

File No. 180735

Committee Item No. 4

Board Item No. 12

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date December 5, 2018

Board of Supervisors Meeting

Date 1/15/2019

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Memorandum of Understanding (MOU) |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 - Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 700 |
| <input type="checkbox"/> | <input type="checkbox"/> | Vacancy Notice |
| <input type="checkbox"/> | <input type="checkbox"/> | Information Sheet |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

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Completed by: Victor Young Date Nov. 29, 2018

Completed by: [Signature] Date 12/9/18

1 [Administrative Code - Harassment of Tenants in Single-Family Units Through Rent
2 Increases]

3 **Ordinance amending the Administrative Code to prohibit landlords of single-family**
4 **homes and condominiums covered by existing eviction controls from circumventing**
5 **eviction controls through rent increases; and to clarify that a rent increase intended to**
6 **defraud, intimidate, or coerce the tenant into vacating such a rental unit may qualify as**
7 **tenant harassment.**

8
9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

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

17 Section 1. Purpose and Findings.

18 (a) San Francisco is experiencing a crisis shortage of affordable housing, which is
19 contributing to a high rate of evictions and the displacement of low- and moderate-income
20 tenant households. The Residential Rent Stabilization and Arbitration Ordinance (Admin.
21 Code Ch. 37) addresses these concerns by imposing rent control to regulate the amount by
22 which a landlord may increase the rent on an existing tenant; and by imposing eviction
23 controls to regulate the bases for evictions and to mitigate the impact of evictions on tenants.
24 The eviction controls also include provisions to regulate against tenant harassment, which has
25 been on the rise during the housing crisis.

1 (b) The Costa-Hawkins Rental Housing Act, California Civil Code Sections 1954.50
2 et seq., guarantees the owner of a separately alienable property (hereafter, "single-family
3 home") to raise the rent on an existing tenant, but also states, at Section 1954.52(c), that
4 "[n]othing in this section shall be construed to affect the authority of a public entity that may
5 otherwise exist to regulate or monitor the basis for eviction." The City has long exercised this
6 authority, by regulating evictions and tenant harassment, and these regulations apply to all
7 rental units covered by the Rent Ordinance including single-family homes.

8 (c) In recent years, San Francisco has witnessed multiple cases where the owner of
9 a single-family home attempted to circumvent eviction controls and coerce a tenant to vacate
10 a rental unit by means of an exorbitant rent increase. On March 16, 2015, the *San Francisco*
11 *Chronicle* reported that the landlord of a two-unit building subject to rent control had modified
12 one of the units so that it was no longer habitable, claimed the building was a single-family
13 home, and then increased the rent by 315% to far above market rates for comparable units in
14 the area for the purpose of forcing the tenant to vacate the unit. The landlord intended to
15 move into the unit herself, and therefore, under the Rent Ordinance, was required to perform
16 an owner move-in ("OMI") eviction and comply with certain obligations including the duty to
17 provide the tenant a relocation payment. The landlord did not expect to collect the new rent
18 from the tenant, but rather just wanted to coerce the tenant into leaving. In a similar case
19 from 2017, the owner of a two-unit building allegedly removed one of the units, claimed the
20 building was a single-family home, and then raised the rent to far above market rate by means
21 of a 250% rent increase in an attempt to circumvent the OMI requirements and coerce the
22 tenant into vacating the unit. Tenant advocates estimate that many similar cases arise in San
23 Francisco every year.

24 (d) Owners of single-family homes have the right to raise rents on existing tenants.
25 This ordinance merely clarifies that these owners, like any owner of any other rental housing

1 in the City, do not have the right to impose a rent increase harass tenants in bad faith in order
2 to circumvent local eviction controls, and that such action constitutes harassment can occur
3 through rent increases that are imposed in bad faith.

