File No. 090583 Committee Item No. 3
Board Item No. _____

# COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

**Committee:** Land Use and Economic Development **Date** December 7, 2009

**Board of Supervisors Meeting** **Date** _____

| Cmte | Board | |
|---|---|---|
| ☐ | ☐ | **Motion** |
| ☐ | ☐ | **Resolution** |
| ☒ | ☐ | **Ordinance** |
| ☒ | ☐ | **Legislative Digest** |
| ☐ | ☐ | **Budget Analyst Report** |
| ☐ | ☐ | **Legislative Analyst Report** |
| ☐ | ☐ | **Youth Commission Report** |
| ☐ | ☐ | **Introduction Form (for hearings)** |
| ☐ | ☐ | **Department/Agency Cover Letter and/or Report** |
| ☐ | ☐ | **MOU** |
| ☐ | ☐ | **Grant Information Form** |
| ☐ | ☐ | **Grant Budget** |
| ☐ | ☐ | **Subcontract Budget** |
| ☐ | ☐ | **Contract/Agreement** |
| ☐ | ☐ | **Form 126 – Ethics Commission** |
| ☐ | ☐ | **Award Letter** |
| ☐ | ☐ | **Application** |
| * ☒ | ☐ | **Public Correspondence** |

**OTHER** **(Use back side if additional space is needed)**

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| ☐ | ☐ | _____ |
| ☐ | ☐ | _____ |
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**Completed by:** Alisa Somera **Date** December 4, 2009
**Completed by:** _____ **Date** _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file and the online version.

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

**Ordinance amending Administrative Code Chapter 37 "Residential Rent Stabilization and Arbitration Ordinance:" by amending Sections 37.2 and 37. 3 to extend just cause eviction requirements and protections to tenants in units that are not now subject to eviction controls (*e.g.*, most residential rental units with a certificate of occupancy issued after June 13, 1979); by amending Section 37.9 to provide that 37.9(a)(8)(vi) limitations on owner move-in evictions do not apply to these newly protected units (new Section 37.9(a)(8)(viii)); by amending Section 37.9 to add a 16th just cause for eviction, to provide for eviction from a condominium unit with separable title that was rented by the developer for a limited time period prior to sale of the unit, where the developer has given specified advance notice to the renters (new Section 37.9(a)(16)); and by amending Chapter 37A "Rent Stabilization and Arbitration Fee" by amending Section 37A.1 to extend the City's current residential rental unit fee to these units; findings in support of the legislation; severability clause; technical corrections.**

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

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

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

SEC. 37.2. DEFINITIONS.

(a) Base Rent.

(1) That rent which is charged a tenant upon initial occupancy plus any rent increase

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

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

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

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

(ii) For any tenant receiving tenant-based rental assistance (except where the rent payable by the tenant is a fixed percentage of the tenant's income, such as in the Section 8 certificate program and the rental subsidy program for the HOPWA program), and commencing occupancy of a rental unit following the effective date of this ordinance, the base

rent for each unit occupied by such a tenant shall be the HAP contract rent in effect as of the date the tenant commences occupancy of such unit.

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

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

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

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

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

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

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

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

(f.1) Reserved.

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

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

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

(j) Over FMR Tenancy Program. A regular certificate tenancy program whereby the base rent, together with a utility allowance in an amount determined by HUD, exceeds the fair market rent limitation for a particular unit size as determined by HUD.

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

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

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

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

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

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

(q) Rent Increases. Any additional monies demanded or paid for rent as defined in item (p) above, or any reduction in housing services without a corresponding reduction in the monies demanded or paid for rent; provided, however, that: (1) where the landlord has been paying the tenant's utilities and the cost of those utilities increases, the landlord's passing through to the tenant of such increased costs pursuant to this Chapter does not constitute a rent increase; (2) where there has been a change in the landlord's property tax attributable to a general obligation bond approved by the voters between November 1, 1996 and November 30, 1998, or after November 14, 2002, the landlord's passing through to the tenant of such increased costs in accordance with this Chapter (see Section 37.3(a)(6)) does not constitute a rent increase; (3) where there has been a change in the landlord's property tax attributable to a San Francisco Unified School District or San Francisco Community College District general

obligation bond approved by the voters after November 1, 2006, the landlord's passing through to the tenant of such increased costs in accordance with this Chapter (see Section 37.3(a)(6)) does not constitute a rent increase; and, (4) where water bill charges are attributable to water rate increases resulting from issuance of water revenue bonds authorized at the November 5, 2002 election, the landlord's passing through to the tenant of such increased costs in accordance with this Chapter (see Section 37.3(a)(5)(B)) does not constitute a rent increase.

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

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

The term "rental units" shall not include:

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

to be an action to recover possession in order to avoid having a unit come within the provisions of this Chapter;

(2) 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;

(3) Housing accommodation 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;

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

(A) For purposes of Sections 37.2, 37.3(a)(10)(A), 37.4, 37.5, 37.6, 37.9, 37.9A, 37.10A, 37.11A and 37.13, and the arbitration provisions of Sections 37.8 and 37.8A applicable only to the provisions of Sections 37.3(a)(10)(A), the term "rental units" shall include units occupied by recipients of tenant-based rental assistance where the tenant-based rental assistance program does not establish the tenant's share of base rent as a fixed

percentage of a tenant's income, such as in the Section 8 voucher program and the "Over-FMR Tenancy" program defined in 24 CFR Section 982.4;

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

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

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

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

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

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

final judgment against the tenant for possession of the unit as of the effective date of this ordinance (Ord. No. 281-06).

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

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

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

(s) Substantial Rehabilitation. The renovation, alteration or remodeling of residential units of 50 or more years of age which have been condemned or which do not qualify for certificates of occupancy or which require substantial renovation in order to conform the building to contemporary standards for decent, safe and sanitary housing. Substantial rehabilitation may vary in degree from gutting and extensive reconstruction to extensive improvements that cure substantial deferred maintenance. Cosmetic improvements alone such as painting, decorating and minor repairs, or other work which can be performed safely without having the unit vacated do not qualify as substantial rehabilitation.

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

(u) Tenant-Based Rental Assistance. Rental assistance provided directly to a tenant or directly to a landlord on behalf of a particular tenant, which includes but shall not be limited

to certificates and vouchers issued pursuant to Section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. Section 1437f) and the HOPWA program.

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

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

SEC. 37.3. RENT LIMITATIONS.

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

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

(2) Banking. A landlord who refrains from imposing an annual rent increase or any portion thereof may accumulate said increase and impose that amount on the tenant's subsequent rent increase anniversary dates. A landlord who, between April 1, 1982, and February 29, 1984, has banked an annual seven percent rent increase (or rent increases) or any portion thereof may impose the accumulated increase on the tenant's subsequent rent increase anniversary dates.

(3) Capital Improvements, Rehabilitation, and Energy Conservation Improvements, and Renewable Energy Improvements. A landlord may impose rent increases based upon the

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

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

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

(A) Charges Related to Excess Water Use. A landlord may impose increases not to exceed 50 percent of the excess use charges (penalties) levied by the San Francisco Water Department on a building for use of water in excess of Water Department allocations under the following conditions:

(i) The landlord provides tenants with written certification that the following have been installed in all units: (1) permanently installed retrofit devices designed to reduce the amount of water used per flush or low-flow toilets (1.6 gallons per flush); (2) low-flow showerheads

which allow a flow of no more than 2.5 gallons per minute; and (3) faucet aerators (where installation on current faucets is physically feasible); and

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

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

(B) Fifty Percent (50%) Passthrough of Water Bill Charges Attributable to Water Increases Resulting From Issuance of Water System Improvement Revenue Bonds Authorized at the November 2002 Election. A landlord may pass through fifty percent (50%) of the water bill charges attributable to water rate increases resulting from issuance of Water System Improvement Revenue Bonds authorized at the November 2002 election (Proposition A), to any unit that is in compliance with any applicable laws requiring water conservation

devices. The landlord is not required to file a petition with the Board for approval of such a cost passthrough. Such cost passthroughs are subject to the following:

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

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

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

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

(v) Where a tenant alleges that a landlord has imposed a water revenue bond passthrough that is not in compliance with Section 37.3(a)(5)(B), the tenant may petition for a hearing under the procedures provided by Section 37.8. In such a hearing the landlord shall have the burden of proving the accuracy of the calculation that is the basis for the increase. Any tenant petition challenging such a passthrough must be filed within one year of the effective date of the passthrough.

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

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

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

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

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

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

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

(6) Property Tax. A landlord may impose increases based upon a 100% passthrough of the change in the landlord's property tax resulting from the repayment of general obligation bonds of the City and County of San Francisco approved by the voters between November 1,

1996, and November 30, 1998 as provided in Section 37.2(q) above.

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

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

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

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

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

(iii) The dollar amount calculated under Subsection (ii) shall be divided by the total number of all units in each property, including commercial units. That figure shall be divided by 12 months, to determine the monthly per unit costs for that tax year of the repayment of general obligation bonds approved by the voters between November 1, 1996, and November 30, 1998.

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

(i) The Controller and the Board of Supervisors will determine the percentage of the

property tax rate, if any, in each tax year attributable to general obligation bonds approved by the voters after November 14, 2002 and repayable within such tax year.

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

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

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

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

(ii) This percentage shall be multiplied by the total amount of the net taxable value for the applicable tax year. The result is the dollar amount of property taxes for that tax year for a particular property attributable to the repayment of San Francisco Unified School District or San Francisco Community College District general obligation bonds approved by the voters after November 1, 2006.

(iii) The dollar amount calculated under Subsection (ii) shall be divided by two, and then by the total number of all units in each property, including commercial units. That figure shall be divided by 12 months, to determine the monthly per unit costs for that tax year of the repayment of San Francisco Unified School District or San Francisco Community College

District general obligation bonds approved by the voters after November 1, 2006.

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

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

(F) Landlords must provide to tenants, on or before the date that notice is served on the tenant of a passthrough permitted under this Subsection (6), a copy of the completed form described in Subsection (E). This completed form shall be provided in addition to the Notice of Rent Increase required under Section 37.3(b)(5). Where a tenant alleges that a landlord has imposed a charge which exceeds the limitations set forth in this Subsection (6), the tenant may petition for a hearing under the procedures provided by Section 37.8. In such a hearing, the landlord shall have the burden of proving the accuracy of the calculation that is the basis for the increase. Any tenant petitions challenging such a passthrough must be filed within one

year of the effective date of the passthrough.

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

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

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

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

When rent increases are authorized by this Subsection 37.3(a)(9), the total rent increase for both operating and maintenance expenses and capital improvements shall not exceed 10 percent in any 12 month period. If allowable rent increases due to the costs of lead remediation and abatement work exceed 10 percent in any 12 month period, an Administrative Law Judge shall apply a portion of such excess to approved operating and maintenance expenses for lead remediation work, and the balance, if any, to certified capital improvements, provided, however, that such increase shall not exceed 10 percent. A landlord may accumulate any approved or certified increase which exceeds this amount, subject to the

10 percent limit.

