

1 [Implement recent Ellis Act amendments by California Legislature: expand residential tenant
2 relocation payment eligibility where units are withdrawn from rental market under Ellis; prohibit
3 owner withdrawal of specified residential hotel units from rental market.]

4 **Ordinance implementing recent California State Legislature amendments of the Ellis**
5 **Act (California Government Code §§7060 et seq., see §§7060 and 7060.1), by amending**
6 **the San Francisco Residential Rent Stabilization and Arbitration Ordinance**
7 **(Administrative Code Chapter 37) at Sections 37.9(a)(13) and 37.9A(e) to provide that:**
8 **when residential units are withdrawn from the rental market pursuant to the Ellis Act,**
9 **each tenant who is relocated is entitled to a payment of \$4,500 up to a maximum total**
10 **per unit of \$13,500, plus an additional \$3,000 payment for each defined elderly or**
11 **disabled tenant who is relocated (37.9A(e), for tenants who still reside in their units as**
12 **of August 10, 2004); owners may not withdraw defined residential hotel units from the**
13 **rental market pursuant to the Ellis Act if the hotel's occupancy permit was issued prior**
14 **to January 1, 1990, and if the hotel did not file a notice of intent prior to January 1, 2004**
15 **to withdraw the units from the rental market (Section 37.9(a)(13)).**

16 Note: Additions are *single-underline italics Times New Roman font*;
17 deletions are *strikethrough italics Times New Roman font*.
18 Board amendment additions are double underlined Arial font;
19 Board amendment deletions are ~~strikethrough Arial font~~.

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

20 Section 1. The San Francisco Administrative Code is hereby amended by amending
21 Section 37.9, to read as follows:

22 SEC. 37.9. EVICTIONS.

23 Notwithstanding Section 37.3, this Section shall apply as of August 24, 1980, to all
24 landlords and tenants of rental units as defined in Section 37.2(r).

25 (a) A landlord shall not endeavor to recover possession of a rental unit unless:

1 (1) The tenant:

2 (A) Has failed to pay the rent to which the landlord is lawfully entitled under the oral
3 or written agreement between the tenant and landlord:

4 (i) Except that a tenant's nonpayment of a charge prohibited by Section 919.1 of
5 the Police Code shall not constitute a failure to pay rent; and

6 (ii) Except that, commencing August 10, 2001, to and including February 10, 2003,
7 a landlord shall not endeavor to recover or recover possession of a rental unit for failure of a
8 tenant to pay that portion of rent attributable to a capital improvement passthrough certified
9 pursuant to a decision issued after April 10, 2000, where the capital improvement passthrough
10 petition was filed prior to August 10, 2001, and a landlord shall not impose any late fee(s)
11 upon the tenant for such non-payment of capital improvement costs; or

12 (B) Habitually pays the rent late; or

13 (C) Gives checks which are frequently returned because there are insufficient funds
14 in the checking account; or

15 (2) The tenant has violated a lawful obligation or covenant of tenancy other than the
16 obligation to surrender possession upon proper notice or other than an obligation to pay a
17 charge prohibited by Police Code Section 919.1, and failure to cure such violation after having
18 received written notice thereof from the landlord, provided further that notwithstanding any
19 lease provision to the contrary, a landlord shall not endeavor to recover possession of a rental
20 unit as a result of subletting of the rental unit by the tenant if the landlord has unreasonably
21 withheld the right to sublet following a written request by the tenant, so long as the tenant
22 continues to reside in the rental unit and the sublet constitutes a one-for-one replacement of
23 the departing tenant(s). If the landlord fails to respond to the tenant in writing within fourteen
24 (14) days of receipt of the tenant's written request, the tenant's request shall be deemed
25 approved by the landlord; or

1 (3) The tenant is committing or permitting to exist a nuisance in, or is causing
2 substantial damage to, the rental unit, or is creating a substantial interference with the
3 comfort, safety or enjoyment of the landlord or tenants in the building, and the nature of such
4 nuisance, damage or interference is specifically stated by the landlord in writing as required
5 by Section 37.9(c); or

6 (4) The tenant is using or permitting a rental unit to be used for any illegal purpose;
7 or

8 (5) The tenant, who had an oral or written agreement with the landlord which has
9 terminated, has refused after written request or demand by the landlord to execute a written
10 extension or renewal thereof for a further term of like duration and under such terms which are
11 materially the same as in the previous agreement; provided, that such terms do not conflict
12 with any of the provisions of this Chapter; or

13 (6) The tenant has, after written notice to cease, refused the landlord access to the
14 rental unit as required by State or local law; or

15 (7) The tenant holding at the end of the term of the oral or written agreement is a
16 subtenant not approved by the landlord; or

17 (8) The landlord seeks to recover possession in good faith, without ulterior reasons
18 and with honest intent:

19 (i) For the landlord's use or occupancy as his or her principal residence for a period
20 of at least 36 continuous months;

21 (ii) For the use or occupancy of the landlord's grandparents, grandchildren, parents,
22 children, brother or sister, or the landlord's spouse, or the spouses of such relations, as their
23 principal place of residency for a period of at least 36 months, in the same building in which
24 the landlord resides as his or her principal place of residency, or in a building in which the
25 landlord is simultaneously seeking possession of a rental unit under Section 37.9(a)(8)(i). For

1 purposes of this Section 37.9(a)(8)(ii), the term spouse shall include domestic partners as
2 defined in San Francisco Administrative Code Sections 62.1 through 62.8.

