

File No. 090583

Committee Item No. _____

Board Item No. 05

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee _____

Date _____

Board of Supervisors Meeting

Date 01/12/10

Cmte Board

- | | | |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | 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"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER

(Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Renee Craig

Date 12/17/09

Completed by: _____

Date _____

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.

1 [Just cause eviction protections for residential tenants, extend to non-rent controlled units.]

2
3 Ordinance amending Administrative Code Chapter 37 "Residential Rent Stabilization
4 and Arbitration Ordinance:" by amending Sections 37.2 and 37. 3 to extend just cause
5 eviction requirements and protections to tenants in units that are not now subject to
6 eviction controls (e.g., most residential rental units with a certificate of occupancy
7 issued after June 13, 1979); by amending Section 37.9 to provide that 37.9(a)(8)(vi)
8 limitations on owner move-in evictions do not apply to these newly protected units
9 (new Section 37.9(a)(8)(viii)); by amending Section 37.9 to provide an owner the option
10 of giving additional notice in lieu of making relocation payments for owner move-in
11 eviction of a newly covered single-family home or individually owned condominium,
12 provided the tenant was initially given specified notice of this status (new Section
13 37.9(a)(8)(ix); by amending Section 37.9 to add a 16th just cause for eviction, to
14 provide for eviction from a condominium unit with separable title that was rented by
15 the developer for a limited time period prior to sale of the unit, where the developer has
16 given specified advance notice to the renters (new Section 37.9(a)(16)); and by
17 amending Chapter 37A "Rent Stabilization and Arbitration Fee" by amending Section
18 37A.1 to extend the City's current residential rental unit fee to these units; findings in
19 support of the legislation; severability clause; technical corrections.

20 NOTE: Additions are single-underline italics Times New Roman font;
21 deletions are strike-through italics Times New Roman font.
22 Board amendment additions are double-underlined Arial font;
23 Board amendment deletions are strikethrough Arial font.

24 Be it ordained by the People of the City and County of San Francisco:
25

1 Section 1. The San Francisco Administrative Code is hereby amended by amending
2 Section 37.2 to delete Sections 37.2(r)(5), (6), and (7), to read as follows:

3 SEC. 37.2. DEFINITIONS.

4 (a) Base Rent.

5 (1) That rent which is charged a tenant upon initial occupancy plus any rent increase
6 allowable and imposed under this Chapter; provided, however, that base rent shall not include
7 increases imposed pursuant to Section 37.7, and base rent shall not include utility
8 passthroughs or water revenue bond passthroughs or general obligation bond passthroughs
9 pursuant to Sections 37.2(q), 37.3(a)(5)(B), and 37.3(a)(6). Base rent for tenants of RAP
10 rental units in areas designated on or after July 1, 1977, shall be that rent which was
11 established pursuant to Section 32.73-1 of the San Francisco Administrative Code. Rent
12 increases attributable to the City Administrator's amortization of an RAP loan in an area
13 designated on or after July 1, 1977, shall not be included in the base rent.

14 (2) From and after the effective date of this ordinance, the base rent for tenants
15 occupying rental units which have received certain tenant-based or project-based rental
16 assistance shall be as follows:

17 (A) With respect to tenant-based rental assistance:

18 (i) For any tenant receiving tenant-based assistance as of the effective date of this
19 ordinance (except where the rent payable by the tenant is a fixed percentage of the tenant's
20 income, such as in the Section 8 certificate program and the rental subsidy program for the
21 HOPWA program), and continuing to receive tenant-based rental assistance following the
22 effective date of this ordinance, the base rent for each unit occupied by such tenant shall be
23 the rent payable for that unit under the Housing Assistance Payments contract, as amended,
24 between the San Francisco Housing Authority and the landlord (the "HAP contract") with
25 respect to that unit immediately prior to the effective date of this ordinance (the "HAP" contract

1 rent").

2 (ii) For any tenant receiving tenant-based rental assistance (except where the rent
3 payable by the tenant is a fixed percentage of the tenant's income, such as in the Section 8
4 certificate program and the rental subsidy program for the HOPWA program), and
5 commencing occupancy of a rental unit following the effective date of this ordinance, the base
6 rent for each unit occupied by such a tenant shall be the HAP contract rent in effect as of the
7 date the tenant commences occupancy of such unit.

8 (iii) For any tenant whose tenant-based rental assistance terminates or expires, for
9 whatever reason, following the effective date of this ordinance, the base rent for each such
10 unit following expiration or termination shall be the HAP contract rent in effect for that unit
11 immediately prior to the expiration or termination of the tenant-based rental assistance.

12 (B) For any tenant occupying a unit upon the expiration or termination, for whatever
13 reason, of a project-based HAP contract under Section 8 of the United States Housing Act of
14 1937 (42 USC Section 1437f, as amended), the base rent for each such unit following
15 expiration or termination shall be the "contract rent" in effect for that unit immediately prior to
16 the expiration or termination of the project-based HAP contract.

17 (C) For any tenant occupying a unit upon the prepayment or expiration of any
18 mortgage insured by the United States Department of Housing and Urban Development
19 ("HUD"), including but not limited to mortgages provided under Sections 221(d)(3), 221(d)(4)
20 and 236 of the National Housing Act (12 USC Section 1715z-1), the base rent for each such
21 unit shall be the "basic rental charge" (described in 12 USC 1715z-1(f), or successor
22 legislation) in effect for that unit immediately prior to the prepayment of the mortgage, which
23 charge excludes the "interest reduction payment" attributable to that unit prior to the mortgage
24 prepayment or expiration.

25 (b) Board. The Residential Rent Stabilization and Arbitration Board.

1 (c) Capital Improvements. Those improvements which materially add to the value of
2 the property, appreciably prolong its useful life, or adapt it to new uses, and which may be
3 amortized over the useful life of the improvement of the building.

4 (d) CPI. Consumer Price Index for all Urban Consumers for the San Francisco-
5 Oakland Metropolitan Area, U.S. Department of Labor.

6 (e) Energy Conservation Improvements. Work performed pursuant to the
7 requirements of Chapter 12 of the San Francisco Housing Code.

8 (f) Administrative Law Judge. A person, designated by the Board, who arbitrates and
9 mediates rental increase disputes, and performs other duties as required pursuant to this
10 Chapter 37.

11 (f.1) Reserved.

12 (g) Housing Services. Services provided by the landlord connected with the use or
13 occupancy of a rental unit including, but not limited to: quiet enjoyment of the premises,
14 without harassment by the landlord as provided in Section 10B; repairs; replacement;
15 maintenance; painting; light; heat; water; elevator service; laundry facilities and privileges;
16 janitor service; refuse removal; furnishings; telephone; parking; rights permitted the tenant by
17 agreement, including the right to have a specific number of occupants, whether express or
18 implied, and whether or not the agreement prohibits subletting and/or assignment; and any
19 other benefits, privileges or facilities.

20 (h) Landlord. An owner, lessor, sublessor, who receives or is entitled to receive rent
21 for the use and occupancy of any residential rental unit or portion thereof in the City and
22 County of San Francisco, and the agent, representative or successor of any of the foregoing.

23 (i) Member. A member of the Residential Rent Stabilization and Arbitration Board.

24 (j) Over FMR Tenancy Program. A regular certificate tenancy program whereby the
25 base rent, together with a utility allowance in an amount determined by HUD, exceeds the fair

1 market rent limitation for a particular unit size as determined by HUD.

2 (k) Payment Standard. An amount determined by the San Francisco Housing
3 Authority that is used to determine the amount of assistance paid by the San Francisco
4 Housing Authority on behalf of a tenant under the Section 8 Voucher Program (24 CFR Part
5 887).

6 (l) RAP. Residential Rehabilitation Loan Program (Chapter 32, San Francisco
7 Administrative Code).

8 (m) RAP Rental Units. Residential dwelling units subject to RAP loans pursuant to
9 Chapter 32, San Francisco Administrative Code.

10 (n) Real Estate Department. A city department in the City and County of San
11 Francisco.

12 (o) Rehabilitation Work. Any rehabilitation or repair work done by the landlord with
13 regard to a rental unit, or to the common areas of the structure containing the rental unit,
14 which work was done in order to be in compliance with State or local law, or was done to
15 repair damage resulting from fire, earthquake or other casualty or natural disaster.

16 (p) Rent. The consideration, including any bonus, benefits or gratuity, demanded or
17 received by a landlord for or in connection with the use or occupancy of a rental unit, or the
18 assignment of a lease for such a unit, including but not limited to monies demanded or paid
19 for parking, furnishing, food service, housing services of any kind, or subletting.

