

LEGISLATIVE DIGEST

[Administrative Code - Owner Move-In Reporting and Abuse]

Ordinance amending the Administrative Code to require a landlord seeking to recover possession of a rental unit based on an owner move-in (“OMI”) or relative move-in (“RMI”) to provide a declaration under penalty of perjury stating that the landlord intends to occupy the unit for use as the principal place of residence of the landlord or the landlord’s relative for a period of at least 36 continuous months; to require a landlord following an OMI or RMI to provide annual documentation for 36 months showing whether the landlord or relative is occupying the unit as his or her principal place of residence; and to provide that a landlord who performs an OMI or RMI and then rents out the unit for more than the maximum allowable rent is guilty of a misdemeanor.

Existing Law

The City’s Residential Rent Stabilization and Arbitration Ordinance allows a landlord to recover possession of a rental unit if the landlord has a good faith intent to occupy the rental unit as its principal residence for a period of at least 36 continuous months (an “Owner Move-In,” or “OMI”). Under certain conditions, a landlord can also recover a rental unit based on the landlord’s good faith intent to use the unit as the principal residence of the landlord’s family members for a period of at least 36 continuous months (a “Relative Move-In,” or “RMI”).

A landlord formally initiates the OMI or RMI process by serving the tenant in the rental unit a notice to vacate. Landlords are not currently required to report to the Rent Board regarding the use of a rental unit following an OMI or RMI. Any rental unit which a tenant vacates after receiving a notice to quit based on Section 37.9(a)(8), and which is subsequently no longer occupied as a principal residence by the landlord or the landlord's relative, must, if offered for rent during the three years following service of the notice to quit, be rented in good faith at a rent not greater than the rent the original tenant would have been required to pay had the original tenant remained in continuous occupancy of the rental unit.

Amendments to Current Law

The legislation would require the notice to vacate for an OMI or RMI to include a declaration executed by the landlord stating that the landlord intends to recover possession of the unit in good faith for use as the principal residence of the landlord or the landlord’s relative for a period of at least 36 continuous months. The landlord would be required to execute the declaration under penalty of perjury and file it with the Rent Board.

The legislation would also create a rebuttable presumption that the landlord did not perform the OMI or RMI in good faith, if (1) the landlord did not file the above declaration with the Rent Board; (2) the landlord or relative did not move into the unit within three months after the recovery of possession and then occupy the unit as their principal residence for at least 36

continuous months; or (3) the landlord within three years after serving the notice to quit rented the unit to a new tenant at a rent greater than what the original tenant would have been required to pay had the original tenant remained in the unit. A landlord who charged above the allowable rent during this three year period would also be guilty of a misdemeanor.

In addition, the legislation would require a landlord to file an annual "statement of occupancy" with the Rent Board up until 36 months after the OMI or RMI was performed. The landlord would be required to certify under penalty of perjury whether the unit was occupied as the principal residence of the landlord or relative, and if so, to provide supporting documentation. If the unit was not occupied by the landlord or relative, the statement of occupancy would be required to disclose the current rent for the unit. The Rent Board would be required to send the original tenant a copy of the landlord's statement of occupancy. A landlord's failure to file a statement of occupancy (and supporting documentation, if applicable) would create a rebuttable presumption that the OMI or RMI was not in good faith.

n:\legana\as2017\1600511\01184213.docx