



EDWIN M. LEE
MAYOR

NOVEMBER 9, 2017

DAVID GRUBER
PRESIDENT

ROBERT A. COLLINS
EXECUTIVE DIRECTOR

NOTICE OF PUBLIC HEARING

CALVIN ABE
DAVE CROW
SHOBA DANDILLAYA
RICHARD HUNG
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSER
KENT QIAN
DAVID WASSERMAN

DATE:	NOVEMBER 21, 2017
TIME:	6:00 P.M.
PLACE:	25 VAN NESS AVENUE (AT MARKET ST.) SUITE 70, LOWER LEVEL SAN FRANCISCO, CALIFORNIA

THE RENT BOARD COMMISSION INVITES THE PUBLIC TO COMMENT ON PROPOSED CHANGES TO THE RULES AND REGULATIONS GOVERNING THE RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCE, CHAPTER 37 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON PROPOSED AMENDMENTS TO RULES AND REGULATIONS SECTIONS 12.14 AND 12.17. THE AMENDMENTS ARE INTENDED TO IMPLEMENT THE RECENTLY PASSED OWNER MOVE-IN REPORTING REQUIREMENTS LEGISLATION (ORD. NO. 160-17), SPONSORED BY SUPERVISOR FARRELL, PORTIONS OF WHICH BECAME EFFECTIVE ON AUGUST 27, 2017, AND PORTIONS OF WHICH BECOME EFFECTIVE ON JANUARY 1, 2018.

THE OWNER MOVE-IN (“OMI”) REPORTING REQUIREMENTS LEGISLATION MADE CHANGES TO ORDINANCE SECTIONS 37.6, 37.9, 37.9B, 37.10, AND 37.11A. THE INTENT OF THE PROPOSED AMENDMENTS TO RULES AND REGULATIONS SECTIONS 12.14 AND 12.17 IS TO ESTABLISH THE DOCUMENTARY AND EVIDENTIARY REQUIREMENTS FOR OMI AND RELATIVE MOVE-IN EVICTIONS. PROPOSED AMENDMENTS TO SECTIONS 12.14 AND 12.17 CONFORM SPECIFICALLY TO RENT ORDINANCE SECTIONS 37.9(A)(8), 37.9(C), 37.9(I), 37.9(J), 37.9B(C), AND 37.9C(C). ORDINANCE SECTION 37.9(A)(8)(V) CLARIFIES WHAT KIND OF EVIDENCE IS RELEVANT TOWARDS PROVING THAT A LANDLORD DID NOT

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PERFORM AN OMI EVICTION IN GOOD FAITH, INCLUDING “SUCH OTHER FACTORS AS A COURT OR THE RENT BOARD MAY DEEM RELEVANT.” ORDINANCE SECTION 37.9(A)(8)(V) REQUIRES A LANDLORD TO FILE A “STATEMENT OF OCCUPANCY” WITH THE RENT BOARD WITHIN 90 DAYS AFTER THE SERVICE OF AN OMI NOTICE, AND AN UPDATED STATEMENT OF OCCUPANCY EVERY 90 DAYS THEREAFTER UNTIL THE LANDLORD RECOVERS POSSESSION, AND THEN ONCE A YEAR FOR 5 YEARS AFTER RECOVERY OF POSSESSION OF THE UNIT. ORDINANCE SECTION 37.9(A)(8)(VII) INCLUDES A LIST OF INFORMATION THAT MUST BE INCLUDED IN THE STATEMENT OF OCCUPANCY, SUCH AS DATE OF RECOVERY OF POSSESSION, WHETHER THE OWNER OR RELATIVE IS OCCUPYING THE UNIT AS THAT PERSON’S PRINCIPAL RESIDENCE, THE DATE SUCH OCCUPANCY COMMENCED OR WHY IT HAS NOT YET COMMENCED, THE RENT CHARGED FOR THE UNIT IF ANY, AND ANY OTHER INFORMATION “AS THE RENT BOARD MAY REQUIRE IN ORDER TO EFFECTUATE THE PURPOSES OF SECTION 37.9(A)(8).” ORDINANCE SECTION 37.9(A)(8)(VII) ALSO REQUIRES THAT THE LANDLORD OR RELATIVE WHO CLAIMS TO BE OCCUPYING THE UNIT AS THAT PERSON’S PRINCIPAL RESIDENCE TO ATTACH AT LEAST 2 FORMS OF SUPPORTING DOCUMENTATION TO THE STATEMENT OF OCCUPANCY TO SHOW THAT THE UNIT IS BEING OCCUPIED AS THAT PERSON’S PRINCIPAL RESIDENCE, AND THE RENT BOARD IS AUTHORIZED TO DECIDE WHAT TYPES OF SUPPORTING DOCUMENTATION SHOULD BE REQUIRED. ORDINANCE SECTION 37.9(A)(8)(VII) FURTHER PROVIDES FOR THE IMPOSITION OF ADMINISTRATIVE PENALTIES BY THE RENT BOARD ON ANY LANDLORD WHO FAILS TO COMPLY WITH THE STATEMENT OF OCCUPANCY REPORTING REQUIREMENTS.

