

FILE NO. 990168

ORDINANCE NO. 237-99

1 [Residential Rent Control Rights to Specific Number of Occupants, Subletting, Assignment]
 2 AMENDING THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND
 3 ARBITRATION ORDINANCE (ADMINISTRATIVE CODE CHAPTER 37) BY AMENDING THE
 4 DEFINITION OF "HOUSING SERVICES" IN SECTION 37.2(g) TO INCLUDE RIGHTS
 5 PERMITTED THE TENANT BY AGREEMENT, INCLUDING THE RIGHT TO HAVE A
 6 SPECIFIC NUMBER OF OCCUPANTS IN A UNIT, WHETHER EXPRESS OR IMPLIED, AND
 7 WHETHER OR NOT THE AGREEMENT PROHIBITS SUBLETTING OR ASSIGNMENT; BY
 8 AMENDING SECTION 37.9(a)(2) TO PROVIDE THAT, NOTWITHSTANDING ANY LEASE
 9 PROVISION TO THE CONTRARY, THE LANDLORD SHALL NOT ENDEAVOR TO
 10 RECOVER POSSESSION OF THE RENTAL UNIT AS A RESULT OF SUBLETTING BY THE
 11 TENANT IF THE LANDLORD HAS UNREASONABLY WITHHELD THE RIGHT TO SUBLET
 12 FOLLOWING WRITTEN NOTICE FROM THE TENANT, SO LONG AS THE TENANT
 13 CONTINUES TO RESIDE IN THE UNIT AND THE SUBLET CONSTITUTES A ONE-FOR-
 14 ONE REPLACEMENT OF THE DEPARTING TENANT(S); AND EXPRESSING THE BOARD
 15 OF SUPERVISORS INTENT THAT RENT BOARD RULES AND REGULATIONS
 16 REGARDING SUBLETTING CONSENT PROCEDURES BE SUBSTANTIALLY APPLIED TO
 17 THIS LEGISLATION.

Note: Additions are underlined; deletions are in ((double parentheses)).

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

Supervisors Leno, Bierman
BOARD OF SUPERVISORS
BOARD OF SUPERVISORS

1 **Section 1.** Chapter 37 of the San Francisco Administrative Code is hereby amended by
2 amending Section 37.2(g), to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

8 (f) Hearing Officer. A person, designated by the Board, who arbitrates rental
9 increase disputes.

10 (g) Housing Services. Services provided by the landlord connected with the use or
11 occupancy of a rental unit including, but not limited to((,)) ; repairs((,)) ; replacement((,)) ;
12 maintenance((,)) ; painting((,)) ; light((,)) ; heat((,)) ; water((,)) ; elevator service((,)) ; laundry
13 facilities and privileges((,)) ; janitor service((,)) ; refuse removal((,)) ; furnishings((,)) ;
14 telephone((,)) ; parking((,)) ; rights permitted the tenant by agreement, including the right to
15 have a specific number of occupants, whether express or implied, and whether or not the
16 agreement prohibits subletting and/or assignment; and any other benefits, privileges or
17 facilities.

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

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

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

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

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

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

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

11 (q) Rent Increases. Any additional monies demanded or paid for rent as defined in
12 item (p) above, or any reduction in housing services without a corresponding reduction in the
13 monies demanded or paid for rent; provided, however, that (1) where the landlord has been
14 paying the tenant's utilities and cost of those utilities increase, the landlord's passing through
15 to the tenant of such increased costs does not constitute a rent increase; and (2) where there
16 has been a change in the landlord's property tax attributable to a ballot measure approved by
17 the voters between November 1, 1996, and November 30, 1998, the landlord's passing
18 through of such increased costs in accordance with this Chapter does not constitute a rent
19 increase.

20 (r) Rental Units. All residential dwelling units in the City and County of San
21 Francisco together with the land and appurtenant buildings thereto, and all housing services,
22 privileges, furnishings and facilities supplied in connection with the use or occupancy thereof,
23 including garage and parking facilities. The term shall *not* include:

24 (1) Housing accommodations in hotels, motels, inns, tourist houses, rooming
25 and boarding houses, provided that at such time as an accommodation has been occupied by

