

FILE NO 041151

ORDINANCE NO.

21 - 05

1 [Implement recent Ellis Act amendments by California Legislature to expand residential tenant  
2 relocation payment eligibility where units are withdrawn from rental market pursuant to Ellis;  
3 payment amounts increase annually per CPI; use federal instead of state definition for  
disabled tenants; prohibit owner withdrawal of specified residential hotel units from rental  
market.]

4 **Ordinance implementing recent California State Legislature amendments of the Ellis**  
5 **Act (California Government Code §§7060 et seq., see §§7060 and 7060.1), by amending**  
6 **the San Francisco Residential Rent Stabilization and Arbitration Ordinance**  
7 **(Administrative Code Chapter 37) at Sections 37.9(a)(13) and 37.9A(e) to provide that:**  
8 **when residential units are withdrawn from the rental market pursuant to the Ellis Act,**  
9 **each tenant who is relocated is entitled to a payment of \$4,500 up to a maximum total**  
10 **per unit of \$13,500 (37.9A(e)), for tenants who reside in their units on or after August**  
11 **10, 2004, with these payment amounts to increase annually commencing March 1, 2005**  
12 **according to the "rent of primary residence" expenditure category of the Consumer**  
13 **Price Index (CPI) for the preceding 12 months; and, owners may not withdraw defined**  
14 **residential hotel units from the rental market pursuant to the Ellis Act if the hotel's**  
15 **occupancy permit was issued prior to January 1, 1990, and if the hotel did not file a**  
16 **notice of intent prior to January 1, 2004 to withdraw the units from the rental market**  
17 **(Section 37.9(a)(13)). Also amending Section 37.9A(e) to provide that the existing**  
18 **additional relocation payment of \$3,000 to each senior (62 or older) or disabled tenant**  
19 **displaced when residential units are withdrawn from the rental market pursuant to the**  
20 **Ellis Act will likewise increase annually commencing March 1, 2005 according to the**  
21 **"rent of primary residence" expenditure category of the CPI for the preceding 12**  
22 **months calendar year (see Section 37.9A(e)(3)(D)), and to change the definition of**  
23 **"disabled" in this section from a state code definition to a federal code definition (see**  
24 **Section 37.9A(e)(3)(C).**

25  
SUPERVISOR PESKIN, AMMIANO, MEGOLDICK, GONZALEZ, DALY, MIRKARINI  
BOARD OF SUPERVISORS

1 Note: Additions are single-underline italics Times New Roman font;  
2 deletions are ~~strikethrough italics Times New Roman font~~.  
3 Board amendment additions are double underlined Arial font;  
4 Board amendment deletions are ~~strikethrough Arial font~~.

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

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

7 SEC. 37.9. EVICTIONS.

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

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

11 (1) The tenant:

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

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

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

22 (B) Habitually pays the rent late; or

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

25 (2) The tenant has violated a lawful obligation or covenant of tenancy other than the

1 obligation to surrender possession upon proper notice or other than an obligation to pay a  
2 charge prohibited by Police Code Section 919.1, and failure to cure such violation after having  
3 received written notice thereof from the landlord, provided further that notwithstanding any  
4 lease provision to the contrary, a landlord shall not endeavor to recover possession of a rental  
5 unit as a result of subletting of the rental unit by the tenant if the landlord has unreasonably  
6 withheld the right to sublet following a written request by the tenant, so long as the tenant  
7 continues to reside in the rental unit and the sublet constitutes a one-for-one replacement of  
8 the departing tenant(s). If the landlord fails to respond to the tenant in writing within fourteen  
9 (14) days of receipt of the tenant's written request, the tenant's request shall be deemed  
10 approved by the landlord; or

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

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

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

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

25 (7) The tenant holding at the end of the term of the oral or written agreement is a

1 subtenant not approved by the landlord; or

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

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

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

13 (iii) For purposes of this Section 37.9(a)(8) only, as to landlords who become  
14 owners of record of the rental unit on or before February 21, 1991, the term "landlord" shall be  
15 defined as an owner of record of at least 10 percent interest in the property or, for Section  
16 37.9(a)(8)(i) only, two individuals registered as domestic partners as defined in San Francisco  
17 Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at  
18 least 10 percent. For purposes of this Section 37.9(a)(8) only, as to landlords who become  
19 owners of record of the rental unit after February 21, 1991, the term "landlord" shall be defined  
20 as an owner of record of at least 25 percent interest in the property or, for Section 37.9(a)(8)(i)  
21 only, two individuals registered as domestic partners as defined in San Francisco  
22 Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at  
23 least 25 percent.

