

San Francisco Residential Rent Stabilization and Arbitration Board

GENERAL INFORMATION REGARDING LANDLORD PETITION FOR EXEMPTION BASED ON SUBSTANTIAL REHABILITATION

Landlords may file a petition to exempt a building from the Rent Ordinance if the building has been substantially rehabilitated. There are stringent requirements to qualify for a substantial rehabilitation exemption, as set forth below. Major remodeling done for the purpose of upgrading older units rarely qualifies as "substantial rehabilitation."

"Substantial rehabilitation" means the renovation, alteration or remodeling of a building containing *essentially uninhabitable* residential rental units of 50 or more years of age that require substantial renovation in order to conform to contemporary standards for decent, safe and sanitary housing. [Rules and Regulations Section 1.18]

"Essentially uninhabitable" means defects that are so severe that the building as a whole (1) is unsafe for occupancy and poses an imminent danger to the health, safety and welfare of its occupants and/or the general public, and/or (2) has been found by a court, the Department of Building Inspection, the Department of Public Health or similar agency to pose an imminent danger to the health, safety and welfare of the occupants, neighboring properties and/or the general public.

In order to qualify for exemption based on substantial rehabilitation, the landlord must, at a minimum, prove ALL of the following elements with credible documentary evidence:

- (a) That the building is at least 50 years old;
- (b) That the building contained essentially uninhabitable residential units;
- (c) That "substantial rehabilitation" of the building was required to conform to contemporary standards for decent, safe and sanitary housing; and
- (d) That the cost of the improvements (excluding insurance proceeds, land costs and architectural/engineering fees) was at least 75% of the cost of newly constructed residential buildings of the same number of units and type of construction.

In general, a petition for exemption based on substantial rehabilitation can be filed at any time after the work has been completed, as long as the work was completed after June 13, 1979. However, a landlord who recovers possession of a rental unit under Ordinance Section 37.9(a)(12) in order to carry out substantial rehabilitation work must file the petition for exemption within the earlier of two years following recovery of possession of the rental unit or one year following completion of the work. A landlord who fails to file a petition within such time and thereafter obtain a determination of exempt status from the Rent Board, shall be rebuttably presumed to have wrongfully recovered possession of the tenant's rental unit in violation of the Ordinance. [Rules and Regulations Section 1.18]

Tenants may raise objections to the Substantial Rehabilitation Petition based upon any of the following: that the work was not done; that the work was necessitated by the current landlord's deferred maintenance resulting in a code violation; that the costs are unreasonable; and/or that the work was not principally directed to code compliance. [Rules and Regulations Section 8.17]

INSTRUCTIONS FOR FILING A PETITION FOR EXEMPTION BASED ON SUBSTANTIAL REHABILITATION

1. The petition form must be completely filled out and signed by the landlord or the landlord's authorized agent.
2. In addition to the original petition, the landlord must submit a copy of the completed petition, with attachments, for each tenant and tenant representative listed in the petition, plus one extra copy for the Rent Board staff.
3. For each tenant and tenant representative named in the petition, the landlord must provide 2 business size envelopes and 1 large flat envelope (at least 9" x 12"), pre-addressed to each tenant, with no return address and no postage.

San Francisco Residential Rent Stabilization and Arbitration Board

4. For each landlord and landlord representative, you must also submit 2 business-size envelopes, pre-addressed to each landlord party, with no return address and no postage.
5. The landlord must pay the cost of an independent estimator hired by the Rent Board. The Estimator Fee Schedule is available on the Rent Board's website and is based upon the full cost of the work. The fee must be paid at the time the petition is filed. Make the check payable to the San Francisco Rent Board.

ADDITIONAL SPECIFIC REQUIREMENTS

ALL of the documents enumerated below must be attached to the petition. Be sure to submit sufficient copies for the Rent Board to mail to the tenant(s) along with a copy of the petition. The materials should be assembled in the following order, with each section clearly marked and separated by tabs or dividers.

