

Commission on Community Investment and Infrastructure

RESOLUTION NO. 64-2014

Adopted August 5, 2014

AUTHORIZING A PREFERENCE IN SUCCESSOR AGENCY AFFORDABLE HOUSING TO DISPLACED TENANTS WHO HAVE RECEIVED ELLIS ACT HOUSING PREFERENCE CERTIFICATES FROM THE MAYOR'S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT TO THE EXTENT THAT THE PREFERENCE IS CONSISTENT WITH THE SUCCESSOR AGENCY'S ENFORCEABLE OBLIGATIONS, REDEVELOPMENT PLANS, AND APPLICABLE LAW

WHEREAS, The City and County of San Francisco ("City") faces a severe affordable housing crisis. The average rent for one bedroom units is \$2897 and for two bedroom units is \$3898. See Rent Trend Data in San Francisco, *available at* <http://www.rentjungle.com/average-rent-in-san-francisco-rent-trends>. The San Francisco Association of Realtors reports that the 2014 median sales price for a single family dwelling is \$1,049,000 and for a condominium unit is \$940,000. SF Association of Realtors, *Monthly Indicators* (May 2014). See also "S.F. Homes Reach 7-figure Milestone for Median Price," San Francisco Chronicle at A8 (July 17, 2014) (reporting an average rent of \$3,229 and a median price of homeownership units of \$1 million), *available at* <http://www.sfgate.com/default/article/1-million-city-S-F-median-home-price-hits-7-5626591.php>; and,

WHEREAS, The high cost of housing creates incentives for the owners of rental property to evict tenants from housing units with below-market rents, particularly those units that are rent controlled, and imposes a significant hardship on the displaced tenants in finding alternative housing in San Francisco that they can afford; and,

WHEREAS, Under state law, the owners of residential real property have the right to discontinue renting or leasing their rental property to existing tenants and to convert the property to ownership units, Cal. Government Code §S 7060 et al (the "Ellis Act"); and,

WHEREAS, Under the San Francisco Residential Rent Stabilization and Arbitration Ordinance, a property owner who wishes to withdraw rental units from the market must file a notice of intent to withdraw ("Ellis Act Notice") with the Residential Rent Stabilization and Arbitration Board ("Rent Board"), San Francisco Administrative Code § 37.9A (f); and,

WHEREAS, The Rent Board provides annual reports to the Board of Supervisors of the City and County of San Francisco ("Board of Supervisors") on eviction notices and reported that between March 1, 2013 and February 28, 2014 the Rent Board received 216 Ellis Act Notices, which is an 86% increase over the number of Ellis Act Notices received in the previous reporting period (116), *available at* <http://www.sfrb.org/index.aspx?page=46>. In addition, the most recent Rent Board Annual Report states: "The number of units withdrawn from the rental market under the Ellis Act increased from 121 to 192 units." Rent Board Annual Report, Fiscal Year 2012-2013 at page ii, *available at* <http://www.sfrb.org/modules/showdocument.aspx?documentid=2660>; and,

WHEREAS, The Rent Board Annual Report shows that, since the Rent Board first accepted Ellis Act Notices in 1986, there has been significant variations in the number of Ellis Act Notices filed each year and that in the last fifteen years the highest number of Ellis Act Notices (208) affecting 879 units was filed in fiscal year 1999-2000 and the lowest number (24) affecting 72 units was filed in fiscal year 2010-2011; and,

WHEREAS, The San Francisco Planning Commission ("Planning Commission") recommended, by Resolution No. 19029 (Nov. 21, 2013), that the Board of Supervisors approve an ordinance establishing a preference in all affordable housing programs administered or funded by the City to certain tenants evicted under the Ellis Act (the "Ellis Act Housing Preference" or "EAHP"). The Ellis Act Housing Preference would apply only after persons holding "Certificates of Preferences" (because they had been displaced by the activities of the former Redevelopment Agency of the City and County of San Francisco ("Redevelopment Agency")) had exercised their rights, as provided under Ordinance No. 232-08 (Oct 30, 2008); and,