24 (iv) A landlord may not recover possession under this Section 37.9(a)(8) if a  
25 comparable unit owned by the landlord is already vacant and is available, or if such a unit

1 becomes vacant and available before the recovery of possession of the unit. If a comparable  
2 unit does become vacant and available before the recovery of possession, the landlord shall  
3 rescind the notice to vacate and dismiss any action filed to recover possession of the  
4 premises. Provided further, if a noncomparable unit becomes available before the recovery of  
5 possession, the landlord shall offer that unit to the tenant at a rent based on the rent that the  
6 tenant is paying, with upward or downward adjustments allowed based upon the condition,  
7 size, and other amenities of the replacement unit. Disputes concerning the initial rent for the  
8 replacement unit shall be determined by the Rent Board. It shall be evidence of a lack of good  
9 faith if a landlord times the service of the notice, or the filing of an action to recover  
10 possession, so as to avoid moving into a comparable unit, or to avoid offering a tenant a  
11 replacement unit.

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

16 (vi) Once a landlord has successfully recovered possession of a rental unit pursuant  
17 to Section 37.9(a)(8)(i), then no other current or future landlords may recover possession of  
18 any other rental unit in the building under Section 37.9(a)(8)(i). It is the intention of this  
19 Section that only one specific unit per building may be used for such occupancy under Section  
20 37.9(a)(8)(i) and that once a unit is used for such occupancy, all future occupancies under  
21 Section 37.9(a)(8)(i) must be of that same unit, provided that a landlord may file a petition with  
22 the Rent Board, or at the landlord's option, commence eviction proceedings, claiming that  
23 disability or other similar hardship prevents him or her from occupying a unit which was  
24 previously occupied by the landlord.

25 (vii) If any provision or clause of this amendment to Section 37.9(a)(8) or the

1 application thereof to any person or circumstance is held to be unconstitutional or to be  
2 otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other  
3 chapter provisions, and clauses of this Chapter are held to be severable; or

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

7 (10) The landlord seeks to recover possession in good faith in order to demolish or to  
8 otherwise permanently remove the rental unit from housing use and has obtained all the  
9 necessary permits on or before the date upon which notice to vacate is given, and does so  
10 without ulterior reasons and with honest intent; provided that a landlord who seeks to  
11 demolish an unreinforced masonry building pursuant to Building Code Chapters 14 and 15  
12 must provide the tenant with the relocation assistance specified in Section 37.9A(f) below  
13 prior to the tenant's vacating the premises; or

14 (11) The landlord seeks in good faith to remove temporarily the unit from housing use  
15 in order to be able to carry out capital improvements or rehabilitation work and has obtained  
16 all the necessary permits on or before the date upon which notice to vacate is given, and does  
17 so without ulterior reasons and with honest intent. Any tenant who vacates the unit under such  
18 circumstances shall have the right to reoccupy the unit at the prior rent adjusted in  
19 accordance with the provisions of this Chapter. The tenant will vacate the unit only for the  
20 minimum time required to do the work. On or before the date upon which notice to vacate is  
21 given, the landlord shall advise the tenant in writing that the rehabilitation or capital  
22 improvement plans are on file with the Central Permit Bureau of the Department of Building  
23 Inspection and that arrangements for reviewing such plans can be made with the Central  
24 Permit Bureau. In addition to the above, no landlord shall endeavor to recover possession of  
25 any unit subject to a RAP loan as set forth in Section 37.2(m) of this Chapter except as

1 provided in Section 32.69 of the San Francisco Administrative Code. The tenant shall not be  
2 required to vacate pursuant to this Section 37.9(a)(11), for a period in excess of three months;  
3 provided, however, that such time period may be extended by the Board or its Administrative  
4 Law Judges upon application by the landlord. The Board shall adopt rules and regulations to  
5 implement the application procedure. Any landlord who seeks to recover possession under  
6 this Section 37.9(a)(11) shall pay the tenant actual costs up to \$1,000 for moving and  
7 relocation expenses not less than 10 days prior to recovery of possession; or

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

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

25 (14) The landlord seeks in good faith to temporarily recover possession of the unit for

1 less than 30 days solely for the purpose of effecting lead remediation or abatement work, as  
2 required by San Francisco Health Code Article 26. The relocation rights and remedies,  
3 established by San Francisco Administrative Code Chapter 72, including but not limited to, the  
4 payment of financial relocation assistance, shall apply to evictions under this Section  
5 37.9(a)(14).