20 (q) Rent Increases. Any additional monies demanded or paid for rent as defined in
21 item (p) above, or any reduction in housing services without a corresponding reduction in the
22 monies demanded or paid for rent; provided, however, that: (1) where the landlord has been
23 paying the tenant's utilities and the cost of those utilities increases, the landlord's passing
24 through to the tenant of such increased costs pursuant to this Chapter does not constitute a
25 rent increase; (2) where there has been a change in the landlord's property tax attributable to

1 a general obligation bond approved by the voters between November 1, 1996 and November
2 30, 1998, or after November 14, 2002, the landlord's passing through to the tenant of such
3 increased costs in accordance with this Chapter (see Section 37.3(a)(6)) does not constitute a
4 rent increase; (3) where there has been a change in the landlord's property tax attributable to
5 a San Francisco Unified School District or San Francisco Community College District general
6 obligation bond approved by the voters after November 1, 2006, the landlord's passing
7 through to the tenant of such increased costs in accordance with this Chapter (see Section
8 37.3(a)(6)) does not constitute a rent increase; and, (4) where water bill charges are
9 attributable to water rate increases resulting from issuance of water revenue bonds authorized
10 at the November 5, 2002 election, the landlord's passing through to the tenant of such
11 increased costs in accordance with this Chapter (see Section 37.3(a)(5)(B)) does not
12 constitute a rent increase.

13 (r) Rental Units. All residential dwelling units in the City and County of San Francisco
14 together with the land and appurtenant buildings thereto, and all housing services, privileges,
15 furnishings and facilities supplied in connection with the use or occupancy thereof, including
16 garage and parking facilities.

17 Garage facilities, parking facilities, driveways, storage spaces, laundry rooms, decks,
18 patios, or gardens on the same lot, or kitchen facilities or lobbies in single room occupancy
19 (SRO) hotels, supplied in connection with the use or occupancy of a unit, may not be severed
20 from the tenancy by the landlord without just cause as required by Section 37.9(a). Any
21 severance, reduction or removal permitted under this Section 37.2(r) shall be offset by a
22 corresponding reduction in rent. Either a landlord or a tenant may file a petition with the Rent
23 Board to determine the amount of the rent reduction.

24 The term "rental units" shall not include:

25 (1) Housing accommodations in hotels, motels, inns, tourist houses, rooming and

1 boarding houses, provided that at such time as an accommodation has been occupied by a
2 tenant for 32 continuous days or more, such accommodation shall become a rental unit
3 subject to the provisions of this Chapter; provided further, no landlord shall bring an action to
4 recover possession of such unit in order to avoid having the unit come within the provisions of
5 this Chapter. An eviction for a purpose not permitted under Section 37.9(a) shall be deemed
6 to be an action to recover possession in order to avoid having a unit come within the
7 provisions of this Chapter;

8 (2) Dwelling units in nonprofit cooperatives owned, occupied and controlled by a
9 majority of the residents or dwelling units solely owned by a nonprofit public benefit
10 corporation governed by a board of directors the majority of which are residents of the
11 dwelling units and where it is required in the corporate by-laws that rent increases be
12 approved by a majority of the residents;

13 (3) Housing accommodation in any hospital, convent, monastery, extended care
14 facility, asylum, residential care or adult day health care facility for the elderly which must be
15 operated pursuant to a license issued by the California Department of Social Services, as
16 required by California Health and Safety Chapters 3.2 and 3.3; or in dormitories owned and
17 operated by an institution of higher education, a high school, or an elementary school;

18 (4) Except as provided in Subsections (A), (B) and (C), dwelling units whose rents are
19 controlled or regulated by any government unit, agency or authority, excepting those
20 unsubsidized and/or unassisted units which are insured by the United States Department of
21 Housing and Urban Development; provided, however, that units in unreinforced masonry
22 buildings which have undergone seismic strengthening in accordance with Building Code
23 Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the
24 ordinance is not in conflict with the seismic strengthening bond program or with the program's
25 loan agreements or with any regulations promulgated thereunder;

1 (A) For purposes of Sections 37.2, 37.3(a)(10)(A), 37.4, 37.5, 37.6, 37.9, 37.9A,
2 37.10A, 37.11A and 37.13, and the arbitration provisions of Sections 37.8 and 37.8A
3 applicable only to the provisions of Sections 37.3(a)(10)(A), the term "rental units" shall
4 include units occupied by recipients of tenant-based rental assistance where the tenant-based
5 rental assistance program does not establish the tenant's share of base rent as a fixed
6 percentage of a tenant's income, such as in the Section 8 voucher program and the "Over-
7 FMR Tenancy" program defined in 24 CFR Section 982.4;

8 (B) For purposes of Sections 37.2, 37.3(a)(10)(B), 37.4, 37.5, 37.6, 37.9, 37.9A,
9 37.10A, 37.11A and 37.13, the term "rental units" shall include units occupied by recipients of
10 tenant-based rental assistance where the rent payable by the tenant under the tenant-based
11 rental assistance program is a fixed percentage of the tenant's income; such as in the Section
12 8 certificate program and the rental subsidy program for the Housing Opportunities for
13 Persons with Aids ("HOPWA") program (42 U.S.C. Section 12901 et seq., as amended);

14 (C) The term "rental units" shall include units in a building for which tax credits are
15 reserved or obtained pursuant to the federal low income housing tax credit program (LIHTC,
16 Section 42 of the Internal Revenue Code, 26 U.S.C. Section 42), that satisfy the following
17 criteria:

18 (i) Where a tenant's occupancy of the unit began before the applicable LIHTC
19 regulatory agreement was recorded; and,

20 (ii) Where the rent is not controlled or regulated by any use restrictions imposed by
21 the City and County of San Francisco, the San Francisco Redevelopment Agency, the State
22 of California Office of Housing and Community Development, or the United States Department
23 of Housing and Urban Development.

24 Nothing in this Section 37.2(r)(4)(C) precludes a landlord from seeking an exemption
25 from rent regulation on the basis of substantial rehabilitation, under Sections 37.2(r)(6) 37.3(e)

1 and (f).

2 This Section 37.2(r)(4)(C) definition of "rental unit" shall apply to any unit where the
3 qualifying tenant (see Section 37.2(r)(4)(C)(i)) is in possession of the unit on or after the
4 effective date of this ordinance (Ord. No. 281-06), including but not limited to any unit where
5 the tenant has been served with a notice to quit but has not vacated the unit and there is no
6 final judgment against the tenant for possession of the unit as of the effective date of this
7 ordinance (Ord. No. 281-06).

8 ~~(5) Rental units located in a structure for which a certificate of occupancy was first issued~~
9 ~~after the effective date of this ordinance; (A) except as provided for certain categories of units and~~
10 ~~dwellings by Section 37.3(d) and Section 37.9A(b) of this Chapter, and (B) except as provided in a~~
11 ~~development agreement entered into by the City under San Francisco Administrative Code Chapter 56.~~

12 ~~(6) Dwelling units in a building which has undergone substantial rehabilitation after the~~
13 ~~effective date of this ordinance; provided, however, that RAP rental units are not subject to this~~
14 ~~exemption.~~

15 ~~(7) Dwellings or units otherwise subject to this Chapter 37, to the extent such dwellings or~~
16 ~~units are partially or wholly exempted from rent increase limitations by the Costa Hawkins Rental~~
17 ~~Housing Act (California Civil Code Sections 1954.50, et seq.) and/or San Francisco Administrative~~
18 ~~Code Section 37.3(d).~~

19 (s) Substantial Rehabilitation. The renovation, alteration or remodeling of residential
20 units of 50 or more years of age which have been condemned or which do not qualify for
21 certificates of occupancy or which require substantial renovation in order to conform the
22 building to contemporary standards for decent, safe and sanitary housing. Substantial
23 rehabilitation may vary in degree from gutting and extensive reconstruction to extensive
24 improvements that cure substantial deferred maintenance. Cosmetic improvements alone
25 such as painting, decorating and minor repairs, or other work which can be performed safely

1 without having the unit vacated do not qualify as substantial rehabilitation.

2 (t) Tenant. A person entitled by written or oral agreement, sub-tenancy approved by
3 the landlord, or by sufferance, to occupy a residential dwelling unit to the exclusion of others.

4 (u) Tenant-Based Rental Assistance. Rental assistance provided directly to a tenant
5 or directly to a landlord on behalf of a particular tenant, which includes but shall not be limited
6 to certificates and vouchers issued pursuant to Section 8 of the United States Housing Act of
7 1937, as amended (42 U.S.C. Section 1437f) and the HOPWA program.

8 (v) Utilities. The term "utilities" shall refer to gas and electricity exclusively.
9
10

11 Section 2. The San Francisco Administrative Code is hereby amended by amending
12 Section 37.3 to add new Sections 37.3(e), (f), (g) and (h), and renumber current Section
13 37.3(e) as 37.3(f)(i), to read as follows:

14 SEC. 37.3. RENT LIMITATIONS.

15 (a) Rent Increase Limitations for Tenants in Occupancy. Landlords may impose rent
16 increases upon tenants in occupancy only as provided below and as provided by Subsection
17 37.3(d):

18 (1) Annual Rent Increase. On March 1st of each year, the Board shall publish the
19 increase in the CPI for the preceding 12 months, as made available by the U.S. Department of
20 Labor. A landlord may impose annually a rent increase which does not exceed a tenant's
21 base rent by more than 60 percent of said published increase. In no event, however, shall the
22 allowable annual increase be greater than seven percent.