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

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

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

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

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

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

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

(2) Which portion of the rent increase reflects costs for increased operating and maintenance expenses, rents for comparable units, and/or capital improvements,

rehabilitation, energy conservation measures improvements, or renewable energy improvements certified pursuant to Section 37.7. Any rent increase certified due to increases in operating and maintenance costs shall not exceed seven percent;

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

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

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

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

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

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

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

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

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

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

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

(C) An owner's right to establish subsequent rental rates under Subsection 37.3(d)(1) shall not apply to a dwelling or unit which contains serious health, safety, fire or building code violations, excluding those caused by disasters, for which a citation has been issued by the appropriate governmental agency and which has remained unabated for six months or longer preceding the vacancy.

(2) Conditions for Establishing the Initial Rental Rate Upon Sublet or Assignment. Except as identified in this Subsection 37.3(d)(2), nothing in this Subsection or any other

provision of law of the City and County of San Francisco shall be construed to preclude express establishment in a lease or rental agreement of the rental rates to be applicable in the event the rental unit subject thereto is sublet, and nothing in this Subsection shall be construed to impair the obligations of contracts entered into prior to January 1, 1996, subject to the following:

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

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

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

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

(B) This Subsection 37.3(d)(2) shall not apply to partial changes in occupancy of a dwelling or unit where one or more of the occupants of the premises, pursuant to the agreement with the owner provided for above (37.3(d)(2)), remains an occupant in lawful possession of the dwellings or unit, or where a lawful sublessee or assignee who resided at the dwelling or unit prior to January 1, 1996, remains in possession of the dwelling or unit. Nothing contained in this Subsection 37.3(d)(2) shall be construed to enlarge or diminish an owner's right to withhold consent to a sublease or assignment.

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

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

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

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

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

(D) The provisions of Subsections 37.3(d)(3)(B) and (C) shall not apply to any new tenancy of 12 months or more duration established after January 1, 2000, pursuant to the owner's contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant unless the prior vacancy in that dwelling or unit was pursuant to a nonrenewed or canceled contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant.

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

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

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

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

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

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

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

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

(h) Subsections 37.3(e), (f) and (g) do not affect the authority of the City and County of

San Francisco to regulate or monitor the basis or grounds for eviction.

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

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

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

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

(e) Any dwelling unit for which the owner has on file with the Assessor a current

homeowner's exemption;

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

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

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

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

SEC. 37.9. EVICTIONS.

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

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

(1) The tenant:

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

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

(ii) Except that, commencing August 10, 2001, to and including February 10, 2003, a landlord shall not endeavor to recover or recover possession of a rental unit for failure of a

tenant to pay that portion of rent attributable to a capital improvement passthrough certified pursuant to a decision issued after April 10, 2000, where the capital improvement passthrough petition was filed prior to August 10, 2001, and a landlord shall not impose any late fee(s) upon the tenant for such non-payment of capital improvements costs; or

(B) Habitually pays the rent late; or

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

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

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

(B) Provided further that where a rental agreement or lease provision limits the number of occupants or limits or prohibits subletting or assignment, a landlord shall not endeavor to recover possession of a rental unit as a result of the addition to the unit of a tenant's child, parent, grandchild, grandparent, brother or sister, or the spouse or domestic partner (as defined in Administrative Code Sections 62.1 through 62.8) of such relatives, or as a result of the addition of the spouse or domestic partner of a tenant, so long as the maximum number of occupants stated in Section 37.9(a)(2)(B)(i) and (ii) is not exceeded, if the landlord has

unreasonably refused a written request by the tenant to add such occupant(s) to the unit. If the landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the tenant's written request, the tenant's request shall be deemed approved by the landlord. A landlord's reasonable refusal of the tenant's written request may not be based on the proposed additional occupant's lack of creditworthiness, if that person will not be legally obligated to pay some or all of the rent to the landlord. A landlord's reasonable refusal of the tenant's written request may be based on, but is not limited to, the ground that the total number of occupants in a unit exceeds (or with the proposed additional occupant(s) would exceed) the lesser of (i) or (ii):

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

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

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

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

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

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

(ii) The notice to vacate is substantially based upon the act or acts constituting

domestic violence or sexual assault or stalking against the tenant or a tenant's household member, including but not limited to an action for possession based on complaints of noise, disturbances, or repeated presence of police.

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

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

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

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

(C) Mutual Allegations of Abuse Between Parties. If two or more co-tenants are parties seeking relief under Subsection 37.9(a)(3.1)(A), and each alleges that he or she was a victim of domestic violence or sexual assault or stalking perpetrated by another co-tenant who is also a party, the court may determine whether a tenant acted as the dominant aggressor in the acts constituting a domestic violence or sexual assault or stalking offense. In making the determination, the court shall consider the factors listed in Section 13701(b)(1) of the Penal Code. A tenant who the court determines was the dominant aggressor in the acts constituting a domestic violence or sexual assault or stalking offense is not entitled to relief under

Subsection 37.9(a)(3.1)(A).

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

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

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

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

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

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

(3.2) Confidentiality of Information Received from Victims of Domestic Violence or Sexual Assault or Stalking. A landlord shall retain in strictest confidence all information that is received in confidence from a tenant or a tenant's household member who is a victim of domestic violence or sexual assault or stalking, regarding that domestic violence or sexual assault or stalking, except to the extent that such disclosure (A) is necessary to provide for a reasonable accommodation for the victim, or (B) is otherwise required pursuant to applicable federal, state or local law. The victim may authorize limited or general release of any information otherwise deemed confidential under this Subsection 37.9(a)(3.2); or

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

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

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

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

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

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

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

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

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

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

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

(vi) Once a landlord has successfully recovered possession of a rental unit pursuant to Section 37.9(a)(8)(i), then no other current or future landlords may recover possession of any

other rental unit in the building under Section 37.9(a)(8)(i). It is the intention of this Section that only one specific unit per building may be used for such occupancy under Section 37.9(a)(8)(i) and that once a unit is used for such occupancy, all future occupancies under Section 37.9(a)(8)(i) must be of that same unit, provided that a landlord may file a petition with the Rent Board, or at the landlord's option, commence eviction proceedings, claiming that disability or other similar hardship prevents him or her from occupying a unit which was previously occupied by the landlord.

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

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

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

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

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

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

expenses as provided in Section 37.9C; or

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

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

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

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

(A) The unit has not been sold or that title of the unit has not otherwise been transferred by the developer to a third party member of the public, excluding transfer of title to

spouse, domestic partner as defined in San Francisco Administrative Code Chapter 62.1 - 62.8, pursuant to a court order, or a successor legal entity with the formation partners or incorporators as the initial legal entity that developed the building, prior to issuance of the certificate of occupancy. This provision may only be utilized once to vacate any unit it would apply to.

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

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

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

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

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

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

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

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

(G) For owners with 10 or more units per building, multiple units must be vacated at

one time.

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

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

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

(e) It shall be unlawful for a landlord or any other person who wilfully assists the

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

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

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

(h) With respect to rental units occupied by recipients of tenant-based rental assistance, the notice requirements of this Section 37.9 shall be required in addition to any notice required as part of the tenant-based rental assistance program, including but not limited

to the notice required under 24 CFR Section 982.310(e)(2)(ii).

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

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

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

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

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

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

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

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

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

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

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

(1) Disclosure to Tenants By Seller of the Property. Before property containing rental units subject to Section 37.9 may be sold, the owner/seller shall disclose to tenants of the property the rights of tenants during and after the sale of the property. This disclosure shall be in writing and shall include:

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

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

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

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

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

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

(2) Disclosure to Tenants by Purchaser of the Property. Within 30 days of acquiring title to rental units subject to Section 37.9, the new purchaser/owner shall disclose to tenants of the property the rights of tenants following this sale of the property. This disclosure shall be in writing and shall include:

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

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

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

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

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

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

1. The City's Residential Rent Stabilization and Arbitration Ordinance (Administrative Code Chapter 37) applies to most residential rental units in a structure with a certificate of

occupancy issued prior to June 13, 1979 and requires just cause for eviction from residential rental units subject to Chapter 37, in addition to providing rent controls on those units. Chapter 37 lists 15 permissible just causes for eviction. Just causes for eviction include non-payment of rent, maintenance of a nuisance, and owner move-in evictions. Change of ownership alone is not a just cause for eviction under Chapter 37, even when the change of ownership is due to foreclosure; so, residential renters in a foreclosed property that is subject to Chapter 37 are protected from eviction due to the foreclosure.

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

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

4. Renters organizations, people from City organizations that counsel and assist tenants, and individual renters, told the Land Use Committee of evictions and threats of evictions from the post-1979 units, where tenants are not now protected by the Chapter 37 just cause eviction provisions.

4- 5. Evictions without just cause from these post-1979 residential rental units are a

growing concern for the City and its residential tenants, due to all evictions without just cause, but particularly due to the increasing number of no-fault evictions following property foreclosures. Presentations at the Land Use Committee noted that eviction of tenants from foreclosed properties is a typical practice of lending institutions.

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

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

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

Section ~~5.~~ 6. Severability Clause.

If any provision of this Ordinance, or the application thereof to any person or circumstance, is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, the validity of the remainder of those provisions, including the application of such provisions to persons or circumstances other than those to which it is held

invalid, shall not be affected thereby and they shall continue in full force and effect. To this end, the provisions of this Ordinance are severable, and the Board of Supervisors hereby declares that it would have passed this Ordinance and each and every provision not declared invalid or unconstitutional without regard to whether any provision of this Ordinance or its application to any person or circumstance would be subsequently declared invalid or unconstitutional.

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

By: 
MARIE CORLETT BLITS
Deputy City Attorney

FILE NO. 090583

# LEGISLATIVE DIGEST

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

**Ordinance amending Administrative Code Chapter 37 "Residential Rent Stabilization and Arbitration Ordinance:" by amending Sections 37.2 and 37. 3 to extend just cause eviction requirements and protections to tenants in units that are not now subject to eviction controls (e.g., most residential rental units with a certificate of occupancy issued after June 13, 1979); by amending Section 37.9 to provide that 37.9(a)(8)(vi) limitations on owner move-in evictions do not apply to these newly protected units (new Section 37.9(a)(8)(viii)); by amending Section 37.9 to add a 16th just cause for eviction, to provide for eviction from a condominium unit with separable title that was rented by the developer for a limited time period prior to sale of the unit, where the developer has given specified advance notice to the renters (new Section 37.9(a)(16)); and by amending Chapter 37A "Rent Stabilization and Arbitration Fee" by amending Section 37A.1 to extend the City's current residential rental unit fee to these units; findings in support of the legislation; severability clause; technical corrections.**

## Existing Law

The City's Residential Rent Stabilization and Arbitration Ordinance (Administrative Code Chapter 37, "Rent Ordinance") applies to most rental housing built before June 1979. In general, the Rent Ordinance limits annual rent increases (a/k/a rent control provisions), and requires specified just cause for evictions (a/k/a eviction control provisions). Units originally built before June 1979 that have undergone substantial rehabilitation, may apply for exemption. There are 15 just causes for eviction under the Rent Ordinance, ranging from failure to pay rent, to maintenance of a nuisance, to owner move-in evictions. Tenants have a right to notice of the grounds for eviction, and to relocation payments for specified no-fault evictions. (*See*, Section 37.2 "Definitions" at 37.2(r) "Rental Units;" Section 37.3 "Rent Limitations;" Section 37.9 "Evictions;" Section 37.9A "Tenant Rights in [Ellis Act evictions];" and 37.9C "Tenant Rights to Relocation for No-Fault Evictions.")