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

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

22 (d) No landlord may cause a tenant to quit involuntarily or threaten to bring any  
23 action to recover possession, or decrease any services, or increase the rent, or take any other  
24 action where the landlord's dominant motive is retaliation for the tenant's exercise of any  
25 rights under the law. Such retaliation shall be a defense to any action to recover possession.



1 In an action to recover possession of a rental unit, proof of the exercise by the tenant of rights  
2 under the law within six months prior to the alleged act of retaliation shall create a rebuttable  
3 presumption that the landlord's act was retaliatory.

4 (e) It shall be unlawful for a landlord or any other person who wilfully assists the  
5 landlord to endeavor to recover possession or to evict a tenant except as provided in Section  
6 37.9(a) and (b). Any person endeavoring to recover possession of a rental unit from a tenant  
7 or evicting a tenant in a manner not provided for in Section 37.9(a) or (b) without having a  
8 substantial basis in fact for the eviction as provided for in Section 37.9(a) shall be guilty of a  
9 misdemeanor and shall be subject, upon conviction, to the fines and penalties set forth in  
10 Section 37.10A. Any waiver by a tenant of rights under this Chapter except as provided in  
11 Section 37.10A(g), shall be void as contrary to public policy.

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

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

1 issued as of the effective date of this Ordinance No. 250-98.

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

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

8 (1) A landlord may not recover possession of a unit from a tenant under Section  
9 37.9(a)(8) if the landlord has or receives notice, any time before recovery of possession, that  
10 any tenant in the rental unit:

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

13 (B) Is disabled within the meaning of Section 37.9(i)(1)(B)(i) and has been residing  
14 in the unit for 10 years or more, or is catastrophically ill within the meaning of Section  
15 37.9(i)(1)(B)(ii) and has been residing in the unit for five years or more:

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

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

24 (2) The foregoing provisions of Sections 37.9(i)(1)(A) and (B) shall not apply where  
25 there is only one rental unit owned by the landlord in the building, or where each of the rental

1 units owned by the landlord in the same building where the landlord resides (except the unit  
2 actually occupied by the landlord) is occupied by a tenant otherwise protected from eviction by  
3 Sections 37.9(i)(1)(A) or (B) and where the landlord's qualified relative who will move into the  
4 unit pursuant to Section 37.9(a)(8) is 60 years of age or older.

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

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

24 (5) This Section 37.9(i) is severable from all other sections and shall be of no force  
25 or effect if any temporary moratorium on owner/relative evictions adopted by the Board of

1 Supervisors after June 1, 1998 and before October 31, 1998 has been invalidated by the  
2 courts in a final decision.

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4  
5 Section 2. SEC. 37.9A. TENANT RIGHTS IN CERTAIN DISPLACEMENTS UNDER  
6 SECTION 37.9(a)(13).

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

9 (a) Rent Allowed.

10 (1) Except as provided in Section 37.9A(a)(2) below, any rental unit which a tenant  
11 vacates after receiving a notice to quit relying on Section 37.9(a)(13) (withdrawal of rental  
12 units from rent or lease under the Ellis Act, California Government Code Sections 7060 et  
13 seq.), if again offered for rent or lease, must be offered and rented or leased at a rent not  
14 greater than the lawful rent in effect at the time the notice of intent to withdraw rental units is  
15 filed with the Board, plus annual rent increases available under this Chapter 37.

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

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

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

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

24 (C) If it is asserted that the rent could have been increased based on capital  
25 improvements, rehabilitation or substantial rehabilitation, the owner must petition the Rent

1 Board pursuant to the procedures of Section 37.7 of this Chapter. No increase shall be  
2 allowed on account of any expense incurred in connection with withdrawing any unit from rent  
3 or lease.

