



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

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Case Number: CPF-15-514174

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Filed by: MARYANN E. MORAN

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PETITION FOR WRIT OF MANDATE/ PROHIBITION/
CERTIFICATION

SAN FRANCISCO APARTMENT ASSOCIATION ET AL VS. CITY AND COUNTY
OF SAN FRANCISCO

001C04818151

Instructions:

Please place this sheet on top of the document to be scanned.

SUMMONS (CITATION JUDICIAL)

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO RESPONDENT/DEFENDANT: (AVISO AL DEMANDADO):

CITY AND COUNTY OF SAN FRANCISCO, AND DOES 1-20

YOU ARE BEING SUED BY PETITIONERS/PLAINTIFFS: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

SAN FRANCISCO APARTMENT ASSOCIATION; COALITION FOR BETTER HOUSING; SMALL PROPERTY OWNERS OF SAN FRANCISCO INSTITUTE; SAN FRANCISCO ASSOCIATION OF REALTORS; and NORMAN T. LARSON

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): San Francisco Superior Court
400 McAllister Street
San Francisco, CA 94102

CASE NUMBER:
(Número del Caso):

CPF 15-514174

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
James R. Parrinello, 2350 Kerner Blvd., Ste. 250, San Rafael, CA 94901 (415) 389-6800

DATE: March 10 5 2015
(Fecha)

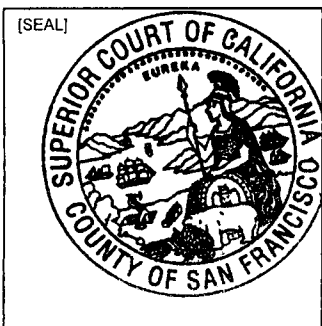
CLERK OF THE COURT
(Secretario)

Clerk, by
(Secretario)

MARY ANN MORAN
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Prueba de Entrega de Summons, (POS-010).)



NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant.
- 2. as the person sued under the fictitious name of (specify):

- 3. on behalf of (specify):

- under: CCP 416.10 (corporation) CCP 416.60 (minor)
- CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
- CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
- other (specify): 416.50 (public entity)

- 4. by personal delivery on (date):

MARY ANN MORAN

ORIGINAL

1 NIELSEN MERKSAMER PARRINELLO
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2 JAMES R. PARRINELLO (SBN 063415)
CHRISTOPHER E. SKINNELL (SBN 227093)
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Attorneys for Petitioners/Plaintiffs

FILED
Superior Court of California
County of San Francisco

MAR 05 2016

CLERK OF THE COURT
BY: *M. Moran*
Deputy Clerk

MARY ANN MORAN

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SAN FRANCISCO
12 (UNLIMITED JURISDICTION)

13 SAN FRANCISCO APARTMENT)
14 ASSOCIATION; COALITION FOR)
15 BETTER HOUSING; SMALL)
16 PROPERTY OWNERS OF SAN)
17 FRANCISCO INSTITUTE; SAN)
18 FRANCISCO ASSOCIATION OF)
REALTORS; and NORMAN T.)
LARSON,)

19 Petitioners,)

20 vs.)

21 CITY AND COUNTY OF SAN)
22 FRANCISCO, and DOES 1-20,)

23 Respondents.)
24)

Case No.: CPF-15-514174
VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
INJUNCTIVE AND DECLARATORY
RELIEF

1 owners and tenants from entering even these voluntary arrangements, even though
2 both owners and tenants benefit from buyout agreements, by (1) making the
3 negotiation process prohibitively burdensome for landlords and (2) further
4 penalizing those landlords who do tolerate the burdensome process, by restricting
5 their property rights even when they have fully complied with the law.

6 2. The Ordinance is merely the latest in a series of laws passed during the
7 last year that punish residential rental property owners in the City, scapegoating
8 owners for the City’s housing crisis when in fact that crisis is the result of a
9 combination of a rising economy, which has created tens of thousands of new jobs
10 in the City, and the City’s own anti-development policies. With little political power
11 in a city where 65% of the residential units are tenant-occupied (according to the
12 most recent U.S. Census), owners have little alternative but to seek relief in the
13 courts. Just in the past several months, U.S. District Court Judge Breyer and
14 Superior Court Judges Robertson and Quidachay have invalidated recently-enacted,
15 punitive anti-owner ordinances for statutory and constitutional violations. *Levin v.*
16 *City and County of San Francisco*, 2014 U.S. Dist. LEXIS 149646 (N.D. Cal. Oct. 21,
17 2014); *San Francisco Apartment Association, et al. v. City and County of San*
18 *Francisco*, No. CPF-14-51342 (Super. Ct. S.F. City and County, 2014); *Jacoby v.*
19 *City and County of San Francisco*, No. CGC-14-540709 (Super. Ct. S.F. City and
20 County, 2014).