WHEREAS, the Planning Commission made findings in support of the EAHP based on the significant increase in the number of evictions that have occurred over the last year and the EAHP's consistency, "on balance . . . with the Objectives and Policies of the General Plan." Planning Commission Resolution No. 19029 (Nov. 21, 2013), attached as Exhibit A to this Resolution. Nonetheless, the Planning Commission Resolution, at page 2, found: "Conditions that have caused the surge in evictions in the last year can change again in the very near future. Proposed solutions to such emergency issue should allow for a timely response to the current eviction climate without creating a permanent preference for one vulnerable class of residents among others." The Planning Commission Resolution, at page 2, thus recommended that the Board of Supervisors review the EAHP within three years so that it could decide whether "to extend, modify, or cancel this system ;" and,

WHEREAS, The Board of Supervisors approved, by Ordinance No. 277-13 (Dec. 18, 2013), attached as Exhibit B to this Resolution, the EAHP, which establishes a preference, in all City affordable housing programs, for San Francisco tenants who on or after January 1, 2012 received notice that their landlord had filed an Ellis Act Notice and who either i) had resided in the rental unit for at least ten years or ii) had resided in the rental unit for five years if they currently have a life threatening illness or a disability ("Displaced Tenant"). Ordinance No. 277-13 also requires the Board of Supervisors to review the impact of the EAHP in a public hearing within one year and requires a subsequent hearing within three years of the EAHP's effective date; and,

WHEREAS, The EAHP applies only after the holders of a Certificate of Preference under the San Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008, have exercised their priority rights to a unit or assistance under the applicable City affordable housing program described in Ordinance No. 232-08; and,

WHEREAS, The EAHP is available to a Displaced Tenant in existing affordable housing developments for three years from the date that the tenant's landlord filed a Ellis Act Notice or is available in newly-constructed developments for six years from the date of the Ellis Act Notice; provided, however, the EAHP applies only to twenty percent of the affordable units in a newly-constructed development with at least five or more affordable units. Furthermore, the Displaced Tenant must meet all of the specific qualifications for the unit or assistance; and,

WHEREAS, the Mayor's Office of Housing and Community Development ("MOHCD") issued, on April 4, 2014, standards and procedures for implementation of the EAHP in the Ellis Act Housing Preference Program Procedures Manual (April 4, 2014), *available at* <http://sf-moh.org/index.aspx?page=1259> ("EAHPP Manual"); and,

WHEREAS, Under Ordinance No. 277-13 (Dec. 18, 2013), the EAHP applies to affordable housing that the Successor Agency to the Redevelopment Agency of the City and County of San Francisco ("Office of Community Investment and Infrastructure" or "OCII") has completed and transferred to MOHCD as the housing successor under Redevelopment Dissolution Law, Cal. Health & Safety Code § 34176. The EAHP, however, does not currently apply to affordable housing that OCII is required to develop under its enforceable obligations; and,

WHEREAS, MOHCD has requested that OCII, as Successor Agency to the Redevelopment Agency, adopt the EAHP for affordable housing that it is developing and OCII desires to implement a preference for Displaced Tenants that is consistent with its obligations under the Certificate of Preference program, its enforceable obligations, redevelopment plans, and applicable law; and,

WHEREAS, OCII intends to provide an occupancy preference for Ellis Act Displaced Tenants (Ellis Act Housing Preference") in affordable housing developments that receive OCII assistance in the form of OCII funding or that are otherwise authorized under OCII enforceable obligations ("OCII Assisted Projects"); and,

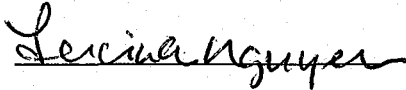
WHEREAS, OCII intends to rely on the eligibility standards for Displaced Tenants established by MOHCD under the EAHPP Manual at pp. 6-10, attached as Exhibit C, and accept EAHP Certificates issued by MOHCD for application in OCII Assisted Projects; now therefore be it

RESOLVED, that the Office of Community Investment and Infrastructure authorizes, in OCII Assisted Projects, a preference for Displaced Tenants who receive a certificate from the MOHCD for the Ellis Act Housing Preference; provided, however, that OCII will apply the EAHP after holders of a Certificate of Preference under the San Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008, have exercised their priority rights to an OCII Assisted Project; and provided further that the OCII will

apply the EAHP on a project-by-project basis to ensure consistency with other preferences and obligations that may apply to a particular OCII Assisted Project; and be it further

RESOLVED, that the Office of Community Investment and Infrastructure shall review the application of the EAHP under this Resolution within three years of its adoption after an annual staff report to decide whether to extend, modify, or cancel the EAHP.