TO IMPLEMENT THE ORDINANCE AMENDMENTS, THE RENT BOARD HAS PROPOSED THE ATTACHED REGULATIONS.

You may either comment at the Public Hearing and/or submit written comments. If you would like to submit written comments, it is requested that they be received at the Department no later than **5 p.m. on Wednesday, November 15, 2017**, so that the Commissioners can receive your comments and review them prior to the hearing. Written comments may also be submitted at the hearing. Please submit 13 copies of your comments in order to facilitate their distribution. You will be able to address the Commissioners during the public comment period at the hearing.

**PROPOSED AMENDMENTS TO SECTIONS 12.14 AND 12.17 OF THE RENT BOARD'S
RULES AND REGULATIONS – PUBLIC HEARING ON NOVEMBER 21, 2017**

1 NOTE: Unchanged text is in plain Arial font.
2 Additions to Regulations are in single-underline plain Arial font.
3 Addition of Titles to Regulations are in **single-underline plain bold Arial font**.
4 Deletions to Regulations are in ~~single-strikethrough-Arial font~~.

4 **Section 12.14 Evictions under Section 37.9(a)(8)**

(Amended June 18, 1991; Subsection (c) amended March 7, 1995;
5 Subsection (d) added October 20, 1998; amended June 10, 2008; Subsections
6 (a)-(d) amended and Subsections (e)-(f) added [date], effective January 1, 2018)

7 (a) **Definition of Landlord.** For purposes of an eviction under Section 37.9(a)(8) of
8 the Ordinance, the term "landlord" shall mean a natural person, or group of natural persons, and
9 for evictions under Ordinance Section 37.9(a)(8)(i) only, the term "landlord" shall also mean two
10 individuals registered as Domestic Partners as defined in San Francisco Administrative Code
11 Chapter 62.1-62.8, who in good faith hold a recorded fee interest in the property and meet one of
12 the following requirements:

13 ~~(i)(1)~~ (1) held a recorded fee interest of at least 10%, or a recorded equitable
14 interest under contract of sale of at least 10%, or in the case of Domestic Partners a combined
15 ownership of record of at least 10%, which interest was recorded on or before February 21,
16 1991, and continues to hold at least such a 10% interest on the date of service of the notice to
17 vacate; or

18 ~~(ii)(2)~~ (2) holds a recorded fee interest of at least 25%, or a recorded equitable
19 interest under contract of sale of at least 25%, or in the case of Domestic Partners a combined
20 ownership of record of at least 25%, on the date of service of the notice to vacate.