3 (iii) For purposes of this Section 37.9(a)(8) only, as to landlords who become
4 owners of record of the rental unit on or before February 21, 1991, the term "landlord" shall be
5 defined as an owner of record of at least 10 percent interest in the property or, for Section
6 37.9(a)(8)(i) only, two individuals registered as domestic partners as defined in San Francisco
7 Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at
8 least 10 percent. For purposes of this Section 37.9(a)(8) only, as to landlords who become
9 owners of record of the rental unit after February 21, 1991, the term "landlord" shall be defined
10 as an owner of record of at least 25 percent interest in the property or, for Section 37.9(a)(8)(i)
11 only, two individuals registered as domestic partners as defined in San Francisco
12 Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at
13 least 25 percent.

14 (iv) A landlord may not recover possession under this Section 37.9(a)(8) if a
15 comparable unit owned by the landlord is already vacant and is available, or if such a unit
16 becomes vacant and available before the recovery of possession of the unit. If a comparable
17 unit does become vacant and available before the recovery of possession, the landlord shall
18 rescind the notice to vacate and dismiss any action filed to recover possession of the
19 premises. Provided further, if a noncomparable unit becomes available before the recovery of
20 possession, the landlord shall offer that unit to the tenant at a rent based on the rent that the
21 tenant is paying, with upward or downward adjustments allowed based upon the condition,
22 size, and other amenities of the replacement unit. Disputes concerning the initial rent for the
23 replacement unit shall be determined by the Rent Board. It shall be evidence of a lack of good
24 faith if a landlord times the service of the notice, or the filing of an action to recover
25 possession, so as to avoid moving into a comparable unit, or to avoid offering a tenant a

1 replacement unit.

2 (v) It shall be rebuttably presumed that the landlord has not acted in good faith if the
3 landlord or relative for whom the tenant was evicted does not move into the rental unit within
4 three months and occupy said unit as that person's principal residence for a minimum of 36
5 continuous months.

6 (vi) Once a landlord has successfully recovered possession of a rental unit pursuant
7 to Section 37.9(a)(8)(i), then no other current or future landlords may recover possession of
8 any other rental unit in the building under Section 37.9(a)(8)(i). It is the intention of this
9 Section that only one specific unit per building may be used for such occupancy under Section
10 37.9(a)(8)(i) and that once a unit is used for such occupancy, all future occupancies under
11 Section 37.9(a)(8)(i) must be of that same unit, provided that a landlord may file a petition with
12 the Rent Board, or at the landlord's option, commence eviction proceedings, claiming that
13 disability or other similar hardship prevents him or her from occupying a unit which was
14 previously occupied by the landlord.

15 (vii) If any provision or clause of this amendment to Section 37.9(a)(8) or the
16 application thereof to any person or circumstance is held to be unconstitutional or to be
17 otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other
18 chapter provisions, and clauses of this Chapter are held to be severable; or

19 (9) The landlord seeks to recover possession in good faith in order to sell the unit in
20 accordance with a condominium conversion approved under the San Francisco subdivision
21 ordinance and does so without ulterior reasons and with honest intent; or

22 (10) The landlord seeks to recover possession in good faith in order to demolish or to
23 otherwise permanently remove the rental unit from housing use and has obtained all the
24 necessary permits on or before the date upon which notice to vacate is given, and does so
25 without ulterior reasons and with honest intent; provided that a landlord who seeks to

1 demolish an unreinforced masonry building pursuant to Building Code Chapters 14 and 15
2 must provide the tenant with the relocation assistance specified in Section 37.9A(f) below
3 prior to the tenant's vacating the premises; or

4 (11) The landlord seeks in good faith to remove temporarily the unit from housing use
5 in order to be able to carry out capital improvements or rehabilitation work and has obtained
6 all the necessary permits on or before the date upon which notice to vacate is given, and does
7 so without ulterior reasons and with honest intent. Any tenant who vacates the unit under such
8 circumstances shall have the right to reoccupy the unit at the prior rent adjusted in
9 accordance with the provisions of this Chapter. The tenant will vacate the unit only for the
10 minimum time required to do the work. On or before the date upon which notice to vacate is
11 given, the landlord shall advise the tenant in writing that the rehabilitation or capital
12 improvement plans are on file with the Central Permit Bureau of the Department of Building
13 Inspection and that arrangements for reviewing such plans can be made with the Central
14 Permit Bureau. In addition to the above, no landlord shall endeavor to recover possession of
15 any unit subject to a RAP loan as set forth in Section 37.2(m) of this Chapter except as
16 provided in Section 32.69 of the San Francisco Administrative Code. The tenant shall not be
17 required to vacate pursuant to this Section 37.9(a)(11), for a period in excess of three months;
18 provided, however, that such time period may be extended by the Board or its Administrative
19 Law Judges upon application by the landlord. The Board shall adopt rules and regulations to
20 implement the application procedure. Any landlord who seeks to recover possession under
21 this Section 37.9(a)(11) shall pay the tenant actual costs up to \$1,000 for moving and
22 relocation expenses not less than 10 days prior to recovery of possession; or