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

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

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

17 (4) Except as provided in Subsections (A) and (B), dwelling units whose
18 rents are controlled or regulated by any government unit, agency or authority, excepting those
19 unsubsidized and/or unassisted units which are insured by the United States Department of
20 Housing and Urban Development; provided, however, that units in unreinforced masonry
21 buildings which have undergone seismic strengthening in accordance with Building Code
22 Chapters 14 and 15 shall remain subject to the Rent Ordinances to the extent that the
23 ordinance is not in conflict with the seismic strengthening bond program or with the program's
24 loan agreements or with any regulations promulgated thereunder;

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

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

15 (5) Rental units located in a structure for which a certificate of occupancy
16 was first issued after the effective date of this ordinance, except as provided in Section
17 37.9A(b) of this Chapter;

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

21 (s) Substantial Rehabilitation. The renovation, alteration or remodeling of residential
22 units of 50 or more years of age which have been condemned or which do not qualify for
23 certificates of occupancy or which require substantial renovation in order to conform the
24 building to contemporary standards for decent, safe and sanitary housing. Substantial
25 rehabilitation may vary in degree from gutting and extensive reconstruction to extensive

1 improvements that cure substantial deferred maintenance. Cosmetic improvements alone
2 such as painting, decorating and minor repairs, or other work which can be performed safely
3 without having the unit vacated do not qualify as substantial rehabilitation.

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

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

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

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1 **Section 2.** Chapter 37 of the San Francisco Administrative Code is hereby amended by
2 adding Section 37.9(a), to read as follows:

3 **SEC. 37.9. EVICTIONS.** Notwithstanding Section 37.3, this Section shall apply as of August
4 24, 1980, to all landlords and tenants of rental units as defined in Section 37.2(r).

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

6 (1) The tenant has failed to pay the rent to which the landlord is lawfully
7 entitled under the oral or written agreement between the tenant and landlord or habitually
8 pays the rent late or gives checks which are frequently returned because there are insufficient
9 funds in the checking account; or

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

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

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

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

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

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

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

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

23 (iii) For purposes of this Section 37.9(a)(8) only, as to landlords who
24 become owners of record of the rental unit on or before February 21, 1991, the term "landlord"
25 shall be defined as an owner of record of at least 10 percent interest in the property or, for

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

9 (iv) A landlord may not recover possession under this Section
10 37.9(a)(8) if a comparable unit owned by the landlord is already vacant and is available, or if
11 such a unit becomes vacant and available before the recovery of possession of the unit. If a
12 comparable unit does become vacant and available before the recovery of possession, the
13 landlord shall rescind the notice to vacate and dismiss any action filed to recover possession
14 of the premises. Provided further, if a non-comparable unit becomes available before the
15 recovery of possession, the landlord shall offer that unit to the tenant at a rent based on the
16 rent that the tenant is paying, with upward or downward adjustments allowed based upon the
17 condition, size, and other amenities of the replacement unit. Disputes concerning the initial
18 rent for the replacement unit shall be determined by the Rent Board. It shall be evidence of a
19 lack of good faith if a landlord times the service of the notice, or the filing of an action to
20 recover possession, so as to avoid moving into a comparable unit, or to avoid offering a
21 tenant a replacement unit.

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

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

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

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

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

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

1 has obtained all the necessary permits on or before the date upon which notice to vacate is
2 given, and does so without ulterior reasons and with honest intent. Any tenant who vacates
3 the unit under such circumstances shall have the right to reoccupy the unit at the prior rent
4 adjusted in accordance with the provisions of this Chapter. The tenant will vacate the unit
5 only for the minimum time required to do the work. On or before the date upon which notice
6 to vacate is given, the landlord shall advise the tenant in writing that the rehabilitation or
7 capital improvement plans are on file with the Central Permit Bureau of the Department of
8 Public Works located at 450 McAllister Street and that arrangements for reviewing such plans
9 can be made with the Central Permit Bureau. In addition to the above, no landlord shall
10 endeavor to recover possession of any unit subject to a RAP loan as set forth in Section
11 37.2(m) of this Chapter except as provided in Section 32.69 of the San Francisco
12 Administrative Code. The tenant shall not be required to vacate pursuant to this Section
13 37.9(a)(11), for a period in excess of three months; provided, however, that such time period
14 may be extended by the Board or its hearing officers upon application by the landlord. The
15 Board shall adopt rules and regulations to implement the application procedure. Any landlord
16 who seeks to recover possession under this Section 37.9(a)(11) shall pay the tenant actual
17 costs up to \$1,000 for moving and relocation expenses not less than 10 days prior to recovery
18 of possession; or