I hereby certify that the foregoing resolution was adopted by the Commission on Community Investment and Infrastructure at its meeting of August 5, 2014.



Commission Secretary



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change HEARING DATE: NOVEMBER 21, 2013

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Project Name: Ellis Act-Displaced Emergency Assistance Ordinance
Case Number: 2013.1468T [Board File No. 13-0968]
Initiated by: Supervisors Chiu, Campos, Kim, and Mar / Introduced October 1, 2013
Staff Contact: Kimia Haddadan and Sophie Hayward, Legislative Affairs
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Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
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Recommendation: **Recommend Approval with Modifications**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend Sections 24.8, 10.100-110, 10.100-370, and 43.3.4 of the Administrative Code and Planning Code Sections 413.10 (Citywide Affordable Housing Fund), 415.5 (Affordable Housing Fee), 415.6 (On-Site Affordable Housing Alternative), and 415.7 (Off-Site Affordable Housing Alternative), to define and establish a preference in all affordable housing programs administered or funded by the City, to certain tenants evicted under the Ellis Act as defined in California Government Code Section 101.1.

The Way It Is Now:

San Francisco's Affordable Housing programs are defined in both the Administrative Code and the Planning Code. In each Code, preference in occupying units or in receiving assistance is given to Residential Certificate of Preference (COP) holders who meet all of the qualifications for the unit, or for the assistance; in the case of HOPE SF funded projects, first preference is given to occupants of existing housing, and second preference to COP holders.¹

Administrative Code

Section 24.8: Preference in all City Affordable Housing Programs for Certificate Preference Holders. This section of the Administrative Code defines the preference for COP holders in occupying units or receiving assistance in all City affordable housing units or programs.

Section 10.100-110 (Mayor's Housing Affordability Fund), Section 10.100-370 (San Francisco HOPE SF Fund), and Section 43.3.4 (Proposed Use of Bond Proceeds). These three sections of the Administrative Code establish the Mayor's Housing Affordability Fund, the HOPE SF Fund, and the formula for the use of bond proceeds related to affordable housing development and down payment

¹A Certificate of Preference is a document originally issued by the San Francisco Redevelopment Agency to residents displaced by the Agency in the 1960s as a result of federally funded urban renewal programs. With the 2012 dissolution of the Redevelopment Agency, the Mayor's Office of Housing has taken over the administration and management of the COP program. Information is available online at: http://www.sfdevelopment.org/ftp/uploadedfiles/Programs/COP_FAQs-Revised_March_2009.pdf (November 4, 2013)

assistance, and require that projects funded by either fund or the bonds give preference in occupying units or receiving assistance to COP holders and/or to existing residents.

Planning Code

Article 4 of the Planning Code defines and outlines development impact fees and fee programs, including the Jobs-Housing Linkage Program (Section 413) and Housing Requirements for Development Projects (Section 415). As in the Administrative Code, preference in occupying units or in receiving assistance is given to COP holders.

Section 413.10. (Citywide Affordable Housing Fund), Section 415.5 (Affordable Housing Fee), Section 415.6 (On-Site Affordable Housing), and Section 415.7 (Off-Site Affordable Housing). Each of these funds, fees, and programs require that preference in occupying units or in receiving assistance be given to COP holders.