23 (2) Banking. A landlord who refrains from imposing an annual rent increase or any
24 portion thereof may accumulate said increase and impose that amount on the tenant's
25 subsequent rent increase anniversary dates. A landlord who, between April 1, 1982, and

1 February 29, 1984, has banked an annual seven percent rent increase (or rent increases) or
2 any portion thereof may impose the accumulated increase on the tenant's subsequent rent
3 increase anniversary dates.

4 (3) Capital Improvements, Rehabilitation, and Energy Conservation Improvements,
5 and Renewable Energy Improvements. A landlord may impose rent increases based upon the
6 cost of capital improvements, rehabilitation, energy conservation improvements, or renewable
7 energy improvements, provided that such costs are certified pursuant to Sections 37.7 and
8 37.8B below; provided further that where a landlord has performed seismic strengthening in
9 accordance with Building Code Chapters 16B and 16C, no increase for capital improvements
10 (including but not limited to seismic strengthening) shall exceed, in any 12 month period, 10
11 percent of the tenant's base rent, subject to rules adopted by the Board to prevent landlord
12 hardship and to permit landlords to continue to maintain their buildings in a decent, safe and
13 sanitary condition. A landlord may accumulate any certified increase which exceeds this
14 amount and impose the increase in subsequent years, subject to the 10 percent limitation.
15 Nothing in this subsection shall be construed to supersede any Board rules or regulations with
16 respect to limitations on increases based upon capital improvements whether performed
17 separately or in conjunction with seismic strengthening improvements pursuant to Building
18 Code Chapters 16B and 16C.

19 (4) Utilities. A landlord may impose increases based upon the cost of utilities as
20 provided in Section 37.2(q) above.

21 (5) Water: Charges Related to Excess Water Use, and 50% Passthrough of Water Bill
22 Charges Attributable to Water Rate Increases Resulting From Issuance of Water System
23 Improvement Revenue Bonds Authorized at the November 2002 Election.

24 (A) Charges Related to Excess Water Use. A landlord may impose increases not to
25 exceed 50 percent of the excess use charges (penalties) levied by the San Francisco Water

1 Department on a building for use of water in excess of Water Department allocations under
2 the following conditions:

3 (i) The landlord provides tenants with written certification that the following have been
4 installed in all units: (1) permanently installed retrofit devices designed to reduce the amount
5 of water used per flush or low-flow toilets (1.6 gallons per flush); (2) low-flow showerheads
6 which allow a flow of no more than 2.5 gallons per minute; and (3) faucet aerators (where
7 installation on current faucets is physically feasible); and

8 (ii) The landlord provides the tenants with written certification that no known plumbing
9 leaks currently exist in the building and that any leaks reported by tenants in the future will be
10 promptly repaired; and

11 (iii) The landlord provides the tenants with a copy of the water bill for the period in
12 which the penalty was charged. Only penalties billed for a service period which begins after
13 the effective date of the ordinance [April 20, 1991] may be passed through to tenants. Where
14 penalties result from an allocation which does not reflect documented changes in occupancy
15 which occurred after March 1, 1991, a landlord must, if requested in writing by a tenant, make
16 a good-faith effort to appeal the allotment. Increases based upon penalties shall be prorated
17 on a per-room basis provided that the tenancy existed during the time the penalty charges
18 accrued. Such charges shall not become part of a tenant's base rent. Where a penalty in any
19 given billing period reflects a 25 percent or more increase in consumption over the prior billing
20 period, and where that increase does not appear to result from increased occupancy or any
21 other known use, a landlord may not impose any increase based upon such penalty unless
22 inspection by a licensed plumber or Water Department inspector fails to reveal a plumbing or
23 other leak. If the inspection does reveal a leak, no increase based upon penalties may be
24 imposed at any time for the period of the unrepaired leak.

25 (B) Fifty Percent (50%) Passthrough of Water Bill Charges Attributable to Water

1 Increases Resulting From Issuance of Water System Improvement Revenue Bonds
2 Authorized at the November 2002 Election. A landlord may pass through fifty percent (50%) of
3 the water bill charges attributable to water rate increases resulting from issuance of Water
4 System Improvement Revenue Bonds authorized at the November 2002 election (Proposition
5 A), to any unit that is in compliance with any applicable laws requiring water conservation
6 devices. The landlord is not required to file a petition with the Board for approval of such a
7 cost passthrough. Such cost passthroughs are subject to the following:

8 (i) Affected tenants shall be given notice of any such passthrough as provided by
9 applicable notice of rent increase provisions of this Chapter 37, including but not limited to
10 Section 37.3(b)(3).

11 (ii) A tenant may file a hardship application with the Board, and be granted relief from
12 all or part of such a cost passthrough.

13 (iii) If a tenant's hardship application is granted, the tenant's landlord may utilize any
14 available Public Utilities Commission low-income rate discount program or similar program for
15 water bill reduction, based on that tenant's hardship status.

16 (iv) A landlord shall not impose a passthrough pursuant to Section 37.3(a)(5)(B) if the
17 landlord has filed for or received Board approval for a rent increase under Section 37.8(e)(4)
18 for increased operating and maintenance expenses in which the same increase in water bill
19 charges attributable to water rate increases resulting from issuance of any water revenue
20 bonds authorized at the November 5, 2002 election was included in the comparison year cost
21 totals.

22 (v) Where a tenant alleges that a landlord has imposed a water revenue bond
23 passthrough that is not in compliance with Section 37.3(a)(5)(B), the tenant may petition for a
24 hearing under the procedures provided by Section 37.8. In such a hearing the landlord shall
25 have the burden of proving the accuracy of the calculation that is the basis for the increase.

1 Any tenant petition challenging such a passthrough must be filed within one year of the
2 effective date of the passthrough.

3 (vi) A tenant who has received a notice of passthrough or a passthrough under this
4 Section 37.3(a)(5)(B) shall be entitled to receive a copy of the applicable water bill from the
5 landlord upon request.

6 (vii) The amount of permissible passthrough per unit under this Section 37.3(a)(5)(B)
7 shall be determined as follows:

8 (1) The San Francisco Public Utilities Commission will determine the charge per unit
9 of water, if any, that is attributable to water rate increases resulting from issuance of water
10 system improvement revenue bonds authorized at the November 5, 2002 election.

11 (2) The charge identified in Section 37.3(a)(5)(B)(vii)(1) shall be multiplied by the total
12 units of water used by each customer, for each water bill. The result is the total dollar amount
13 of the water bill that is attributable to water rate increases resulting from issuance of water
14 system improvement revenue bonds authorized at the November 5, 2002 election. That
15 charge shall be a separate line item on each customer's water bill.

16 (3) The dollar amount calculated under Section 37.3(a)(5)(B)(vii)(2) shall be divided
17 by two (since a 50% passthrough is permitted), and then divided by the total number of units
18 covered by the water bill, including commercial units. The resulting dollar figure shall be
19 divided by the number of months covered by the water bill cycle (most are two-month bill
20 cycles), to determine the amount of that water bill that may be passed through to each
21 residential unit for each month covered by that bill.

22 (4) These passthroughs may be imposed on a monthly basis. These passthroughs
23 shall not become part of a tenant's base rent. The amount of each passthrough may vary from
24 month to month, depending on the amount calculated under Sections 37.3(a)(5)(B)(vii)(1)
25 through (3).

1 (viii) The Board may amend its rules and regulations as necessary to implement this
2 Section 37.3(a)(5)(B).

3 (6) Property Tax. A landlord may impose increases based upon a 100% passthrough
4 of the change in the landlord's property tax resulting from the repayment of general obligation
5 bonds of the City and County of San Francisco approved by the voters between November 1,
6 1996, and November 30, 1998 as provided in Section 37.2(q) above.

7 A landlord may impose increases based upon a 50% passthrough of the change in the
8 landlord's property tax resulting from the repayment of San Francisco Unified School District
9 or San Francisco Community College District general obligation bonds approved by the voters
10 after November 1, 2006, as provided in Section 37.2(q) above.

11 The amount of such increases shall be determined for each tax year as follows:

12 (A) For general obligation bonds of the City and County of San Francisco approved by
13 the voters between November 1, 1996 and November 30, 1998:

14 (i) The Controller and the Board of Supervisors will determine the percentage of the
15 property tax rate, if any, in each tax year attributable to general obligation bonds approved by
16 the voters between November 1, 1996, and November 30, 1998, and repayable within such
17 tax year.

18 (ii) This percentage shall be multiplied by the total amount of the net taxable value for
19 the applicable tax year. The result is the dollar amount of property taxes for that tax year for a
20 particular property attributable to the repayment of general obligation bonds approved by the
21 voters between November 1, 1996, and November 30, 1998.