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

7 (b) Treatment of Replacement Units. If one or more units covered by Subsection  
8 (a) is demolished, and one or more new units qualifying as rental units under this Chapter but  
9 for the date on which they first receive a certificate of final completion and occupancy are  
10 constructed on the same property, and offered for rent or lease within five years of the date  
11 the last of the original units became vacant, the newly constructed units shall be offered at  
12 rents not greater than those reasonably calculated to produce a fair and reasonable return on  
13 the newly constructed units, notwithstanding Section 37.2(r)(5) or any other provision of this  
14 Chapter. The provisions of this Chapter shall thereafter apply. The Board shall adopt rules for  
15 determining the rents necessary to provide a fair and reasonable return.

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

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

25 (2) Notwithstanding Subsection (c)(1), if the unit is offered for rent or lease within 10

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

8 (3) If any former tenant or lessee has requested an offer to renew the tenancy,  
9 either directly to the landlord or after notice from the Rent Board, then the owner shall offer to  
10 reinstitute a rental agreement or lease at rents permitted under Subsection (a). This offer  
11 shall be deposited in the United States mail, by registered or certified mail with postage  
12 prepaid, addressed to the displaced tenant or lessee at the address furnished to the owner as  
13 provided by the tenant and shall describe the terms of the offer. The displaced tenant or  
14 lessee shall have 30 days from the deposit of the offer in the mail to accept the offer by  
15 personal delivery of that acceptance or by deposit of the acceptance in the United States mail  
16 by registered or certified mail with postage prepaid.

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

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

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

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

12 (e) Relocation Payments to Low Income, Elderly and Disabled Tenants.

13 (1) Before August 10, 2004, Low Income, Elderly or Disabled. Where a landlord seeks  
14 eviction based upon Section 37.9(a)(13), and the notice of intent to withdraw rental units was filed  
15 with the Board before August 10, 2004, the relocation payments described in this ~~s~~Subsection  
16 37.9A(e)(1) shall be limited to tenants who are members of lower income households, who are  
17 elderly, or who are disabled, as defined below.

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

24 ~~(2) (B)~~ With respect to Subsection 37.9A(e)(1)(A) ~~above~~, the Mayor's Office of  
25 Housing or its successor agency shall annually determine the income limits for lower income

1 households, adjusted for household size.

2 ~~(3)~~ (C) Notwithstanding Subsection 37.9A(e)(1)(A), and irrespective of the size of  
3 the unit, any tenant who receives a notice to quit under Section 37.9(a)(13) and who, at the  
4 time such notice is served, is 62 years of age or older, or who is disabled within the meaning  
5 of Section 12995.3 of the California Government Code, shall be entitled to receive \$3,000,  
6 \$1,500 of which shall be paid within fifteen (15) calendar days of the landlord's receipt of  
7 written notice from the tenant of entitlement to the relocation payment, and \$1,500 of which  
8 shall be paid when the tenant vacates the unit.

9 ~~(4)~~ (D) The payments due pursuant to this Subsection 37.9A(e)(1) for any unit  
10 which is occupied by more than one tenant shall be divided equally among all the occupying  
11 tenants, excluding those tenants who are separately entitled to payments under Subsection  
12 37.9A(e)(1)(3)(C) above.

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

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

24 (B) Subject to subsections 37.9A(e)(2)(C) and (D) below, tenants who are not members of  
25 lower income households, as defined by Section 50079.5 of the California Health and Safety Code,



1 shall each be entitled to receive \$4,500, which shall be paid when the tenant vacates the unit;

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

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

10 (3) On or After (effective date of ordinance amendments). Where a landlord seeks eviction  
11 based upon Section 37.9(a)(13), and the notice of intent to withdraw rental units is filed with the Board  
12 on or after (effective date of ordinance amendments), relocation payments shall be paid to the tenants  
13 as follows:

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

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

19 (C) Notwithstanding Subsections 37.9A(e)(3)(A) and (B), any tenant who, at the time the  
20 notice of intent to withdraw rental units is filed with the Board, is 62 years of age or older, or who is  
21 disabled within the meaning of within the meaning of Title 42 U.S.C. Section 12102(2)(A) Section  
22 12955.3 of the California Government Code, shall be entitled to receive an additional payment of  
23 \$3,000.00, \$1,500.00 of which shall be paid within fifteen (15) calendar days of the landlord's receipt  
24 of written notice from the tenant of entitlement to the relocation payment, and \$1,500.00 of which shall  
25 be paid when the tenant vacates the unit.