The state Costa-Hawkins Rental Housing Act (California Civil Code sections 1954.50 *et seq.*) provides that owners may "establish the initial rental rate" for residential units in most instances, and that local limitations on residential rent increases no longer apply to most single-family homes and condominiums once a tenant whose tenancy predates the Costa-Hawkins Act (*i.e.*, a tenancy before January 1, 1996) vacates the unit, although eviction controls remain in place. Elements of Costa-Hawkins are included in the City's current Rent Ordinance, at Section 37.3(d).

There is an annual City fee for each rental unit subject to the Rent Ordinance, including those units subject only to the eviction control provisions. The amount of the fee is adjusted each year by the Controller, according to a formula. (Administrative Code Chapter 37A "Rent Stabilization and Arbitration Fee.") The Rent Board website reports that the rental unit fee for fiscal year 2009-2010 is $29.00 per apartment unit and $14.50 per residential hotel room; a landlord may collect 50% of the fee from tenants, which is currently $14.50 per apartment unit and $7.25 per residential hotel room.

Amendments to Current Law

The proposed legislation would extend the Chapter 37 just cause eviction provisions (but not the rent control provisions) to most residential rental units in the City that are not now subject to Chapter 37; that is, just cause eviction protections would be extended to most residential rental units with a certificate of occupancy issued after June 13, 1979, and would include the substantially rehabilitated units exempt from rent controls. The proposed legislation would amend Section 37.2 by deleting Subsections 37.2(r)(5), (6) and (7); and would amend Section 37.3 by adding new Subsections (e), (f), (g) and (h), and renumbering current Subsection (e) as Subsection (i). The proposed legislation would also extend the City's current residential rental unit fee to these units newly covered by the just cause eviction protections; Section 37A.1 would be amended, by deleting current Subsections 37A.1(g) and (h).

The November 9, 2009 Amendment of the Whole: added a "Findings" section based on presentations before the Land Use Committee at its November 2, 2009 hearing; added a severability clause; and included clarifications in the proposed legislation at Section 37.3(d)(4) and (5) regarding applicability of the Costa-Hawkins Rental Housing Act (California Civil Code sections 1954.50 *et seq.*)

In addition, two sets of amendments were introduced and passed at the November 23, 2009 Land Use Committee hearing.

First, the November 23, 2009 Amendment of the Whole that was introduced during the hearing supplements the findings section, adds clarifying text and technical corrections including some renumbering, and adds Section 37.9(a)(8)(viii), as follows:

- Adds information into the Findings section from the November 9, 2009 Land Use Committee hearing, with further information from the November 2, 2009 hearing;
- Includes clarifying text regarding applicability of the Ellis Act (California Government Code sections 7060 *et seq.*) and further clarification regarding Costa-Hawkins (see proposed legislation Sections 37.3(e)(1) and (2), and 37.3(g) and (h);
- Includes further text to clarify that the legislation is intended to affect eviction controls only and not rent controls (see proposed legislation Section 37.3(e), (f), and (g), and Findings Section 8);
- Includes clarifying text at proposed legislation Section 37A.1, first paragraph, regarding applicability of the City's rental housing unit fee to the units newly covered by the just cause eviction protections; and,
- Also adds new Section 37.9(a)(8)(viii), to provide that Section 37.9(a)(8)(vi)[1] limitations on owner move-in evictions would not apply to these post-1979 units (which includes the units substantially rehabilitated after June 1979) that are newly protected by the just cause eviction protections.

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

Second, separate November 23, 2009 amendments introduced during the hearing add Section 37.9(a)(16), a 16th just cause for eviction. This 16th just cause would allow eviction from a condominium unit that has separable title, where the unit was rented by the developer for a limited time period prior to anticipated initial sale of the unit, if specified notice was previously provided to the tenant about the limited duration of the rental and anticipated sale. This provision could only be utilized once to vacate any unit; and if the unit is not actually sold the tenant would have an option to re-rent the unit.

## Background Information

The existing 15 just causes for eviction, briefly summarized, are: (1) non-payment or habitual late payment of rent; (2) breach of tenancy obligation, and failure to cure; (3) maintenance of a nuisance; (4) use of unit for illegal purpose; (5) failure to execute written extension or renewal of rent agreement on same/similar terms; (6) refusing landlord access to the unit; (7) tenant holding at the end of term is a subtenant not approved by the landlord; (8) move in of the owner and/or immediate family ( a/k/a owner move-in or "OMI"); (9) condominium conversion sale; (10) demolition or other removal from housing use; (11) temporary removal of tenants for capital improvement or rehabilitation work; (12) substantial rehabilitation; (13) removal from rental housing market per Ellis Act (California Government Code §§7060 *et seq.*); (14) temporary removal of tenants for lead remediation or abatement work; (15) demolition or permanent removal from housing use pursuant to a Development Agreement with the City (Administrative Code Chapter 56). (Administrative Code section 37.9 "Evictions.")

Further explanatory materials regarding current rent ordinance eviction control provisions are available on the Rent Board's website, as well as information regarding required relocation payments, and information regarding the rental unit fee. The Rent Board's website is accessible through the City's website at sfgov.org, or go to http://www.sfrb.org

PPMA
Professional Property Management
Association of San Francisco

November 23, 2009

San Francisco Board of Supervisors Land Use and Economic Development Committee
1 Dr. Carlton B. Goodlett Place, Room #263
San Francisco, CA 94102

RE: Rent Control on New Construction

To Whom It May Concern:

The Professional Property Management Association of San Francisco opposes any legislation mandating the extention of just-cause eviction protection to units not currently under the rent control. While the legislation is under consideration to alleviate stresses related to foreclosure the consequences of this proposed law are much more far reaching in scope.

While it has been implied that the issue of allowing only one owner move-in eviction per building is just a "red herring" on the part of the landlords, we find this to be a very real concern, one which has not been addressed. At the last hearing concerning this matter it was stated that that this was not the "intent" of the proposed legislation. We at the PPMA are extrememly concerned that without clarity the proposed eviction control will limit the ability of property owners to reside in their own properties and even though this is not the "intent" it will be the result. This concern must be addressed prior to this legislation leaving The Land Use and Economic Development Committee.

Addtionally, because of the unclear language of this proposal, we believe that there should not be a rush to push it out of committee. A premature vote today is not good government.

Sincerely,

Michelle L. Horneff-Cohen, Broker, CCRM, RMP®
President, Professional Property Management Association

**Written by Joel Panzer, a 30 year property owner, business owner, and a resident of this city.**

**Well...here we are again...still haven't made up our minds?**

How about a short San Francisco housing history lesson? When rent control was put into place, let's face it, it was a political decision so that people could get elected to public office. It wasn't an economic decision because rent control never added one stick of rental property to this city's inventory. Builders did believe your predecessors when they said ALL NEW CONSTRUCTION will be EXEMPT!

Now when rent control started all those years ago, the board, your predecessors, the policy makers said to the landlords of this city, **"don't worry you'll still get 7% rent increases"** and then they lowered the increases to 6% and 5% and...well you know where we are now!

When rent control was enacted, your predecessors said, "**rent control will never be on FOUR Units or less...owner occupied**" and guess what? **That promise was broken as well!**

But ONE thing has always stayed firm, NEW construction, buildings built or substantially reconstructed after 1979 ***will always be protected from rent control***...Well, here's another promise...shot to hell, another promise...***about to be broken***.

You have gotten elected by destroying the MAJOR tax payers, the income generators of your city! Now we are banging on your doors for reductions in the value or our properties. Yes, the economy is bad, yes...we are all the victims of greed and avarice on Wall Street, but my friends we are all now the victims of your political shortsightedness. To satisfy your need for votes, you have sold out the city and the programs you promised to grow and protect. You cannot help the homeless, the sick and the poor when the general fund is depleted! You cannot

rebuild infrastructure when you a reduced tax base and very little expectations of getting more money in the future.

Newspaper says we, the citizens, taxpayers of this city are facing an enormous...$500 M deficit? **What are you going to do about it?** Real Estate values are dropping like rocks. In the real world, the business world, when you need more money you **GROW** your business, you **develop more paying customers** and you make it **EASIER for those customers to do business with you,** and...**you ALWAYS keep your promises!**

**So...where are you going to get more money?**

How about **not** destroying the income generator that puts tax dollars in the General Fund...Real Estate taxes? Instead of decreasing the number of property owners in this city...think for a minute, *what would it do for the General Fund if you added new property tax payers,* ***maybe hundreds of them?***

The Housing Industry has approached your board many times and asked you to give more citizens the opportunity to share in the great American Dream of owning their own home or owning their own apartment...but you keep making it more difficult! ***Why, because property owners DO VOTE differently than renters!***

One last time...I beg you, I beseech you...don't destroy the last incentives for growing this city. People have trusted you to keep your promises to protect and defend this city. When you break this last promise to builders and property owners of this city, when you place buildings constructed post 1979 under the eviction ordinance...you will really be driving the final nails in the economic coffin of this great city.

Don't kill the "LAST GOOSE THAT HAS BEEN LAYING THE GOLDEN EGGS"!

Civic Report
No. 36 May 2003

# Rent Control and Housing Investment: Evidence from Deregulation in Cambridge, Massachusetts

Henry O. Pollakowski
*Housing Economist, MIT Center for Real Estate*
*Editor, Journal of Housing Economics*

## Executive Summary

Traditional economic analysis suggests that when price controls (rent regulation) are imposed on housing stock, housing quality declines over time because landlords are unable to recoup their investment and routine maintenance costs.

Conversely, rent *deregulation* should lead to significant new investment in housing that was previously rent stabilized. This question has important policy implications for New York City, where over half of the city's 2.1 million rental housing units are privately owned and rent stabilized.