23 (12) The landlord seeks to recover possession in good faith in order to carry out
24 substantial rehabilitation, as defined in Section 37.2(s), and has obtained all the necessary
25 permits on or before the date upon which notice to vacate is given, and does so without

1 ulterior reasons and with honest intent. Notwithstanding the above, no landlord shall endeavor
2 to recover possession of any unit subject to a RAP loan as set forth in Section 37.2(m) of this
3 Chapter except as provided in Section 32.69 of the San Francisco Administrative Code; or

4 (13) The landlord wishes to withdraw from rent or lease all rental units within any
5 detached physical structure and, in addition, in the case of any detached physical structure
6 containing three or fewer rental units, any other rental units on the same lot, and complies in
7 full with Section 37.9A with respect to each such unit; provided, however, that ~~a unit classified~~
8 ~~as a residential unit under Chapter 41 of this Code which is vacated under this Section 37.9(a)(13) may~~
9 ~~not be put to any use other than that of a residential hotel unit without compliance with the provisions~~
10 ~~of Section 41.9 of this Code guestrooms or efficiency units within a residential hotel, as defined in~~
11 Section 50519 of the Health and Safety Code, may not be withdrawn from rent or lease if the residential
12 hotel has a permit of occupancy issued prior to January 1, 1990, and if the residential hotel did not
13 send a notice of intent to withdraw the units from rent or lease (Administrative Code Section 37.9A(f),
14 Government Code Section 7060.4(a)) that was delivered to the Rent Board prior to January 1, 2004; or

15 (14) The landlord seeks in good faith to temporarily recover possession of the unit for
16 less than 30 days solely for the purpose of effecting lead remediation or abatement work, as
17 required by San Francisco Health Code Article 26. The relocation rights and remedies,
18 established by San Francisco Administrative Code Chapter 72, including but not limited to, the
19 payment of financial relocation assistance, shall apply to evictions under this Section
20 37.9(a)(14).

21 (b) A landlord who resides in the same rental unit with his or her tenant may evict
22 said tenant without just cause as required under Section 37.9(a) above.

23 (c) A landlord shall not endeavor to recover possession of a rental unit unless at
24 least one of the grounds enumerated in Section 37.9(a) or (b) above is the landlord's
25 dominant motive for recovering possession and unless the landlord informs the tenant in

1 writing on or before the date upon which notice to vacate is given of the grounds under which
2 possession is sought and that advice regarding the notice to vacate is available from the
3 Residential Rent Stabilization and Arbitration Board, before endeavoring to recover
4 possession. A copy of all notices to vacate except three-day notices to vacate or pay rent and
5 a copy of any additional written documents informing the tenant of the grounds under which
6 possession is sought shall be filed with the Board within 10 days following service of the
7 notice to vacate. The District Attorney shall determine whether the units set forth on the list
8 compiled in accordance with Section 37.6(k) are still being occupied by the tenant who
9 succeeded the tenant upon whom the notice was served. In cases where the District Attorney
10 determines that Section 37.9(a)(8) has been violated, the District Attorney shall take whatever
11 action he deems appropriate under this Chapter or under State law.

12 (d) No landlord may cause a tenant to quit involuntarily or threaten to bring any
13 action to recover possession, or decrease any services, or increase the rent, or take any other
14 action where the landlord's dominant motive is retaliation for the tenant's exercise of any
15 rights under the law. Such retaliation shall be a defense to any action to recover possession.
16 In an action to recover possession of a rental unit, proof of the exercise by the tenant of rights
17 under the law within six months prior to the alleged act of retaliation shall create a rebuttable
18 presumption that the landlord's act was retaliatory.

19 (e) It shall be unlawful for a landlord or any other person who wilfully assists the
20 landlord to endeavor to recover possession or to evict a tenant except as provided in Section
21 37.9(a) and (b). Any person endeavoring to recover possession of a rental unit from a tenant
22 or evicting a tenant in a manner not provided for in Section 37.9(a) or (b) without having a
23 substantial basis in fact for the eviction as provided for in Section 37.9(a) shall be guilty of a
24 misdemeanor and shall be subject, upon conviction, to the fines and penalties set forth in
25 Section 37.10A. Any waiver by a tenant of rights under this Chapter except as provided in

1 Section 37.10A(g), shall be void as contrary to public policy.

2 (f) Whenever a landlord wrongfully endeavors to recover possession or recovers
3 possession of a rental unit in violation of Sections 37.9 and/or 37.10 as enacted herein, the
4 tenant or Board may institute a civil proceeding for injunctive relief, money damages of not
5 less than three times actual damages, (including damages for mental or emotional distress),
6 and whatever other relief the court deems appropriate. In the case of an award of damages
7 for mental or emotional distress, said award shall only be trebled if the trier of fact finds that
8 the landlord acted in knowing violation of or in reckless disregard of Section 37.9 or 37.10A
9 herein. The prevailing party shall be entitled to reasonable attorney's fees and costs pursuant
10 to order of the court. The remedy available under this Section 37.9(f) shall be in addition to
11 any other existing remedies which may be available to the tenant or the Board.

