

BOARD of SUPERVISORS



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MEMORANDUM

TO: Jeff Kositsky, Director, Dept. Of Homelessness and Supportive Housing
Robert Collins, Executive Director, Rent Board
Dan Adams, Acting Director, Mayors Office of Housing and Community Development (MOHCD)
Tom Hui, Director, Building Inspection Department

FROM: Victor Young, Assistant Clerk
Rules Committee

A handwritten signature in black ink that reads "Victor Young".

DATE: September 11, 2019

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following legislation on September 3, 2019:

File No. 190899

Ordinance amending the Administrative Code to add a preference in City affordable housing programs to tenants temporarily evicted from rental units for capital improvements or rehabilitation work; requiring landlords who regain possession of such rental units to provide evidence of complying with a tenant's right to re-occupy such tenant's rental unit; and restricting the issuance of a certificate of final completion unless a landlord provides such evidence.

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: victor.young@sfgov.org.

c: Dylan Schneider, Dept. Of Homelessness and Supportive Housing
Abigail Stewart-Kahn, Dept. Of Homelessness and Supportive Housing
Eugene Flanery, MOHCD
Amy Chan, MOHCD
Dan Adams, MOHCD
William Strawn, Building Inspection Department
Carolyn Jayin, Building Inspection Department

1 [Administrative Code - Temporarily Displaced Tenant Preference in City Affordable Housing -
2 Compliance with Right to Return for Temporarily Displaced Tenants]

3 **Ordinance amending the Administrative Code to add a preference in City affordable**
4 **housing programs to tenants temporarily evicted from rental units for capital**
5 **improvements or rehabilitation work; requiring landlords who regain possession of**
6 **such rental units to provide evidence of complying with a tenant's right to re-occupy**
7 **such tenant's rental unit; and restricting the issuance of a certificate of final**
8 **completion unless a landlord provides such evidence.**

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. Background and Findings.

18 (a) Administrative Code Section 37.9(a)(11) allows landlords to evict tenants in
19 order to perform capital improvements or rehabilitation work, if the landlord has obtained all
20 the necessary permits on or before the date upon which notice to vacate is given to the tenant
21 and the landlord acts without ulterior reasons and with honest intent.

22 (b) Administrative Code Section 37.9(a)(11) further provides that evictions are
23 intended to be temporary and that the tenant is entitled to re-occupy the rental unit when the
24 capital improvements or rehabilitation work are completed. Although this provision ostensibly
25 limits the displacement of tenants to less than three months and provides a relocation
assistance payment, landlords are allowed to extend such displacement period without a limit.

1 (c) In some cases, the temporary displacement of households, many of them
2 seniors or families with children, often last for a year or more and without any increase in
3 relocation assistance or offer of actual replacement housing, which can lead to these
4 households being permanently displaced from the City.

5 (d) Given the challenges of finding affordable, temporary housing in the City for
6 even those at the top of the income scale, the Board of Supervisors finds that it is necessary
7 through this ordinance to provide temporary affordable housing to income-qualified tenants
8 within the City's affordable housing.

9
10 Section 2. Chapter 47 of the Administrative Code is hereby amended by revising
11 Sections 47.2 and 47.3, to read as follows:

12 **SEC. 47.2. DEFINITIONS.**

13 * * * *

14 "Rent Ordinance" shall mean the San Francisco Rent Stabilization and Arbitration
15 Ordinance, Administrative Code Chapter 37.

16 "Rental Unit" shall have the meaning set forth in Rent Ordinance Section 37.2(r), as amended
17 from time to time.

18 * * * *

19 "Tax Exempt Bond Development" shall mean any housing development financed
20 through a tax-exempt bond issuance that imposes rent and occupancy restrictions as a
21 condition of the financing.