This report documents the actual effect of rent deregulation on housing investment in Cambridge, Massachusetts. Cambridge maintained a very strict form of rent regulation from 1971 to 1994, when rent controls were removed by statewide initiative. Like New York, Cambridge is composed of both affluent and modest income neighborhoods, and has a very large older housing stock. The Cambridge experience should provide information highly relevant to the effects of rent deregulation in many parts of the New York market.

This study uses an econometric model that employs the most complete set of building-level data ever assembled for a project of this type and finds the following:

- In Cambridge, investment increased by approximately 20% over what would have been the case if rent control had been maintained.
- Investment increases occurred across a wide variety of settings; both affluent and modest income neighborhoods experienced an "investment boom".

These results suggest that complete deregulation of stabilized dwelling units would lead to important gains in housing quality in New York. These investment gains might also lead to neighborhood "spillover" effects as owners of property proximate to buildings experiencing new investment feel more comfortable making additional investments themselves.

Given the need for better maintenance and increased renovation of New York's aging housing stock, such an increase represents a considerable potential boon to the city's residents, and should draw serious consideration from New York City policymakers.

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## About the Author

Henry O. Pollakowski has been a housing economist at the MIT Center for Real Estate since 1996. He is

the founding and current Editor of the *Journal of Housing Economics*, which is now beginning its second decade. In addition to spending 12 years as a senior researcher at the Harvard Joint Center for Housing Studies, he has taught at Boston College, Harvard University, the University of York (UK), and the University of Washington.

Dr. Pollakowski has done extensive work in housing economics, including influential contributions to the measurement of quality-adjusted housing price changes. He is widely recognized as a leading researcher on the economics of rent control, and during the past 15 years has conducted numerous studies of rent stabilization in New York City. He has specialized in the effects of land-use regulation on housing markets, and has done work on nonresidential property markets. He is the author of numerous scholarly and professional journal articles and *Urban Housing Markets and Residential Location*, a book focusing on the roles of location and house prices in housing decision-making.

While at Harvard, Dr. Pollakowski served as director of all phases of a national housing survey and contributed to the annual *State of the Nation's Housing*. He has studied house price appreciation for homeowners with modest incomes for the Ford Foundation, and has examined the effects of development delays on house prices for the Seattle Housing Partnership. He serves as a consultant to the low-income Bermuda Housing Corporation and the New Jersey Pinelands Commission. He has also conducted research for the National Multi-Housing Council, the Department of Housing and Urban Development, the World Bank, and numerous other private and public organizations.

As a faculty fellow of the Homer Hoyt Institute, Dr. Pollakowski has organized conferences on residential and commercial real estate analysis. He has also served as a Director of the American Real Estate and Urban Economics Association and as guest editor of the Association's journal. He received his BA in Economics from the University of Michigan and his Ph.D. in Economics from the University of California at Berkeley.

**Acknowledgements**

The author would like to thank Norma Coe, Allison Neizmik, Christopher Palmer, John Pollakowski, and David Sims for data assistance and helpful suggestions.

**********

## Introduction and Overview

The economics literature suggests that rent regulation holds down housing quality because landlords, afraid they will be unable to recoup their investments, defer maintenance and do not otherwise upgrade housing quality. If true, this has important consequences for New York City residents, as over half of the City's 2.1 million rental housing units are privately-owned but under rent stabilization.[1] These facts lead one to ask an important question: would repeal of rent stabilization lead to a significant increase in the City's housing quality?

This study seeks to answer that question by looking at the actual effect of deregulation on housing investment in Cambridge, Massachusetts. Between 1971 and 1994, when rent controls were repealed by statewide initiative, Cambridge maintained a very strict form of rent regulation.[2] A substantial portion of the rental market was controlled, and the controlled rents were held considerably below market rents. The repeal of rent control in fact came as a surprise to many, providing a relatively clean "natural experiment." Like New York, Cambridge has both affluent and modest-income neighborhoods, and has a great deal of older housing. Accordingly, Cambridge's experiences with rent decontrol are particularly instructive for New Yorkers.

This study documents the housing investment boom that followed rent decontrol in Cambridge. Examining investment in previously rent-controlled buildings, we find that investment increased by approximately 20 percent over what would have been the case in the absence of decontrol. Furthermore, we find significant investment increases were not confined to existing high-income neighborhoods; instead, investment increased in a large variety of settings—neighborhoods varying in income level, by structure type, and by concentration of formerly rent-controlled buildings. These substantive results suggest that complete deregulation of stabilized dwelling units would lead to important gains in housing quality in New York. These gains would occur in a variety of settings, especially where stabilized landlords faced below-market rents or feared that they would in the future. These investment gains could also lead to neighborhood "spillover" effects as owners of property proximate to buildings experiencing a new investment feel more comfortable making additional investments themselves.

**The City of Cambridge and Rent Control**

The city of Cambridge is the second largest in the Boston metropolitan area, with a population of just over 100,000. It is near the center of the metropolitan area, bordered by Boston to the east and south, Watertown and Belmont to the west, and Somerville and Arlington to the north. Cambridge is a diverse city, including university students and employees, professionals, and moderate-income wage earners. It includes large numbers of family households, non-family households (often young roommates or single people), and members of different racial and ethnic groups. Harvard University and the Massachusetts Institute of Technology are major employers, as are a multitude of high-tech companies.

Rent control was first legalized in 1970, when the Commonwealth of Massachusetts permitted cities and towns with populations over 50,000 to impose rent controls. Originally viewed as a temporary measure, rent control was adopted in Cambridge in 1971,[3] setting most rents at 1967 levels.[4] New construction and owner-occupied two-family dwellings were exempt. After the 1994 vote to end rent control, the state legislature provided one- or two-year extensions for lower-income tenants, with special thresholds for the elderly or disabled.[5]

At the time when rent control was abolished at the end of 1994, about two-thirds of the rental housing in apartment buildings with four or more units was under rent control. These dwelling units were located in 839 buildings ranging in size from 4 to over 200 units (Table A-1). During the first four years after deregulation, substantial upgrading of these buildings occurred, with average annual expenditure per dwelling unit increasing threefold.

Where was the post-decontrol investment made? There is no simple, tidy pattern relating affluence, type of structure, and rent control. There is a modest positive correlation across neighborhoods between growth in investment and the proportion of rent-controlled buildings in a given neighborhood.[6] However, the disparate nature of renovation projects (a few very large ones and an abundance of more ordinary ones) and the fact that we are working with "only" 10 neighborhoods lead us away from strong claims. Nonetheless, what is clear is that no neighborhood income distinction or structure type distinction makes a startling difference in terms of post-deregulation investment. Renovation and repair activity occurred in a wide variety of settings.

Of course, the period following deregulation coincided with a boom period for the greater Boston area housing market, with high levels of renovation and repair activity (Figure 1). Thus, previously unregulated rental housing in Cambridge also experienced substantial renovation and repair activity. Not surprisingly, differences of opinion exist about the extent to which the boom in previously controlled Cambridge rental housing was "simply" part of the larger Boston boom. Thus, we are able to measure rent decontrol's effect on housing investment only if we are also able to measure—and control for—

investment that would have occurred anyway because of general market conditions.

This study is able to answer that question through the use of an econometric model that employs the most complete set of building-level data ever assembled for a project of this sort. Put simply, we know by street address where all decontrolled rental units were, and what happened to the buildings containing them in terms of housing investment both before and after rent decontrol. The model applies regression analysis to equations designed to account for changes in the economic climate, changes in regulatory status, and location and characteristics of individual buildings. Only by accounting for these factors simultaneously can we isolate the effect of decontrol on housing investment.

**The Data**

The data set used in this study was constructed from three major sources. The first source is the set of all building permits issued in Cambridge for the years 1993 through 1998. The city's Inspectional Services Department requires that work on a building must begin within six months of the date the permit is issued, so we know that these data accurately reflect housing investment in Cambridge during the period studied. Each permit record includes date of the permit, address, category of the building and use, and a summarized cost estimate. For projects costing $50,000 or greater, the owner must submit an affidavit certifying that the cost of the permit is accurate as reported. A fee for the building permit is assessed at one percent of the total cost.[7] This study makes use of the building permits for rental properties.[8]

The second major data source is the record of rent-controlled buildings in the city. Prior to the end of rent control, the city's Rent Control board maintained detailed records of all regulated buildings in Cambridge, including the number of controlled units, exempt units, and commercial units in each building. This information was provided by the city of Cambridge under the Freedom of Information Act.

Finally, the city's Residential Property Assessor has provided a current database of all properties within the city. This dataset includes address, size of lot, structure type, owner and occupation status, number of units, and 2002 assessed value for every property in Cambridge.

These three data sources have been matched at the building level. Where exact matches of addresses could not be made, properties were visited to make the correct match. As part of this process, the buildings have been sorted into the thirteen neighborhoods defined by the city. Although the neighborhoods are not exactly spatially aligned with the city's 30 census tracts, the US Census Bureau has specially prepared demographic, economic, and housing market data for the city by neighborhood. (Detailed information about the socio-demographic and housing stock characteristics of each neighborhood are provided in Appendix A). This allows us to examine variations in rental stock, intensity of rent control, and structure type distribution across neighborhoods. It also provides neighborhood information for the building-level simulation model presented below. Thus, for any address in Cambridge, we know building type, number of units, whether any units were rented, number of units under rent control at the time of deregulation, building permit history, and neighborhood.

**The Models**

Using these data we constructed a simulation model of renovation and repair expenditures at the building level.[9] This model allows us to determine what portion of post-deregulation investment in formerly rent-controlled buildings is due to deregulation, as opposed to the housing market boom.

The variables used in the equations are presented in Table A-2. The statistical results for the four regression models are presented in Table A-3. Specifically, regression equations calculate the

determinants of renovation investment cost per unit, as measured by building permits. The individual observations consist of 1283 buildings (with four or more units) observed in each of the 6 years 1993-1998. The sample size of 7451 is thus approximately six times the number of buildings.[10] The distribution of these buildings by regulation status, number of units, and neighborhood is presented in Table A-1.

We present our findings after looking at four related, but distinct, simulation models. We do this because we found that no one model produced results that allowed us to be as statistically certain as we ideally would like to be that they were correct. The broad similarity of results across each of these four models, which differ slightly from one another in their assumptions, do give us confidence that Cambridge experienced a significant increase in housing investment in both affluent and less afluent neighborhoods as a result of rent decontrol.

The results of four variations of the model are presented in Table 1. For the city, we find that from 16 to 24 percent of the post-deregulation investment in formerly rent-controlled buildings would not have occurred without deregulation. This is the deregulation share—the portion not stemming directly from the economic boom. We also find that the deregulation share for the more affluent neighborhoods is in the 15 to 29 percent range, while the share for the less affluent neighborhoods is in the 8 to 25 percent range. These are substantial effects. The four variations of the model that were used were those considered to be most reliable. As described below, they all operate on the same basic underlying economic principles.