4
5 Section 2. The Administrative Code is hereby amended by revising Sections 37.10A
6 and 37.10B, to read as follows:

7 **SEC. 37.10A. MISDEMEANORS, AND OTHER ENFORCEMENT PROVISIONS.**

8 * * * *

9 *(i) It shall be unlawful for a landlord to endeavor to recover possession of a rental unit as*
10 *defined in Section 37.2(r)(7) by means of a rent increase that is imposed in bad faith with an intent to*
11 *defraud, intimidate, or coerce the tenant into vacating the rental unit in circumvention of Section*
12 *37.9(a), 37.9A, 37.9B, or 37.9C. Evidence of bad faith may include but is not limited to the*
13 *following: (1) the rent increase was substantially in excess of market rates for comparable*
14 *units; (2) the rent increase was within six months after an attempt to recover possession of the*
15 *unit; and (3) such other factors as a court or the Rent Board may deem relevant.*

16 *(i)(i) Any person who violates Section 37.10A(a), (b), (c), (f), or (h) is guilty of a*
17 *misdemeanor and shall be punished by a mandatory fine of \$1,000, and in addition to such*
18 *fine may be punished by imprisonment in the County Jail for a period of not more than six*
19 *months. Each violation shall constitute a separate offense.*

20
21 **SEC. 37.10B. TENANT HARASSMENT.**

22 (a) No landlord, and no agent, contractor, subcontractor or employee of the landlord,
23 shall do any of the following, in bad faith or with ulterior motive or without honest intent:

24 * * * *

1 (5) Influence or attempt to influence a tenant to vacate a rental housing unit
2 through fraud, intimidation or coercion; for example and without limitation, by endeavoring to
3 recover possession of a rental unit as defined in Section 37.2(r)(7) by means of a rent increase that is
4 imposed with an intent to defraud, intimidate, or coerce the tenant into vacating the rental unit in
5 circumvention of Section 37.9(a), 37.9A, 37.9B, or 37.9C, in which case evidence of bad faith may
6 include but is not limited to the following: (1) the rent increase was substantially in excess of
7 market rates for comparable units; (2) the rent increase was within six months after an attempt
8 to recover possession of the unit; and (3) such other factors as a court or the Rent Board may
9 deem relevant.

10 * * * *

11
12 Section 3. Effective Date. This ordinance shall become effective 30 days after
13 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
14 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
15 of Supervisors overrides the Mayor's veto of the ordinance.

16
17 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
18 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
19 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
20 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
21 additions, and Board amendment deletions in accordance with the "Note" that appears under
22 the official title of the ordinance.


23
24 Section 5. Application and Enforcement. This ordinance is intended to be interpreted
25 and applied consistent with prior judicial orders and decisions concerning Administrative Code

1 Section 37.10B, including but not limited to page 1, lines 12-14, of the May 19, 2009, Order in
2 *Larson v. City and County of San Francisco*, S.F. Super. Case No. 509-085 (holding that the
3 phrase "without ulterior motive and with honest intent" is severed from Section 37.10B); and
4 *Larson v. City and County of San Francisco* (2011) 192 Cal. App. 4th 1263 (holding that the
5 Rent Board is precluded from making rent reductions under Section 37.10B(a)(5)).
6

7 Section 6. Severability. If any section, subsection, sentence, clause, phrase, or word
8 of this ordinance, or any application thereof to any person or circumstance, is held to be
9 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
10 shall not affect the validity of the remaining portions or applications of the ordinance. The
11 Board of Supervisors hereby declares that it would have passed this ordinance and each and
12 every section, subsection, sentence, clause, phrase, and word not declared invalid or
13 unconstitutional without regard to whether any other portion of this ordinance or application
14 thereof would be subsequently declared invalid or unconstitutional.
15

16 APPROVED AS TO FORM:
17 DENNIS J. HERRERA, City Attorney

18 By:


19 MANU PRADHAN
20 Deputy City Attorney

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23
24
25

REVISED LEGISLATIVE DIGEST
(Amended in Board, 12/11/2018)

[Administrative Code - Harassment of Tenants in Single-Family Units Through Rent Increases]

Ordinance amending the Administrative Code to prohibit landlords of single-family homes and condominiums covered by existing eviction controls from circumventing eviction controls through rent increases; and to clarify that a rent increase intended to defraud, intimidate, or coerce the tenant into vacating such a rental unit may qualify as tenant harassment.