The Way It Would Be:

The **Administrative Code** would be amended to define the term "Displaced Tenant," to define the duration of the preference, to identify a timeline for implementation, and to add the new preference to each affordable housing program section. The **Planning Code** would be amended to add the preference to each defined affordable housing fund, fee, or alternative identified in Articles 413 and 415. Specific amendments are as follows:

Administrative Code

Section 24.8: Preference in all City Affordable Housing Programs for Certificate Preference Holders. This section would be amended to define "Displaced Tenant," to create a preference for occupying affordable housing for the new category, to develop a timeline for implementation, to add specific limits to the preference, and to add a one-time report as follows:

- **Definition.** "Displaced Tenant" is defined as any tenant residing in San Francisco who on or after January 1, 2012 has received a notice that the landlord plans to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, and who has:
 - Resided in the unit for a minimum of ten years; or,
 - Resided in the unit for a minimum of five years if the tenant is suffering life-threatening illness verified by the tenant's primary care physician.
- **Duration of Preference.** The Displaced Tenant preference may be applied for three years from the date of filing a notice of intent to withdraw the tenant's unit from the rental market for *existing, currently occupied developments* (emphasis added), or six years for *new developments going through the initial occupancy period* (emphasis added). In new and existing developments, the Displaced Tenant preference applies even if a unit has been offered through the preference and declined; however, the preference terminates when a unit is occupied.
- **Cap on Displaced Tenants Occupying Units in New Development.** The Displaced Tenant preference would apply to a maximum of 20% of units in the initial occupancy period in new developments.
- **Verification.** In order to confirm status as a Displaced Tenant, the following information would be submitted to and verified by MOHCD:
 - Proof that a notice of intent to withdraw the unit from the rental market has been filed with the Rent Board;
 - Proof that the tenant meets the five- or ten-year residency required, as applicable;

- Proof that the tenant is listed on the notice to withdrawal, on the lease for the unit in question, or other information that establishes residency in the unit for the duration required.
- **Timeline for Implementation.** The Mayor's Office of Housing and Community Development (MOHCD) would develop procedures for implementing the COP preference and the Displaced Tenant preference within 90 days of the effective date of the Ordinance.
- **Reporting.** The Board of Supervisors would hold a hearing to assess the impact of the Displaced Tenant preference within one year of the effective date of the Ordinance.

Section 10.100-110 (Mayor's Housing Affordability Fund), and Section 43.3.4 (Proposed Use of Bond Proceeds). These sections are each amended to add a preference, second to the existing COP preference, for Displaced Tenants to occupy units in projects receiving MOHCD funds for affordable housing or for down payment assistance, subject to the limits and cap described above.

Section 10.100-370 (San Francisco HOPE SF Fund). This section is amended to add a third preference, after the existing first preference to current occupants of a housing development receiving HOPE SF Funds and the existing second preference to COP holders, for Displaced Tenants to occupy units in projects receiving HOPE SF Funds, subject to the limits and the cap described above.

Planning Code

Section 413.10 (Citywide Affordable Housing Fund), Section 415.5 (Affordable Housing Fee), Section 415.6 (On-Site Affordable Housing), and Section 415.7 (Off-Site Affordable Housing). Each of these sections would be revised to add a second preference, after the existing preference of COP holders, to Displaced Tenants (as defined above) in occupying units or in receiving assistance from any of the funds, fees, or alternatives associated with affordable housing.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department recommends the following specific modifications to the draft Ordinance:

1. Reduce the eligibility for the preference in new developments to from six years to three years, which is consistent with the proposed eligibility period for existing units that are available for re-sale or re-rental;
2. For existing units that become available for re-sale or re-rental, cap the total number of units reserved for the new preference holders at 20% of the previous year's total number of available re-sale and re-rental units. This cap would be adjusted annually;
3. Require that the preference system be reviewed before a committee of the Board three years after the effective date of the Ordinance, including a report by the Mayor's Office of Housing and the Rent Board on the demographics and income levels of beneficiaries of the new preference

system. Based on this review and report, the Board would decide to extend, modify, or cancel this system.

BASIS FOR RECOMMENDATION

The Department is supportive of efforts to support tenants who have faced residential evictions, which have increased across categories in the last year. The three proposed modifications recommended by the Department are intended to balance the clear need for assistance and support for tenants displaced through the Ellis Act, with the ongoing needs of other vulnerable groups who participate in the affordable housing lottery system.