22 (iii) The dollar amount calculated under Subsection (ii) shall be divided by the total
23 number of all units in each property, including commercial units. That figure shall be divided
24 by 12 months, to determine the monthly per unit costs for that tax year of the repayment of
25 general obligation bonds approved by the voters between November 1, 1996, and November

1 30, 1998.

2 (B) For general obligation bonds of the City and County of San Francisco approved by
3 the voters after November 14, 2002 where any rent increase has been disclosed and
4 approved by the voters:

5 (i) The Controller and the Board of Supervisors will determine the percentage of the
6 property tax rate, if any, in each tax year attributable to general obligation bonds approved by
7 the voters after November 14, 2002 and repayable within such tax year.

8 (ii) This percentage shall be multiplied by the total amount of the net taxable value for
9 the applicable tax year. The result is the dollar amount of property taxes for that tax year for a
10 particular property attributable to the repayment of general obligation bonds approved by the
11 voters after November 14, 2002.

12 (iii) The dollar amount calculated under Subsection (ii) shall be divided by two, and
13 then by the total number of all units in each property, including commercial units. That figure
14 shall be divided by 12 months, to determine the monthly per unit costs for that tax year of the
15 repayment of general obligation bonds approved by the voters after November 14, 2002.

16 (C) For general obligation bonds of the San Francisco Unified School District or San
17 Francisco Community College District approved by the voters after November 1, 2006:

18 (i) The Controller and the Board of Supervisors will determine the percentage of the
19 property tax rate, if any, in each tax year attributable to San Francisco Unified School District
20 or San Francisco Community College District general obligation bonds approved by the voters
21 after November 1, 2006 and repayable within such tax year.

22 (ii) This percentage shall be multiplied by the total amount of the net taxable value for
23 the applicable tax year. The result is the dollar amount of property taxes for that tax year for a
24 particular property attributable to the repayment of San Francisco Unified School District or
25 San Francisco Community College District general obligation bonds approved by the voters

1 after November 1, 2006.

2 (iii) The dollar amount calculated under Subsection (ii) shall be divided by two, and
3 then by the total number of all units in each property, including commercial units. That figure
4 shall be divided by 12 months, to determine the monthly per unit costs for that tax year of the
5 repayment of San Francisco Unified School District or San Francisco Community College
6 District general obligation bonds approved by the voters after November 1, 2006.

7 (D) Landlords may pass through to each unit in a particular property the dollar amount
8 calculated under these Subsections 37.3(a)(6)(A) and (B) and (C). These passthroughs may
9 be imposed only on the anniversary date of each tenant's occupancy of the property. These
10 passthroughs shall not become a part of a tenant's base rent. The amount of each annual
11 passthrough imposed pursuant to this Subsection (6) may vary from year-to-year, depending
12 on the amount calculated under Subsections (A) and (B) and (C). Each annual passthrough
13 shall apply only for the 12 month period after it is imposed. A landlord may impose the
14 passthroughs described in this Subsection (6) for a particular tax year only with respect to
15 those tenants who were residents of a particular property on November 1st of the applicable
16 tax year. A landlord shall not impose a passthrough pursuant to this Subsection (6) if the
17 landlord has filed for or received Board approval for a rent increase under Section 37.8(e)(4)
18 for increased operating and maintenance expenses in which the same increase in property
19 taxes due to the repayment of general obligation bonds was included in the comparison year
20 cost totals.

21 (E) The Board will have available a form which explains how to calculate the
22 passthrough.

23 (F) Landlords must provide to tenants, on or before the date that notice is served on
24 the tenant of a passthrough permitted under this Subsection (6), a copy of the completed form
25 described in Subsection (E). This completed form shall be provided in addition to the Notice of

1 Rent Increase required under Section 37.3(b)(5). Where a tenant alleges that a landlord has
2 imposed a charge which exceeds the limitations set forth in this Subsection (6), the tenant
3 may petition for a hearing under the procedures provided by Section 37.8. In such a hearing,
4 the landlord shall have the burden of proving the accuracy of the calculation that is the basis
5 for the increase. Any tenant petitions challenging such a passthrough must be filed within one
6 year of the effective date of the passthrough.

7 (G) The Board may amend its rules and regulations as necessary to implement this
8 Subsection (6).

9 (7) RAP Loans. A landlord may impose rent increases attributable to the City
10 Administrator's amortization of the RAP loan in an area designated on or after July 1, 1977,
11 pursuant to Chapter 32 of the San Francisco Administrative Code.

12 (8) Additional Increases. A landlord who seeks to impose any rent increase which
13 exceeds those permitted above shall petition for a rental arbitration hearing pursuant to
14 Section 37.8 of this Chapter.

15 (9) A landlord may impose a rent increase to recover costs incurred for the
16 remediation of lead hazards, as defined in San Francisco Health Code Article 11 or 26. Such
17 increases may be based on changes in operating and maintenance expenses or for capital
18 improvement expenditures as long as the costs which are the basis of the rent increase are a
19 substantial portion of the work which abates or remediates a lead hazard, as defined in San
20 Francisco Health Code Article 11 or 26, and provided further that such costs are approved for
21 operating and maintenance expense increases pursuant to Section 37.8(e)(4)(A) and certified
22 as capital improvements pursuant to Section 37.7 below.

23 When rent increases are authorized by this Subsection 37.3(a)(9), the total rent
24 increase for both operating and maintenance expenses and capital improvements shall not
25 exceed 10 percent in any 12 month period. If allowable rent increases due to the costs of lead

1 remediation and abatement work exceed 10 percent in any 12 month period, an
2 Administrative Law Judge shall apply a portion of such excess to approved operating and
3 maintenance expenses for lead remediation work, and the balance, if any, to certified capital
4 improvements, provided, however, that such increase shall not exceed 10 percent. A landlord
5 may accumulate any approved or certified increase which exceeds this amount, subject to the
6 10 percent limit.

7 (10) With respect to units occupied by recipients of tenant-based rental assistance:

8 (A) If the tenant's share of the base rent is not calculated as a fixed percentage of the
9 tenant's income, such as in the Section 8 voucher program and the Over-FMR Tenancy
10 Program, then:

11 (i) If the base rent is equal to or greater than the payment standard, the rent increase
12 limitations in Sections 37.3(a)(1) and (2) shall apply to the entire base rent, and the arbitration
13 procedures for those increases set forth in Section 37.8 and 37.8A shall apply.

14 (ii) If the base rent is less than the payment standard, the rent increase limitations of
15 this Chapter shall not apply; provided, however, that any rent increase which would result in
16 the base rent being equal to or greater than the payment standard shall not result in a new
17 base rent that exceeds the payment standard plus the increase allowable under Section
18 37.3(a)(1).

19 (B) If the tenant's share of the base rent is calculated as a fixed percentage of the
20 tenant's income, such as in the Section 8 certificate program and the rental subsidy program
21 for the HOPWA program, the rent increase limitations in Section 37.3(a)(1) and (2) shall not
22 apply. In such circumstances, adjustments in rent shall be made solely according to the
23 requirements of the tenant-based rental assistance program.

24 (b) Notice of Rent Increase for Tenants in Occupancy. On or before the date upon
25 which a landlord gives a tenant legal notice of a rent increase, the landlord shall inform the

1 tenant, in writing, of the following:

2 (1) Which portion of the rent increase reflects the annual increase, and/or a banked
3 amount, if any;

4 (2) Which portion of the rent increase reflects costs for increased operating and
5 maintenance expenses, rents for comparable units, and/or capital improvements,
6 rehabilitation, energy conservation measures improvements, or renewable energy
7 improvements certified pursuant to Section 37.7. Any rent increase certified due to increases
8 in operating and maintenance costs shall not exceed seven percent;

9 (3) Which portion of the rent increase reflects the passthrough of charges for: gas and
10 electricity; or the passthrough of increased water bill charges attributable to water rate
11 increases resulting from issuance of water revenue bonds authorized at the November 2002
12 election as provided by Section 37.3(a)(5)(B), which charges and calculations of charges shall
13 be explained in writing on a form provided by the Board; or the passthrough of general
14 obligation bond measure costs as provided by Section 37.3(a)(6), which charges shall be
15 explained in writing on a form provided by the Board as described in Section 37.3(a)(6)(E);

16 (4) Which portion of the rent increase reflects the amortization of the RAP loan, as
17 described in Section 37.3(a)(7) above.

18 (5) Nonconforming Rent Increases. Any rent increase which does not conform with
19 the provisions of this Section shall be null and void.

20 (6) With respect to rental units occupied by recipients of tenant-based rental
21 assistance, the notice requirements of this Subsection (b) shall be required in addition to any
22 notice required as part of the tenant-based rental assistance program.