12 (g) The provisions of this Section 37.9 shall apply to any rental unit as defined in
13 Sections 37.2(r)(4)(A) and 37.2(r)(4)(B), including where a notice to vacate/quit any such
14 rental unit has been served as of the effective date of this Ordinance No. 250-98 but where
15 any such rental unit has not yet been vacated or an unlawful detainer judgment has not been
16 issued as of the effective date of this Ordinance No. 250-98.

17 (h) With respect to rental units occupied by recipients of tenant-based rental
18 assistance, the notice requirements of this Section 37.9 shall be required in addition to any
19 notice required as part of the tenant-based rental assistance program, including but not limited
20 to the notice required under 24 CFR Section 982.310(e)(2)(ii).

21 (i) The following additional provisions shall apply to a landlord who seeks to
22 recover a rental unit by utilizing the grounds enumerated in Section 37.9(a)(8):

23 (1) A landlord may not recover possession of a unit from a tenant under Section
24 37.9(a)(8) if the landlord has or receives notice, any time before recovery of possession, that
25 any tenant in the rental unit:

1 (A) Is 60 years of age or older and has been residing in the unit for 10 years or
2 more; or

3 (B) Is disabled within the meaning of Section 37.9(i)(1)(B)(i) and has been residing
4 in the unit for 10 years or more, or is catastrophically ill within the meaning of Section
5 37.9(i)(1)(B)(ii) and has been residing in the unit for five years or more:

6 (i) A “disabled” tenant is defined for purposes of this Section 37.9(i)(1)(B) as a
7 person who is disabled or blind within the meaning of the federal Supplemental Security
8 Income/California State Supplemental Program (SSI/SSP), and who is determined by
9 SSI/SSP to qualify for that program or who satisfies such requirements through any other
10 method of determination as approved by the Rent Board;

11 (ii) A “catastrophically ill” tenant is defined for purposes of this Section 37.9(i)(1)(B)
12 as a person who is disabled as defined by Section 37.9(i)(1)(B)(i), and who is suffering from a
13 life threatening illness as certified by his or her primary care physician.

14 (2) The foregoing provisions of Sections 37.9(i)(1)(A) and (B) shall not apply where
15 there is only one rental unit owned by the landlord in the building, or where each of the rental
16 units owned by the landlord in the same building where the landlord resides (except the unit
17 actually occupied by the landlord) is occupied by a tenant otherwise protected from eviction by
18 Sections 37.9(i)(1)(A) or (B) and where the landlord's qualified relative who will move into the
19 unit pursuant to Section 37.9(a)(8) is 60 years of age or older.

20 (3) The provisions established by this Section 37.9(i) include, but are not limited to,
21 any rental unit where a notice to vacate/quit has been served as of the date this amendment
22 takes effect but where the rental unit has not yet been vacated or an unlawful detainer
23 judgment has not been issued.

24 (4) Within 30 days of personal service by the landlord of a written request, or, at the
25 landlord's option, a notice of termination of tenancy under Section 37.9(a)(8), the tenant must

1 submit a statement, with supporting evidence, to the landlord if the tenant claims to be a
2 member of one of the classes protected by Section 37.9(i). The written request or notice shall
3 contain a warning that a tenant's failure to submit a statement within the 30 day period shall
4 be deemed an admission that the tenant is not protected by Section 37.9(i). The landlord shall
5 file a copy of the request or notice with the Rent Board within 10 days of service on the tenant.
6 A tenant's failure to submit a statement within the 30 day period shall be deemed an
7 admission that the tenant is not protected by Section 37.9(i). A landlord may challenge a
8 tenant's claim of protected status either by requesting a hearing with the Rent Board or, at the
9 landlord's option, through commencement of eviction proceedings, including service of a
10 notice of termination of tenancy. In the Rent Board hearing or the eviction action, the tenant
11 shall have the burden of proof to show protected status. No civil or criminal liability under
12 Section 37.9(e) or (f) shall be imposed upon a landlord for either requesting or challenging a
13 tenant's claim of protected status.

14 (5) This Section 37.9(i) is severable from all other sections and shall be of no force
15 or effect if any temporary moratorium on owner/relative evictions adopted by the Board of
16 Supervisors after June 1, 1998 and before October 31, 1998 has been invalidated by the
17 courts in a final decision.

18

19

20 Section 2. SEC. 37.9A. TENANT RIGHTS IN CERTAIN DISPLACEMENTS UNDER
21 SECTION 37.9(a)(13).

22 This Section 37.9A applies to certain tenant displacements under Section 37.9(a)(13),
23 as specified.

24 (a) Rent Allowed.

