[Administrative Code - Public Housing Right to Return to Revitalized Housing]

Ordinance amending the San Francisco Administrative Code by: 1) adding Chapter 39, Sections 39.1 through 39.9, to establish the San Francisco Right to Revitalized Housing Ordinance and set City policy regarding the Right to Return to Revitalized Public Housing Units; and 2) adding Section 37.6(n) to establish new powers for the San Francisco Residential Rent Stabilization and Arbitration Board in connection with the new San Francisco Right to Revitalized Housing Ordinance.

NOTE: Additions are single-underline italics Times New Roman; deletions are strike-through italics Times New Roman. Board amendment additions are double-underlined; Board amendment deletions are strikethrough normal.

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

Section 1. The San Francisco Administrative Code is hereby amended by adding Section 37.6(n) as follows:

(n) As provided by Administrative Code Chapter 39, utilize Administrative Law Judges to review relocation claims from Current Households related to a Public Housing Development Project, and make advisory recommendations thereon to the San Francisco Housing Authority for its final determination.

Section 2. The San Francisco Administrative Code is hereby amended by adding Chapter 39, Section 39.1 through 39.9, to read as follows:

CHAPTER 39

SEC. 39.1. APPLICATION.

This Chapter shall apply as a condition of receipt of any Financial Assistance to be provided by the City to a Public Housing Development Project located within the City.
SEC. 39.2. INTENT AND PURPOSE.

It is the intent and purpose of the City to expressly give public housing households tenants a right to revitalized housing after temporary relocation or displacement as a result of a Public Housing Mixed-Finance Development Project so long as the household tenant is not in eviction processes, having been duly and properly served with a summons and complaint by the SFHA, or has not been evicted from a unit that is managed by the SFHA. In order to further such purpose, it is the intent of the City that, upon notification of his/her eligibility for a revitalized housing unit, the household tenant shall not be subject to any additional screening by the landlord or someone acting under the landlord's authority.

Additionally, it is the intent and purpose of the City to protect the relocation rights of such household tenants. In order to further such purpose, it is the intent of the City to require that any relocation plans produced by the project sponsor of a Public Housing Development Project must be reviewed by the City department providing the Financial Assistance San Francisco Relocation Appeals Board, as well as to establish the Re relocation Appeals Board San Francisco Residential Rent Stabilization and Arbitration Board as an independent third party to review relocation claims and make advisory recommendations thereon to the SFHA for its final determination. This Chapter shall be construed consistent with the intent and purpose as stated above, and in accordance with applicable state and federal law.

SEC. 39.3. DEFINITIONS.

As used in this Article, the following terms shall have the following meanings:

(a) "Agreement" means any contract with the City for the provision of Financial Assistance for a Public Housing Development Project.

(b) "City" means the City and County of San Francisco.
(c) "Community Redevelopment Law or CRL" means Cal. Health & Safety Code §33000 et seq.

(d) "Current Tenant Household(s)" means a lawful household tenant of a Public Housing Unit, including each member of the tenant household, that occupies a Public Housing Unit in an Existing Public Housing Development on the Initiation Date. For purposes of this Chapter, each lawful tenant within a Public Housing Unit household shall be treated as a single household Tenant and shall not have rights to separate Replacement Units.

(e) "Existing Public Housing Development" means an existing development of Public Housing Units that will be demolished, disposed of, removed, and/or converted, in whole or in part, in connection with a Public Housing Development Project.

(f) "Financial Assistance" means the provision of any federal, state, or local public funds that are administered, allocated, or committed by the City to SFHA, another public entity, private developer, and/or any agents, managers or partners of such entities in connection with a Public Housing Development Project.

(g) "Initiation Date" is the date of the first notice of eligibility for relocation benefits in connection with a Public Housing Development Project.

(h) "New Development" means a residential and/or mixed use development that is developed under federal regulations stated in 24 CFR Part 941 to replace an Existing Public Housing Development in connection with a Public Housing Development Project.

