

LEGISLATIVE DIGEST

[Administrative Code - Short-Term Residential Rental Limit of 60 Days per Year and Private Right of Action]

Ordinance amending the Administrative Code to revise the Residential Unit Conversion Ordinance to limit short-term rental of a residential unit to no more than 60 days per calendar year if the unit was registered on or after October 11, 2016; prohibit neighbors outside the building at issue from filing a private right of action; allow certain nonprofit organizations to file a private right of action prior to a final determination of a violation by the Director of the Planning Department; shorten the waiting period for certain interested parties to file a private right of action; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Under Chapter 41A of the San Francisco Administrative Code, renting a residential unit for less than a 30-day term is prohibited unless it is offered by the Permanent Resident of the unit, who registers the unit with the Office of Short Term Rentals and otherwise meets the requirements, described in Chapter 41A, for renting the unit as a Short-Term Residential Rental.

Under existing law, Short-Term Residential Rentals are limited to 90 days per year for unhosted rentals (meaning the Permanent Resident is not in the unit when the unit is rented) and are unlimited for hosted rentals (which is when the Permanent Resident continues to reside in the unit during the rental period). This requirement states that the Permanent Resident must reside in the unit for no less than 275 days out of the calendar year.

Chapter 41A also provides for a private right of action, which allows an Interested Party to sue a violator of Chapter 41A, who is not a Hosting Platform (meaning they can sue an owner, tenant, or business entity that owns or leases the unit), for injunctive and monetary relief, including damages, and attorneys' fees after the Planning Director has made a final determination of violation. Interested Party is defined as a permanent resident of the building, owners or permanent residents within 100 feet of the unit, the owner of the unit at issue, any homeowners' association linked to the unit, and non-profit organizations dedicated to improvement of housing.

The Code also provides a private right of action where there has been a delay in issuance of a final determination of violation (where the Interested Party filed a complaint with the City, but a final determination of violation has not been made within 135 days of the filing of a complaint). This private right of action is provided to Interested Parties who are permanent residents of the building, owners or permanent residents within 100 feet of the unit, and any homeowners' association linked to the unit.

Amendments to Current Law

The proposed ordinance limits the number of days that units registered on or after October 11, 2016 may be rented as a Short-Term Residential Rental to no more than 60 days per calendar year, regardless of whether the rental is hosted or unhosted. Units registered prior to the October 11, 2016 will continue to be allowed to have up to 90 days per year of unhosted rentals and unlimited hosted rentals.

The proposed ordinance also removes owners and permanent residents of property within 100 feet of the building at issue from the definition of “Interested Party.” This means that people who own or reside in property within 100 feet of the building that is alleged to have the Short-Term Residential Rental violation would no longer be able to bring a private right of action under Chapter 41A.

The proposed ordinance also allows certain nonprofit housing organizations to file a private right of action where there has been a delay in issuance of a final determination of violation. In these situations, the ordinance would allow nonprofit organizations and certain other interested parties to file suit if an administrative hearing officer has not issued a final determination within 30 days of the filing of a complaint—rather than 135 days under current law—and the City has not filed suit within 30 days after receiving notice of the parties’ intent to sue.

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