1            (D) Commencing March 1, 2005, the relocation payments specified in 37.9A(e)(3)(A) and  
2 (B) and (C) shall increase annually at the rate of increase in the "rent of primary residence"  
3 expenditure category of the Consumer Price Index (CPI) for All Urban Consumers in the San  
4 Francisco-Oakland-San Jose Region for the preceding 12 months calendar year, as that data is  
5 made available by the United States Department of Labor and published by the Board.

6            ~~(5)~~ (4)            Any notice to quit pursuant to Section 37.9(a)(13) shall notify the tenant  
7 or tenants concerned of the right to receive payment under ~~this~~ Subsections 37.9A(e)(1) or (2)  
8 or (3) and the amount of payment which the landlord believes to be due.

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

10            (1)            Any owner who intends to withdraw from rent or lease any rental unit shall notify  
11 the Rent Board in writing of said intention. Said notice shall contain statements, under penalty  
12 of perjury, providing information on the number of residential units, the address or location of  
13 those units, the name or names of the tenants or lessees of the units, and the rent applicable  
14 to each residential rental unit. Said notice shall be signed by all owners of record of the  
15 property under penalty of perjury and shall include a certification that actions have been  
16 initiated as required by law to terminate existing tenancies through service of a notice of  
17 termination of tenancy. The notice must be served by certified mail or any other manner  
18 authorized by law prior to delivery to the Rent Board of the notice of intent to withdraw the  
19 rental units. Information respecting the name or names of the tenants, the rent applicable to  
20 any unit, or the total number of units, is confidential and shall be treated as confidential  
21 information by the City for purposes of the Information Practices Act of 1977, as contained in  
22 Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil  
23 Code. The City shall, to the extent required by the preceding sentence, be considered an  
24 "agency," as defined by Subdivision (b) of Section 1798.3 of the Civil Code.

25            (2)            Prior to the effective date of withdrawal of rental units under this Section, the

1 owner shall cause to be recorded with the County Recorder a memorandum of the notice  
2 required by Subsection (f)(1) summarizing its provisions, other than the confidential  
3 provisions, in substantially the following form:

4  
5 Memorandum of Notice

6 Regarding Withdrawal of Rental Unit From Rent or Lease

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

12  
13 \_\_\_\_\_  
14 (Signature)

15  
16 (3) For a notice of intent to withdraw rental units filled with the Rent Board on or  
17 before December 31, 1999, the date on which the units are withdrawn from rent or lease for  
18 purposes of this Chapter and the Ellis Act is 60 days from the delivery in person or by first-  
19 class mail of the Subsection (f)(1) notice of intent to the Rent Board.

20 (4) For a notice of intent to withdraw rental units filed with the Rent Board on or after  
21 January 1, 2000, the date on which the units are withdrawn from rent or lease for purposes of  
22 this Chapter and the Ellis Act is 120 days from the delivery in person or by first-class mail of  
23 the Subsection (f)(1) notice of intent to the Rent Board. Except that, if the tenant or lessee is  
24 at least 62 years of age or disabled as defined in Government Code § 12955.3, and has lived  
25 in his or her unit for at least one year prior to the date of delivery to the Rent Board of the

1 Subsection (f)(1) notice of intent to withdraw, then the date of withdrawal of the unit of that  
2 tenant or lessee shall be extended to one year after the date of delivery of that notice to the  
3 Rent Board, provided that the tenant or lessee gives written notice of his or her entitlement to  
4 an extension of the date of withdrawal to the owner within 60 days of the date of delivery to  
5 the Rent Board of the Subsection (f)(1) notice of intent to withdraw. In that situation, the  
6 following provisions shall apply:

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

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

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

15 (D) Within 30 days of the notification by the tenant or lessee to the owner of his or  
16 her entitlement to an extension of the date of withdrawal, the owner shall give written notice to  
17 the Rent Board of the claim that the tenant or lessee is entitled to stay in their unit for one year  
18 after the date of delivery to the Rent Board of the Subsection (f)(1) notice of intent to  
19 withdraw.