21 3. The Ordinance purports to regulate and restrict the ability of owners
22 and tenants to enter into voluntary agreements or settle disputes by providing for
23 the tenant to vacate in exchange for money or other valuable consideration. It does
24 so in the following ways:

25 a. The Ordinance imposes a form of prior restraint on landlords’ (and
26 tenants’) free speech, by flatly prohibiting “any discussion or
27 bargaining, whether oral or written, between a landlord and tenant
28 regarding the possibility of entering into a Buyout Agreement”

1 unless and until the owner *first* provides the tenant—and the tenant
2 signs—a Rent Board-developed form. That form is to include
3 various forms of *compelled* speech, among other things: a statement
4 that the tenant has the right not to enter into negotiations or an
5 agreement; a statement that that the tenant may consult with an
6 attorney; a statement that that the tenant may visit the Rent Board
7 to obtain information about buyout agreements in the tenant’s
8 neighborhood; a list of tenants’ rights organizations and their
9 contact information; and if the owner is an entity, the names of all
10 people who will conduct negotiations for the owner and the names
11 of all people with decision making authority for the owner; and a
12 space for the tenant to sign and date the form. The owner must
13 retain each signed disclosure form for five years. (Section 37.9E(c)
14 & (d).)

- 15 b. Further, the Ordinance prohibits owners and tenants from even
16 discussing a buyout until the owner has *first* provided the Rent
17 Board the owner’s name, business address, business email address,
18 business telephone number, the name of each tenant the owner
19 intends to discuss buyouts with, the address of the tenant’s rental
20 unit, and a sworn statement that the owner provided each tenant
21 the disclosure required by subsection (d) prior to commencing
22 negotiations. The Ordinance then subjects the two sides of a would-
23 be bilateral agreement—landlords and tenants—to arbitrarily
24 disparate treatment, by requiring the Rent Board to make all of this
25 information regarding the landlord publicly available, but to redact
26 all information regarding the tenant’s identity. (Section 37.9E(e).)
- 27 c. The Ordinance also requires all buyout agreements to be in writing
28 and contain numerous specified statements that must be included,

1 in 14-point type, including that the tenant can unilaterally cancel the
2 agreement within 45 days, that the tenant has the right not to enter
3 into the buyout agreement, that the tenant can consult with an
4 attorney or tenant's rights organization before signing, that an
5 owner cannot convert the building into a condominium where the
6 buyout agreement is with a senior, disabled or seriously ill tenant, or
7 where two tenants have vacated under buyout agreements. Further,
8 the agreement must ask each tenant if they believe they are senior,
9 disabled or seriously ill and provide space for them to answer yes or
10 no. The Ordinance further provides that a buyout agreement that
11 does not satisfy all of these requirements, contain the signature and
12 specified initials and answers of the tenant, is not effective and may
13 be rescinded by the tenant at any time. (Section 37.9E(f).) The
14 landlord has no equivalent right of rescission.

- 15 d. Even if all of the foregoing requirements are met, the Ordinance
16 gives tenants (but not owners) the right to unilaterally rescind,
17 without cause, for up to 45 days after a buyout agreement is signed.
18 (Section 37.9E(g).)
- 19 e. The Ordinance requires landlords to file each signed buyout
20 agreement with the Rent Board no sooner than the 46th day after
21 signing and no later than the 59th day. It directs the Rent Board to
22 create a searchable database with these filings; the identifying
23 information regarding the owner is to be publicly available, but the
24 tenant's identity is required to be redacted. (Section 37.9E (h) &
25 (i).)
- 26 f. The Ordinance gives tenants and tenant's rights associations the
27 right to file damage and penalty lawsuits for an owner's purported
28

1 failure to comply, and mandates the court to award them attorneys'
2 fees if they prevail. (Section 37.9E(k).)