21 (b) **Information to Accompany Notice to Vacate.** ~~On or before service of the notice~~
22 ~~to vacate~~ In addition to general eviction notice requirements, a landlord who endeavors to
23 recover possession under Ordinance Section 37.9(a)(8) shall provide the tenant shall be
24 ~~informed~~ with the following documents and information in writing of on or before service of the
25 notice to vacate and file a copy of same with the Rent Board within 10 days after service of the
26 notice to vacate on the tenant, together with a copy of the notice to vacate and proof of service
27 upon the tenant:

28 (1) the identity and percentage of ownership of ~~the owner to move in or~~ all

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1 persons holding a full or partial percentage ownership in the property;

2 (2) the name(s) of the landlord endeavoring to recover possession and, if
3 applicable, the name(s) and relationship of the relative(s) for whom possession is being sought
4 and a description of the current residence of the person(s) for whom possession is being sought;
5 to move in, as well as the name and percentage of ownership of the evicting owner; and

6 (3) the dates the current percentages of ownership was were recorded;

7 (4) a description of all residential properties owned, in whole or in part, by the
8 landlord and, if applicable, a description of all residential properties owned, in whole or in part, by
9 the landlord's relative for whom possession is being sought;

10 (5) the current rent for the unit and a statement that if the unit is offered for
11 rent during the five-year period following service of the notice to vacate under Section 37.9(a)(8),
12 the tenant has the right to re-rent the unit at the same rent ,as adjusted by Ordinance Section
13 37.9B(a);

14 (6) the contents of Ordinance Section 37.9B, by providing a copy of same;

15 (7) the right the tenant(s) may have to relocation costs under Ordinance
16 Section 37.9C, the amount of those relocation costs, and a copy of Section 37.9C;

17 (8) a declaration executed by the landlord under penalty of perjury stating:

18 (i) the reason why the landlord or relative is moving from his/her current residence to the unit for
19 which possession is being sought; (ii) that the landlord seeks to recover possession of the unit in
20 good faith, without ulterior reasons and with honest intent, for use or occupancy as the principal
21 residence of the landlord or the landlord's relative (identified by name and relation to the
22 landlord), for a period of at least 36 continuous months, as set forth in Ordinance Sections
23 37.9(a)(8)(i) and (ii); (iii) whether the landlord served a notice to vacate pursuant to Ordinance
24 Section 37.9(a)(8) for a different unit; and, (iv) whether the landlord has recovered possession of
25 other rental units in the City and County of San Francisco for any reason under Ordinance
26 Section 37.9(a) other than nonpayment of rent in which the tenant displaced from such rental
27 unit had resided for at least 36 consecutive months;

28 (9) a warning that the tenant must submit a statement to the landlord within

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1 30 days of service of the notice to vacate, with supporting evidence, if the tenant claims to be a
2 member of a protected class under Ordinance Sections 37.9(i) or (j), and that failure to do so
3 shall be deemed an admission that the tenant is not protected by Sections 37.9(i) or (j);

4 (10) a form prepared by the Rent Board stating that a tenant's failure to timely
5 act in response to a notice to vacate may result in a lawsuit by the landlord to evict the tenant,
6 that advice regarding the notice to vacate is available from the Rent Board, and that the tenant
7 may be eligible for affordable housing programs through the Mayor's Office of Housing and
8 Community Development; and

9 (11) a blank change of address form prepared by the Rent Board that the
10 tenant can use to keep the Rent Board apprised of any future change of address.

11 (c) **Principal Place of Residence.** For purposes of an eviction under Section
12 37.9(a)(8) of the Ordinance, a landlord or landlord's relative can have only ONE "principal place
13 of residence" which is defined as the permanent or primary home of the party claiming that a unit
14 has that status attached to it. It is a unit that the party occupies for more than temporary or
15 transitory purposes. Evidence that a unit is or is intended to be the party's "principal place of
16 residence" includes, but is not limited to, the following elements, a compilation of which lends
17 greater credibility to the claim of "principal place of residence of ~~an owner~~ a party" whereas the
18 presence of only one element may not support such claim:

19 (1) the subject premises are listed as the ~~owner's~~ party's place of residence
20 on any motor vehicle registration, driver's license, automobile insurance policy, homeowner's or
21 renter's insurance policy, and ~~or~~ with the party's current employer or any other public agency,
22 including State and local taxing authorities;