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

1 (13) The landlord, who does not have cause to evict under any other provision
2 of this Section 37.9(a), wishes to withdraw from rent or lease all rental units within any
3 detached physical structure and, in addition, in the case of any detached physical structure
4 containing three or fewer rental units, any other rental units on the same lot, and complies in
5 full with Section 37.9A with respect to each such unit; provided, however, that a unit classified
6 as a residential unit under Chapter 41 of this Code which is vacated under this Section
7 37.9(a)(13) may not be put to any use other than that of a residential hotel unit without
8 compliance with the provisions of Section 41.9 of this Code; or

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

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

17 (c) A landlord shall not endeavor to recover possession of a rental unit unless at
18 least one of the grounds enumerated in Section 37.9(a) or (b) above is the landlord's
19 dominant motive for recovering possession and unless the landlord informs the tenant in
20 writing on or before the date upon which notice to vacate is given of the grounds under which
21 possession is sought and that advice regarding the notice to vacate is available from the
22 Residential Rent Stabilization and Arbitration Board, before endeavoring to recover
23 possession. A copy of all notices to vacate except three-day notices to vacate or pay rent and
24 a copy of any additional written documents informing the tenant of the grounds under which
25 possession is sought shall be filed with the Board within 10 days following service of the

1 notice to vacate. The District Attorney shall determine whether the units set forth on the list
2 compiled in accordance with Section 37.6(k) are still being occupied by the tenant who
3 succeeded the tenant upon whom the notice was served. In cases where the District Attorney
4 determines that Section 37.9(a)(8) has been violated, the District Attorney shall take whatever
5 action he deems appropriate under this Chapter or under State law.

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

13 (e) It shall be unlawful for a landlord or any other person who willfully assists the
14 landlord to endeavor to recover possession or to evict a tenant except as provided in Section
15 37.9(a) and (b). Any person endeavoring to recover possession of a rental unit from a tenant
16 or evicting a tenant in a manner not provided for in Section 37.9(a) or (b) without having a
17 substantial basis in fact for the eviction as provided for in Section 37.9(a) shall be guilty of a
18 misdemeanor and shall be subject, upon conviction, to the fines and penalties set forth in
19 Section 37.10. Any waiver by a tenant of rights under this Chapter shall be void as contrary to
20 public policy.

21 (f) Whenever a landlord wrongfully endeavors to recover possession or recovers
22 possession of a rental unit in violation of Sections 37.9 and/or 37.10 as enacted herein, the
23 tenant or Board may institute a civil proceeding for injunctive relief, money damages of not
24 less than three times actual damages, (including damages for mental or emotional distress),
25 and whatever other relief the court deems appropriate. In the case of an award of damages

1 for mental or emotional distress, said award shall only be trebled if the trier of fact finds that
2 the landlord acted in knowing violation of or in reckless disregard of Section 37.9 or 37.10A
3 herein. The prevailing party shall be entitled to reasonable attorney's fees and costs pursuant
4 to order of the court. The remedy available under this Section 37.9(f) shall be in addition to
5 any other existing remedies which may be available to the tenant or the Board.

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

11 (h) With respect to rental units occupied by recipients of tenant-based rental
12 assistance, the notice requirements of this Section 37.9 shall be required in addition to any
13 notice required as part of the tenant-based rental assistance program, including but not limited
14 to the notice required under 24 CFR §982.311(e)(2)(ii).

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

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

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

22 (B) Is disabled within the meaning of Section 37.9(i)(1)(B)(i) and has
23 been residing in the unit for 10 years or more, or is catastrophically ill within the meaning of
24 Section 37.9(i)(1)(B)(ii) and has been residing in the unit for five years or more:
25

1 (i) A "disabled" tenant is defined for purposes of this Section
2 37.9(i)(1)(B) as a person who is disabled or blind within the meaning of the federal
3 Supplemental Security Income/California State Supplemental Program (SSI/SSP), and who is
4 determined by SSI/SSP to qualify for that program or who satisfies such requirements through
5 any other method of determination as approved by the Rent Board;

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

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

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


19 (4) Within 30 days of personal service by the landlord of a written request, or,
20 at the landlord's option, a notice of termination of tenancy under 37.9(a)(8), the tenant must
21 submit a statement, with supporting evidence, to the landlord if the tenant claims to be a
22 member of one of the classes protected by Section 37.9(i). The written request or notice shall
23 contain a warning that a tenant's failure to submit a statement within the 30 day period shall
24 be deemed an admission that the tenant is not protected by Section 37.9(i). The landlord
25 shall file a copy of the request or notice with the Rent Board within ten days of service on the