**The Benchmark Model**

This model best reflects the basic economics underlying the analysis. Again, the variables listed are the determinants of investment cost per unit—for each building in each year. Economic conditions are represented by the employment rate. The coefficient is negative, accounting for part of the increase in housing investment as the unemployment rate fell. The next variables ideally would describe the building in terms of age, condition, and related factors. This information is not available. We do have information on whether the building consists of condominiums and how many units are in the building. Variables representing condominium building and structure size[11] are thus included.

The next variable denotes whether the building was rent-controlled (and hence decontrolled in 1995). With appropriate information on building age and condition, we would hypothesize that the coefficient would be negative—that is, that rent-controlled buildings would in general receive less investment. In our case, however, the rent control variable may also account for the unobserved poorer condition and greater age of buildings under rent control. In fact, the coefficient is positive. Thus the rent control variable probably captures not only the direct effect of being under rent control, but also the fact that these buildings are older, in worse condition, and more in need of very essential repairs.

The variable "Interaction of Rent Control and Time" is the key one in terms of being able to perform simulations. It takes a value of one for all (formerly) rent-controlled buildings for the post-deregulation years 1995 through 1998. It measures the extra investment that occurred, holding constant economic conditions and characteristics of the building. It has a positive coefficient, indicating that there indeed was extra investment. The final variable is median household income in the building's neighborhood. Its coefficient is positive, indicating that higher-income areas had more investment, as we would expect. [12]

**Simulation of Renovation Investment Due to Rent Decontrol**

Having estimated the benchmark model, we then simulate how much investment in formerly rent-

controlled buildings would have occurred during the period 1995 through 1998 in the absence of decontrol. We use the benchmark model results in Table A-3 to accomplish this. Since the key variable "Interaction of Rent Control and Time" has been included in the equation to capture deregulation effects, its (positive) coefficient is now set equal to zero—this "takes away" the extra deregulation-induced investment. The benchmark model equation thus altered is then used to predict renovation investment per unit in the absence of deregulation. This simulated investment is then subtracted from the actual investment during 1995 through 1998 in the formerly rent-controlled buildings.[13] The answer is presented in percentage terms in column 2 of Table 1: 16 percent of the post-deregulation investment was due to deregulation.

It is also possible to display this result by neighborhood. In the more affluent neighborhoods of Mid-Cambridge, Agassiz, Neighborhood 9, and Neighborhood 10, 15 percent of the post-deregulation investment was due to deregulation. In the less affluent neighborhoods of East Cambridge, Wellington-Harrington, Area IV, Cambridgeport, Riverside, and North Cambridge, the corresponding percentage is 18 percent.

Three model variations are presented next. For all four models, the city-wide deregulation effect is in the 16 to 24 percent range.

**Model Variation 1**

Model variation 1 is the variant most similar to the benchmark model. The only difference is in how neighborhood effects are handled. Instead of using neighborhood median household income for this purpose, a set of dummy variables representing the individual neighborhoods is used (Table A-3). This captures any systematic effect of neighborhood location on investment per unit that is not captured by the other variables. As can been seen in Table A-3 and Table 1, the results are very similar to those for the benchmark model for the city as a whole, but now the more affluent neighborhoods have a larger post-deregulation effect (22 percent) than do the less affluent neighborhoods (8 percent).

**Model Variations 2 and 3**

Model variations 2 and 3 handle the time dimension differently than the first two models. Instead of using the unemployment rate to represent economic conditions, a "Post-deregulation Time Period" variable is used (Table A-3). While the unemployment rate did decline throughout the sample period, the Boston metropolitan area housing market boom occurred largely after 1994. This variable thus takes a value of 1 for all observations beginning in 1995. In contrast, the "Interaction of Rent Control and Time" variable takes a value of 1 only for all previously-regulated buildings beginning in 1995. In model variation 2, this time variable is combined with the use of median household income as the neighborhood variable. In model variation 3, this time variable is combined with the neighborhood dummy variables (Table A-3). As shown in Table 1, the deregulation effect simulated by model variation 2 rises to 23 percent of post-deregulation renovation investment, with less affluent neighborhoods experiencing a slightly higher effect than more affluent neighborhoods. The deregulation effect simulated by model variation 3 is similar to model variation 2 for the city as a whole, but now the more affluent neighborhoods see a higher effect (29 percent) than the less affluent neighborhoods (15 percent).

The four models described present a range of values for renovation investment deregulation effects in formerly rent-controlled buildings with four or more units. Each model is based on economic reasoning, and no one model is considered to be the "best" on theoretical grounds. Given that this simulation modeling brings with it some imprecision, it is simply sound procedure to present a range of reasonable effects.

**Conclusion**

These findings about the success of rent decontrol in Cambridge provide important lessons that should inform the debate over the issue in New York. While smaller in size, Cambridge's housing situation parallels New York's in many ways. Like New York, it comprises both affluent and modest income neighborhoods. Also like New York, Cambridge has a large amount of older housing units. Given these similarities, Cambridge's experience bodes well for housing quality should full deregulation be implemented in New York as it was there.

As this study shows, that experience is one of a tremendous boom in housing investment, leading to major gains in housing quality. This research thus provides a concrete example of complete rent deregulation leading to housing investment that would otherwise not have occurred. Given the need for better maintenance and increased renovation of New York's aging housing stock, such an increase represents a considerable potential boon to the city's residents. Moreover, the results in Cambridge show that this expansion in housing investment was not confined to high-income neighborhoods, but rather spread across all socioeconomic boundaries. This suggests that the benefits of deregulation would reach New Yorkers in a variety of settings, especially where stabilized landlords faced below-market rents or feared that they would in the future.

It is impossible to predict the precise magnitude of housing investment increase that New York would experience in the aftermath of a complete deregulation of stabilized housing. However, the Cambridge experience suggests that if New York's policymakers wish to achieve significant improvements in housing quality in New York, they should give serious consideration to deregulation.

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THE CONCISE ENCYCLOPEDIA OF ECONOMICS

FAQ: Print Hints

# Rent Control

by Walter Block
About the Author

New York State legislators defend the War Emergency Tenant Protection Act—also known as rent control—as a way of protecting tenants from war-related **HOUSING** shortages. The war referred to in the law is not the 2003 war in Iraq, however, or the Vietnam War; it is World War II. That is when rent control started in New York City. Of course, war has very little to do with apartment shortages. On the contrary, the shortage is created by rent control, the supposed solution. Gotham is far from the only city to have embraced rent control. Many others across the United States have succumbed to the blandishments of this legislative "fix."

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Rent control, like all other government-mandated **PRICE CONTROLS**, is a law placing a maximum price, or a "rent ceiling," on what landlords may charge tenants. If it is to have any effect, the rent level must be set at a rate below that which would otherwise have prevailed. (An enactment prohibiting apartment rents from exceeding, say, $100,000 per month would have no effect since no one would pay that amount in any case.) But if rents are established at less than their equilibrium levels, the quantity demanded will necessarily exceed the amount supplied, and rent control will lead to a shortage of dwelling spaces. In a competitive market and absent controls on prices, if the amount of a commodity or service demanded is larger than the amount supplied, prices rise to eliminate the shortage (by both bringing forth new **SUPPLY** and by reducing the amount demanded). But controls prevent rents from attaining market-clearing levels and shortages result.

With shortages in the controlled sector, this excess **DEMAND** spills over onto the noncontrolled sector (typically, new upper-bracket rental units or condominiums). But this noncontrolled segment of the market is likely to be smaller than it would be without controls because property owners fear that controls may one day be placed on them. The high demand in the noncontrolled segment along with the small quantity

supplied, both caused by rent control, boost prices in that segment. Paradoxically, then, even though rents may be lower in the controlled sector, they rise greatly for uncontrolled units and may be higher for rental housing as a whole.

As in the case of other price ceilings, rent control causes shortages, diminution in the quality of the product, and queues. But rent control differs from other such schemes. With price controls on gasoline, the waiting lines worked on a first-come-first-served basis. With rent control, because the law places sitting tenants first in the queue, many of them benefit.

**The Effects of Rent Control**

Economists are virtually unanimous in concluding that rent controls are destructive. In a 1990 poll of 464 economists published in the May 1992 issue of the *American Economic Review,* 93 percent of U.S. respondents agreed, either completely or with provisos, that "a ceiling on rents reduces the quantity and quality of housing available."[1] Similarly, another study reported that more than 95 percent of the Canadian economists polled agreed with the statement.[2] The agreement cuts across the usual political spectrum, ranging all the way from Nobel Prize winners **MILTON FRIEDMAN** and **FRIEDRICH HAYEK** on the "right" to their fellow Nobel laureate **GUNNAR MYRDAL**, an important architect of the Swedish Labor Party's **WELFARE** state, on the "left." Myrdal stated, "Rent control has in certain Western countries constituted, maybe, the worst example of poor planning by governments lacking courage and vision."[3] His fellow Swedish economist (and socialist) Assar Lindbeck asserted, "In many cases rent control appears to be the most efficient technique presently known to destroy a city—except for bombing."[4] That cities like New York have clearly not been destroyed by rent control is due to the fact that rent control has been relaxed over the years.[5] Rent stabilization, for example, which took the place of rent control for newer buildings, is less restrictive than the old rent control. Also, the decades-long boom in the New York City housing market is not in rent-controlled or rent-stabilized units, but in condominiums and cooperative housing. But these two forms of housing ownership grew important as a way of getting around rent control.

Economists have shown that rent control diverts new **INVESTMENT**, which would otherwise have gone to rental housing, toward greener pastures—greener in terms of consumer need. They have demonstrated that it leads to housing deterioration, fewer repairs, and less maintenance. For example, Paul Niebanck found that 29 percent of rent-controlled housing in the United States was deteriorated, but only 8 percent of the uncontrolled units were in such a state of disrepair. Joel Brenner and Herbert Franklin cited similar statistics for England and France.

The economic reasons are straightforward. One effect of government oversight is to

retard investment in residential rental units. Imagine that you have five million dollars to invest and can place the funds in any industry you wish. In most businesses, governments will place only limited controls and taxes on your enterprise. But if you entrust your money to rental housing, you must pass one additional hurdle: the rent-control authority, with its hearings, red tape, and rent ceilings. Under these conditions is it any wonder that you are less likely to build or purchase rental housing?

This line of reasoning holds not just for you, but for everyone else as well. As a result, the quantity of apartments for rent will be far smaller than otherwise. And not so amazingly, the preceding analysis holds true not only for the case where rent controls are in place, but even where they are only threatened. The mere anticipation of controls is enough to have a chilling effect on such investment. Instead, everything else under the sun in the real estate market has been built: condominiums, office towers, hotels, warehouses, commercial space. Why? Because such investments have never been subject to rent controls, and no one fears that they ever will be. It is no accident that these facilities boast healthy vacancy rates and relatively slowly increasing rental rates, while residential space suffers from a virtual zero vacancy rate in the controlled sector and skyrocketing prices in the uncontrolled sector.