In order to better understand implications of the proposed legislation, staff has examined both the current eviction landscape in San Francisco and the existing lottery process for San Francisco's affordable housing programs.

Increase in Eviction Rates of All Types: No-Fault and For-Cause Evictions

The focus of the draft Ordinance is on ameliorating the displacement impacts caused by one form of no-fault eviction: the Ellis Act. However, it is important to note that displacement through eviction can and does occur through other processes, including other categories of **no-fault eviction**, such as owner move-ins, demolition, and condominium conversion, as well as so-called "**just-causes**," or tenant defaults, including breach of rental agreement, non-payment or habitual late payment of rent, and committing a nuisance.

The Annual Statistical Report 2012-2013 from the Rent Board states, "Total eviction notices filed with the Board increased by 36% from 1,421 to 1,934, while the number of tenant reports of alleged wrongful eviction decreased by 13% from 570 to 497. The number of units withdrawn from the rental market under the Ellis Act increased from 121 to 192 units."²

This Table highlights statistics from the Rent Board Fiscal Year 2012-2013³:

Eviction Type	Petitions by Building Owners	Units Impacted
Ellis Act	57	192
Development Agreements		232
Owner Move-Ins		234
Nuisance		350
Breach of Lease		510
Other Eviction Types		416
Total Eviction Notices		1934

² San Francisco Residential Rent Stabilization and Arbitration Board Annual Statistical Report 2012-2013. Available online at <http://www.sfrb.org/modules/showdocument.aspx?documentid=2660> (November 12, 2013).

³ Ibid.

As has been widely reported, the total number of evictions in San Francisco – both for-cause and no-fault – have increased not only in the last year, but also significantly since 2010. The recently released report “Analysis of Tenant Displacement in San Francisco,” by the Budget and Legislative Analyst notes a 38.2% increase in all types of evictions while Ellis Act evictions increased by a dramatic 169.8%. This report further highlights that there are specific neighborhoods in which evictions have been especially prevalent: in the five years between 2009-2013, the Inner Mission and Russian Hill/Polk Gulch neighborhoods had among the highest numbers of Ellis Act evictions (117) and among the highest numbers of for-cause evictions (825).⁴

Inclusionary Housing Lotteries

The Mayor’s Office of Housing and Community Development manages the San Francisco Inclusionary Housing Program, and uses a lottery system to allocate opportunities to apply for available units in rental or in ownership properties developed with or supported by funds from one of the city’s affordable housing programs, including project-based inclusionary housing fees or alternatives. MOHCD conducts lotteries for available units in both newly developed properties in their initial occupancy phase, as well as units in existing buildings as units are vacated.

MOHCD’s procedures require that tenants who were displaced in the 1960s by the San Francisco Redevelopment Agency (“Agency”) when it implemented its federally funded urban renewal program receive first preference to apply for affordable housing units. This existing preference, called the Certificate of Preference Program, is tied to displacement by the Redevelopment Agency in the Western Addition and in Hunters Point, and applies to the head of households displaced by the Agency, eligible family members residing in the household at the time of displacement, and to households displaced by the Agency after 2008. The Certificate of Preference Program is scheduled to expire in 2016, unless the Board of Supervisors renews it with an Ordinance.⁵

As of November 5, 2013, MOHCD has conducted 7 lotteries in 2013, including three rental lotteries and four ownership lotteries, with 3,048 applicants, among which only 17 were COP holders, all for rental units.

Data related to the inclusionary housing lottery indicates that the impact of the proposed new preference program would be most significant on re-rental and resale units: only 29 resale ownership units and 10 re-rental units have become available in the last year (and 105 resale units and 50 re-rental units in the last five years) – the low available inventory combined with the increased Ellis Act evictions means that most, if not all, existing re-rental and re-sale units would go to the new Displaced Tenant preference holders. This would likely be the case whether the Ellis Act evictions numbers are relatively high, such as in 2001 when there are 318 Ellis evictions, or whether the numbers are relatively low, such as in 2010, when there were 43 Ellis evictions.