23 (c) Initial Rent Limitation for Subtenants. A tenant who subleases his or her rental unit
24 may charge no more rent upon initial occupancy of the subtenant or subtenants than that rent
25 which the tenant is currently paying to the landlord.

1 (d) Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.)
2 Consistent with the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.)
3 and regardless of whether otherwise provided under Chapter 37:

4 (1) Property Owner Rights to Establish Initial and All Subsequent Rental Rates for
5 Separately Alienable Parcels.

6 (A) An owner of residential real property may establish the initial and all
7 subsequent rental rates for a dwelling or a unit which is alienable separate from the title to any
8 other dwelling unit or is a subdivided interest in a subdivision as specified in subdivision (b),
9 (d), or (f) of Section 11004.5 of the California Business and Professions Code. The owner's
10 right to establish subsequent rental rates under this paragraph shall not apply to a dwelling or
11 unit where the preceding tenancy has been terminated by the owner by notice pursuant to
12 California Civil Code Section 1946 or has been terminated upon a change in the terms of the
13 tenancy noticed pursuant to California Civil Code Section 827; in such instances, the rent
14 increase limitation provisions of Chapter 37 shall continue to apply for the duration of the new
15 tenancy in that dwelling or unit.

16 (B) Where the initial or subsequent rental rates of a Subsection 37.3(d)(1)(A) dwelling
17 or unit were controlled by the provisions of Chapter 37 on January 1, 1995, the following shall
18 apply:

19 (i) A tenancy that was in effect on December 31, 1995, remains subject to the rent
20 control provisions of this Chapter 37, and the owner may not otherwise establish the
21 subsequent rental rates for that tenancy.

22 (ii) On or after January 1, 1999, an owner may establish the initial and all subsequent
23 rental rates for any tenancy created on or after January 1, 1996.

24 (C) An owner's right to establish subsequent rental rates under Subsection 37.3(d)(1)
25 shall not apply to a dwelling or unit which contains serious health, safety, fire or building code

1 violations, excluding those caused by disasters, for which a citation has been issued by the
2 appropriate governmental agency and which has remained unabated for six months or longer
3 preceding the vacancy.

4 (2) Conditions for Establishing the Initial Rental Rate Upon Sublet or Assignment.
5 Except as identified in this Subsection 37.3(d)(2), nothing in this Subsection or any other
6 provision of law of the City and County of San Francisco shall be construed to preclude
7 express establishment in a lease or rental agreement of the rental rates to be applicable in the
8 event the rental unit subject thereto is sublet, and nothing in this Subsection shall be
9 construed to impair the obligations of contracts entered into prior to January 1, 1996, subject
10 to the following:

11 (A) Where the original occupant or occupants who took possession of the dwelling or
12 unit pursuant to the rental agreement with the owner no longer permanently reside there, an
13 owner may increase the rent by any amount allowed by this Subsection to a lawful sublessee
14 or assignee who did not reside at the dwelling or unit prior to January 1, 1996. However, such
15 a rent increase shall not be permitted while:

16 (i) The dwelling or unit has been cited in an inspection report by the appropriate
17 governmental agency as containing serious health, safety, fire, or building code violations, as
18 defined by Section 17920.3 of the California Health and Safety Code, excluding any violation
19 caused by a disaster; and,

20 (ii) The citation was issued at least 60 days prior to the date of the vacancy: and,

21 (iii) The cited violation had not been abated when the prior tenant vacated and had
22 remained unabated for 60 days or for a longer period of time. However, the 60-day time
23 period may be extended by the appropriate governmental agency that issued the citation.

24 (B) This Subsection 37.3(d)(2) shall not apply to partial changes in occupancy of a
25 dwelling or unit where one or more of the occupants of the premises, pursuant to the

1 agreement with the owner provided for above (37.3(d)(2)), remains an occupant in lawful
2 possession of the dwellings or unit, or where a lawful sublessee or assignee who resided at
3 the dwelling or unit prior to January 1, 1996, remains in possession of the dwelling or unit.
4 Nothing contained in this Subsection 37.3(d)(2) shall be construed to enlarge or diminish an
5 owner's right to withhold consent to a sublease or assignment.

6 (C) Acceptance of rent by the owner shall not operate as a waiver or otherwise
7 prevent enforcement of a covenant prohibiting sublease or assignment or as a waiver of an
8 owner's rights to establish the initial rental rate unless the owner has received written notice
9 from the tenant that is party to the agreement and thereafter accepted rent.

10 (3) Termination or Nonrenewal of a Contract or Recorded Agreement with a
11 Government Agency Limiting Rent. An owner who terminates or fails to renew a contract or
12 recorded agreement with a governmental agency that provides for a rent limitation to a
13 qualified tenant, shall be subject to the following:

14 (A) The tenant(s) who were beneficiaries of the contract or recorded agreement shall
15 be given at least 90 days' written notice of the effective date of the termination and shall not
16 be obligated to pay more than the tenant's portion of the rent, as calculated under that
17 contract or recorded agreement, for 90 days following receipt of the notice of termination or
18 nonrenewal.

19 (B) The owner shall not be eligible to set an initial rent for three years following the
20 date of the termination or nonrenewal of the contract or agreement.

21 (C) The rental rate for any new tenancy established during the three-year period in
22 that vacated dwelling or unit shall be at the same rate as the rent under the terminated or
23 nonrenewed contract or recorded agreement, plus any increases authorized under this
24 Chapter 37 after the date of termination/non renewal.

25 (D) The provisions of Subsections 37.3(d)(3)(B) and (C) shall not apply to any new

1 tenancy of 12 months or more duration established after January 1, 2000, pursuant to the
2 owner's contract or recorded agreement with a governmental agency that provides for a rent
3 limitation to a qualified tenant unless the prior vacancy in that dwelling or unit was pursuant to
4 a nonrenewed or canceled contract or recorded agreement with a governmental agency that
5 provides for a rent limitation to a qualified tenant.

6 (4) Subsections 37.3(d) and (e) does not affect the authority of the City and County of
7 San Francisco to regulate or monitor the basis or grounds for eviction.

8 (5) This Subsections 37.3(d), (e), (f) and (g) is are intended to be and shall be
9 construed to be consistent with the Costa-Hawkins Rental Housing Act (Civil Code Sections
10 1954.50. et seq.).

11 (e) An owner of residential real property may establish the initial and all subsequent rental
12 rates for a dwelling or a unit located in a structure for which a certificate of occupancy was first issued
13 after the effective date of Ordinance 276-79 (June 13, 1979), except:

14 (A-1) Where rent restrictions are provided for certain categories of units and dwellings by
15 Section 37.3(d) of this Chapter (e.g., Section 37.3(d)(1)(A) last sentence, (d)(1)(B)(i), (d)(1)(C),
16 (d)(2)(A)(i) – (iii), and (d)(3)), consistent with the Costa-Hawkins Rental Housing Act (California
17 Civil Code Sections 1954.50, et seq.);

18 (B-2) Where rent restrictions are provided by Section 37.9A(b) of this Chapter, consistent
19 with the Ellis Act (California Government Code Sections 7060, et seq.); and,

20 (C-3) As provided in a development agreement entered into by the City under San Francisco
21 Administrative Code Chapter 56.

22 (f) An owner of residential real property may establish the initial and all subsequent
23 rental rates for dwelling units in a building which has undergone substantial rehabilitation after
24 the effective date of Ordinance 276-79 (June 13, 1979); provided, however, that RAP rental
25 units are not subject to this exemption from the rent increase limitations of Chapter 37.

1 (g) An owner of residential real property may establish the initial and all subsequent
2 rental rates for residential dwellings or units otherwise subject to Chapter 37 that are
3 exempted from the rent increase limitations of Chapter 37 by the Costa-Hawkins Rental
4 Housing Act (California Civil Code Sections 1954.50, et seq.).

5 (h) Subsections 37.3(e), (f) and (g) do not affect the authority of the City and County of
6 San Francisco to regulate or monitor the basis or grounds for eviction.

7 ~~(e)(f)(i)~~ Effect of Deferred Maintenance on Passthroughs for Lead Remediation
8 Techniques.

9 (1) When lead hazards are remediated or abated pursuant to San Francisco Health
10 Code Articles 11 or 26, are violations of State or local housing health and safety laws, there
11 shall be a rebuttable presumption that the lead hazards are caused or created by deferred
12 maintenance as defined herein of the current or previous landlord. If the landlord fails to rebut
13 the presumption, the costs of such work shall not be passed through to tenants as either a
14 capital improvement or an operating and maintenance expense. If the landlord rebuts the
15 presumption, he or she shall be entitled to a rent increase if otherwise justified by the
16 standards set forth in this Chapter.

