



LONDON N. BREED
MAYOR

JUNE 5, 2020

ROBERT A. COLLINS
EXECUTIVE DIRECTOR

DAVID GRUBER
PRESIDENT

NOTICE OF RESCHEDULED
PUBLIC HEARING

DAVE CROW
SHOBA DANDILLAYA
RICHARD HUNG
REESE AARON ISBELL
ASHLEY KLEIN
CATHY MOSBRUCKER
KENT QIAN
ARTHUR TOM
DAVID WASSERMAN

DATE: JUNE 16, 2020
TIME: 7:00 P.M.
PLACE: VIEW ON WEB CONFERENCE:
<https://bit.ly/2Y6lVZq>
CALL IN NUMBER FOR PUBLIC COMMENT: 1-408-418-9388
ACCESS CODE: 146 516 1816

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 1.17 AND 1.18. EFFECTIVE JANUARY 20, 2020, RENT ORDINANCE SECTIONS 37.2, 37.3, 37.9A, 37.9D, 37.10A, AND CHAPTER 37A.1 OF THE SAN FRANCISCO ADMINISTRATIVE CODE (THE RENT BOARD FEE ORDINANCE) WERE AMENDED TO EXTEND EVICTION CONTROLS TO UNITS THAT WERE NEWLY CONSTRUCTED AFTER JUNE 13, 1979 (INCLUDING LIVE-WORK UNITS), AND TO UNITS THAT HAVE UNDERGONE SUBSTANTIAL REHABILITATION. THE LEGISLATION ALSO EXTENDS THE RENT BOARD FEE TO THESE UNITS. THE NEW LEGISLATION WAS SPONSORED BY SUPERVISOR MATT HANEY.

PREVIOUSLY, UNITS NEWLY CONSTRUCTED AFTER JUNE 13, 1979 WERE

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ENTIRELY EXEMPT FROM THE RENT ORDINANCE, INCLUDING BOTH THE EVICTION CONTROLS AND THE RENT REGULATIONS, AS WELL AS PAYMENT OF THE RENT BOARD FEE. UNDER THE ORDINANCE AMENDMENTS, THESE UNITS REMAIN EXEMPT FROM RENT REGULATIONS, BUT ARE NOW COVERED BY THE RENT ORDINANCE FOR ALL OTHER PURPOSES.

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

Please note: this Public Hearing was originally scheduled for March 17, 2020. Due to the unprecedented COVID-19 public health emergency and the Mayor's Shelter-In-Place order, the March 17, 2020 Public Hearing was cancelled.

You may either comment at the Public Hearing and/or submit written comments. Written comments to the Board are encouraged. Written comments can be sent to the Rent Board office by mail: ATTN: Board Secretary, 25 Van Ness Avenue, Suite 320, San Francisco, CA 94102, or by email to rentboard@sfgov.org. If you send comments by email, please indicate in the subject line that the comments are for the June 16 board meeting public hearing. If you would like to submit written comments, it is requested that they be received at the Rent Board's office no later than **5pm on Monday, June 15, 2020**, so that the Commissioners can receive your comments and review them prior to the public hearing. You will be able to address the Commissioners during the public comment period at the hearing.

**PROPOSED AMENDMENTS TO SECTIONS 1.17 AND 1.18 OF THE RENT BOARD'S RULES
AND REGULATIONS – RESCHEDULED PUBLIC HEARING ON JUNE 16, 2020**

NOTE: Unchanged text is in plain Arial font.
Additions to Regulations are in single-underline plain Arial font.
Deletions to Regulations are in ~~single-strikethrough plain Arial font~~.

Section 1.17 Rental Units

(Subsection (e) amended February 21, 1989; Subsection (c) amended February 14, 1995; Subsection (e) deleted March 7, 1995; Renumbered effective February 1, 1995; Amended subsection (g) and added (h) March 11, 1997; Subsection (i) added May 18, 1999; amended [date, 2020])

“Rental Unit” means a residential dwelling unit, regardless of zoning or legal status, in the City and County of San Francisco and all housing services, privileges, furnishings (including parking facilities supplied in connection with the use or occupancy of such unit), which is made available by agreement for residential occupancy by a tenant in consideration of the payment of rent. The term does not include:

- (a) Housing accommodations in hotels, motels, inns, tourist homes, rooming and boarding houses, provided that at such time as an accommodation has been occupied by a tenant for thirty-two (32) continuous days or more, such accommodation shall become a rental unit;
- (b) dwelling units in a non-profit cooperative owned, occupied, and controlled by a majority of the residents;
- (c) housing accommodations in any hospital, convent, monastery, extended care facility, asylum, residential care or adult day health care facility for the elderly which must be operated pursuant to a license issued by the California Department of Social Services, as required by California Health and Safety Chapters 3.2 and 3.3, or in dormitories owned and operated by an institution of higher education, a high school, or an elementary school;
- (d) dwelling units whose rents are controlled or regulated by any government unit, agency, or authority excepting those unsubsidized and/or unassisted units which are insured by the United States Department of Housing and Urban Development;
- ~~(e) newly constructed rental units for which a certificate of occupancy was first issued after June 13, 1979;~~
- ~~(f) dwelling units in a building which has undergone substantial rehabilitation~~