3 g. And finally, the Ordinance penalizes landlords who enter into
4 voluntary, entirely legal agreements with their tenants, by
5 prohibiting buildings where buyout agreements have occurred in
6 the preceding ten years from eligibility for the City's condominium
7 conversion lottery. *This is true even where the landlord has fully*
8 *complied with all of the various notice, registration, and filing*
9 *obligations discussed above.* (Subdivision Code section 1396(e)(4).)

10 4. In all the foregoing ways, the Ordinance, on its face, discourages
11 owners and tenants from entering into voluntary buyout agreements, and punishes
12 owners (but not tenants) who choose to enter into such agreements.

13 **THE PARTIES**

14 5. Plaintiff SFAA, founded in 1917, is a full-service, non-profit trade
15 association of persons and entities who own residential rental properties in San
16 Francisco. SFAA currently has more than 2,800 active members, who own more
17 than 65,000 residential rental units in the city. SFAA's membership includes
18 hundreds of "mom & pop" owners who own 2-4 unit buildings and live in one of the
19 units. SFAA is dedicated to educating, advocating for, and supporting the rental
20 housing community and preserving the property rights of all residential rental
21 property providers in San Francisco. SFAA fields hundreds of calls each month
22 from property owners with questions about their rights and duties under San
23 Francisco and state laws. Many of these callers are referred to attorneys associated
24 with SFAA. SFAA and its members are adversely and directly affected by the
25 Ordinance. SFAA includes members who have entered into buyout agreements and
26 who would like to do so in the future. Individual members of SFAA, by virtue of
27 their property ownership, are subject to the Ordinance and could challenge the
28 Ordinance in their own right. The ability of residential property owners to exercise

1 their rights free from the constraints of the Ordinance is germane to SFAA's
2 organizational purpose, and this challenge does not require the participation of
3 individual members of SFAA. The Ordinance harms SFAA and its members by
4 adversely affecting their ability to manage and otherwise control their real property,
5 to communicate with and contract with their tenants free of governmental
6 interference, and to exercise their constitutional and statutory rights.

7 6. Plaintiff CBH is a non-profit trade organization representing the
8 owners of over 20,000 residential rental units in San Francisco. Organized in 1979,
9 CBH works to bring a healthier real estate climate to the rental housing industry in
10 San Francisco and to advocate for, support, and protect the property and legal
11 rights of CBH members and other residential rental property owners in the city. As
12 residential rental property owners, all CBH members are subject to the Ordinance
13 and are directly and adversely affected by it. CBH includes members who have
14 entered into buyout agreements and who would like to do so in the future. The
15 Ordinance harms CBH and its members by adversely affecting their ability to
16 manage and otherwise control their real property, to communicate with and
17 contract with their tenants free of governmental interference, and to exercise their
18 constitutional and statutory rights. Individual members of CBH, by virtue of their
19 property ownership, are subject to the Ordinance and could challenge the
20 Ordinance in their own right. The ability of residential property owners to exercise
21 their rights free from the constraints of the Ordinance is germane to CBH's
22 organizational purpose, and this challenge does not require the participation of
23 individual members of CBH.

24 7. Plaintiff SPOSFI is a California nonprofit corporation and organization
25 of small property owners that advocates for home ownership and the rights of
26 residential rental property owners in San Francisco. SPOSFI includes members
27 who have entered into buyout agreements and who would like to do so in the future.
28 SPOSFI's members range from young families to the elderly on fixed incomes, and

1 its membership cuts across all racial, ethnic, and socio-economic strata. Thus,
2 SPOSFI's members are, or will be, subject to the challenged ordinance. SPOSFI is
3 also involved in education, outreach and research. Through education, it helps
4 owners better understand their rights and learn how to deal with local government;
5 through outreach to community groups and to the public, it demonstrates how
6 restrictive San Francisco regulations harm both tenants and landlords, and through
7 research projects, it aims to separate hyperbole from fact on the effect of rent
8 control on housing stock. Through legal advocacy, SPOSFI seeks to protect the
9 rights of small property owners against unfair and burdensome regulations. The
10 ability of residential property owners to exercise their rights free from the
11 constraints of the Ordinance is germane to SPOSFI's organizational purpose, and
12 this challenge does not require the participation of individual members of SPOFSI.
13 The Ordinance harms SPOSFI and its members by adversely affecting their ability
14 to manage and otherwise control their real property, to communicate with and
15 contract with their tenants free of governmental interference, and to exercise their
16 constitutional and statutory rights.