Although many rent-control ordinances specifically exempt new rental units from coverage, investors are too cautious (perhaps too smart) to put their faith in rental housing. In numerous cases housing units supposedly exempt forever from controls were nevertheless brought under the provisions of this law due to some "emergency" or other. New York City's government, for example, has three times broken its promise to exempt new or vacant units from control. So prevalent is this practice of rent-control authorities that a new term has been invented to describe it: "recapture."

Rent control has destroyed entire sections of sound housing in New York's South Bronx and has led to decay and abandonment throughout the entire five boroughs of the city. Although hard statistics on abandonments are not available, William Tucker estimates that about 30,000 New York apartments were abandoned annually from 1972 to 1982, a loss of almost a third of a million units in this eleven-year period. Thanks to rent control, and to potential investors' all-too-rational fear that rent control will become even more stringent, no sensible investor will build rental housing unsubsidized by government.

**Effects on Tenants**

Existing rental units fare poorly under rent control. Even with the best will in the world, the landlord sometimes cannot afford to pay his escalating fuel, labor, and materials bills, to say nothing of refinancing his mortgage, out of the rent increase he can legally charge. And under rent controls he lacks the best will; the incentive he had

under free-market conditions to supply tenant services is severely reduced.

The sitting tenant is "protected" by rent control but, in many cases, receives no real rental bargain because of improper maintenance, poor repairs and painting, and grudging provision of services. The enjoyment he can derive out of his dwelling space ultimately tends to be reduced to a level commensurate with his controlled rent. This may take decades, though, and meanwhile he benefits from rent control.

In fact, many tenants, usually rich or middle-class ones who are politically connected or who were lucky enough to be in the right place at the right time, can gain a lot from rent control. Tenants in some of the nicest neighborhoods in New York City pay a scandalously small fraction of the market price of their apartments. In the early 1980s, for example, former mayor Ed Koch paid $441.49 for an apartment then worth about $1,200.00 per month. Some people in this fortunate position use their apartments like hotel rooms, visiting only a few times per year.

Then there is the "old lady effect." Consider the case of a two-parent, four-child family that has occupied a ten-room rental dwelling. One by one the children grow up, marry, and move elsewhere. The husband dies. Now the lady is left with a gigantic apartment. She uses only two or three of the rooms and, to save on heating and cleaning, closes off the remainder. Without rent control she would move to a smaller accommodation. But rent control makes that option unattractive. Needless to say, these practices further exacerbate the housing crisis. Repeal of rent control would free up thousands of such rooms very quickly, dampening the impetus toward vastly higher rents.

What determines whether or not a tenant benefits from rent control? If the building in which he lives is in a good neighborhood where rents would rise appreciably if rent control were repealed, then the landlord has an incentive to maintain the building against the prospect of that happy day. This incentive is enhanced if there are many decontrolled units in the building (due to "vacancy decontrol" when tenants move out) or privately owned condominiums for which the landlord must provide adequate services. Then the tenant who pays the scandalously low rent may "free ride" on his neighbors. But in the more typical case the quality of housing services tends to reflect rental payments. This, at least, is the situation that will prevail at equilibrium.

If government really had the best interests of tenants at heart and was for some reason determined to employ controls, it would do the very *opposite* of imposing rent restrictions: it would instead control the price of every *other* good and service available, apart from residential suites, in an attempt to divert resources out of all those other opportunities and into this one field. But that, of course, would bring about full-scale socialism, the very system under which the Eastern Europeans suffered so grimly. If the government wanted to help the poor and was for some reason

constrained to keep rent controls, it would do better to tightly control rents on luxury unit rentals and to eliminate rent controls on more modest dwellings—the very opposite of the present practice. Then, builders' incentives would be turned around. Instead of erecting luxury dwellings, which are now exempt, they would be led, "as if by an invisible hand," to create housing for the poor and middle classes.

**Solutions**

The negative consequences of rent legislation have become so massive and perverse that even many of its former supporters have spoken out against it. Instead of urging a quick termination of controls, however, some pundits would only allow landlords to buy tenants out of their controlled dwellings. That they propose such a solution is understandable. Because tenants outnumber landlords and are usually convinced that rent control is in their best interests, they are likely to invest considerable political energy (see **RENT SEEKING**) in maintaining rent control. Having landlords "buy off" these opponents of reform, therefore, could be a politically effective way to end rent control.

But making property owners pay to escape a law that has victimized many of them for years is not an effective way to make them confident that rent controls will be absent in the future. The surest way to encourage private investment is to signal investors that housing will be safe from rent control. And the most effective way to do that is to eliminate the possibility of rent control with an amendment to the state constitution that forbids it. Paradoxically, one of the best ways to help tenants is to protect the **ECONOMIC FREEDOM** of landlords.

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**Rent Control: It's Worse Than Bombing**

NEW DELHI—A "romantic conception of **SOCIALISM**" ... destroyed Vietnam's economy in the years after the Vietnam war, Foreign Minister Nguyen Co Thach said Friday.

Addressing a crowded news conference in the Indian capital, Mr. Thach admitted that controls ... had artificially encouraged demand and discouraged supply.... House rents had ... been kept low ... so all the houses in Hanoi had fallen into disrepair, said Mr. Thach.

"The Americans couldn't destroy Hanoi, but we have destroyed our city by very low rents. We realized it was stupid and that we must change policy," he said.

—From a news report in *Journal of Commerce*, quoted in Dan Seligman, "Keeping Up," *Fortune*, February 27, 1989.

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Walter Block (**wblock@loyno.edu**) holds the Harold E. Wirth Eminent Scholar Chair in Economics at Loyola University's Joseph A. Butt, S.J., College of Business Administration.

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3. Gunnar Myrdal, "Opening Address to the Council of International Building Research in Copenhagen," *Dagens Nyheter* (Swedish newspaper), August 25, 1965, p. 12; cited in Sven Rydenfelt, "The Rise, Fall and Revival of Swedish Rent Control," in *Rent Control: Myths and Realities,* Walter Block and Edgar Olsen, eds. (Vancouver: The Fraser Institute, 1981), p. 224.
4. Assar Lindbeck, *The Political Economy of the New Left* (New York: Harper and Row, 1972); cited in Sven Rydenfelt, "The Rise, Fall and Revival of Swedish Rent Control," in *Rent Control: Myths and Realities,* Walter Block and Edgar Olsen, eds. (Vancouver: The Fraser Institute, 1981), pp. 213, 230.
5. States New York "public advocate" Mark Green: "the number of rent-controlled apartments fell 18.2% between 1991 and 1993 and the new data we have analyzed shows an even greater

decline—30%—from 1993 to 1996. Indeed, the total number of rent-controlled apartments has fallen by 75% from its peak of 285,000 in 1981"
(**http://www.tenant.net/Alerts/Guide/papers/mgreen1.html**). This is due to the fact that when rents reach a certain level ($2,000 per month under certain conditions), apartments leave the controlled sector altogether. Inflation plus a "hot" New York City housing market have pushed many units above this level. See on this
**http://www.housingnyc.com/html/resources/faq/decontrol.html**. Ken Rosenblum, Mike Golden, and Deborah Poole provided the above cites.

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Subject No Rent Control on Post 1979 Buildings

Dear Supervisors,
I am writing to strongly **urge you to reject the ordinance proposed by Supervisor Avalos** to expand rent control laws to buildings built after 1979. Instituting such an ordinance will absolutely have a negative impact on the city's housing market: as ARMs continue to adjust from the current housing crisis, as the volume of short sales continue to rise, as HOA payment delinquencies rise, property owners will not be able to either a) maintain their rental unit or make necessary any improvements to them, or worse, b) be able to afford the mortgage, thus forcing them to sell. **When landlords have less cash flow, they invest less back into maintaining the buildings they own. HOAs will cut amenities on larger buildings, since homeowners will be looking everywhere to cut costs.**

**Rent caps artificially inflate market rate rents** because landlords are trying desperately to make up for lost income from rents that have been suppressed by rent control - sometimes for as long as 30 years or more!

This ordinance may also **cause an increase in the amount of small property owners who get out of the rental business** thereby minimizing the City's rental inventory: risking the hassle of long term, rent controlled tenants (some of them instantly obtaining protected status) is not worth it to a lot of owners of legal in-law units, rear cottages, or garden units that they may not financially need to rent. Equally, there is no investment benefit that comes from purchasing such a building.

**If you want to continue the City's housing market's downward spiral, if you want the City to lose much needed revenue from property exchanges, if you want to continue to be responsible to a constituency which is over 73% renters and stifle home ownership in SF, then by all means, support the measure.**

Thank you,
Amy Blakeley
Resident of District 2
Board Member, CVIA, District 5

Amy Blakeley

REALTOR DRE# 01439156
McGuire Real Estate
www.AmyBlakeley.com
Register for MyMcGuire Premium Property Search
(415) 533-2496

File 090583

**Beth Lombard**
**<beth_lombard@yahoo.com>**

11/19/2009 11:21 AM

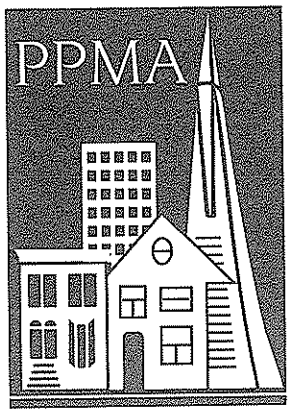
To board.of.supervisors@sfgov.org
cc
bcc
Subject Proposed Ordinance to Extend Just Cause Eviction to Newer Properties

Dear SF Board of Supervisors:
As a constituent of District 6 constituents, I am writing to ask that you vote "No"/against the **proposal to extend the just cause eviction protection of the rent control ordinance to tenants residing in rental units built after June 13, 1979**.

I believe this would be an amendment to Admin Code Chapter 37, Sections 37.2 & 37.3 and is to be voted on Monday, Nov. 23. I am a SF property owner (condo built in 2000) & in the event I have/need to have tenants vacate my condo so that I can move back in, I would like to be able to do so with appropriate notice to tenants - this seems only fair.

As I understand the p**otential impact the proposed legislation being passed would** mean that I would **no longer** be able to use a "thirty day notice to vacate" to terminate a tenancy.

Again, please vote "NO" in opposition to the proposal to extend just cause eviction to any newer properties.
Thank you, Beth Lombard




Professional Property Management
Association of San Francisco

November 9, 2009

San Francisco Board of Supervisors Land Use and Economic Development Committee
1 Dr. Carlton B. Goodlett Place, Room #263
San Francisco, CA 94102

RE: Rent Control on New Construction

To Whom It May Concern:

The Professional Property Management Association of San Francisco opposes any legislation mandating the extention of just-cause eviction protection to units not currently under the rent control for the following reasons:

- Discourages new construction in San Francisco
- Discourages Landlords from placing residences on the market, reducing the number of rental units in San Francisco
- Burdens an already overly burdened San Francisco court system
- Will lessen San Francisco revenue from taxation
- Will require thousands of dollars in attorneys fees to reclaim a unit
- Discourages Landlords from participating in the short term rental market

We respectfully would like to remind the Board of Supervisors that this proposed legislation is yet another restriction on the property owner in the city of San Francisco. In tough economic times this legislation will take units off the market, creating a detriment to all rather than a benefit.