6. Written Explanation of Basis for Petition – The landlord must include a written summary explaining the basis for the petition, and why the building qualifies for exemption from the Rent Ordinance based on substantial rehabilitation. Specifically, the written summary should address each of the following requirements: that the building is at least 50 years old; that prior to commencement of the work, the building contained *essentially uninhabitable* residential units; that "substantial rehabilitation" of the building was required to conform the building to contemporary standards for decent, safe and sanitary housing; and, that the cost of the improvements (excluding insurance proceeds, land costs and architectural/engineering fees) was at least 75% of the cost of newly constructed residential buildings of the same number of units and type of construction as calculated in accordance with the applicable DBI Cost Schedule.
7. Tenant History [R & R Sec. 8.12(1)] – The landlord must submit a list of all current tenants and the amount of their current rents. In addition, if any tenants were served a notice to terminate tenancy based on the substantial rehabilitation work, the landlord must include a list of all such tenants, their last known address, the amount of rent at the time they left voluntarily or were evicted, and which tenants were evicted pursuant to the notice.
8. Detailed Description of Work Performed and Itemization of Costs [R & R Sec. 8.12(2)] – To satisfy this requirement, the landlord must include a detailed description of the nature and location of the work performed and an itemization of all costs, plus documentary evidence such as: written construction contracts, bids, change orders and/or invoices that specify the scope and cost of the work; building permit applications; 3R Reports; and, reduced copies of blueprints or plans that show the lot size, grading, elevation and existing and new building configuration, including the square footage of habitable and non-habitable areas. The building description must be sufficiently detailed to enable the Administrative Law Judge to estimate the cost of a comparable newly constructed building with reference to the Cost Schedule published by the Department of Building Inspection (DBI). (*See additional information below regarding the DBI Cost Schedule.*)
9. Evidence that Building is At Least 50 Years Old [R & R Sec. 8.12(3)] – This requirement may be satisfied by attaching a 3R report and/or records from the DBI that show when the building was constructed.
10. Evidence that Building is Essentially Uninhabitable [R & R Sec. 8.12(4)&(5)] – The landlord is required to submit with the petition either a determination of condemnation, a determination by the DBI that the premises were ineligible for a permit of occupancy, or other evidence that the building was "essentially uninhabitable." "Essentially uninhabitable" means defects that are so severe that the building as a whole (1) is unsafe for occupancy and poses an imminent danger to the health, safety and welfare of its occupants and/or the general public, and/or (2) has been found by a court, the Department of Building Inspection (DBI), Department of Public Health or similar agency to pose an imminent danger to the health, safety and welfare of the occupants, neighboring properties and/or the general public. If there is no order of condemnation or similar determination, the landlord may attempt to satisfy this requirement by submitting Notices of Violation, citations, professional inspection reports and similar evidence of code violations, with photographs of the pre-existing conditions, if possible.

San Francisco Residential Rent Stabilization and Arbitration Board

11. Current Abstract of Title [R & R Sec. 8.12(6)] – This requirement may be met by submitting a Title Report
12. Pre-Improvement Inspection Report by DBI [R & R Sec. 8.12(7)] – The petition must include a complete inspection report issued by the DBI prior to commencement of the substantial rehabilitation work. Landlords who anticipate doing substantial rehabilitation improvements should contact the DBI and request an inspection well before beginning the work.
13. Proof of Purchase Price [R & R Sec. 8.12(8)] – This evidence may include such items as the purchase agreement and/or a final escrow statement that shows the purchase price.
14. Final Notice of Completion [R & R Sec. 8.12(9)] – The petition must include a copy of the DBI's Final Notice of Completion issued after completion of the substantial rehabilitation work.
15. Eviction Notices [R & R Sec. 8.12(10)] – If any tenants were evicted because of the substantial rehabilitation work, copies of the eviction notices must be attached to the petition.
16. Proof of Cost and Payment [R & R Sec. 8.12(11)] – The petition must include proof that each of the claimed costs was paid. For each itemized cost, attach the proof of cost such as a bill or invoice first, followed immediately by the proof of payment such as a cancelled check, cash register receipt (for cash payments) or credit card statement. The documents should be clearly marked and separated according to each itemized cost. For each item, organize the documents in chronological order (earliest document first). Where a single check proves payment for more than one itemized cost, a separate copy of the check should be attached to each bill or invoice for which the payment was made. Likewise, if a single bill or invoice covers more than one item, a separate copy of the invoice should be provided for each item. If the landlord has received insurance proceeds for any portion of the costs, evidence of the insurance payments must also be supplied.
17. Current Assessment [R & R Sec. 8.12(13)] – A complete copy of the current property tax bill must be attached.
18. Claims for Uncompensated Labor [R & R Sec. 8.12(14)] – If the landlord or any other person performed work without being compensated, the landlord may include the costs of the uncompensated labor in the petition. Claims for uncompensated labor must be accompanied by a detailed log of dates, hours worked and description of the work performed. Unless the person performing the work is a licensed contractor (e.g. general, electrical, plumbing), the cost must be calculated at the standard labor rates posted by the Rent Board ("Capital Improvement Uncompensated Labor Rates"). Use the rate in effect at the time the work commenced. Persons seeking compensation at higher rates must submit a copy of the worker's contractor's license, proof of the licensed contractor's current active status, and evidence of prevailing labor rates for that trade or type of work.
19. Estimating the Cost of Newly Constructed Buildings [R & R Sec. 1.18] – Improvements will not be deemed "substantial rehabilitation" unless the cost of the work for which the landlord has not been compensated by insurance proceeds equals or exceeds 75% of the cost of a newly constructed residential building of the same number of units and type of construction, excluding land costs and architectural/engineering fees. The determination of the cost of newly constructed residential buildings is based upon construction cost data reported by Marshall and Swift, Valuation Engineers, as adapted for San Francisco and posted by the Department of Building Inspection for purposes of determining permit fees. The DBI Cost Schedule in effect on the date the Building Inspector gives final approval of the completed improvements shall apply. The applicable DBI Cost Schedule must be attached to the petition. *(If the landlord is unable to obtain a copy of the applicable DBI Cost Schedule, please contact the Rent Board's Senior Administrative Law Judge for assistance.)*