(i) "Prior Tenants" means any Current Tenant that moves from a Public Housing Unit located in an Existing Public Housing Development, with or without relocation assistance, on or after the Initiation Date of a Public Housing Development Project, unless the Current Tenant was notified, in writing, before such move of their eligibility for relocation assistance and rehousing in a Replacement Unit; provided, any tenant that is evicted for just cause in accordance with applicable law shall not be a Prior Tenant.
(j) "Public Housing Development Project" means a development or redevelopment project that: (i) involves the demolition, disposition, removal, revitalization, rehabilitation, and/or conversion, in whole or in part, of an Existing Public Housing Development; (ii) involves and/or the relocation of Current Tenant(s) in connection therewith; and (iii) as a result of such activities, is required to comply with the Uniform Relocation Assistance and Real Property Acquisitions Policies Act, 24 U.S.C. §4601 et seq. and the implementing regulations issued by the Department of Transportation at 49 CFR part 24.

(k) "Public Housing Unit" means a public housing dwelling unit as defined in the United States Housing Act of 1937, as amended (42 U.S.C. §1437) and any regulations adopted in connection therewith, and that is owned and operated by SFHA in the City.

(l) "Relocation Assistance Laws" means any and all federal, state, and local relocation assistance laws that may be applicable to a Public Housing Development Project, including but not limited to, the California Relocation Assistance Law, Cal. Govt. Code §7260 et seq.; Uniform Relocation Assistance and Real Property Acquisitions Policies Act, 24 U.S.C. §4601 et seq.; the Housing and Community Development Act, 42 U.S.C. §5301 et seq.; the United States Housing Act, 42 U.S.C. §1437 and all regulations, guidelines, and/or HUD Handbooks adopted in connection with each; and this Chapter.

(m) "Rent Board" means the San Francisco Residential Rent Stabilization and Arbitration Board.

(n) "Replacement Housing Laws" means any and all federal, state, and local replacement housing laws that may be applicable to a Public Housing Development Project, including but not limited to, the Community Redevelopment Law, Cal. Health & Safety Code §33000 et seq.; the Housing and Community Development Act, 42 U.S.C. §5301 et seq.; and all regulations, guidelines, and/or HUD Handbooks or Notices adopted in connection with each; and this Chapter.
(n) "Replacement Unit(s)" means a comparable Public Housing Unit or other comparable residential unit that is developed under federal regulations stated in 24 CFR Part 941, 24 CFR 970, or 24 CFR 972 to replace a Public Housing Unit that is demolished, disposed of, removed, revitalized, rehabilitated or converted as a result of a Public Housing Development Project.

(o) "SFHA" means the San Francisco Housing Authority, a public body, corporate and politic, organized and existing under the California Housing Authorities Law (Cal. Health & Saf. Code § 34200 et seq.).

SEC. 39.4. REQUIREMENTS FOR AGREEMENTS FOR FINANCIAL ASSISTANCE.

Every officer and employee of the City shall include in any Agreement a provision requiring the recipient of the Financial Assistance, as a condition of receiving the Financial Assistance, to provide Current Households, Tenants and Prior Tenants with a Replacement Unit as provided in subsection (1) and (2) and to obtain review of relocation plans as provided in subsection (3). In addition, the recipient of the Financial Assistance shall be required, as a condition of receiving the Financial Assistance, to include these requirements in any contract with SFHA regarding the Public Housing Development Project. Every officer and employee of the City who enters into such Agreement shall confer with the City Attorney's Office in drafting and negotiating the provisions thereof in order to implement these requirements, including the provision of appropriate remedies for violation of the Agreement.

(1) Right to Replacement Unit. Subject to Section 39.4(2b), all Current Households, Tenants and Prior Tenants whose tenancy at the Existing Public Housing Development Project was not lawfully terminated prior to or after the Initiation Date, unless such lawful termination was done pursuant to the relocation plan in connection with the Public Housing Development Project, shall have a right to, and the highest priority for, a Replacement Unit at the New Development or, if applicable, for an off-site Replacement Unit.
(2) Eligibility and Screening Criteria. Current Households, Tenants and Prior Tenants shall be deemed eligible for a Replacement Unit, and shall not be subjected to any eligibility or screening criteria for a Replacement Unit other than income eligibility restrictions that may apply to a suitable Replacement Unit due to a subsidy affecting the unit.

(3) Review Of Relocation Plan. The recipient of Financial Assistance shall obtain a review by the San Francisco Relocation Appeals Board, as established pursuant to San Francisco Administrative Code Chapter 24B, City department providing the Financial Assistance of any relocation plan drafted for a Public Housing Development Project. The recipient of Financial Assistance shall present the proposed relocation plan to the applicable City department Relocation Appeals Board at least thirty days prior to adoption and request that the City department Relocation Appeals Board submit comments regarding the plan or policy in the form of a memorandum to the entity responsible for adopting the final plan. If the City department Relocation Appeals Board decides not to take a position or does not seek to provide comment, it shall issue a memorandum to the appropriate entity stating as such.