Existing Law

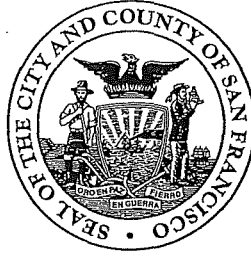
State law gives the owner of a separately alienable property (hereafter, "single-family home") the right to raise rents on existing tenants. But a single-family home that is exempt from rent control can be subject to the rules in the Rent Ordinance concerning evictions and tenant harassment. Admin. Code § 37.2(r)(7). Thus, the Rent Ordinance already prohibits landlords of all types of rental units, including single-family homes, from evicting their tenants without just cause, and requires that all landlords who have performed owner move-ins and other types of no-fault evictions take certain actions to mitigate the impact of those evictions. *Id.* §§ 37.9(a), 37.9A, 37.9B, and 37.9C. The Rent Ordinance also provides that it is unlawful harassment for a landlord, acting in bad faith, to influence a tenant to vacate any type of rental unit through fraud, intimidation, or coercion. *Id.* § 37.10B.

Amendments to Current Law

The proposed ordinance would amend the Rent Ordinance to state that endeavoring to recover possession of a single-family home by means of a rent increase that is imposed in bad faith with an intent to defraud, intimidate, or coerce the tenant into vacating the rental unit in circumvention of the above-described eviction controls may qualify as tenant harassment. Evidence of bad faith could include, without limitation, the following: (1) the rent increase was substantially in excess of market rates for comparable units; (2) the rent increase was within six months after an attempt to recover possession of the unit; and (3) such other factors as a court or the Rent Board may deem relevant.

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BOARD of SUPERVISORS



City Hall
1 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: Robert Collins, Executive Director, Rent Board
Kate Hartley, Director, Mayor's Office of Housing and Community Development
William Scott, Police Chief, Police Department
Vicki Hennessy, Sheriff, Sheriff's Department
George Gascón, District Attorney, Office of the District Attorney
Jeff Adachi, Public Defender, Office of the Public Defender

FROM:  Alisa Somera, Legislative Deputy Director
Rules Committee

DATE: August 2, 2018

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee has received the following proposed legislation, introduced by Supervisor Ronen on July 24, 2018:

File No. 180735

Ordinance amending the Administrative Code to prohibit landlords of single-family homes and condominiums covered by existing eviction controls from circumventing eviction controls through rent increases; and to clarify that a rent increase intended to defraud, intimidate, or coerce the tenant into vacating such a rental unit may qualify as tenant harassment.

If you have 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 or by email at: alisa.somera@sfgov.org.

c: Eugene Flannery, Mayor's Office of Housing and Community Development
Amy Chan, Mayor's Office of Housing and Community Development
Rowena Carr, Police Department
Asja Steeves, Police Department
Theodore Toet, Sheriff's Department
Katherine Gorwood, Sheriff's Department
Nancy Crowley, Sheriff's Department
Cristine Soto DeBerry, Office of the District Attorney
Maxwell Szabo, Office of the District Attorney

Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2018 JUL 26 11:03 AM
Time stamp: 03
of meeting date

180735

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [redacted] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [redacted] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. 180735
- 9. Reactivate File No. [redacted]
- 10. Topic submitted for Mayoral Appearance before the BOS on [redacted]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Ronen; Peskin

Subject:

[Administrative Code - Harassment of Tenants in Single-Family Units Through Rent Increases]

The text is listed:

Ordinance amending the Administrative Code to prohibit landlords of single-family homes and condominiums covered by existing eviction controls from circumventing eviction controls through rent increases; and to clarify that a rent increase intended to defraud, intimidate, or coerce the tenant into vacating such a rental unit may qualify as tenant harassment.

Signature of Sponsoring Supervisor:

Will Rone

r Clerk's Use Only