Basis for Recommendation #1: Create a Consistent Three-Year Period of Eligibility

As proposed, the draft Ordinance would create two separate eligibility periods for preference holders: one for new development in the initial occupancy stage, and a second, shorter period, applicable to units

⁴ Pages 14-25, “Memo to Supervisor Campos: Analysis of Tenant Displacement in San Francisco,” Budget and Legislative Analyst, October 30, 2013. Available online at: <http://www.sfbos.org/Modules/ShowDocument.aspx?documentid=47040> (November 5, 2013). Please note that the difference in reported percent increase in evictions between the Rent Board’s Annual Report and the Budget Analyst’s report is due to the difference in their respective reporting calendars.

⁵ <http://www.sf-moh.org/index.aspx?page=268> (November 13, 2013).

that exist and become available for re-sale and re-rental. New development represents the overwhelming majority of units available for the inclusionary program: in the past year, there have been 175 units made available through new development, as compared to 39 units that have become available for re-sale or re-rental. The Department believes that creating a separate eligibility period for a relatively small number of potentially available units would create unnecessary complexity for implementation. In addition, the Department views the program as an emergency response to a volatile housing situation that may change dramatically, again, over the course of three years. The Department recommends a three-year eligibility period for both existing units and for new units that come online through new development.

Basis for Recommendation #2: Cap the Re-sale and Re-rental Units Available to New Preference Holders

The current inclusionary program lotteries are popular: 3,048 applicants have participated in the last year. As drafted, the Ordinance limits the application of the preference to 20% of all units available through new construction. The Department recommends extending a similar limit to units made available for re-sale or re-rental, specifically to limit the preference to 20% of the previous year's total number of available existing units. In the last year, there have been re-rental opportunities for ten units and 29 units available for re-sale. Using the 20% preference limit methodology proposed by the Department, the first year's preference would be limited to 2 re-rental units and six units for re-sale. This cap would serve to preserve opportunities to occupy existing units for other vulnerable groups, while ensuring a preference for tenants evicted through the Ellis Act.

Basis for Recommendation #3: Review of the Preference Program by the Board in Three Years

The existing inclusionary housing allocation program functions as a nearly pure lottery system, given the very low impact of the existing COP program (as noted above, there have been only 17 COP applicants in the last five years, all of which were for rental units). The proposed legislation would transform the lottery system to a ranking system, giving preference to one particularly vulnerable group: long term tenants evicted from rent controlled buildings by the Ellis Act.

As proposed, the draft Ordinance is supported by several General Plan Policies and Objectives that aim to protect and increase access to housing, to provide a range of housing for residents who need support, and to reduce the risk of homelessness. However, it is important to note that there are also General Plan Objectives and Policies that specifically call for equal access among groups for subsidized housing and available units. The draft Ordinance conflicts with these policies, in that it creates a ranking system that gives preference to one vulnerable group (tenants evicted by the Ellis Act), over others (such as the elderly, rent-challenged, disabled, and victims of disasters such as earthquake or fire). General Plan Objectives and Policies that **support** the draft Ordinance include Objective 4, Policy 4.2 ("Provide a range of housing options for residents with special needs for housing support and services"), Objective 5, Policy 5.2 ("Increase access to housing, particularly for households who might not be aware of their housing choices"), and, to some extent, Objective 6, Policy 6.2 (Prioritize the highest incidences of homelessness, as well as those most in need, including families and immigrants"). General Plan Objectives and Policies that **conflict** with the draft Ordinance are Objective 5, Policy 5.1 ("Ensure all residents of San Francisco have equal access to subsidized housing"), and, to some extent, Objective 6, Policy 6.2 ("Prioritize the highest incidences of homelessness, as well as those most in need, including families and immigrants").

This tension between General Plan Objectives and Policies is the basis of the Department's recommendation that the Board of Supervisors evaluate the preference program and its impacts in three years. The proposed modification is intended to allow for a timely response to the current eviction

climate without creating a permanent preference for one vulnerable class of tenants among others and to provide a means to rescind the program in three years if the crisis has subsided. Further, the provision would mirror the sunset provision of the existing COP program.

While the Rent Board does not typically report demographic data related to eviction filings, the Department recommends that MOHCD provide demographic information related to the preference program in its report to the Board of Supervisors.