23 (2) utilities are installed under the ~~owner's~~ party's name at the subject
24 premises;

25 (3) ~~all of the owner's~~ party's personal possessions have been moved into the
26 subject premises;

27 (4) a homeowner's tax exemption has been issued in the party's name for the
28 subject premises;

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1 (5) the party's current voter registration is for the subject premises;

2 (6) a U.S. Postal Change of Address form has been filed requesting that mail
3 be forwarded to the subject premises;

4 (7) the subject premises are the place the ~~owner~~ party normally returns to as
5 his/her home, exclusive of military service, hospitalization, vacation, or travel necessitated by
6 employment;

7 (8) notice to move at another dwelling unit was given in order to move into the
8 subject premises; and

9 (9) the ~~owner~~ party sold or placed on the market for sale the home he/she
10 occupied prior to the subject premises.

11 (d) **Definition of Disability for Protected Status.** A tenant is disabled under
12 Ordinance Section 37.9(i)(1)(B)(i) if the tenant meets the standard for blindness or disability
13 under the federal Supplemental Security Income/California State Supplemental Program
14 (SSI/SSP). In determining whether a tenant is disabled, a finder of fact shall consider relevant
15 evidence, including:

16 (1) findings by any government entity concerning a disability;

17 (2) testimony concerning the disability; and

18 (3) medical evidence concerning the disability.

19 (e) **Evidence of a Lack of Good Faith.** For purposes of an eviction under Section
20 37.9(a)(8) of the Ordinance, evidence that is relevant to determining whether a landlord acted or
21 is acting in good faith may include, but is not limited to, any of the following:

22 (1) the landlord has failed to file the notice to vacate with the Rent Board as
23 required by Ordinance Sections 37.9(c) and 37.9B(c);

24 (2) the landlord or relative for whom the tenant was evicted did not move into
25 the rental unit within three months after the landlord recovered possession and then occupy said
26 unit as that person's principal residence for a minimum of 36 consecutive months;

27 (3) the landlord or relative for whom the tenant was evicted lacks a legitimate,
28 bona fide reason for not moving into the unit within three months after the recovery of

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1 possession and/or then occupying said unit as that person's principal residence for a minimum of
2 36 consecutive months;

3 (4) the landlord did not file a Statement of Occupancy with the Rent Board as
4 required by Ordinance Section 37.9(a)(8)(vii) and Section 12.14(f) of these Rules and
5 Regulations;

6 (5) the landlord violated Ordinance Section 37.9B during the five-year period
7 following service of the notice to vacate under Ordinance Section 37.9(a)(8) by renting the unit to
8 a new tenant at a rent greater than that which would have been the rent had the tenant who had
9 been required to vacate remained in continuous occupancy and the rental unit remained subject
10 to the Ordinance;

11 (6) the landlord served a notice to vacate pursuant to Ordinance Section
12 37.9(a)(8) for a different unit and has not sought a rescission or withdrawal of that notice;

13 (7) the landlord has recovered possession of multiple rental units in the same
14 building within 180 days of the service of the notice to vacate pursuant to Ordinance Section
15 37.9(a)(8); and/or

16 (8) the landlord completed buyout negotiations as defined in Ordinance
17 Section 37.9E(c) with any other tenant(s) in the building.

18 (f) **Statement of Occupancy.** A landlord who seeks to recover possession of a unit
19 pursuant to Ordinance Section 37.9(a)(8) on or after January 1, 2018 must complete a
20 Statement of Occupancy under penalty of perjury on a form to be prepared by the Rent Board
21 that discloses whether the landlord has recovered possession of the unit. The landlord shall file a
22 Statement of Occupancy with the Rent Board within 90 days after the date of service of the
23 notice to vacate pursuant to Ordinance Section 37.9(a)(8), and shall file an updated Statement of
24 Occupancy every 90 days thereafter; provided, however, if the Statement of Occupancy
25 discloses that the landlord has recovered possession of the unit, the landlord shall then be
26 required to file updated Statements of Occupancy once a year for five years, no later than 12
27 months, 24 months, 36 months, 48 months and 60 months after the date the landlord recovered
28 possession of the unit. Each Statement of Occupancy filed after the landlord has recovered