Sincerely,

Michelle L. Horneff-Cohen, Broker, CCRM, RMP®
Professional Property Management Association

aaron goodman
<aarong@parkmercedresidents.org>
11/09/2009 12:44 PM
Please respond to aarong@parkmercedresidents.org

To david.chiu@sfgov.org, eric.l.mar@sfgov.org, sophie.maxwell@sfgov.org, john.avalos@sfgov.org
cc linda.laws@sfgov.org, Ted Gullicksen <ted@sftu.org>, dean@tenantstogether.org
bcc
Subject Land-Use Mon. Nov. 9th 2009 1:00pm Meeting

Land-Use Committee Members
11.09.2009 - 1:00pm Meeting

Supervisors,

RE: 090583 - [Just Cause Eviction Protections for residential tenants, extend to non-rent controlled units]

I will not be able to attend today's meeting on the issue above, but wanted again to note my concerns for rental protections, and the general lack of renter's rights in this issue.

The seperation of renter's into two classes must be prohibited, and the need to address the concerns of tenants facing ongoing pressures by banks and developer interests must be addressed citywide.

These is ongoing concerns especially for what occurs when units are "rennovated" or "flipped" on a property and finishes of the unit are over 50% rennovated. Does this mean the unit exits rent-control laws? Does the rennovations being done on exterior portions of parkmerced, allow the entire complex to be de-facto flipped, and de-controlled under rent-control laws? Does new work, post tear-downs of existing units turn over rent-control laws on these units. Parkmerced is promising rent-control status, for existing residents, but the laws state something quite different, and the post 1979 laws make a great concern for renter's in SF. When developers and institutions are NOT held accountable for their decisions against renter's and the city follows through, its becoming more of a displacement issue than ever.

Please sincerely review this issue, and take into account not just the cries of the Residential Builders, whom now cannot SELL the units they build due to banks holding their purse-strings, without being able to "evict" tenants. This is not fair discourse, on the cities current needs, nor fairness in terms of what is being done by banks, and developers in their consistent need for new "market-rate" stock for quick sale and profiteering.

I would rather see a few of those builders and manufacturers that benefited HEAVILY in the boom years face a few years of financial difficulty, versus the consistent EVICTION and DISPLACEMENT of the families and working class that make up the cities core in terms of people, character, and variety.

Protect the rights of ALL tenants, and make "just-cause" eviction protections a reality for ALL renters...

Sincerely

Aaron Goodman President of PRO
www.parkmercedresidents.org

Land Use Com / Clerk

File 090583

175 Bluxome Street #217
San Francisco, CA 94107
Tel. (415) 374-7667
November 5, 2009

Ms. Angela Calvillo
Clerk of the Board
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689



Ms. Cavillo:

As San Francisco homeowners, we would like to register our strong concerns regarding the fairness of the proposed Ordinance by Supervisor Avalos, file no. 090583, that would require us, should we chose to rent our residence at a later time, to provide "just cause" to evict any tenants.

We had purchased our primary residence in the SOMA district of San Francisco with the understanding that, as a unit in a building constructed after the passage of the city's rent control ordinance in 1979, our residence would not be subject to either rent control or the "just cause" eviction requirement. We would not have made the purchase of our home if the property had been subject to either requirement. For the Board of Supervisors to rewrite the rules in this manner effectively has altered the contract between the seller of our home and us to our detriment. Were this proposal to become enacted, the likely resale value of our home, which the Assessor's office has already agreed had fallen well below the purchase price in 2006, would likely fall further. We are not wealthy persons and most of our savings have been devoted to building up equity in our residence. The passage of this measure could vaporize whatever equity remains in our home.

Moreover, this measure would increase the costs and time in evicting problem tenants from our building. During the past year, the unit above ours, which had been rented out by its owner, had been placed in foreclosure. During the time that the foreclosure process had been proceeding, the tenants in the unit above ours had carried out loud parties after 11 p.m. in contravention of our HOA rules and had substantially interfered with our right to the quiet enjoyment of our home. We had to call the police out on several occasions on account of their disruptive behavior. At several times, the tenants in the upstairs unit had thrown cigarette butts, and even on one occasion had vomited over, the railing onto the hallway of our floor and the ground floor hallway. If this measure had been enacted before the bank owning the unit above ours had evicted the tenants, they likely would still be in our building causing us and other residents in our building additional anguish.

What is especially unfair about this proposal is that the Board of Supervisors would decide to grant tenants in buildings built after 1979 additional protections from eviction without offering any compensation to the homeowners such as ourselves, despite Article I, Section 19(a) of the California Constitution, which prohibits the taking of private property for a public use with payment of just compensation to the property owner. We strongly urge the Board to reconsider this ill-considered and inequitable proposal.

Sincerely,

Colin V. Gallagher

Wilmer A. Pereira

vcps BOS done

**Le Roy F. Gillead** • PO Box 880452 • San Francisco, CA • 94188–0452 • PH/FX (415)-585-3686 File 090583

November 10, 2009

Gavin Newsom, Mayor
City of San Francisco and
Members, Board of Supervisors
City Hall, San Francisco

BY: h

2009 NOV 10 AM 10: 13

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

**Re: Should Just Cause Eviction Protections For Tenants in San Francisco be Extended to Those Who Live in Rental Units Built After 1979. YES!**

Mayor Newsom and Members,
Board of Supervisors, District___
_____:

If tenants in rental units built before 1979 do no receive adequate just cause protections from **Wrongful Eviction Notices or Unlawful Rent Increases**, with or without the Rent Board process, then tenants before and after 1979 need legislation for effective just cause eviction protections.

Rent Board petitions alleging Wrongful Eviction without just cause (non-payment of rent) or Unlawful Rent Increase (no written agreement between the landlord and tenant) in violation of the Rent Board Ordinance (Section 37.9–Evictions) are illustrative of the need for just cause protection, new and old, with efficacy, and for the Rent Board too.

On May 28, 2009, the Rent Board rendered a Decision granting the tenant's petitions for Unlawful Rent Increase, which was dispositive of the Wrongful Eviction. Landlord, on March 12, 2009, with a Three Day Notice to Pay or Quit, targeted this nonagenarian tenant for eviction, and with 22 years of residency. Even though the tenant has never been delinquent for non-payment of rent as alleged. This alleged "unpaid rent for the period of time from 02/01/2008 through 03/31/2009," was for a 14 month period which excluded charges for the months of June and November—no explanation. Landlord charged tenant with 30 items for delinquent rent, in the amount of $601.45, even though during the same period the tenant had a credit in the amount of $ 691.91.

Undeterred by the Rent Board Decision, the landlord served the tenant with 3 more notices to vacate the rental unit (09/18/09, 10/14/09 and 10/30/09) and 5 more Unlawful Rent Increases (08/01/09, 09/18/09, 10/14/09, 10/27/09 and 10/30/09). Therefore, while seeking counsel at the Housing Rights Committee of San Francisco, November 2 at 1:00 PM, tenant received the enclosed flyer for testimony at the same time before the Board of Supervisors Land Use Committee. Tenant would liked to have given testimony. On return to the Housing Rights Committee, November 5th, tenant received the enclosed "Call to action!" flyer to call or send a letter. Thus this letter, because orally or by phone with limited time, tenant would not have been able to adequately convey these facts in support of extending adequate just cause eviction protections to tenants in rental units built before and after 1979.

Tenant would like Mayor Newsom to find out, with copy to Sara Shortt, Executive Director, Housing Rights Committee of SF, how and why the landlord targeted this senior citizen for eviction with no just cause and no affirmative action for the tenant by the Rent Board, which, in its **Conclusions of Law**, found the Landlord "...not...in good faith," and in violation of the Rent Ordinance. Therefore, a statutory misdemeanor by the landlord, "not in good faith." A perpetrator, with no just cause for the eviction Notice. This is an abridgment of the rights and protections for the tenant by the Rent Board, and of egregious significance.

The Rent Board, on 03/31/2009, sent the landlord and the tenant **Notice of Receipt of Report of Alleged Wrongful Eviction** with Warning To Landlord:

> "Whenever the landlord seeks to recover... possession of a rental unit in violation of the Rent Ordinance, [Sec.37.9–Evictions] that landlord may be found guilty of a [City of San Francisco Agency statutory] misdemeanor, and... the Rent Board, may bring [?, refer criminal action to the City Attorney or the District Attorney for prosecution ?] a civil action (lawsuit) for an injunction or treble damages (money), or both, and attorney fees.
>
> The landlord had 5 days to complete the form indicating:
>
> "1. I agree_____or disagree____with the [tenant's] allegations..."
> 2. Sign affidavit:
>
> I hereby declare under penalty of perjury that the ground stated in the Notice to Vacate is landlord's dominant motive for seeking recovery of possession of the rental unit."

April 2, 2009 landlord legal representative states:

> "Please note that my client declines to submit a verified response to the Rent Board's questionnaire. My client contends that eviction notices are privileged communications not subject to an affirmative action by the tenant or the Rent Board at this juncture. Therefore, my client will proceed in a manner allowed by law."

The Rent Board did not provide tenant with a copy of this letter. Some time after the May 29, 2009 Rent Board Decision on the Unlawful Rent Increase, tenant inquired at the Rent Board Office as to the hearing date for the Wrongful Eviction Petition. The Advice Officer on duty informed tenant, according to the computer, the case was closed. Subsequently, pressing the issue with another Advice Officer, tenant requested a response in writing as to why this case was closed without a hearing and without informing the tenant.

The Rent Board response letter of July 22, 2009 states:

> "Enclosed please find a copy of your landlord's *Response of Alleged Wrongful Eviction* dated April 2, 2009, and received in this office on April 6, 2009. It appears that the landlord through his attorney, is asserting the litigation privilege. This privilege, has been recently [no date] defined and established by case law [no citation], and has been interpreted by attorneys representing landlords to mean that no wrongful eviction action will lie, with regard to communications between the landlord's attorney and the tenant, prior to the filing of an unlawful detainer. I cannot offer you further advice in this matter."
> (Rent Board gave no interpretation and the landlord filed no unlawful detainer.)

Pressing further, tenant requested the Rent Board to put in writing the Board's position on the "not in good faith" statutory misdemeanor by the perpetrator's (landlord's) refusal to submit the questionnaire. The Officer refused and a Senior Officer left a message on tenant's telephone, August 17, 2009, "no power to require [the 'not in good faith' and perpetrator] landlord to file additional document...so there is nothing further the Rent Board can do at this point. So we will not be taking any further action." The next day tenant left the message, "I need a written response." In the August 25, reply by telephone, "no written response. You can seek counsel for further action."