ENVIRONMENTAL REVIEW

The proposal would result in no physical impact on the environment. The proposed amendments described in the draft Ordinance are exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines, as determined on October 10, 2013.

PUBLIC COMMENT

As of the date of this report, the Planning Department has no public comment on this item.

RECOMMENDATION:	Recommendation of Approval with Modifications
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 13-0968



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19029 HEARING DATE NOVEMBER 21, 2013

Project Name: Ellis Act-Displaced Emergency Assistance Ordinance
Case Number: 2013.1468T [Board File No. 13-0968]
Initiated by: Supervisors Chiu, Campos, Kim, and Mar / Introduced October 1, 2013
Staff Contact: Kimia Haddadan and Sophie Hayward, Legislative Affairs
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Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
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Recommendation: **Recommend Approval with Modifications**

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTIONS 413.10, 415.5, 415.6, AND 415.7 TO DEFINE AND ESTABLISH A PREFERENCE IN ALL AFFORDABLE HOUSING PROGRAMS ADMINISTERED OR FUNDED BY THE CITY TO CERTAIN TENANTS EVICTED UNDER THE ELLIS ACT; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on October 1, 2013, Supervisors Chiu, Campos, Kim, Mar, and Breed introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 13-0968, which would amend Sections 413.10, 415.5, 415.6, and 415.7 of the Planning Code to establish a preference in all affordable housing programs funded or administered by the City for certain tenants displaced under the Ellis Act;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 21, 2013; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve with a modification** the proposed ordinance. Specifically, the Commission recommends the following modification:

1. Require that the preference system be reviewed before a committee of the Board three years after the effective date of the Ordinance, including a report by the Mayor's Office of Housing and the Rent Board on the demographics and income levels of beneficiaries of the new preference system. Based on this review and report, the Board could decide to extend, modify, or cancel this system.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. All types of evictions increased from 1,242 in Rent Board Year 2010 to 1,716 in Rent Board Year 2013, an increase of 38.2 percent. Ellis Act evictions, however, increased by 169.8 percent from 43 in Rent Board Year 2010 to 116 in Rent Board year 2013.
2. The existing inclusionary housing program runs on a lottery system but also provide a Certificate of Preference which is tied to displacement by the Redevelopment Agency in the Western Addition and in Hunters Point, and applies to the head of households displaced by the Agency, eligible family members residing in the household at the time of displacement, and to households displaced by the Agency after 2008.
3. As of November 5, 2013, MOHCD has conducted 7 lotteries in 2013, including three rental lotteries and four ownership lotteries, with 3,048 applicants, among which only 17 were COP holders, all for rental units. Therefore, The existing inclusionary housing allocation program functions as a nearly pure lottery system
4. Conditions that have caused the surge in evictions in the last year can change again in the very near future. Proposed solutions to such emergency issue should allow for a timely response to the current eviction climate without creating a permanent preference for one vulnerable class of residents among others.
5. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are, *on balance*, consistent with the Objectives and Policies of the General Plan (Staff discussion is added in *italic font* below):

HOUSING ELEMENT

OBJECTIVE 4

Foster a housing stock that meets the needs of all residents across lifecycles.

POLICY 4.2

Provide a range of housing options for residents with special needs for housing support and services.

The proposed legislation would offer an affordable housing option long-term residents evicted from rent controlled housing. The current housing market and surge in evictions put such residents at special need for housing assistance.

OBJECTIVE 5

Ensure that all residents have equal access to available units.

The proposed legislation would preference one group of residents to address a recent increase in Ellis Act evictions. There are additional groups who are vulnerable and will not have the first preference for available affordable housing units. As drafted, the legislation would cap the percentage of newly available affordable housing units allocated to the new preference group. With the proposed modifications, that 20% cap on the allocation of units to the preference group would be extended to apply to units available for re-sale and re-rental in addition to newly developed units. Further, the proposed modifications would ensure that the preference program be evaluated in three years to determine whether the eviction climate has changed and the program remains necessary.

POLICY 5.1

Ensure all residents of San Francisco have equal access to subsidized housing units.