17 8. Plaintiff SFAR is the official association of licensed real estate brokers
18 and real estate agents in San Francisco. It consists of over 4,200 agent and broker
19 members who are dependent for their livelihood upon the sale and management of
20 real property in San Francisco. The mission of SFAR is to provide programs,
21 products, and services to its member brokers and agents that will assist them in
22 increasing productivity and realizing success, and to advocate for and help to create
23 a regulatory and legal environment conducive to the practice of real estate
24 brokerage. Through legal advocacy, SFAR seeks to protect the rights of small
25 property owners, including residential rental property owners, against unfair and
26 burdensome regulations. Plaintiff SFAR's individual members are adversely and
27 directly affected by the Ordinance in that its provisions adversely affect their ability
28 to market, sell and manage real property and thereby to make a living, and to

1 communicate with and contract with tenants in buildings they own or manage free
2 of governmental interference and to exercise their constitutional and statutory
3 rights. The ability of its member brokers and agents as well as residential rental
4 property owners to exercise their rights free from the constraints of the Ordinance
5 is germane to SFAR's organizational purpose, SFAR's individual members could
6 have challenged the Ordinance in their own right, and this challenge does not
7 require the participation of individual members of SFAR.

8 9. Plaintiff LARSON is an owner of residential real property in San
9 Francisco and is subject to the Ordinance. LARSON would like to enter into buyout
10 agreements in the future free from the restrictions of the Ordinance.

11 10. Defendant CITY AND COUNTY OF SAN FRANCISCO is now, and at all
12 times mentioned in this complaint has been, a governmental entity organized and
13 existing under and by virtue of the Constitution and laws of the State of California.
14 Defendant CITY is a municipal corporation whose responsibility it is to enforce and
15 defend the Ordinance.

16 11. Defendant Does 1-20 are sued herein under fictitious names because
17 their true names and capacities are unknown to Plaintiffs. When their true names
18 and capacities are ascertained, Plaintiffs will amend this complaint to assert their
19 true names. Plaintiffs are informed and believe, and on that basis allege, that each
20 of the fictitiously named Defendants is responsible in some manner for the
21 occurrences, harms, and violations of law alleged herein.

22 **FIRST CAUSE OF ACTION**

23 **(Writ of Mandate or Other Appropriate Relief)**

24 12. Plaintiffs hereby reallege paragraphs 1-11 above as fully and completely
25 as if set forth again herein.

26 13. The Ordinance violates the legal and constitutional rights of Plaintiffs,
27 Plaintiff associations' members, and other owners of residential rental property in
28 the City and County of San Francisco.

1 14. The Ordinance violates Plaintiffs' free speech rights under the United
2 States and California Constitutions and 42 U.S.C. § 1983. It forbids owners and
3 tenants to speak about possible buyouts, imposes a prior restraint on such speech,
4 and compels owners and their agents and managers to engage in compelled speech,
5 speaking what the government (Rent Board) dictates as a condition of exercising
6 their free speech rights. Further, even if an owner accedes to the government
7 mandate, and complies with the Rent Board rules, an owner is nonetheless
8 prohibited from speaking to a tenant about a buyout until the tenant consents by
9 signing the disclosure form.

10 15. The Ordinance also prohibits condominium conversion applications or
11 approvals for ten years in a building where an owner has entered into a voluntary,
12 wholly legal buyout agreement with a disabled or seriously ill tenant, or where two
13 or more tenants have entered into buyout agreements in the previous ten years.
14 This provision impairs the right of both owners and tenants to enter into voluntary
15 settlement of disputes, and punishes owners for entering into voluntary, mutually-
16 beneficial, wholly legal contracts with their tenants. It thus illegally impairs and
17 interferes with rights inherent in their rental agreements to settle disputes in good
18 faith.

19 16. The Ordinance unfairly and irrationally treats owners differently than
20 tenants, in violation of the state and federal constitutions' guarantees of equal
21 protection and due process and 42 U.S.C. § 1983. It prohibits an owner from even
22 speaking about a buyout without the tenant's written consent. It punishes an owner
23 who has entered into a buyout agreement by barring condominium conversions in
24 the building for ten years, with no similar penalty on the tenant. It grants a tenant
25 the power to unilaterally rescind a buyout agreement for 45 days after it is entered
26 into, but grants an owner no similar power. It requires the owner to file the buyout
27 agreement with the Rent Board and to disclose the identity of all persons with
28 decision making authority for the owner, and commands that this information be

1 published on the Rent Board's web site, but directs that any tenant information be
2 redacted and not published. And it makes the owner bear the burden of any
3 departure from the Ordinance's elaborate rules, subjecting the owner to potential
4 damages, penalties, and attorneys' fee awards.