Apparently, the Rent Board forgot the **rule of law** that any party before a Federal, State, County, City or Local Government or its Agencies, must appear "in good faith" to receive directly or indirectly the proceeds and or benefits which that party seeks before that government or its agencies, or forfeit them. Simply, directly or indirectly, a perpetrator cannot keep or benefit from its crime—current prosecution of the financial and mortgage scams causing our economic depression.

When a party seeks in bad faith (not in good faith) proceeds or benefits before the government or is agency, that party forfeits its rights and privileges for the proceeds and benefits which would inure had the party been in good faith in the first instance.

Consequently, the Rent Board should have taken affirmative action and demanded the landlord complete and return its questionnaire. Refusal to comply with the order of the Rent Board would be another statutory misdemeanor for referral by the Rent Board to the City Attorney or the District Attorney.

As yet the City Attorney has not acknowledge tenants letter of September 23, 2009, for an explanation of the enforcement process against a landlord in violation of the Rent Ordinance, therefore "guilty of a misdemeanor."

Additionally, tenant's, September 3, 2009, **Incident Report** (No. 090907096) alleging the misdemeanor against landlord Parkmerced is in process with the District Attorney.

Landlord Parkmerced is located at 3711 Nineteenth Avenue with its Resident Service Office in the back, 1 Varela Avenue, both at the corner of Holloway Avenue opposite San Francisco State University, part owner for its students living throughout this Residential Community. Parkmerced is the largest landlord in San Francisco with over 3000 rental units housing upwards of 10,000 single and family residents and with plans to double and triple its population.

In the landlord's Resident Service Office, staff with tenants in an open area, answer questions to explain and to resolve their landlord tenant concerns. The sum and substance of the relationship, for all to hear, is a month-to-month tenancy and the landlord is not required to provide new lease documents. The tenant has no copy, and whether the tenant signs and returns the Notice of rent increase, the effective date for the rent or rent increase is due on the effective date, and is enforceable without the tenant's signature or return of the Notice form. Further, the written and enforceable rent agreement between the landlord and tenant is the Rent Ordinance and related City landlord and tenant codes, rules and regulations.

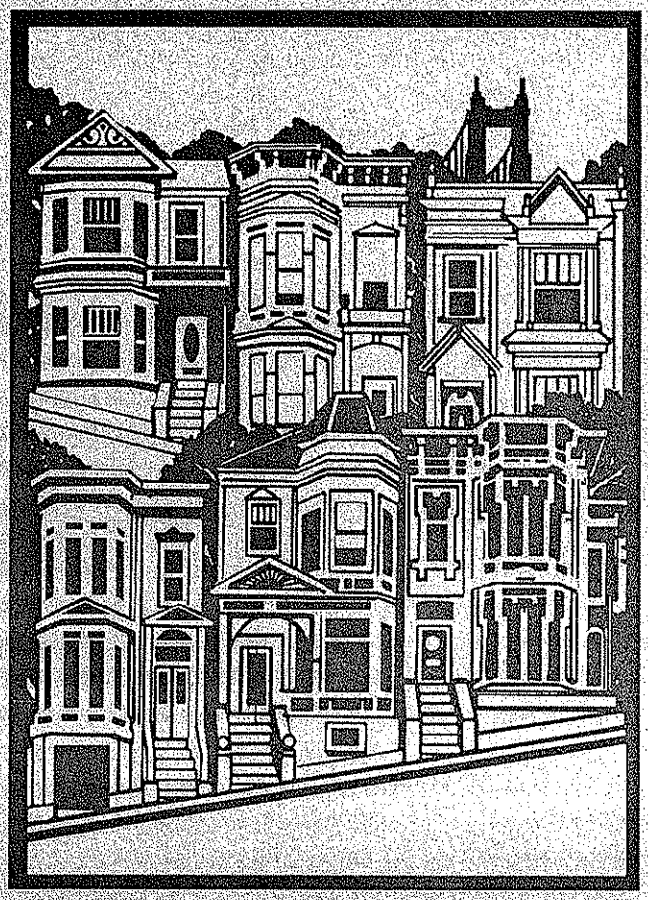
It would be appreciated should the Chair of the Board of Supervisors inform this tenant, with copy to Sara Shortt, Executive Director, Housing Rights Committee of SF, for all the good faith landlords and tenants, the contemplated expectations to extend and to improve just cause eviction protections for tenants who live in rental units built before and after 1979.

Le ROY F. GILLEAD
Parkmerced Tenant

Attachments: 6
c. Sara Shortt

**Come Testify to Support...**

# Just Cause Eviction Protections For Tenants in San Francisco



- **Legislation has been introduced to extend just cause eviction protections to tenants who live in rental units built after 1979.**
- **Your testimony is important to educate members of the Board of Supervisors about your experience as a tenant.**

## Monday November 2 at 1pm
## Land Use Committee
## Board of Supervisors, City Hall

**Supported by: St. Peter's Housing Committee, Housing Rights Committee, Chinatown CDC & San Francisco Tenants' Union, Senior Action Network.**

**For more info: sara@hrcsf.org, 415-703-8634**

# Call to action!

As you may know, renters in San Francisco living in homes built after 1979 are not under rent control, nor are they under just cause eviction protections.

The HRCSF was present at the Board of Supervisor's Land Use Committee Hearing on Monday, November 2nd in support of this ordinance. We are urging you to send emails, and give phone calls to the Supervisors in support of this ordinance! Please take maybe ten minutes of your time to make a world of difference for this city. Send an email, and give a phone call to the following people:

Sup. Sophie Maxwell
(415) 554-7670 - voice
(415) 554-7674 - fax
Sophie.Maxwell@sfgov.org

Mayor Gavin Newsom
Telephone: (415) 554-6141
Fax: (415) 554-6160
gavin.newsom@sfgov.org

Sup. Bevan Dufty
(415) 554-6968- voice
(415) 554-6909 - fax
Bevan.Dufty@sfgov.org

Sup. Michela Alioto-Pier
(415) 554-7752 - voice
(415) 554-7843 - fax
Michela.Alioto-Pier@sfgov.org

Sup. Carmen Chu
(415) 554-7460 - voice
(415) 554-7432 - fax
Carmen.Chu@sfgov.org

Sup. Sean Elsbernd
(415) 554-6516 - voice
(415) 554-6546 - fax
Sean.Elsbernd@sfgov.org

Here is a draft of a letter you may want to use:

Dear Supervisor,

I am a renter in San Francisco and I am very concerned to learn that many renters here are not protected from evictions because their home was build after 1979.

There is no reason why a random group of renters could suddenly lose their housing at the drop of a hat. Rents are still so high in this city. Getting evicted means quickly finding housing that you can afford, which is nearly impossible in this market. Please Please support Supervisor Avalos's "Just Cause" ordinance. It is only fair.

Sincerely,

c Pages

Aaron Goodman
<aarong@parkmercedresidents.org>
10/31/2009 02:46 PM

To board.of.supervisors@sfgov.org
cc sophie.maxwell@sfgov.org, david.chiu@sfgov.org, eric.l.mar@sfgov.org
bcc
Subject Support the need for new rent-controlled rental housing in new construction in SF.

File #090583

Land Use BOS Commissioners and BOS Members;

a) the mayor vetoes the renter's relief package
b) the developers of some projects (BVHP-Lennar) threaten the city if forced to build "rental" housing.
c) the majority of families are either out of work, facing eviction, or living month to month.
d) numerous projects projected in the pipeline will not per city laws on new developments be required to provide or follow rent-control laws on new construction.
e) meanwhile the valley of calif. is filled with the sprawl of bank and developer backed schemes on development, while they now re-focus there efforts on urban areas, that have little protection to prevent mass-displacement and urban tear-downs for new units that will avoid rent-control laws.
f) rent control is in jeopardy due to the consistent building of market rate units versus sound **SOCIAL HOUSING** and rental housing for the working class.
g) rental housing and social housing are **NEEDED** throughout SF, in an equally balanced and developed density planning effort. You cannot shove it all in economically challenged neighborhoods the system MUST change.

**PLEASE support the Avalos legislation extending just cause eviction protections, and ensure that there is FAIR development of rent-controlled basic housing stock in SF.**

**STUDENTS, SENIORS, DISABLED, FAMILIES, IMMIGRANTS, and the WORKING CLASS DEMAND ACCOUNTABILITY OF CITY AGENCIES AND THE BOARD OF SUPERVISORS TO SUPPORT THIS LEGISLATION TO ENSURE NEW DEVELOPMENTS INCLUDE A BASIC NUMBER OF UNITS RESERVED FOR RENT-CONTROLLED LOW-MID INCOME CITIZENS OF SF.**

**If not than demand a rent-roll-back so that we get back to reality.**

**Rents above $2400 for a 2-bedroom are not affordable, and neighborhoods like Parkmerced and Trinity Plaza are examples of what has occured in the predatory equity lending issues, flipping of properties, and lack of vacancy decontrol throughout the city.... NYC is a prime example, and SF is already being flipped.**

**Pay Attention to this issue. Its essential Its Housing, and its dealing with many peoples**

**lives. Not just the property owners..... Families cannot remain in a city that ignores the basic essential need for well built housing like parkmerced.**

**There is a need to develop similar density levels throughout the sunset, presidio, and other areas along major transit lines. Its time to think futuristically on planning and not allow singular developers to control the future of our cities infrastructure and development path. We need to take control of the future city and its design and ensure an equitable future for all citizens that live here....**

**Sincerely**

**Aaron Goodman President of PRO**
**The Parkmerced Residents Organization**
**www.parkmercedresidents.org**

#r.0583 Submitted @ hearing 11/2/09

Gmail by Google

Grace Shanahan <grace@rbasf.com>

# Ordinance amending Administrative Code Chapter 37 "Residential Rent Stabilization and Arbitration Ordinance"

1 message

**Larry Tidwell <LTidwell@apbconnect.com>** **Mon, Nov 2, 2009 at 12:00 PM**
To: Angus McCarthy <angusmccarthy@sbcglobal.net>
Cc: Grace Shanahan <grace@rbasf.com>

Angus:

Short of sending this to our legal department for review I would have to say at first glance this amendment would curtail our ability to allow you to rent units in buildings that we have construction loans on. As you know during these difficult economic times many lenders have worked with developers to allow them to rent units out for up to two years or longer waiting for the sales market to recover. It would appear that the restrictions this amendment creates would likely eliminate this accommodation, which would be unfortunate for all concerned. Let me know if I can be of further assistance in this matter.

Best regards,

Larry E. Tidwell

Executive Vice President

Real Estate Industries Group

AltaPacific Bank