25 (1) Except as provided in Section 37.9A(a)(2) below, any rental unit which a tenant

1 vacates after receiving a notice to quit relying on Section 37.9(a)(13) (withdrawal of rental
2 units from rent or lease under the Ellis Act, California Government Code Sections 7060 et
3 seq.), if again offered for rent or lease, must be offered and rented or leased at a rent not
4 greater than the lawful rent in effect at the time the notice of intent to withdraw rental units is
5 filed with the Board, plus annual rent increases available under this Chapter 37.

6 (A) The provisions of Section 37.9A(a)(1) apply to all tenancies commenced during
7 either of the following time periods:

8 (i) The five-year period after a notice of intent to withdraw the rental units is filed
9 with the Board, whether or not the notice of intent is rescinded or the withdrawal of the units is
10 completed pursuant to that notice;

11 (ii) The five-year period after the rental units are withdrawn.

12 (B) This Section 37.9A(a)(1) shall prevail over any conflicting provision of law
13 authorizing the landlord to establish the rental rate upon the initial hiring of the unit.

14 (C) If it is asserted that the rent could have been increased based on capital
15 improvements, rehabilitation or substantial rehabilitation, the owner must petition the Rent
16 Board pursuant to the procedures of Section 37.7 of this Chapter. No increase shall be
17 allowed on account of any expense incurred in connection with withdrawing any unit from rent
18 or lease.

19 (2) If a new tenancy was lawfully created in a unit before January 1, 2003, following
20 a lawful withdrawal of the unit from rent or lease under Section 37.9(a)(13), any subsequent
21 new tenancies for that rental unit are not subject to the rent limitations in Section 37.9A(a)(1).

22 (b) Treatment of Replacement Units. If one or more units covered by Subsection
23 (a) is demolished, and one or more new units qualifying as rental units under this Chapter but
24 for the date on which they first receive a certificate of final completion and occupancy are
25 constructed on the same property, and offered for rent or lease within five years of the date

1 the last of the original units became vacant, the newly constructed units shall be offered at
2 rents not greater than those reasonably calculated to produce a fair and reasonable return on
3 the newly constructed units, notwithstanding Section 37.2(r)(5) or any other provision of this
4 Chapter. The provisions of this Chapter shall thereafter apply. The Board shall adopt rules for
5 determining the rents necessary to provide a fair and reasonable return.

6 (c) Rights to Re-Rent. Any owner who again offers for rent or lease any unit
7 covered by Subsection (a) shall first offer the unit for rent or lease to the tenants or lessees
8 displaced from the unit as follows:

9 (1) If any tenant or lessee has advised the owner in writing within 30 days of
10 displacement of his or her desire to consider an offer to renew the tenancy and has furnished
11 the owner with an address to which that offer is to be directed, the owner must make such an
12 offer whenever the unit is again offered for rent or lease within two years of withdrawal. That
13 tenant, lessee, or former tenant or lessee may advise the owner at any time of a change of
14 address to which an offer is to be directed.

15 (2) Notwithstanding Subsection (c)(1), if the unit is offered for rent or lease within 10
16 years of withdrawal, the owner shall notify the Rent Board in writing of the intention to re-rent
17 the unit and make an offer to the tenant or lessee whenever the tenant or lessee requests the
18 offer in writing within 30 days after the owner has notified the City of an intention to re-rent the
19 unit. If the unit is offered for rent or lease more than two years after the date the unit was
20 withdrawn from rent or lease, the owner shall be liable to any tenant or lessee who was
21 displaced for failure to comply with this Subsection (c)(2), for punitive damages in an amount
22 which does not exceed the contract rent for six months.

23 (3) If any former tenant or lessee has requested an offer to renew the tenancy,
24 either directly to the landlord or after notice from the Rent Board, then the owner shall offer to
25 reinstitute a rental agreement or lease at rents permitted under Subsection (a). This offer

1 shall be deposited in the United States mail, by registered or certified mail with postage
2 prepaid, addressed to the displaced tenant or lessee at the address furnished to the owner as
3 provided by the tenant and shall describe the terms of the offer. The displaced tenant or
4 lessee shall have 30 days from the deposit of the offer in the mail to accept the offer by
5 personal delivery of that acceptance or by deposit of the acceptance in the United States mail
6 by registered or certified mail with postage prepaid.

7 (4) If more than one tenant or lessee attempts to accept the offer for a given unit,
8 the landlord shall notify each tenant or lessee so accepting that other acceptances have been
9 received, and shall further advise each such tenant or lessee of the names and addresses of
10 the others. If all such tenants or lessees do not within 30 days thereafter agree and notify the
11 landlord of which tenant(s) or lessee(s) will reoccupy the unit, the tenant(s) or lessee(s) who
12 first occupied the unit previously shall be entitled to accept the landlord's offer. If more than
13 one eligible tenant or lessee initially occupied the unit on the same date, then the first such
14 tenant or lessee to have originally sent notice accepting the landlord's offer shall be entitled to
15 occupy the unit.