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1 possession of the unit shall disclose the date of recovery of possession. If the Statement of
2 Occupancy discloses that the landlord is no longer endeavoring to recover possession of the unit
3 under Ordinance Section 37.9(a)(8) and the Rent Board has granted the landlord's written
4 request for rescission of the notice of constraints pursuant to Ordinance Section 37.9B(e), no
5 further Statements of Occupancy need be filed.

6 (1) If the Statement of Occupancy discloses that the landlord has not yet
7 recovered possession of the unit, the landlord shall provide the following information:

8 (i) whether the landlord is still pursuing an eviction of the tenant and,
9 if not, the landlord shall: include proof that the landlord has notified the tenant in writing that the
10 notice to vacate has been rescinded and that the Rent Board has granted the landlord's written
11 request for rescission of the notice of constraints pursuant to Ordinance Section 37.9B(e); state
12 whether any tenant still occupies the unit and provide the name(s) and contact information for
13 each tenant still in occupancy; and, if any tenant still occupies the unit after written rescission of
14 the notice to vacate and/or rescission by the Rent Board of the notice of constraints, include
15 proof of the most recent rental payment received from the tenant and proof that the landlord has
16 deposited or cashed it;

17 (ii) whether the landlord has filed an unlawful detainer action against
18 the tenant to recover possession of the unit;

19 (iii) the identity and percentage of ownership of all persons holding a
20 full or partial percentage ownership in the property;

21 (iv) the dates the current percentages of ownership were recorded;

22 (v) the name(s) of the landlord endeavoring to recover possession
23 and, if applicable, the name(s) and relationship of the relative(s) for whom possession is being
24 sought, a description of the current residence of the landlord or relative(s) for whom possession
25 is being sought and an explanation of why the owner or relative is moving from his/her current
26 residence to the unit;

27 (vi) a description of all residential properties owned, in whole or in part,
28 by the landlord and, if applicable, a description of all residential properties owned, in whole or in

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1 part, by the landlord's relative for whom possession is being sought;

2 (vii) the current rent for the unit;

3 (viii) whether and when the landlord served a notice to vacate pursuant
4 to Ordinance Section 37.9(a)(8)(i) for a different unit, and the address of such unit; and

5 (ix) whether and when the landlord has recovered possession of any
6 other rental unit in the same building subsequent to the service of the notice to vacate pursuant
7 to Ordinance Section 37.9(a)(8).

8 (2) If the Statement of Occupancy discloses that the landlord has already
9 recovered possession of the unit and the owner or relative for whom the tenant was evicted is
10 currently occupying the unit as that person's principal residence, the landlord shall provide the
11 following information:

12 (i) the name(s) and ownership interest of the current occupant(s) of
13 the unit, and the date such occupancy commenced;

14 (ii) at least two forms of the supporting documentation specified in
15 Section 12.14(f)(4) below;

16 (iii) whether the current occupant's personal possessions have been
17 moved into the unit;

18 (iv) the rent charged for the unit if any;

19 (v) whether the subject unit is listed as the owner's or relative's place
20 of residence on any motor vehicle registration, driver's license, automobile insurance policy,
21 homeowner's or renter's insurance policy, is used by or for the person's current employer and
22 any public agency, including state and local taxing authorities;

23 (vi) whether utilities are installed at the unit under the owner's or
24 relative's name;

25 (vii) whether the owner occupant has claimed a homeowner's tax
26 exemption for the subject unit;

27 (viii) whether the occupant filed a U.S. Postal Service Change of
28 Address form;

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1 (ix) whether the subject unit is the place the owner or relative normally
2 returns to as his/her home, exclusive of military service, hospitalization, vacation, or travel
3 necessitated by employment;

4 (x) whether notice to move at another dwelling unit was given in order
5 to move into the subject unit; and

6 (xi) whether the owner occupant sold or placed on the market for sale
7 the home he/she occupied prior to the subject unit.