SEC. 39.5. APPEALS.

For all Public Housing Development Projects, the Rent Board Relocation Appeals Board shall be the independent third party to review relocation claims and make advisory recommendations thereon to the SFHA for its final determination. In reviewing the claim and making recommendations to the SFHA, the Rent Board Relocation Appeals Board shall be guided by the provisions of the Appeals/Grievance Procedure established as part of the adopted relocation plan for the Public Housing Development Project. The review and advisory recommendation process for all claims submitted under this Section 39.5 shall consist of a hearing conducted by a Rent Board Administrative Law Judge (as defined in Administrative Code Section 37.2(f)) and a written advisory recommendation from the Administrative Law Judge to the SFHA.
The project sponsor for a Public Housing Development Project will be billed time and materials for any administrative costs that the Rent Board or any other City entity incurs in reviewing relocation claims under this Chapter.

SEC. 39.6. APPLICATION OF OTHER LAWS.

Nothing in this Chapter is intended to limit the rights of Public Housing household tenants that may exist pursuant to other state, federal, or local laws.

SEC. 39.7. ENFORCEABILITY.

This Chapter shall be enforceable by the City and any beneficially interested person. Any enforcement action shall be limited to injunctive relief, including specific performance. As set forth in Section 39.8, there shall be no monetary damages for any violation of this Chapter.

SEC. 39.8. CITY UNDERTAKING LIMITED TO PROMOTION OF GENERAL WELFARE

In undertaking the adoption and enforcement of this Chapter, this City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees or on any other person or entity, including but not limited to the SFHA, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

SEC. 39.9. NO CONFLICT WITH STATE OR FEDERAL LAW; SEVERABILITY.

This Chapter shall be construed so as not to conflict with applicable federal or State laws, rules or regulations, including but not limited to the Relocation Assistance Laws and Replacement Housing Laws. Nothing in this Chapter shall authorize any City agency to impose any duties or obligations in
conflict with limitations on municipal authority established by federal law at the time such agency action is taken.

If any section, paragraph, sentence, clause or phrase of this Chapter is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter. The Board of Supervisors declares that it would have passed each section, paragraph, sentence, clause or phrase of this Chapter irrespective of the fact that any portion of this Chapter could be declared unconstitutional, invalid or ineffective.

Section 32. Effective Date. This ordinance shall become effective 30 days from the date of passage. This ordinance is intended to have prospective effect only.

Section 43. This section is uncodified. In enacting this Ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent part of the Administrative Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: 
Evan Gross
Deputy City Attorney

Supervisor Olague
BOARD OF SUPERVISORS
City and County of San Francisco
Tails
Ordinance

File Number: 120812   Date Passed: October 30, 2012

Ordinance amending the San Francisco Administrative Code by: 1) adding Chapter 39, Sections 39.1 through 39.9, to establish the San Francisco Right to Revitalized Housing Ordinance and set City policy regarding the Right to Return to Revitalized Public Housing Units; and 2) adding Section 37.6(n) to establish new powers for the San Francisco Residential Rent Stabilization and Arbitration Board in connection with the new San Francisco Right to Revitalized Housing Ordinance.

October 01, 2012 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

October 01, 2012 Land Use and Economic Development Committee - CONTINUED AS AMENDED

October 15, 2012 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

October 15, 2012 Land Use and Economic Development Committee - RECOMMENDED AS AMENDED

October 23, 2012 Board of Supervisors - PASSED ON FIRST READING
   Ayes: 10 - Avalos, Campos, Chiu, Cohen, Eisbernd, Farrell, Kim, Mar, Olague and Wiener
   Excused: 1 - Chu

October 30, 2012 Board of Supervisors - FINALLY PASSED
   Ayes: 10 - Avalos, Campos, Chiu, Cohen, Eisbernd, Farrell, Kim, Mar, Olague and Wiener
   Excused: 1 - Chu
I hereby certify that the foregoing Ordinance was FINALLY PASSED on 10/30/2012 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo  
Clerk of the Board

Mayor  

Date Approved