16 (d) Re-Rental Within Two Years. If a unit covered by Subsection (a) is offered for
17 rent or lease within two years of the date of withdrawal:

18 (1) The owner shall be liable to any tenant or lessee who was displaced from the
19 property for actual and exemplary damages. Any action by a tenant or lessee pursuant to this
20 paragraph shall be brought within three years of withdrawal of the unit from rent or lease.
21 However, nothing in this paragraph precludes a tenant from pursuing any alternative remedy
22 available under the law.

23 (2) The City may institute a civil proceeding against the owner who has again
24 offered the unit for rent or lease, for exemplary damages for displacement of tenants or
25 lessees. Any action by the City pursuant to this paragraph shall be brought within three years

1 of the withdrawal of the unit from rent or lease.

2 (e) Relocation Payments to ~~Low-Income, Elderly and Disabled~~ Tenants.

3 (1) Before August 10, 2004, Low Income, Elderly or Disabled. Where a landlord seeks
4 eviction based upon Section 37.9(a)(13), and the notice of intent to withdraw rental units was filed
5 with the Board before August 10, 2004, the relocation payments described in this ~~s~~ subsection
6 37.9A(e)(1) shall be limited to tenants who are members of lower income households, who are
7 elderly, or who are disabled, as defined below.

8 ~~(1)(A)~~ Tenants who are members of lower income households, as defined by
9 Section 50079.5 of the California Health and Safety Code, and who receive a notice to quit
10 based upon Section 37.9(a)(13), in addition to all rights under any other provisions of law,
11 shall be entitled to receive \$4,500, \$2,250 of which shall be paid within fifteen (15) calendar
12 days of the landlord's receipt of written notice from the tenants of their entitlement to the
13 relocation payment, and \$2,250 of which shall be paid when the tenants vacate the unit.

14 ~~(2) (B)~~ With respect to Subsection 37.9A(e)(1)(A) ~~above~~, the Mayor's Office of
15 Housing or its successor agency shall annually determine the income limits for lower income
16 households, adjusted for household size.

17 ~~(3) (C)~~ Notwithstanding Subsection 37.9A(e)(1)(A), and irrespective of the size of
18 the unit, any tenant who receives a notice to quit under Section 37.9(a)(13) and who, at the
19 time such notice is served, is 62 years of age or older, or who is disabled within the meaning
20 of Section 12995.3 of the California Government Code, shall be entitled to receive \$3,000,
21 \$1,500 of which shall be paid within fifteen (15) calendar days of the landlord's receipt of
22 written notice from the tenant of entitlement to the relocation payment, and \$1,500 of which
23 shall be paid when the tenant vacates the unit.

24 ~~(4) (D)~~ The payments due pursuant to this Subsection 37.9A(e)(1) for any unit
25 which is occupied by more than one tenant shall be divided equally among all the occupying

1 tenants, excluding those tenants who are separately entitled to payments under Subsection
2 37.9A(e)(1)(3)(C) above.

3 (2) On August 10, 2004 and until (effective date of ordinance amendments). Where a
4 landlord seeks eviction based upon Section 37.9(a)(13) and either (i) the notice of intent to withdraw
5 rental units is filed with the Board on or after August 10, 2004 through (the effective date of ordinance
6 amendments), or (ii) the notice of intent to withdraw rental units was filed with the Board prior to
7 August 10, 2004 but the tenant still resided in the unit as of August 10, 2004, relocation payments shall
8 be paid to the tenants as follows:

9 (A) Tenants who are members of lower income households, as defined by Section 50079.5 of
10 the California Health and Safety Code, shall be entitled to receive \$4,500, \$2,250 of which shall be
11 paid within fifteen (15) calendar days of the landlord's receipt of written notice from the tenants of their
12 entitlement to the relocation payment, and \$2,250 of which shall be paid when the tenants vacate the
13 unit.

14 (B) Subject to subsections 37.9A(e)(2)(C) and (D) below, tenants who are not members of
15 lower income households, as defined by Section 50079.5 of the California Health and Safety Code,
16 shall each be entitled to receive \$4,500, which shall be paid when the tenant vacates the unit;

17 (C) In the event there are more than three tenants in a unit, the total relocation payment shall
18 be \$13,500.00, which shall be divided equally by the number of tenants in the unit;

19 (D) Notwithstanding Subsections 37.9A(e)(2)(A) and (B), any tenant who, at the time the notice
20 of intent to withdraw rental units is filed with the Board, is 62 years of age or older, or who is disabled
21 within the meaning of Section 12955.3 of the California Government Code, shall be entitled to receive
22 an additional payment of \$3,000.00, \$1,500.00 of which shall be paid within fifteen (15) calendar days
23 of the landlord's receipt of written notice from the tenant of entitlement to the relocation payment, and
24 \$1,500.00 of which shall be paid when the tenant vacates the unit.