5 17. The Ordinance also violates owners' fundamental privacy rights under
6 Article I, § 1, of the California Constitution, by making personal information about
7 the landlord and his/her/its business activities publicly-available, without any
8 legitimate purpose being served thereby.

9 18. Plaintiffs have a beneficial interest in ensuring that the provisions of
10 the Ordinance are not enforced so as to deprive them, their members and other
11 agents, owners and managers of rental property of their constitutional, legal, and
12 other rights.

13 19. Plaintiffs have no speedy or adequate remedy at law.

14 20. This action is ripe for adjudication and is timely filed.

15 **SECOND CAUSE OF ACTION**

16 **(Injunctive Relief)**

17 21. Plaintiffs hereby reallege paragraphs 1-20 above as fully and
18 completely as if set forth again herein.

19 22. The Ordinance, if enforced by Defendant, will cause Plaintiffs severe
20 injury in that Plaintiffs and their members will be deprived of their statutory,
21 constitutional and property rights as set forth above.

22 23. Plaintiffs do not have a plain, speedy, or adequate remedy in the
23 ordinary course of law, other than the relief requested herein. Due to the foregoing,
24 injunctive relief is a necessary and proper remedy.

25 **THIRD CAUSE OF ACTION**

26 **(Declaratory Relief)**

27 24. Plaintiffs hereby reallege paragraphs 1-23 above as fully and completely
28 as if set forth again herein.

VERIFICATION

I, Janan New, declare as follows:

I am the Executive Director of the San Francisco Apartment Association, Plaintiff in this action. I have read the foregoing Verified Petition for Writ of Mandate and Complaint for Injunctive and Declaratory Relief and know its contents. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and as to those matters I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 3rd day of March, 2015, at San Francisco, California.



Janan New

EXHIBIT A

[Administrative, Subdivision Codes - Tenant Buyout Agreements]

Ordinance amending the Administrative Code 1) to require landlords to provide tenants with a disclosure of the tenants' rights before the landlord commences buyout negotiations; 2) to require landlords to file a form with the Rent Board indicating the address of the unit that may become the subject of buyout negotiations; 3) to require all buyout agreements to be in writing and to include certain statements about the tenant's rights; 4) to allow tenants to rescind buyout agreements for up to 45 days after the agreements are fully executed; 5) to require landlords to file a copy of buyout agreements with the Rent Board and to pay a fee to the Rent Board; 6) to require the Rent Board to create a publically available, searchable database of buyout agreements; 7) to require the Rent Board to provide an annual report to the Board of Supervisors regarding tenant buyouts; 8) to authorize tenants to bring civil actions for actual damages and civil penalties against landlords who fail to provide the required disclosures about the tenants' rights; and 9) to authorize certain non-profits to bring civil actions for a landlord's failure to file a buyout agreement with the Rent Board; and amending the Subdivision Code to prohibit buildings from entering the condominium conversion lottery if the owners of the building have entered certain tenant buyout agreements.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in single-underline italics Times New Roman font.
Deletions to Codes are in ~~strikethrough italics Times New Roman font~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.



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

2
3 Section 1. The Administrative Code is hereby amended by adding Section 37.9E, to
4 read as follows:

5 **SEC. 37.9E. TENANT BUYOUT AGREEMENTS.**

6 (a) Findings and Purpose. San Francisco is in the midst of a housing crisis. As the disparity
7 between rent-controlled and market rate rents continues to grow, landlords have greater incentives to
8 induce tenants in rent-controlled units to move out. Similarly, with the real estate market skyrocketing,
9 many landlords are selling their property with the knowledge that an unoccupied unit can command a
10 significantly higher sale price than an occupied one.

11 Instead of evicting tenants, some landlords offer cash buyouts to tenants in exchange for the
12 tenants vacating rental units. These are sometimes called buyout agreements. Even buyouts worth tens
13 of thousands of dollars can be recouped by a landlord retaining ownership and re-renting at market
14 rates or selling the unit. Unlike no-fault evictions, these buyouts are unregulated, and can enable
15 landlords to circumvent many of the restrictions that apply when a landlord executes a no-fault
16 eviction. For example, a landlord who executes some types of no-fault evictions must give tenants a
17 certain amount of time to move out, provide funds to tenants to cover relocation costs, and allow
18 tenants to move back into the unit under specified circumstances. Two types of these no fault evictions
19 – the Ellis Act and owner move-in evictions – contain restrictions on how much rent a landlord can
20 charge if the units are re-rented following eviction. Analogous regulations do not exist for tenant
21 buyouts.

