landlord plead and prove in any action to recover possession, that at least one of the grounds that is both enumerated in Section 37.9(a)-(b) and stated in the notice to vacate is the dominant motive for seeking recovery of possession. A tenant may rebut the landlord's allegation that any of the grounds stated is the dominant motive.