25 (3) On or After (effective date of ordinance amendments). Where a landlord seeks eviction

1 based upon Section 37.9(a)(13), and the notice of intent to withdraw rental units is filed with the Board
2 on or after (effective date of ordinance amendments), relocation payments shall be paid to the tenants
3 as follows:

4 (A) Subject to subsections 37.9A(e)(3)(B) and (C) below, each tenant shall be entitled to
5 receive \$4,500.00, one-half of which shall be paid at the time of the service of the notice of termination
6 of tenancy, and one-half of which shall be paid when the tenant vacates the unit;

7 (B) In the event there are more than three tenants in a unit, the total relocation payment shall
8 be \$13,500.00, which shall be divided equally by the number of tenants in the unit; and

9 (C) Notwithstanding Subsections 37.9A(e)(3)(A) and (B), any tenant who, at the time the notice
10 of intent to withdraw rental units is filed with the Board, is 62 years of age or older, or who is disabled
11 within the meaning of Section 12955.3 of the California Government Code, shall be entitled to receive
12 an additional payment of \$3,000.00, \$1,500.00 of which shall be paid within fifteen (15) calendar days
13 of the landlord's receipt of written notice from the tenant of entitlement to the relocation payment, and
14 \$1,500.00 of which shall be paid when the tenant vacates the unit.

15 ~~(5)~~ (4) Any notice to quit pursuant to Section 37.9(a)(13) shall notify the tenant
16 or tenants concerned of the right to receive payment under ~~this~~ Subsections 37.9A(e)(1) or (2)
17 or (3) and the amount of payment which the landlord believes to be due.

18 (f) Notice to Rent Board; Recordation of Notice; Effective Date of Withdrawal.

19 (1) Any owner who intends to withdraw from rent or lease any rental unit shall notify
20 the Rent Board in writing of said intention. Said notice shall contain statements, under penalty
21 of perjury, providing information on the number of residential units, the address or location of
22 those units, the name or names of the tenants or lessees of the units, and the rent applicable
23 to each residential rental unit. Said notice shall be signed by all owners of record of the
24 property under penalty of perjury and shall include a certification that actions have been
25 initiated as required by law to terminate existing tenancies through service of a notice of

1 termination of tenancy. The notice must be served by certified mail or any other manner
2 authorized by law prior to delivery to the Rent Board of the notice of intent to withdraw the
3 rental units. Information respecting the name or names of the tenants, the rent applicable to
4 any unit, or the total number of units, is confidential and shall be treated as confidential
5 information by the City for purposes of the Information Practices Act of 1977, as contained in
6 Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil
7 Code. The City shall, to the extent required by the preceding sentence, be considered an
8 "agency," as defined by Subdivision (b) of Section 1798.3 of the Civil Code.

9 (2) Prior to the effective date of withdrawal of rental units under this Section, the
10 owner shall cause to be recorded with the County Recorder a memorandum of the notice
11 required by Subsection (f)(1) summarizing its provisions, other than the confidential
12 provisions, in substantially the following form:

13

14 Memorandum of Notice

15 Regarding Withdrawal of Rental Unit From Rent or Lease

16 This memorandum evidences that the undersigned, as the owner(s) of the
17 property described in Exhibit A attached, has filed a notice, whose contents are certified under
18 penalty of perjury, stating the intent to withdraw from rent or lease all units at said property,
19 pursuant to San Francisco Administrative Code Section 37.9A and the Ellis Act (California
20 Government Code Sections 7060 et seq).

21

22

23 (Signature)

24

25 (3) For a notice of intent to withdraw rental units filled with the Rent Board on or

1 before December 31, 1999, the date on which the units are withdrawn from rent or lease for
2 purposes of this Chapter and the Ellis Act is 60 days from the delivery in person or by first-
3 class mail of the Subsection (f)(1) notice of intent to the Rent Board.

4 (4) For a notice of intent to withdraw rental units filed with the Rent Board on or after
5 January 1, 2000, the date on which the units are withdrawn from rent or lease for purposes of
6 this Chapter and the Ellis Act is 120 days from the delivery in person or by first-class mail of
7 the Subsection (f)(1) notice of intent to the Rent Board. Except that, if the tenant or lessee is
8 at least 62 years of age or disabled as defined in Government Code § 12955.3, and has lived
9 in his or her unit for at least one year prior to the date of delivery to the Rent Board of the
10 Subsection (f)(1) notice of intent to withdraw, then the date of withdrawal of the unit of that
11 tenant or lessee shall be extended to one year after the date of delivery of that notice to the
12 Rent Board, provided that the tenant or lessee gives written notice of his or her entitlement to
13 an extension of the date of withdrawal to the owner within 60 days of the date of delivery to
14 the Rent Board of the Subsection (f)(1) notice of intent to withdraw. In that situation, the
15 following provisions shall apply:

16 (A) The tenancy shall be continued on the same terms and conditions as existed on
17 the date of delivery to the Rent Board of the notice of intent to withdraw, subject to any
18 adjustments otherwise available under Administrative Code Chapter 37.

19 (B) No party shall be relieved of the duty to perform any obligation under the lease
20 or rental agreement.