The landlord must provide a written explanation of how the landlord calculated 75% of the cost of a similar newly constructed building and complete the worksheet on Page 4 of the Petition. The method for calculating the cost of a newly constructed building is complicated, and requires the landlord to provide detailed information about the building and building site. For example, a description of such items as the degree of hillside grade, the amount of excavation and paving, the type of construction, the occupancy classification, the square footage of habitable and non-habitable areas, the type and amount of fire-rated walls, and numerous other specific features must be provided with the petition. **In order to properly calculate the cost, landlords are strongly encouraged to consult the DBI and/or retain a professional construction estimator who is familiar with the DBI's methodology.**



San Francisco Residential Rent Stabilization and Arbitration Board

Rent Board Date Stamp

LANDLORD PETITION FOR EXEMPTION BASED ON SUBSTANTIAL REHABILITATION

[Ordinance Sections 37.2(r)(6) & 37.2(s); Rules and Regulations Sections 1.18 and 8.10 et seq.]

↓ Building Information ↓

Entire Building Address (include lowest & highest numbers) _____ Name of Building Complex or Residential Hotel (if applicable) _____

Date Building Constructed _____ # of Residential Units in Building _____ # of Commercial Units in Building _____

List the case numbers of prior relevant Rent Board petitions

↓ Owner Information ↓

1.

Name of Company (if applicable) _____ First Name _____ Middle Initial _____ Last Name _____

Mailing Address: Street Number _____ Street Name _____ Unit Number _____ City _____ State _____ Zip Code _____

Primary Phone Number _____ Other Phone Number _____

2.

Name of Company (if applicable) _____ First Name _____ Middle Initial _____ Last Name _____

Mailing Address: Street Number _____ Street Name _____ Unit Number _____ City _____ State _____ Zip Code _____

Primary Phone Number _____ Other Phone Number _____

If someone other than the owner is authorized to represent the owner's interests in this petition, please fill out the applicable information below. Non-attorney representatives must attach written authorization to represent the owner.

↓ Property Manager Information (if applicable) ↓

Name of Company _____ First Name of Manager _____ Middle Initial _____ Last Name _____

Mailing Address: Street Number _____ Street Name _____ Unit Number _____ City _____ State _____ Zip Code _____

Primary Phone Number _____ Other Phone Number _____

San Francisco Residential Rent Stabilization and Arbitration Board

LANDLORD PETITION FOR EXEMPTION BASED ON SUBSTANTIAL REHABILITATION

↓ Other Landlord Representative Information (if applicable) ↓ Attorney Non-attorney Representative

1.

First Name Middle Initial Last Name

Mailing Address: Street Number Street Name Unit Number City State Zip Code

Primary Phone Number Other Phone Number

↓ Other Landlord Representative Information (if applicable) ↓ Attorney Non-attorney Representative

2.

First Name Middle Initial Last Name

Mailing Address: Street Number Street Name Unit Number City State Zip Code

Primary Phone Number Other Phone Number

↓ **Tenant Information** ↓ *Please list each tenant who resides in each unit. If more space is needed, check here and attach additional page with the names, mailing addresses & phone numbers of all other tenants.*

1.

First Name Middle Initial Last Name

Mailing Address: Street Number Street Name Unit Number City State Zip Code

Primary Phone Number Other Phone Number

2.

