

1 **Section 6.15 Subletting and Assignment**

2 (Effective March 24, 1998, except paragraphs (a) and (f) which are effective
3 May 25, 1998; amended and renumbered December 21, 1999)

4 **Section 6.15B Subletting and Assignment—Where Rental Agreement Contains a Clause
5 Requiring Landlord Consent to Subletting and Assignment**

6 (Amended March 29, 2005; amended [date])

7 This Section 6.15B applies only when a lease or rental agreement includes a clause
8 requiring landlord consent to assignment or subletting.

9 (a) If the lease or rental agreement specifies a number of tenants to reside in a unit,
10 or where the open and established behavior of the landlord and tenants has established that the
11 tenancy includes more than one tenant (exclusive of any additional occupant approved under
12 Ordinance Sections 37.9(a)(2)(B) or 37.9(a)(2)(C)), then the replacement of one or more of the
13 tenants by an equal number of tenants, subject to subsections (b) and (c) below, shall not
14 constitute a breach of the lease or rental agreement for purposes of termination of tenancy under
15 Section 37.9(a)(2) of the Ordinance.

16 (b) If the tenant makes a written request to the landlord for permission to sublease in
17 accordance with Section 37.9(a)(2)(A), and the landlord fails to deny the request in writing with a
18 description of the reasons for the denial, *including specific facts supporting the reasons for the
19 denial*, of the request within fourteen (14) days of ~~actual~~ receipt of the tenant's written request,
20 the subtenancy is deemed approved pursuant to Ordinance Section 37.9(a)(2)(A). *If the
21 tenant's request is sent to the landlord by mail, the request shall be deemed received on the
22 fifth calendar day after the postmark date. If the tenant's request is sent to the landlord by
23 email, the request shall be deemed received on the second calendar day after the date the email
24 is sent. If the tenant's request is personally served on the landlord, the request is considered
25 received on the date of service. For purposes of this subsection 6.15B(b), the 14-day period
26 begins to run on the day after the tenant's written request is received by the landlord.*

27 ~~(b)(c)~~(1) The tenant's inability to obtain the landlord's consent to subletting or assignment
28 to a person specified in subsection 6.15B(a) above shall not constitute a breach of the lease or
rental agreement for purposes of eviction under Ordinance Section 37.9(a)(2), where the
subletting or assignment is deemed approved pursuant to subsection (b) above or where the

1 landlord has unreasonably withheld consent to such change. Withholding of consent by the
2 landlord shall be deemed to be unreasonable if denied, pursuant to subsection (d) below, the
3 tenant's request to replace a departing tenant and the tenant has met the following
4 requirements:

5 (i) The tenant has requested in writing the permission of the landlord
6 to the sublease or assignment prior to the commencement of the proposed new tenant's or new
7 subtenant's occupancy of the unit;

8 (ii) After receipt of the tenant's written request, the landlord has five
9 calendar days to request the tenant to submit a ~~The proposed new tenant or new subtenant, if~~
10 ~~requested by the landlord, has completed the landlord's standard form application, for the~~
11 proposed new tenant or subtenant or, in the event the landlord fails to provide an application or
12 has no standard form application, the proposed new tenant or new subtenant has, upon request,
13 provided sufficient information to allow the landlord to conduct a typical background check,
14 including credit information, income information, references, and background information; The
15 5-day period begins to run on the day after receipt of the tenant's written request for
16 permission to replace a departing tenant or subtenant. ~~provided, however, t~~ The landlord may
17 request credit or income information only if the new tenant or new subtenant will be legally
18 obligated to pay some or all of the rent to the landlord; Nothing in Section 6.15B shall be
19 construed as allowing a landlord to require a replacement roommate to pay some or all of the
20 rent to the landlord.

21 (iii) The tenant has five calendar days after receipt of the landlord's
22 timely request pursuant to subsection 6.15B(c)(1)(ii) to provided the landlord five (5) business
23 days to process with the proposed new tenant's or new subtenant's application or typical
24 background check information. ~~within xx days of receipt of the landlord's request;~~ The 5-day
25 period begins to run on the day after actual receipt of the landlord's request.