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2 completed after June 13, 1979; provided, however, that RAP rental units are not subject to this
3 exemption;

4 ~~_____ (g) _____ live/work units in a building where all of the following conditions have been met:~~
5 ~~(1) a lawful conversion to commercial/dwelling use occupancy has occurred; (2) a Certificate of~~
6 ~~Occupancy has been issued by the San Francisco Department of Building Inspection after June~~
7 ~~13, 1979; and (3) there has been no residential tenancy in the building of any kind between June~~
8 ~~13, 1979 and the date of issuance of the Certificate of Occupancy;~~

9 ~~(h) (e) commercial space where there is incidental and infrequent residential use;~~

10 ~~(i) (f) a residential unit, wherein at the inception of the tenancy there was residential~~
11 ~~use, there is no longer residential use and there is a commercial or other non-residential use.~~

12 The presumption shall be that the initial use was residential unless proved otherwise by the
13 tenant.

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Section 1.18 New Construction and Substantial Rehabilitation

(Amended August 29, 1989; September 5, 1989; September 26, 1989; June 18, 1991; renumbered effective February 1, 1995; amended February 4, 2003; amended April 14, 2015; amended [date, 2020])

For the purpose of determining whether or not a rental unit is exempt from rent regulations pursuant to Rent Ordinance Section 37.3(g), the following definitions shall apply:

(a) "New Construction" refers to a newly constructed rental unit for which a Certificate of Occupancy was first issued after June 13, 1979, provided there was no residential use of the unit prior to the issuance of the Certificate of Occupancy; or a live/work unit in a building where all of the following conditions have been met:

(1) a lawful conversion to commercial/dwelling use occupancy has occurred;

(2) a Certificate of Occupancy has been issued by the San Francisco Department of Building Inspection after June 13, 1979; and

(3) there has been no residential tenancy in the building of any kind between June 13, 1979 and the date of issuance of the Certificate of Occupancy.

(b) "Substantial rehabilitation" means the renovation, alteration or remodeling of a building containing essentially uninhabitable residential rental units of 50 or more years of age which require substantial renovation in order to conform to contemporary standards for decent, safe and sanitary housing in place of essentially uninhabitable buildings. Substantial rehabilitation may vary in degree from gutting and extensive reconstruction to extensive improvements that cure substantial deferred maintenance. Cosmetic improvements alone such as painting, decorating and minor repairs, or other work which can be performed safely without having the units vacated, do not qualify as substantial rehabilitation.

Improvements will not be deemed substantial unless the cost of the work for which the landlord has not been compensated by insurance proceeds equals or exceeds seventy-five percent (75%) of the cost of newly constructed residential buildings of the same number of units

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2 and type of construction, excluding land costs and architectural/engineering fees. The
3 determination of the cost of newly constructed residential buildings shall be based upon the cost
4 schedule of the Department of Building Inspection required by Section 107A.2 of the San
5 Francisco Building Code (the "DBI Cost Schedule") for purposes of determining permit fees. The
6 schedule in effect on the date of the Notice of Completion of the improvements shall apply.
7 Where the landlord is seeking to recover possession of a rental unit under Section 37.9(a)(12) of
8 the Rent Ordinance, improvements will not be deemed substantial unless the estimated cost of
9 the proposed work for which the landlord will not be compensated by insurance proceeds equals
10 or exceeds seventy-five percent (75%) of the cost of newly constructed residential buildings of
11 the same number of units and type of construction, excluding land costs and
12 architectural/engineering fees, based upon the DBI Cost Schedule. For purposes of such
13 evictions under 37.9(a)(12) of the Rent Ordinance, there shall be a rebuttable presumption that
14 the cost stated for the work in the applicable approved construction permits is the estimated cost
15 of the proposed work. For purposes of determining whether improvements are substantial under
16 Section 37.9(a)(12), the determination of the cost of newly constructed residential buildings shall
17 be based upon the DBI Cost Schedule. The schedule in effect on the date the notice to quit is
18 served shall apply. Where the landlord is seeking to recover possession of several units in the
19 same building under Section 37.9(a)(12) of the Rent Ordinance for one proposed substantial
20 rehabilitation project, the schedule posted and in effect on the date of service of the first notice of
21 termination shall apply. A landlord who recovers possession of a rental unit under Section
22 37.9(a)(12) must file a petition with the Rent Board for exemption based on substantial
23 rehabilitation within the earlier of: (i) two years following recovery of possession of the rental
24 unit; or (ii) one year following completion of the work. A landlord who fails to file a petition within
25 such time and thereafter obtain a determination of exempt status that the property has
26 undergone a substantial rehabilitation from the Board shall be rebuttably presumed to have
27 wrongfully recovered possession of the tenant's rental unit in violation of Section 37.9(f).
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