17 (2) For purposes of the evaluation of petitions for rent increases for lead remediation
18 work, maintenance is deferred if a reasonable landlord under the circumstances would have
19 performed, on a regular basis, the maintenance work required to keep the premises from
20 being in violation of housing safety and habitability standards set forth in California Civil Code
21 Section 1941 and the San Francisco Municipal Code. In order to prevail on a deferred
22 maintenance defense, a tenant must show that the level of repair or remediation currently
23 required would have been lessened had maintenance been performed in a more timely
24 manner.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Section 3. The San Francisco Administrative Code is hereby amended by amending Section 37A.1, to read as follows:

SEC. 37A.1. SCOPE.

This Chapter is applicable to all residential units in the City and County of San Francisco, including residential units which are exempt from the rent increase limitation provisions (but not other provisions) of Chapter 37 pursuant to the Costa-Hawkins Rental Housing Act (Civil Code §§ 1954.50. et seq.) and/or San Francisco Administrative Code Section 37.3(d), and/or Sections 37.3(e), (f) or (g). For purposes of this Chapter, "residential units" are dwelling units and guest rooms as those terms are defined in Sections 400 and 401 of the San Francisco Housing Code. The term shall not include:

(a) Guest rooms exempted or excluded from regulation under Chapter 41 of this Code;

(b) Dwelling units in nonprofit cooperatives owned, occupied and controlled by a majority of the residents or dwelling units solely owned by a nonprofit public benefit corporation governed by a board of directors the majority of which are residents of the dwelling units and where it is required in the corporate by-laws that rent increases be approved by a majority of the residents;

(c) Housing accommodations in any hospital, convent, monastery, extended care facility, asylum, residential care or adult day health care facility for the elderly which must be operated pursuant to a license issued by the California Department of Social Services, as required by California Health and Safety Chapters 3.2 and 3.3, or in dormitories owned and operated by an institution of higher education, a high school, or an elementary school;

(d) Dwelling units whose rents are controlled or regulated by any government unit, agency or authority, excepting those units which are subject to the jurisdiction of the

1 Residential Rent Stabilization and Arbitration Board. However, Section 8 certificate, voucher
2 and related programs administered by the San Francisco Housing Authority, which are subject
3 in whole or part to the jurisdiction of the Residential Rent Stabilization and Arbitration Board
4 shall remain exempt from the fee;

5 (e) Any dwelling unit for which the owner has on file with the Assessor a current
6 homeowner's exemption;

7 (f) Any dwelling unit which is occupied by an owner of record on either a full-time or
8 part-time basis and which is not rented at any time, provided that the owner file with the Tax
9 Collector an affidavit so stating;

10 ~~(g) Dwelling units located in a structure for which a certificate of final completion and~~
11 ~~occupancy was first issued by the Bureau of Building Inspection after June 13, 1979, except that any~~
12 ~~such units shall be subject to this Chapter 37A if so designated in a development agreement entered~~
13 ~~into by the City under Chapter 56 of the San Francisco Administrative Code;~~

14 ~~(h) Dwelling units in a building which, after June 13, 1979, has undergone substantial~~
15 ~~rehabilitation as that term is defined in Chapter 37 of this Code.~~

16
17
18 Section 4. The San Francisco Administrative Code is hereby amended by amending
19 Section 37.9 to add 37.9(a)(8)(viii), and to add Section 37.9(a)(16), as follows:

20 SEC. 37.9. EVICTIONS.

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

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

24 (1) The tenant:

25 (A) Has failed to pay the rent to which the landlord is lawfully entitled under the oral or

1 written agreement between the tenant and landlord:

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

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

10 (B) Habitually pays the rent late; or

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

13 (2) The tenant has violated a lawful obligation or covenant of tenancy other than the
14 obligation to surrender possession upon proper notice or other than an obligation to pay a
15 charge prohibited by Police Code Section 919.1, and failure to cure such violation after having
16 received written notice thereof from the landlord.

17 (A) Provided that notwithstanding any lease provision to the contrary, a landlord shall
18 not endeavor to recover possession of a rental unit as a result of subletting of the rental unit
19 by the tenant if the landlord has unreasonably withheld the right to sublet following a written
20 request by the tenant, so long as the tenant continues to reside in the rental unit and the
21 sublet constitutes a one-for-one replacement of the departing tenant(s). If the landlord fails to
22 respond to the tenant in writing within fourteen (14) days of receipt of the tenant's written
23 request, the tenant's request shall be deemed approved by the landlord.

24 (B) Provided further that where a rental agreement or lease provision limits the number
25 of occupants or limits or prohibits subletting or assignment, a landlord shall not endeavor to

1 recover possession of a rental unit as a result of the addition to the unit of a tenant's child,
2 parent, grandchild, grandparent, brother or sister, or the spouse or domestic partner (as
3 defined in Administrative Code Sections 62.1 through 62.8) of such relatives, or as a result of
4 the addition of the spouse or domestic partner of a tenant, so long as the maximum number of
5 occupants stated in Section 37.9(a)(2)(B)(i) and (ii) is not exceeded, if the landlord has
6 unreasonably refused a written request by the tenant to add such occupant(s) to the unit. If
7 the landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the
8 tenant's written request, the tenant's request shall be deemed approved by the landlord. A
9 landlord's reasonable refusal of the tenant's written request may not be based on the
10 proposed additional occupant's lack of creditworthiness, if that person will not be legally
11 obligated to pay some or all of the rent to the landlord. A landlord's reasonable refusal of the
12 tenant's written request may be based on, but is not limited to, the ground that the total
13 number of occupants in a unit exceeds (or with the proposed additional occupant(s) would
14 exceed) the lesser of (i) or (ii):

15 (i) Two persons in a studio unit, three persons in a one-bedroom unit, four persons in a
16 two-bedroom unit, six persons in a three-bedroom unit, or eight persons in a four-bedroom
17 unit; or

18 (ii) The maximum number permitted in the unit under state law and/or other local codes
19 such as the Building, Fire, Housing and Planning Codes; or

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

25 (3.1) Eviction Protection for Victims of Domestic Violence or Sexual Assault or Stalking:

1 (A) It shall be a defense to an action for possession of a unit under Subsection
2 37.9(a)(3) if the court determines that:

3 (i) The tenant or the tenant's household member is a victim of an act or acts that
4 constitute domestic violence or sexual assault or stalking; and

5 (ii) The notice to vacate is substantially based upon the act or acts constituting
6 domestic violence or sexual assault or stalking against the tenant or a tenant's household
7 member, including but not limited to an action for possession based on complaints of noise,
8 disturbances, or repeated presence of police.

9 (B) Evidence Required. In making the determination under Section 37.9(a)(3.1)(A) the
10 court shall consider evidence, which may include but is not limited to:

11 (i) A copy of a temporary restraining order or emergency protective order issued
12 pursuant to Part 3 (commencing with Section 6240) or Part 4 (commencing with Section 6300)
13 or Part 5 (commencing with Section 6400) of the Family Code, Section 136.2 of the Penal
14 Code, Section 527.6 of the Code of Civil Procedure, or Section 213.5 of the Welfare and
15 Institutions Code, that protects the tenant or tenant's household member from further
16 domestic violence, sexual assault, or stalking. And/or.

17 (ii) A copy of a written report by a peace officer employed by a state or local law
18 enforcement agency acting in his or her official capacity, stating that the tenant or tenant's
19 household member has filed a report alleging that he or she is a victim of domestic violence,
20 sexual assault, or stalking. And/or.

21 (iii) Other written documentation from a qualified third party of the acts constituting
22 domestic violence or sexual assault or stalking.

23 (C) Mutual Allegations of Abuse Between Parties. If two or more co-tenants are parties
24 seeking relief under Subsection 37.9(a)(3.1)(A), and each alleges that he or she was a victim
25 of domestic violence or sexual assault or stalking perpetrated by another co-tenant who is

1 also a party, the court may determine whether a tenant acted as the dominant aggressor in
2 the acts constituting a domestic violence or sexual assault or stalking offense. In making the
3 determination, the court shall consider the factors listed in Section 13701(b)(1) of the Penal
4 Code. A tenant who the court determines was the dominant aggressor in the acts constituting
5 a domestic violence or sexual assault or stalking offense is not entitled to relief under
6 Subsection 37.9(a)(3.1)(A).

7 (D) Limitations on Relief. Unless the tenant or the tenant's household member has
8 obtained a protective order against the alleged abuser to vacate or stay from the unit as a
9 result of acts constituting domestic violence or sexual assault or stalking against the tenant or
10 tenant's household member, the tenant may not obtain relief under Subsection 37.9(a)(3.1) if:

11 (i) The tenant was granted relief under Subsection 37.9(a)(3.1) in an action for
12 possession of the unit within the previous five years; and

13 (ii) A subsequent action for possession of the unit has now been filed; and

14 (iii) The notice to vacate in this subsequent action for possession is substantially based
15 upon continuing acts constituting domestic violence or sexual assault or stalking by the same
16 person alleged to be the abuser in the previous action for possession.

17 (E) Nothing in this Subsection 37.9(a)(3.1) shall be construed to affect the tenant's
18 liability for delinquent rent or other sums owed to the landlord, or the landlord's remedies in
19 recovering against the tenant for such sums.