22 Anecdotal evidence indicates that many buyout negotiations are not conducted at arms-length,
23 and landlords sometimes employ high-pressure tactics and intimidation to induce tenants to sign the
24 agreements. Some landlords threaten tenants with eviction if they do not accept the terms of the
25 buyout. The frequency of these buyout offers increased significantly following passage of a San

1 Francisco law in 1996 which restricted, and in many cases prohibited, condominium conversions
2 following no fault evictions. By threatening a specific no fault eviction and then convincing a tenant to
3 vacate rather than receiving the eviction notice, a landlord will avoid restrictions on condominium
4 conversion as well as restrictions on renovations, mergers, or demolitions.

5 These tactics sometimes result in tenants entering into buyout agreements without a full
6 understanding of their rights and without consulting a tenants' rights counselor. These buyouts vary
7 widely in amounts and, in some cases, are even below minimum relocation benefits which are required
8 to be paid for all no fault evictions. Disabled, senior, and catastrophically ill tenants can be
9 particularly vulnerable, and can face greater hurdles in securing new housing.

10 The main purpose of this Section 37.9E is to increase the fairness of buyout negotiations and
11 agreements by requiring landlords to provide tenants with a statement of their rights and allowing
12 tenants to rescind a buyout agreement for up to 45 days after signing the agreement, thus reducing the
13 likelihood of landlords pressuring tenants into signing buyout agreements without allowing the tenants
14 sufficient time to consult with a tenants' rights specialist. Another goal of this ordinance is to help the
15 City collect data about buyout agreements. The City lacks comprehensive information about the
16 number, location, and terms of buyout agreements. This dearth of information precludes the City from
17 understanding the true level of tenant displacement in San Francisco.

18 (b) Applicability of Section. Notwithstanding Section 37.3 or any other provision in City law,
19 this Section 37.9E shall apply to all landlords and tenants of rental units as defined in Section 37.2(r).

20 (c) Definitions. For purposes of this Section 37.9E, the following definitions shall apply:

21 "Buyout Agreement" means an agreement wherein the landlord pays the tenant money or other
22 consideration to vacate the rental unit. An agreement to settle a pending unlawful detainer action shall
23 not be a "Buyout Agreement."

24 "Buyout Negotiations" means any discussion or bargaining, whether oral or written, between a
25 landlord and tenant regarding the possibility of entering into a Buyout Agreement.

1 (d) Disclosure required prior to Buyout Negotiations. Prior to commencing Buyout
2 Negotiations for a rental unit, the landlord shall provide each tenant in that rental unit a written
3 disclosure, on a form developed and authorized by the Rent Board, that shall include the following:

4 (1) A statement that the tenant has a right not to enter into a Buyout Agreement or
5 Buyout Negotiations;

6 (2) A statement that the tenant may choose to consult with an attorney before entering
7 into a Buyout Agreement or Buyout Negotiations;

8 (3) A statement that the tenant may rescind the Buyout Agreement for up to 45 days
9 after the Buyout Agreement is fully executed;

10 (4) A statement that the tenant may visit the Rent Board for information about other
11 Buyout Agreements in the tenant's neighborhood;

12 (5) A list of tenants' rights organizations and their contact information;

13 (6) A statement that information about tenants' rights is available at the Rent Board's
14 office, through its counseling telephone number, and on its website;

15 (7) A statement explaining the legal implications under Section 1396(e)(4) of the
16 Subdivision Code for a landlord who enters into one or more Buyout Agreements;

17 (8) If the landlord is an entity, the names of all people within that entity who will be
18 conducting the Buyout Negotiations, as well as the names of all people within that entity who will have
19 decision-making authority over the terms of the Buyout Agreement;

20 (9) Any other information required by the Rent Board consistent with the purposes and
21 provisions of this Section 37.9E; and

22 (10) A space for each tenant to sign and write the date the landlord provided the tenant
23 with the disclosure.

24 The landlord shall retain a copy of each signed disclosure form for five years, along with a
25 record of the date the landlord provided the disclosure to each tenant.