First Name Middle Initial Last Name

Mailing Address: Street Number Street Name Unit Number City State Zip Code

Primary Phone Number Other Phone Number

↓ **Tenant Representative Information** ↓ Attorney Non-attorney Representative Interpreter

First Name Middle Initial Last Name

Mailing Address: Street Number Street Name Unit Number City State Zip Code

Primary Phone Number Other Phone Number

San Francisco Residential Rent Stabilization and Arbitration Board

LANDLORD PETITION FOR EXEMPTION BASED ON SUBSTANTIAL REHABILITATION

The following items are attached to the petition. (PLEASE NOTE: Every item on this list must be checked and the documentation must be included, or your petition may be returned to you as incomplete or inappropriate for hearing.)

- A written summary of the basis for the petition, explaining why the landlord believes the building qualifies for exemption based on substantial rehabilitation.
- A tenant history, including the names of all tenants who were served a notice to terminate tenancy based on substantial rehabilitation, their last known address, their rent at the time they left voluntarily or were evicted, which tenants were evicted, plus the names and unit number of any current tenants and their current rents.
- A detailed description of the work performed and an itemization of all costs, plus documentary evidence such as: written construction contracts, bids, change orders and/or invoices that specify the scope and cost of the work; building permit applications; 3R Reports; and, reduced copies of blueprints or plans.
- Evidence that the building is at least 50 years old.
- A determination of condemnation, and/or a determination by the Department of Building Inspection that the premises were ineligible for a permit of occupancy, or other evidence that the building was essentially uninhabitable.
- A current abstract of title.
- A complete inspection report issued by the Department of Building Inspection made prior to the commencement of rehabilitation work.
- Proof of purchase price.
- Final notice of completion from the Department of Building Inspection.
- Copies of eviction notices to prior tenants. *If no tenants were evicted, check here:*
- Copies of cancelled checks, cash register receipts, credit card statements or other proof of payment for the claimed costs, each attached to the corresponding bill or invoice, all clearly marked and separated according to each itemized cost and organized in chronological order.
- Sufficient copies of the petition (with attachments) for distribution to each current tenant.
- Copy of the current assessment.
- If claim is made for uncompensated labor, a log of dates on which the work was performed, number of hours worked and description of the work performed and by whom, and, if claim is made for higher rates than those posted by the Rent Board for uncompensated labor, evidence of contractor's license and status and prevailing labor rates for that trade.
- A copy of the DBI Cost Schedule in effect on the date the DBI issued the final notice of completion.

San Francisco Residential Rent Stabilization and Arbitration Board

LANDLORD PETITION FOR EXEMPTION BASED ON SUBSTANTIAL REHABILITATION

IMPORTANT: READ ALL THE INSTRUCTIONS BEFORE COMPLETING THE PETITION.

- I have provided all the information and documentation listed on Page 3 of the Petition.
- I have attached the DBI Cost Schedule in effect on _____.
(Enter date the DBI issued Final Notice of Completion)

Enter the total cost of the substantial rehabilitation work: (A) \$ _____
(Include only the costs attributable to renovation of the residential portions of the building. Do NOT include costs for the land, architectural and engineering fees, or the costs attributable to commercial areas.)

If applicable, enter amount of insurance proceeds landlord received for the cost of the improvements: (B) \$ _____

Subtract (B) from (A) to get allowable substantial rehabilitation cost: (C) \$ _____

Using the DBI Cost Schedule, enter the total cost of a newly constructed residential building of the same number of units and type of construction: (D) \$ _____
(Do NOT include costs for the land, architectural and engineering fees, or the costs attributable to commercial areas.)

Multiply the amount listed in (D) by 75% (.75): (E) \$ _____

IF THE AMOUNT ON LINE (E) IS GREATER THAN THE AMOUNT ON LINE (C), THE BUILDING DOES NOT QUALIFY FOR A SUBSTANTIAL REHABILITATION EXEMPTION AND YOU SHOULD NOT FILE THIS PETITION.

IF THE COST OF THE WORK ON LINE (C) EQUALS OR EXCEEDS 75% OF THE COST OF A NEWLY CONSTRUCTED RESIDENTIAL BUILDING ON LINE (E), YOUR PETITION WILL BE GRANTED ONLY IF ALL OTHER REQUIREMENTS ARE MET.

DECLARATION OF LANDLORD PETITIONER

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THIS INFORMATION AND EVERY ATTACHED DOCUMENT, STATEMENT AND FORM IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

(Print Name) (Signature of Owner or Authorized Representative) (Date)
(circle one)

(Print Name) (Signature of Owner or Authorized Representative) (Date)
(circle one)