22 "Temporarily Displaced Tenant" shall mean a tenant who has vacated a Rental Unit pursuant
23 to a notice to vacate based on capital improvements or rehabilitation work set forth in Rent Ordinance
24 Section 37.9(a)(11), as amended from time to time. MOHCD shall establish a process for a tenant to
25 verify his or her status as a "Temporarily Displaced Tenant" that, at a minimum, shall require a tenant

1 to show: (a) the tenant is required to vacate or has vacated the Rental Unit pursuant to a notice to
2 vacate based on Rent Ordinance Section 37.9(a)(11); and (b) the tenant (1) is listed on the notice to
3 vacate, (2) is listed on the lease for the unit in question, or (3) has other evidence sufficient to establish,
4 in MOHCD's reasonable discretion, that the tenant resided in the unit at the time the notice to vacate
5 was received.

6 **SEC. 47.3. APPLICATION OF PREFERENCE.**

7 Except to the extent prohibited by an applicable State or Federal funding source,
8 MOHCD shall give, or require project sponsors or their successors in interest funded through
9 MOHCD to give, preference in occupying units or receiving assistance under all City
10 Affordable Housing Programs. Each preference enumerated below shall be applied as of the
11 effective date of the legislation establishing each preference. The City established preference
12 for holders of Certificates of Preference in Ordinance 232-08, Displaced Tenants, Category 1
13 in Ordinance 277-13, and Displaced Tenants, Category 2 and Neighborhood Residents in
14 legislation adding this Chapter 47. The preference requirements are intended to have
15 prospective effect only, and shall not be interpreted to impair the obligations of any pre-
16 existing contract entered into by the City. Notwithstanding the prior sentence, the preference
17 requirements shall apply to contracts entered into by the City on or after the effective date of
18 the legislation establishing each preference, including contracts materially amended on or
19 after the effective date. Preference shall be given:

20 (a) First, to Residential Certificate of Preference Holders, who meet all of the
21 qualifications for the unit or assistance. Preference under this subsection (a) shall be given in
22 100% of the units in all initial sales, re-sales, initial leases, and subsequent leases.

23 (b) Second, to any Displaced Tenant who meets all of the qualifications for the unit
24 or assistance. For any Displaced Tenant displaced prior to the effective date of this Chapter
25 47, preference under this subsection (b) shall expire six years from the effective date of this

1 Chapter 47. For any Displaced Tenant displaced after the effective date of this Chapter 47,
2 preference under this subsection (b) shall expire, for Category 1, six years from the date the
3 landlord filed with the Rent Board a Notice of Intent to Withdraw, for Category 2, six years
4 from the date the landlord filed with the Rent Board the notice to vacate pursuant to the Rent
5 Ordinance Section 37.9(c), or, for Category 3, three years from the date of the order to
6 vacate. Preference under this subsection (b) shall be applicable to:

7 (1) 20% of the units in any new residential development that is part of a City
8 Affordable Housing Program going through the initial occupancy or sale process; and

9 (2) units in all re-sales and subsequent leases until 20% of all units that are
10 part of a City Affordable Housing Program in a building are occupied by tenants who have
11 exercised this preference.

12 The Displaced Tenant's preference shall still apply even if such Displaced Tenant
13 declines a unit offered through application of the preference, but upon accepting and
14 occupying a unit obtained using the preference, such Displaced Tenant's preference
15 terminates.

16 (c) Third, to a Neighborhood Resident, who meets all of the qualifications for the
17 unit or assistance. Preference under this subsection (c) shall be given:

18 (1) for units located in the same Neighborhood as the person resides;
19 (2) only for any new residential development in that Neighborhood going
20 through the initial occupancy or sale process, and only to 40% of the units in such
21 development.