21 (C) The owner may elect to extend the date of withdrawal on any other units up to
22 one year after date of delivery to the Rent Board of the Subsection (f)(1) notice of intent to
23 withdraw, subject to Subsections (f)(4)(A) and (B).

24 (D) Within 30 days of the notification by the tenant or lessee to the owner of his or
25 her entitlement to an extension of the date of withdrawal, the owner shall give written notice to

1 the Rent Board of the claim that the tenant or lessee is entitled to stay in their unit for one year
2 after the date of delivery to the Rent Board of the Subsection (f)(1) notice of intent to
3 withdraw.

4 (E) Within 90 days of the date of delivery to the Rent Board of the notice of intent to
5 withdraw, the owner shall give written notice to the Rent Board and the affected tenant or
6 lessee of the following:

7 (i) Whether or not the owner disputes the tenant's claim of extension;

8 (ii) The new date of withdrawal under Section 37.9A(f)(4)(C), if the owner does not
9 dispute the tenant's claim of extension; and,

10 (iii) Whether or not the owner elects to extend the date of withdrawal to other units
11 on the property.

12 (5) Within 15 days of delivery of a Subsection (f)(1) notice of intent to the Rent
13 Board, the owner shall provide notice to any tenant or lessee to be displaced of the following:

14 (A) That the Rent Board has been notified pursuant to Subsection (f)(1);

15 (B) That the notice to the Rent Board specified the name and the amount of rent
16 paid by the tenant or lessee as an occupant of the rental unit;

17 (C) The amount of rent the owner specified in the notice to the Rent Board;

18 (D) The tenant's or lessee's rights to reoccupancy and to relocation assistance
19 under Subsections 37.9A(c) and (e); and

20 (E) The rights of qualified elderly or disabled tenants as described under Subsection
21 (f)(4), to extend their tenancy to one year after the date of delivery to the Rent Board of the
22 Subsection (f)(1) notice of intent to withdraw.

23 (6) Within 30 days after the effective date of withdrawal of rental units under this
24 Section 37.9A, the Rent Board shall record a notice of constraints with the County Recorder
25 which describes the property and the dates of applicable restrictions on the property under

1 this Section.

2 (g) Successor Owners. The provisions of this Section 37.9A shall apply to the
3 owner of a rental unit at the time displacement of a tenant or tenants is initiated and to any
4 successor in interest of the owner, subject to the provisions of Chapter 12.75 of Division 7 of
5 Title 1 of the California Government Code (Sections 7060 et seq.).

6 (h) Reports Required.

7 (1) Not later than the last day of the third and sixth calendar months following the
8 month in which notice is given to the Board under Subsection (f)(1), and thereafter not later
9 than December 31st of each calendar year for a period of five years, beginning with the year
10 in which the six-month notice is given, the owner of any property which contains or formerly
11 contained one or more rental units which a tenant or tenants vacated pursuant to Section
12 37.9(a)(13) shall notify the Board, in writing, under penalty of perjury, for each such unit:

13 (A) Whether the unit has been demolished;

14 (B) If the unit has not been demolished, whether it is in use;

15 (C) If it is in use, whether it is in residential use;

16 (D) If it is in residential use, the date the tenancy began, the name of the tenant(s),
17 and the amount of rent charged.

18 If the unit has been demolished, and one or more new units constructed on the lot, the
19 owner shall furnish the information required by items (B), (C) and (D) for each new unit. The
20 Board shall maintain a record of the notices received under Subsection (f) and all notices
21 received under this Section for each unit subject to this reporting requirement.

22 (2) The Board shall notify each person who is reported as having become a tenant
23 in a vacated or new unit subject to the reporting requirements of Subsection (h)(1) that it
24 maintains the records described in Subsection (h)(1), and that the rent of the unit may be
25 restricted pursuant to Subsection (a).

1 (3) The Board shall maintain a register of all rental units withdrawn from rent or
2 lease under the Ellis Act and the rent applicable to each unit at the time of withdrawal. The
3 Board shall inform tenants displaced from units withdrawn from rent or lease at the address
4 provided by the tenant, when the owner notifies the Board that the unit or replacement unit will
5 again be offered for rent or lease within ten years of the date of withdrawal.

6 (4) The Board may investigate whether a rental unit that was withdrawn from rent or
7 lease has been again offered for rent or lease, and whether the owner has complied with the
8 provisions of this Section.

9 (i) This Section 37.9A is enacted principally to exercise specific authority provided
10 for by Chapter 12.75 of Division 7 of Title 1 of the California Government Code, originally
11 enacted by Stats. 1985, Ch. 1509, Section 1 (the Ellis Act, California Government Code
12 Sections 7060 et seq.). In the case of any amendment to Chapter 12.75 or any other
13 provision of State law which amendment is inconsistent with this Section, this Section shall be
14 deemed to be amended to be consistent with State law, and to the extent it cannot be so
15 amended shall be interpreted to be effective as previously adopted to the maximum extent
16 possible.

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

20 By: MARIE CORLETT BLITS
21 Deputy City Attorney

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