1 tenant. A tenant's failure to submit a statement within the 30 day period shall be deemed an
2 admission that the tenant is not protected by Section 37.9(i). A landlord may challenge a
3 tenant's claim of protected status either by requesting a hearing with the Rent Board or, at the
4 landlord's option, through commencement of eviction proceedings, including service of a
5 notice of termination of tenancy. In the Rent Board hearing or the eviction action, the tenant
6 shall have the burden of proof to show protected status. No civil or criminal liability under
7 37.9(e) or (f) shall be imposed upon a landlord for either requesting or challenging a tenant's
8 claim of protected status.

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

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15 **Section 3.** It is the intent of the Board of Supervisors that the provisions (as modified from
16 time to time) of Residential Rent Stabilization and Arbitration Board Rules and Regulations
17 §6.15(c) regarding consent procedures in subletting also substantially apply to this legislation,
18 and that the Rent Board amend its Rules and Regulations as necessary to so provide.

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22 APPROVED AS TO FORM:
23 LOUISE H. RENNE, City Attorney

24 By: 
25 Deputy City Attorney

Supervisors Leno, Bierman
BOARD OF SUPERVISORS

19/99
rt



City and County of San Francisco

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

Tails Ordinance

File Number: 990168

Date Passed:

Ordinance amending Administrative Code (Residential Rent Stabilization and Arbitration Ordinance) by amending the definition of "Housing Services" in Section 37.2(g) to include rights permitted the tenant by agreement, including the right to have a specific number of occupants in a unit, whether express or implied, and whether or not the agreement prohibits subletting or assignment; and by amending Section 37.9(a)(2) to provide that, notwithstanding any lease provision to the contrary, the landlord shall not endeavor to recover possession of the rental unit as a result of subletting by the tenant if the landlord has unreasonably withheld the right to sublet following written notice from the tenant, so long as the tenant continues to reside in the unit and the sublet constitutes a one-for-one replacement of the departing tenant(s); and expressing the Board of Supervisors intent that rent board rules and regulations regarding subletting consent procedures be substantially applied to this legislation.

August 9, 1999 Board of Supervisors — AMENDED

Ayes: 6 - Ammiano, Becerril, Bierman, Brown, Leno, Yaki

Absent: 1 - Teng

Excused: 4 - Katz, Kaufman, Newsom, Yee

August 9, 1999 Board of Supervisors — NOT AMENDED

Ayes: 2 - Becerril, Yaki

Noes: 4 - Ammiano, Bierman, Brown, Leno

Absent: 1 - Teng

Excused: 4 - Katz, Kaufman, Newsom, Yee

August 9, 1999 Board of Supervisors — NOT AMENDED

Ayes: 3 - Becerril, Brown, Yaki

Noes: 3 - Ammiano, Bierman, Leno

Absent: 1 - Teng

Excused: 4 - Katz, Kaufman, Newsom, Yee

August 9, 1999 Board of Supervisors — PASSED ON FIRST READING AS AMENDED

Ayes: 6 - Ammiano, Becerril, Bierman, Brown, Leno, Yaki

Absent: 1 - Teng

Excused: 4 - Katz, Kaufman, Newsom, Yee

August 16, 1999 Board of Supervisors — FINALLY PASSED

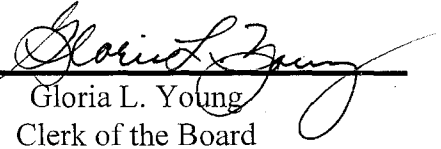
Ayes: 6 - Ammiano, Becerril, Bierman, Brown, Leno, Yaki

Absent: 1 - Teng

Excused: 4 - Katz, Kaufman, Newsom, Yee

File No. 990168

I hereby certify that the foregoing Ordinance was FINALLY PASSED on August 16, 1999 by the Board of Supervisors of the City and County of San Francisco.

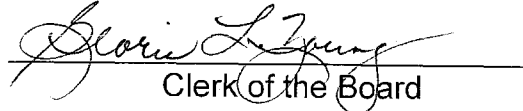

Gloria L. Young
Clerk of the Board

Date Approved

Mayor Willie L. Brown Jr.

August 30, 1999

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 No.
990168