8 (3) If the Statement of Occupancy discloses that the landlord has already
9 recovered possession of the unit and the owner or relative for whom the tenant was evicted is
10 not occupying the unit as that person's principal residence, the landlord shall provide the
11 following information:

12 (i) whether the owner or relative for whom the tenant was evicted
13 ever occupied the unit as that person's principal residence, the dates of such occupancy, and
14 the reasons why the unit is no longer occupied by that person;

15 (ii) if the owner or relative for whom the tenant was evicted never
16 occupied the unit as that person's principal residence, the reasons why occupancy has not yet
17 commenced;

18 (iii) If the owner or relative for whom the tenant was evicted has moved
19 out of the unit within five years after service of the notice to vacate under Ordinance Section
20 37.9(a)(8), a copy of the written offer to the displaced tenant to re-rent the unit at a rent no
21 greater than what the tenant would have paid had the tenant remained in continuous occupancy
22 and the unit remained subject to the Rent Ordinance; and

23 (iv) If the owner or relative for whom the tenant was evicted has moved
24 out of the unit within five years after service of the notice to vacate under Ordinance Section
25 37.9(a)(8) and the unit was re-rented to someone other than the displaced tenant, the amount of
26 rent paid by the current tenant.

27 (4) Where the Statement of Occupancy discloses that the owner or relative for
28 whom the tenant was evicted is currently occupying the unit as that person's principal residence,

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1 the landlord shall attach to the Statement of Occupancy at least two of the following forms of
2 supporting documentation. Confidential information may be redacted from the supporting
3 documentation prior to filing it with the Rent Board.

4 (i) current motor vehicle registration, plus a copy of the current
5 insurance policy for the vehicle that shows the name of the insured, the address of the unit and
6 the period of coverage, with proof of payment;

7 (ii) current driver's license;

8 (iii) Social Security statement of benefits that shows the name of the
9 recipient, the address of the unit and the current period of coverage;

10 (iv) current voter registration;

11 (v) current homeowner's or renter's insurance policy for the contents
12 of the unit showing the name of the insured, the address of the unit and the period of coverage,
13 with proof of payment; and/or

14 (vi) the most recent state or federal tax return that shows the name
15 and address of the owner or relative occupying the unit and proof of filing.

16 (5) The Rent Board shall make all reasonable efforts to send the displaced
17 tenant a copy of each Statement of Occupancy with supporting documentation within 30 days of
18 the date of filing, or a notice that the landlord did not timely file a Statement of Occupancy if no
19 Statement of Occupancy was timely filed.

20 (6) The Rent Board shall impose an administrative penalty on any landlord
21 who fails to timely file a Statement of Occupancy with the supporting documentation required by
22 Section 12.14(f)(4) of these Rules and Regulations, in violation of Ordinance Section
23 37.9(a)(8)(vii) and Section 12.14(f). Penalties shall be in the following amounts: \$250 for the first
24 violation, \$500 for the second violation, and \$1,000 for every subsequent violation. The
25 procedure for the imposition, enforcement, collection, and administrative review of the
26 administrative penalty shall be governed by Administrative Code Chapter 100, "Procedures
27 Governing the Imposition of Administrative Fines," which is hereby incorporated in its entirety.
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Section 12.17 Notices to Vacate Filed with the Board

(Added February 10, 1987, effective February 14, 1987; amended [date],
effective January 1, 2018)

At the time of filing, the Board shall make no determination as to the legal sufficiency of notices to vacate filed pursuant to Ordinance Section 37.9(c) or of procedures followed by the parties; provided, however, that for notices to vacate under 37.9(a)(8) served on or after January 1, 2018, the Board may request that the notice state the tenant's rent and include a blank change of address form for the tenant, as required by Ordinance Section 37.9(a)(8)(v).