20 (F) The provisions of Subsection 37.9(a)(3.1) are intended for use consistent with Civil
21 Code Section 1946.7.

22 (3.2) Confidentiality of Information Received from Victims of Domestic Violence or
23 Sexual Assault or Stalking. A landlord shall retain in strictest confidence all information that is
24 received in confidence from a tenant or a tenant's household member who is a victim of
25 domestic violence or sexual assault or stalking, regarding that domestic violence or sexual

1 assault or stalking, except to the extent that such disclosure (A) is necessary to provide for a
2 reasonable accommodation for the victim, or (B) is otherwise required pursuant to applicable
3 federal, state or local law. The victim may authorize limited or general release of any
4 information otherwise deemed confidential under this Subsection 37.9(a)(3.2); or

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

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

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

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

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

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

19 (ii) For the use or occupancy of the landlord's grandparents, grandchildren, parents,
20 children, brother or sister, or the landlord's spouse, or the spouses of such relations, as their
21 principal place of residency for a period of at least 36 months, in the same building in which
22 the landlord resides as his or her principal place of residency, or in a building in which the
23 landlord is simultaneously seeking possession of a rental unit under Section 37.9(a)(8)(i). For
24 purposes of this Section 37.9(a)(8)(ii), the term spouse shall include domestic partners as
25 defined in San Francisco Administrative Code Sections 62.1 through 62.8.

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

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

25 (v) It shall be rebuttably presumed that the landlord has not acted in good faith if the

1 landlord or relative for whom the tenant was evicted does not move into the rental unit within
2 three months and occupy said unit as that person's principal residence for a minimum of 36
3 continuous months.

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

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

17 (viii) If a unit is exempt from Chapter 37 limits on rent increases pursuant to Section
18 37.3(e), (f) or (g), then a landlord may seek to recover possession of the unit without regard to
19 the limitations provided in Section 37.9(a)(8)(vi).

20 (ix) If a unit is a single family home or condominium with title separable from the title
21 to any other unit:

22 (A) And if the unit is exempt from Chapter 37 limits on rent increases pursuant to
23 Section 37.3(e) or (f) (regarding units with a certificate of occupancy first issued after June 13,
24 1979, or designated under Chapter 37 as having undergone substantial rehabilitation after
25 June 13, 1979):

1 (B) And if written notice was given to the tenant(s) before the rental agreement was
2 finalized that the rental is intended to be of limited duration so that the owner may effectuate
3 an owner move-in eviction based on the grounds stated in Section 37.9(a)(8), including a copy
4 of Section 37.9(a)(8); or, for units rented prior to the effective date of this ordinance (-), if
5 such notice was given to the tenant(s) within 90 days after the effective date of this ordinance;

6 (C) Then, at the landlord's option, the landlord may either: (Option One) provide
7 notice to the tenant(s) no fewer than ninety days prior to serving a notice to vacate based on
8 the grounds stated in Section 37.9(a)(8) that the landlord intends to accomplish an owner
9 move-in eviction, stating the date the tenant will be required to vacate the premises; or,
10 (Option Two) provide statutory notice and pay relocation benefits as provided in Section
11 37.9C.

12 Or,

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

16 (10) The landlord seeks to recover possession in good faith in order to demolish or to
17 otherwise permanently remove the rental unit from housing use and has obtained all the
18 necessary permits on or before the date upon which notice to vacate is given, and does so
19 without ulterior reasons and with honest intent; provided that a landlord who seeks to recover
20 possession under this Section 37.9(a)(10) shall pay relocation expenses as provided in
21 Section 37.9C except that a landlord who seeks to demolish an unreinforced masonry building
22 pursuant to Building Code Chapters 16B and 16C must provide the tenant with the relocation
23 assistance specified in Section 37.9A(f) below prior to the tenant's vacating the premises; or

24 (11) The landlord seeks in good faith to remove temporarily the unit from housing use
25 in order to be able to carry out capital improvements or rehabilitation work and has obtained

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

17 (12) The landlord seeks to recover possession in good faith in order to carry out
18 substantial rehabilitation, as defined in Section 37.2(s), and has obtained all the necessary
19 permits on or before the date upon which notice to vacate is given, and does so without
20 ulterior reasons and with honest intent. Notwithstanding the above, no landlord shall endeavor
21 to recover possession of any unit subject to a RAP loan as set forth in Section 37.2(m) of this
22 Chapter except as provided in Section 32.69 of the San Francisco Administrative Code; Any
23 landlord who seeks to recover possession under this Section 37.9(a)(12) shall pay relocation
24 expenses as provided in Section 37.9C; or

25 (13) The landlord wishes to withdraw from rent or lease all rental units within any

1 detached physical structure and, in addition, in the case of any detached physical structure
2 containing three or fewer rental units, any other rental units on the same lot, and complies in
3 full with Section 37.9A with respect to each such unit; provided, however, that guestrooms or
4 efficiency units within a residential hotel, as defined in Section 50519 of the Health and Safety
5 Code, may not be withdrawn from rent or lease if the residential hotel has a permit of
6 occupancy issued prior to January 1, 1990, and if the residential hotel did not send a notice of
7 intent to withdraw the units from rent or lease (Administrative Code Section 37.9A(f),
8 Government Code Section 7060.4(a)) that was delivered to the Rent Board prior to January 1,
9 2004; or

10 (14) The landlord seeks in good faith to temporarily recover possession of the unit
11 solely for the purpose of effecting lead remediation or abatement work, as required by San
12 Francisco Health Code Articles 11 or 26. The tenant will vacate the unit only for the minimum
13 time required to do the work. The relocation rights and remedies, established by San
14 Francisco Administrative Code Chapter 72, including but not limited to, the payment of
15 financial relocation assistance, shall apply to evictions under this Section 37.9(a)(14).

16 (15) The landlord seeks to recover possession in good faith in order to demolish or to
17 otherwise permanently remove the rental unit from housing use in accordance with the terms
18 of a development agreement entered into by the City under Chapter 56 of the San Francisco
19 Administrative Code.

20 (16) The landlord intends, in good faith, with honest intent, and without ulterior motives
21 to sell the unit, and all of the following are true:

22 (A) The unit has not been sold or that title of the unit has not otherwise been
23 transferred by the developer to a third party member of the public, excluding transfer of title to
24 spouse, domestic partner as defined in San Francisco Administrative Code Chapter 62.1 -
25 62.8, pursuant to a court order, or a successor legal entity with the formation partners or

1 incorporators as the initial legal entity that developed the building, prior to issuance of the
2 certificate of occupancy. This provision may only be utilized once to vacate any unit it would
3 apply to.

4 (B) The units to the building are condominiums and that title to the unit may be
5 separable from the title to any other unit.

6 (C) Written notice was given to the tenant that the unit was built with intent to sell and
7 that the rental is intended to be of limited duration. This notice shall state that the landlord
8 may evict the tenant based on the grounds stated in section 37.9(a)(16), and shall include a
9 copy of Section 37.9(a)(16)

10 Such notice shall be given to any prospective tenant before a rental agreement is
11 finalized. For units rented prior to the effective date of this ordinance, such notice to the
12 tenants shall be given within 90 days of the effective date of this ordinance.

13 (D) At the landlord's option, either:

14 (i) No fewer than ninety days prior to serving a notice to vacate based on the grounds
15 stated in Section 37.9(a)(16), the landlord notified the tenant of their intent to sell the unit and
16 of the date the tenant will be required to vacate the premises; or

17 (ii) The landlord pays relocation benefits as provided in Section 37.9C.

18 (E) If the unit is not actually sold after the landlord serves the notice required by
19 Section 37.9(a)(16)(F-D) and if the unit is no longer listed for sale, the landlord shall offer the
20 tenant the option to re-rent. All other remedies concerning the landlord-tenant relationship
21 shall apply.

22 (F) The unit is exempt from limits on rent increases pursuant to section 37.3(e).

23 (G) For owners with 10 or more units per building, multiple units must be vacated at
24 one-time. In buildings with ten (10) or more units, if Section 37.9(a)(16) is utilized, it shall be
25 utilized to vacate at least two or more units at one time.

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

3 (c) A landlord shall not endeavor to recover possession of a rental unit unless at least
4 one of the grounds enumerated in Section 37.9(a) or (b) above is the landlord's dominant
5 motive for recovering possession and unless the landlord informs the tenant in writing on or
6 before the date upon which notice to vacate is given of the grounds under which possession is
7 sought and that advice regarding the notice to vacate is available from the Residential Rent
8 Stabilization and Arbitration Board, before endeavoring to recover possession. A copy of all
9 notices to vacate except three-day notices to vacate or pay rent and a copy of any additional
10 written documents informing the tenant of the grounds under which possession is sought shall
11 be filed with the Board within 10 days following service of the notice to vacate. The District
12 Attorney shall determine whether the units set forth on the list compiled in accordance with
13 Section 37.6(k) are still being occupied by the tenant who succeeded the tenant upon whom
14 the notice was served. In cases where the District Attorney determines that Section 37.9(a)(8)
15 has been violated, the District Attorney shall take whatever action he deems appropriate
16 under this Chapter or under State law.