22 (d) Fourth, to Temporarily Displaced Tenants who meet all of the qualifications for the
23 affordable housing unit. The preference under this subsection (d) shall expire upon the earlier of: (1)
24 the tenant's accepting an offer from the landlord to re-occupy the tenant's Rental Unit pursuant to Rent
25 Ordinance Section 37.9(a)(11), or (2) the tenant's declining or failing to accept an offer to re-occupy

1 the Rental Unit within 30 days of receipt of such an offer. A Temporarily Displaced Tenant may
2 occupy an affordable housing unit until the earlier of: (1) the tenant's re-occupying the tenant's Rental
3 Unit, or (2) the tenant's declining or failing to accept an offer to re-occupy the Rental Unit within 30
4 days of receipt of such an offer. Payments received by the tenant for relocation expenses under Rent
5 Ordinance Section 37.9C shall not be considered as assets in order to determine the tenant's eligibility
6 for a unit, provided however, such payments shall be considered as a rent subsidy in order to meet
7 minimum annual income requirements and demonstrate the tenant's ability to pay affordable rent.
8 Preference under this subsection (d) shall be given for initial leases and subsequent leases of units.

9 ~~(d)~~(e) ~~Fourth-Fifth~~, to any person who lives or works in San Francisco who meets all of
10 the qualifications for the unit or assistance. Preference under this subsection ~~(d)~~(e) shall be
11 applicable to:

- 12 (1) any unit in any new residential development that is part of a City
13 Affordable Housing Program going through the initial occupancy or sale process; and
14 (2) units in all re-sales and subsequent leases.

15
16 Section 3. Chapter 37 of the Administrative Code is hereby amended by revising
17 Section 37.9(a)(11), to read as follows:

18 **SEC. 37.9. EVICTIONS.**

19 * * * *

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

21 * * * *

22 (11) The landlord seeks in good faith to remove temporarily the unit from
23 housing use in order to be able to carry out capital improvements or rehabilitation work and
24 has obtained all the necessary permits on or before the date upon which notice to vacate is
25 given, and does so without ulterior reasons and with honest intent. Any tenant who vacates

1 the unit under such circumstances shall have the right to reoccupy the unit at the prior rent
2 adjusted in accordance with the provisions of this Chapter 37. The tenant will vacate the unit
3 only for the minimum time required to do the work. On or before the date upon which notice to
4 vacate is given, the landlord shall: (A) advise the tenant in writing that the rehabilitation or
5 capital improvement plans are on file with the Central Permit Bureau of the Department of
6 Building Inspection and that arrangements for reviewing such plans can be made with the
7 Central Permit Bureau, and (B) provide the tenant a disclosure form prepared by the Board that
8 advises the tenant of the tenant's right to return and opportunity to obtain temporary rental housing
9 through the Mayor's Office of Housing and Community Development. In addition to the above, no
10 landlord shall endeavor to recover possession of any unit subject to a RAP loan as set forth in
11 Section 37.2(m) of this Chapter except as provided in Section 32.69 of the *San Francisco*
12 *Administrative Code*. The tenant shall not be required to vacate pursuant to this Section
13 37.9(a)(11), for a period in excess of three months; provided, however, that such time period
14 may be extended by the Board or its Administrative Law Judges upon application by the
15 landlord. The Board shall adopt rules and regulations to implement the application procedure.
16 Any landlord who seeks to recover possession under this Section 37.9(a)(11) shall pay
17 relocation expenses as provided in Section 37.9C. Immediately upon completion of the capital
18 improvements or rehabilitation work, the landlord shall advise the tenant, in writing, and allow the
19 tenant to reoccupy the tenant's unit. The tenant shall have 30 days from receipt of the landlord's offer
20 of reoccupancy to notify the landlord of acceptance or rejection of the offer, and if accepted, the tenant
21 shall reoccupy the unit within 45 days of receipt of the landlord's offer. The landlord shall file a copy
22 of the offer with the Rent Board within 15 days of the offer. No certificate of final completion for the
23 capital improvement or rehabilitation work under this Section 37.9(a)(11) shall be approved by the
24 Department of Building Inspection unless and until the Board verifies to the Department of Building
25 Inspection that the landlord has provided the tenant an offer to re-occupy the unit under this Section

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37.9(a)(11); or

* * * *

Section 4. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

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

By: 

KEITH NAGAYAMA
Deputy City Attorney
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