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

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

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

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

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

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

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

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

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

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

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

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

22 (h) Reports Required.

23 (1) Not later than the last day of the third and sixth calendar months following the  
24 month in which notice is given to the Board under Subsection (f)(1), and thereafter not later  
25 than December 31st of each calendar year for a period of five years, beginning with the year

1 in which the six-month notice is given, the owner of any property which contains or formerly  
2 contained one or more rental units which a tenant or tenants vacated pursuant to Section  
3 37.9(a)(13) shall notify the Board, in writing, under penalty of perjury, for each such unit:

4 (A) Whether the unit has been demolished;

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

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

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

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

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

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

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

25 (i) This Section 37.9A is enacted principally to exercise specific authority provided

1 for by Chapter 12.75 of Division 7 of Title 1 of the California Government Code, originally  
2 enacted by Stats. 1985, Ch. 1509, Section 1 (the Ellis Act, California Government Code  
3 Sections 7060 et seq.). In the case of any amendment to Chapter 12.75 or any other  
4 provision of State law which amendment is inconsistent with this Section, this Section shall be  
5 deemed to be amended to be consistent with State law, and to the extent it cannot be so  
6 amended shall be interpreted to be effective as previously adopted to the maximum extent  
7 possible.

8  
9 APPROVED AS TO FORM:  
10 DENNIS J. HERRERA, City Attorney

11 By:   
12 MARIE CORLETT BLITS  
13 Deputy City Attorney  
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# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails Ordinance

**File Number:** 041151

**Date Passed:**

Ordinance implementing recent California State Legislature amendments of the Ellis Act (California Government Code §§7060 et seq., see §§7060 and 7060.1), by amending the San Francisco Residential Rent Stabilization and Arbitration Ordinance (Administrative Code Chapter 37) at Sections 37.9(a)(13) and 37.9A(e) to provide that: when residential units are withdrawn from the rental market pursuant to the Ellis Act, each tenant who is relocated is entitled to a payment of \$4,500 up to a maximum total per unit of \$13,500 (37.9A(e)), for tenants who reside in their units on or after August 10, 2004, with these payment amounts to increase annually commencing March 1, 2005 according to the "rent of primary residence" expenditure category of the Consumer Price Index (CPI) for the preceding 12 months; and, owners may not withdraw defined residential hotel units from the rental market pursuant to the Ellis Act if the hotel's occupancy permit was issued prior to January 1, 1990, and if the hotel did not file a notice of intent prior to January 1, 2004 to withdraw the units from the rental market (Section 37.9(a)(13)). Also amending Section 37.9A(e) to provide that the existing additional relocation payment of \$3,000 to each senior (62 or older) or disabled tenant displaced when residential units are withdrawn from the rental market pursuant to the Ellis Act will likewise increase annually commencing March 1, 2005 according to the "rent of primary residence" expenditure category of the CPI for the preceding calendar year (see Section 37.9A(e)(3)(D)).

January 4, 2005 Board of Supervisors — PASSED ON FIRST READING

Ayes: 8 - Ammiano, Dufty, Elsbernd, Gonzalez, Maxwell, McGoldrick, Peskin, Sandoval

Noes: 2 - Alioto-Pier, Ma

Excused: 1 - Daly

January 11, 2005 Board of Supervisors — FINALLY PASSED


Ayes: 8 - Ammiano, Daly, Dufty, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

Noes: 3 - Alioto-Pier, Elsbernd, Ma



File No. 041151

I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on January 11, 2005 by the Board of Supervisors of the City and County of San Francisco.

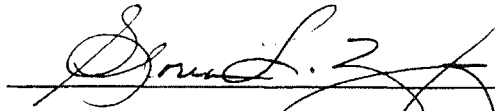
  
Gloria L. Young  
Clerk of the Board

\_\_\_\_\_  
Date Approved

\_\_\_\_\_  
Mayor Gavin Newsom

January 21, 2005

I hereby certify that the foregoing ordinance, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter.

  
Clerk of the Board

**File 041151**