26 (iv) The proposed new tenant or new subtenant meets the regular
27 reasonable application standards of the landlord, except that creditworthiness may not be the
28

1 basis for denial of the tenant's request to replace a departing tenant if the new tenant or new
2 subtenant will not be legally obligated to pay some or all of the rent to the landlord;

3 (v) The proposed new tenant or new subtenant, if requested by the
4 landlord, has agreed in writing to sign and be bound by the current rental agreement between
5 the landlord and the tenant;

6 (vi) The tenant has not, without good cause, requested landlord
7 consent to a ~~new tenant or new subtenant~~ replacement of a departing tenant pursuant to this
8 section 6.15B more than one time per existing tenant residing in the unit during the previous 12
9 months;

10 (vii) The tenant is requesting replacement of a departing tenant or
11 tenants with an equal number of new tenants.

12 (2) This subsection (c) shall not apply to assignment of the entire tenancy or
13 subletting of the entire unit.

14 ~~(c) — Where a lease or rental agreement specifies the number of tenants to reside in a~~
15 ~~unit, or where the open and established behavior of the landlord and tenants has established~~
16 ~~that the tenancy includes more than one tenant, failure of the landlord to consent to the~~
17 ~~replacement of one or more of the tenants by an equal number of tenants, subject to subsection~~
18 ~~(b) above, may constitute a decrease in housing services pursuant to Section 10.10 of these~~
19 ~~Regulations. [renumbered as subsection (f), with proposed amendments]~~

20 (d) Denial by the landlord of the tenant's written request to replace a departing tenant
21 shall not be considered unreasonable in some circumstances, including but not limited to the
22 following:

23 (1) where the proposed new tenant or subtenant will be legally obligated to pay
24 some or all of the rent to the landlord and the landlord can establish the proposed new tenant's
25 or new subtenant's lack of creditworthiness;

26 (2) where *the landlord has made a timely request for the proposed new tenant or*
27 *subtenant to complete the landlord's standard form application or provide sufficient*
28

1 information to allow the landlord to conduct a typical background check and the proposed new
2 tenant or subtenant does not, comply within five calendar days of actual receipt by the tenant of
3 the landlord's request; ~~complete the landlord's standard form application or provide sufficient~~
4 information to allow the landlord to conduct a typical background check;

5 (3) where the landlord can establish that the proposed new tenant or subtenant
6 has intentionally misrepresented significant facts on the landlord's standard form application or
7 provided significant misinformation to the landlord that interferes with the landlord's ability to
8 conduct a typical background check;

9 (4) where the landlord can establish that the proposed new tenant or subtenant
10 presents a direct threat to the health, safety or security of other residents of the property; and,

11 (5) where the landlord can establish that the proposed new tenant or subtenant
12 presents a direct threat to the safety, security or physical structure of the property.

13 (d) ~~(e)~~ Nothing in this Section shall prevent the landlord from providing a replacement
14 new tenant or new subtenant with written notice as provided under Section 6.14 that the tenant
15 is not an original ~~tenant~~ occupant as defined in Section 6.14(a)(1) and that when the last of the
16 original occupant ~~tenant(s) who meet the latter definition~~ vacates the premises, a new tenancy is
17 created for purposes of determining the rent under the Rent Ordinance. Furthermore, nothing in
18 this Section 6.15B shall serve to waive, alter or modify the landlord's rights under the Costa-
19 Hawkins Rental Housing Act (California Civil Code §§1954.50 et seq.) to impose an unlimited
20 rent increase once the last original occupant(s) no longer permanently resides in the unit.

21 (f) Where a lease or rental agreement specifies the number of tenants to reside in a
22 unit, or where the open and established behavior of the landlord and tenants has established
23 that the tenancy includes more than one tenant, a landlord's unreasonable denial of a tenant's
24 written request to replace one or more of the tenants by an equal number of tenants, subject to
25 subsections 6.15B(c)(1)(i)-(vii) above, may constitute a decrease in housing services pursuant to
26 Section 10.10 of these Regulations. A landlord may choose not to have any screening
27 requirements or not to respond in any way when the tenant makes a written request to replace a
28

1 ~~departing tenant pursuant to this Section 6.15A. The landlord's choice not to screen a proposed~~
2 ~~new tenant or new subtenant or not to respond to the tenant's written request. *For purposes of*~~
3 ~~*subsection 6.15B(f), a landlord's non-response to a tenant's written request* shall not be~~
4 ~~deemed an unreasonable denial of a tenant's request to replace a departing tenant.~~

5 (g) In the event the landlord denies a tenant's request to replace a departing tenant
6 under Section 6.15B, either the landlord or the tenant may file a petition with the Board to
7 determine if the landlord's denial of the request was reasonable.

8 (h) Any petition filed under subsection 6.15B(f) or (g) shall be expedited.
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28