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

24 (e) It shall be unlawful for a landlord or any other person who wilfully assists the
25 landlord to endeavor to recover possession or to evict a tenant except as provided in Section

1 37.9(a) and (b). Any person endeavoring to recover possession of a rental unit from a tenant
2 or evicting a tenant in a manner not provided for in Section 37.9(a) or (b) without having a
3 substantial basis in fact for the eviction as provided for in Section 37.9(a) shall be guilty of a
4 misdemeanor and shall be subject, upon conviction, to the fines and penalties set forth in
5 Section 37.10A. Any waiver by a tenant of rights under this Chapter except as provided in
6 Section 37.10A(g), shall be void as contrary to public policy.

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

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

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

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

3 (1) A landlord may not recover possession of a unit from a tenant under Section
4 37.9(a)(8) if the landlord has or receives notice, any time before recovery of possession, that
5 any tenant in the rental unit:

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

7 or

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

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

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

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

25 (3) The provisions established by this Section 37.9(i) include, but are not limited to, any

1 rental unit where a notice to vacate/quit has been served as of the date this amendment takes
2 effect but where the rental unit has not yet been vacated or an unlawful detainer judgment has
3 not been issued.

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

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

23 (j) Disclosure of Rights to Tenants Before and After Sale of Rental Units Subject to
24 Section 37.9.

25 (1) Disclosure to Tenants By Seller of the Property. Before property containing rental

1 units subject to Section 37.9 may be sold, the owner/seller shall disclose to tenants of the
2 property the rights of tenants during and after the sale of the property. This disclosure shall be
3 in writing and shall include:

4 (A) A statement in bold type of at least 12 points that tenants can not be evicted or
5 asked to move solely because a property is being sold or solely because a new owner has
6 purchased that property.

7 (B) A statement in bold type of at least 12 points that tenants cannot have their rent
8 increased above that permitted by Chapter 37 solely because a property is being sold or
9 solely because a new owner has purchased that property.

10 (C) A statement in bold type of at least 12 points that the rental agreements of tenants
11 cannot be materially changed solely because a property is being sold or solely because a new
12 owner has purchased that property.

13 (D) A statement that the owner's right to show units to prospective buyers is governed
14 by California Civil Code section 1954, including a statement that tenants must receive notice
15 as provided by Section 1954, and a statement that a showing must be conducted during
16 normal business hours unless the tenant consents to an entry at another time.

17 (E) A statement that tenants are not required to complete or sign any estoppel
18 certificates or estoppel agreements, except as required by law or by that tenant's rental
19 agreement. The statement shall further inform tenants that tenant rights may be affected by
20 an estoppel certificate or agreement and that the tenants should seek legal advice before
21 completing or signing an estoppel certificate or agreement.

22 (F) A statement that information on these and other tenant's rights are available at the
23 San Francisco Rent Board, 25 Van Ness Ave, San Francisco, California, and at the
24 counseling telephone number of the Rent Board and at its web site.

25 (2) Disclosure to Tenants by Purchaser of the Property. Within 30 days of acquiring title

1 to rental units subject to Section 37.9, the new purchaser/owner shall disclose to tenants of
2 the property the rights of tenants following this sale of the property. This disclosure shall be in
3 writing and shall include:

4 (A) A statement in bold type of at least 12 points that tenants cannot be evicted or
5 asked to move solely because a new owner has purchased that property.

6 (B) A statement in bold type of at least 12 points that tenants cannot have their rent
7 increased above that permitted by Chapter 37 solely because a new owner has purchased
8 that property.

9 (C) A statement in bold type of at least 12 points that the rental agreements of tenants
10 cannot be materially changed solely because a new owner has purchased that property.

11 (D) A statement in bold type of at least 12 points that any tenants, sub-tenants or
12 roommates who were lawful occupants at the time of the sale remain lawful occupants.

13 (E) A statement in bold type of at least 12 points: that tenants' housing services as
14 defined in Section 37.2(r) first paragraph cannot be changed or severed from the tenancy
15 solely because a new owner has purchased that property; and that tenants' housing services
16 as defined in Section 37.2(r) second paragraph that were supplied in connection with the use
17 or occupancy of a unit at the time of sale (such as laundry rooms, decks, or storage space)
18 cannot be severed from the tenancy by the new purchaser/owner without just cause as
19 required by Section 37.9(a).

20 //

21 //

22 //

23 //

24 //

25

1 Section 4-5. The Board of Supervisors hereby finds:

2 1. The City's Residential Rent Stabilization and Arbitration Ordinance (Administrative
3 Code Chapter 37) applies to most residential rental units in a structure with a certificate of
4 occupancy issued prior to June 13, 1979 and requires just cause for eviction from residential
5 rental units subject to Chapter 37, in addition to providing rent controls on those units.
6 Chapter 37 lists 15 permissible just causes for eviction. Just causes for eviction include non-
7 payment of rent, maintenance of a nuisance, and owner move-in evictions. Change of
8 ownership alone is not a just cause for eviction under Chapter 37, even when the change of
9 ownership is due to foreclosure; so, residential renters in a foreclosed property that is subject
10 to Chapter 37 are protected from eviction due to the foreclosure.

11 2. Testimony before the Board's Land Use Committee stated that approximately
12 179,000 residential rental units built before June 1979 are currently covered by the just cause
13 eviction protections of Chapter 37 (and most are also covered by the rent control provisions of
14 Chapter 37). Other presentations before the Committee noted that that the number of units
15 covered by Chapter 37 is diminishing over time, due to events such as demolitions,
16 condominium conversions, and owner move-in evictions.

17 3. San Francisco residential rental units in structures that were built after June 1979
18 are not currently subject to the Chapter 37 eviction protections (or to the rent control
19 provisions). Testimony before the Board's Land Use Committee estimated that currently an
20 estimated 16,200 – 23,000 residential rental units built after June 1979 are not covered by the
21 Chapter 37 just cause eviction protections; and that new construction is currently planned for
22 an estimated additional 7,000 – 10,000 residential rental units, which will not be covered by
23 the eviction protections either.

24 4. Renters organizations, people from City organizations that counsel and assist
25 tenants, and individual renters, told the Land Use Committee of evictions and threats of

1 evictions from the post-1979 units, where tenants are not now protected by the Chapter 37
2 just cause eviction provisions.

3 4- 5. Evictions without just cause from these post-1979 residential rental units are a
4 growing concern for the City and its residential tenants, due to all evictions without just cause,
5 but particularly due to the increasing number of no-fault evictions following property
6 foreclosures. Presentations at the Land Use Committee noted that eviction of tenants from
7 foreclosed properties is a typical practice of lending institutions.

8 5- 6. According to information presented at the Land Use Committee hearing, the
9 City's Assessor-Recorder identified 667 foreclosures in San Francisco in 2008, compared with
10 81 in 2006 and 286 in 2007, which was a 723% increase in foreclosures over that time period.
11 According to testimony, the Assessor-Recorder has estimated that renters occupy
12 approximately one-quarter of all buildings that receive default notices, the first stage of
13 foreclosure; and in the first two months of a program to notify renters of possible foreclosure
14 (February and March 2009) the Assessor-Recorder's office sent out notices to 75 buildings.

15 6- 7. As a matter of fairness to all residential renters, just cause eviction protections
16 should be extended to units with a certificate of occupancy first issued after June 13 1979.

17 8. This legislation is intended to extend the existing just cause eviction protections of
18 Chapter 37 to residential rental units with a certificate of occupancy first issued after the
19 effective date of Ordinance 276-79 (June 13, 1979), with certain limitations to those eviction
20 protections as stated in the legislative provisions. This legislation is not intended to limit or
21 expand or otherwise change the existing rent limitation provisions of Chapter 37.

22
23
24 Section 5- 6. Severability Clause.

25 If any provision of this Ordinance, or the application thereof to any person or

1 circumstance, is for any reason held to be invalid or unconstitutional by a decision of any court
2 of competent jurisdiction, the validity of the remainder of those provisions, including the
3 application of such provisions to persons or circumstances other than those to which it is held
4 invalid, shall not be affected thereby and they shall continue in full force and effect. To this
5 end, the provisions of this Ordinance are severable, and the Board of Supervisors hereby
6 declares that it would have passed this Ordinance and each and every provision not declared
7 invalid or unconstitutional without regard to whether any provision of this Ordinance or its
8 application to any person or circumstance would be subsequently declared invalid or
9 unconstitutional.

10
11
12
13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By:


16 MARIE CORLETT BLITS
17 Deputy City Attorney
18
19
20
21
22
23
24
25