The proposed legislation would preference one group of residents to address a recent increase in Ellis Act evictions. As noted above, there groups in addition to those evicted by the Ellis Act who are vulnerable and are eligible for affordable housing. The proposed modifications would ensure that the preference program be evaluated in three years to determine whether the eviction climate has changed and the program remains necessary.

POLICY 5.2

Increase access to housing, particularly for households who might not be aware of their housing choices.

Residents losing their rent-controlled housing due to Ellis Act have a narrow range of options affordable to their income in the existing market. The proposed legislation would provide priority to these residents for affordable housing to help them in an emergency crisis.

OBJECTIVE 6

Reduce homelessness and the risk of homelessness.

POLICY 6.2

Prioritize the highest incidences of homelessness, as well as those most in need, including families and immigrants.

As long time residents of rent-controlled units, residents recently evicted due to Ellis Act will be at risk of homelessness. The proposed legislation will help keep these residents from facing homelessness due to a sudden increase in housing costs which they would not afford. However, without demographic information, it is difficult to determine whether those evicted with the Ellis Act are those "most in need," or most likely to become homeless. The draft Ordinance does not specifically address families and immigrants, but focuses instead on the type of eviction invoked to displace the tenants.

- 8. Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed amendments will not have a negative impact on neighborhood serving retail uses and will not impact opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The amendments will not impact existing housing and neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed amendments will not affect the supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed amendments will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed amendments would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed ordinance would not negatively impact preparedness in the case of an earthquake.

7. That the landmarks and historic buildings be preserved;

Landmarks and historic buildings would not be negatively impacted by the proposed amendments.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed amendments.

8. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance with the modification as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on November 21, 2013.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Antonini, Borden, Fong, Hillis, Moore, and Wu

NOES: None

ABSENT: Commissioner Sugaya

ADOPTED: November 21, 2013

AMENDED IN COMMITTEE
11/25/2013

FILE NO. 130968

ORDINANCE NO. 277-13

1 [Administrative, Planning Codes – Ellis Act Displaced Emergency Assistance Ordinance]

2
3 **Ordinance amending the Administrative and Planning Codes to provide a preference in**
4 **occupying units or receiving assistance under all affordable housing programs**
5 **administered or funded by the City, including all former San Francisco Redevelopment**
6 **Agency affordable housing programs administered or funded by the City, to certain**
7 **tenants being evicted under the Ellis Act, California Government Code Section 7060 et**
8 **seq.; and, making environmental findings and findings of consistency with the General**
9 **Plan and the eight priority policies of Planning Code Section 101.1.**

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

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

18 Section 1. Findings.

19 (a) The Planning Department has determined that the actions contemplated in this
20 ordinance comply with the California Environmental Quality Act (California Public Resources
21 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
22 Supervisors in File No. 130968 and is incorporated herein by reference.

23 (b) On November 21, 2013, the Planning Commission, in Resolution No. 19029, adopted
24 findings that the actions contemplated in this ordinance are consistent, on balance, with the
25 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
2 Board of Supervisors in File No. 130968, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
4 Amendments will serve the public necessity, convenience, and welfare for the reasons set
5 forth in Planning Commission Resolution No. 19029 and the Board incorporates such reasons
6 herein by reference. A copy of Planning Commission Resolution No. 19029 is on file with the
7 Board of Supervisors in File No. 130968.

8
9 Section 2. The Administrative Code is hereby amended by revising Sections 24.8 and
10 37.6, to read as follows:

11 **SEC. 24.8. PREFERENCE IN ALL CITY AFFORDABLE HOUSING PROGRAMS**
12 **FOR CERTIFICATE OF PREFERENCE HOLDERS AND DISPLACED TENANTS.**

13 This Section shall apply to all programs related to the provision of affordable housing,
14 unless specified otherwise. To the extent permitted by law, the Mayor's Office of Housing and
15 Community Development ("MOHCD") or its successor shall give, or require project sponsors or
16 their successors in interest funded through MOHCD to give, preference in occupying units or
17 receiving assistance under all City affordable housing programs, including all former San
18 Francisco Redevelopment Agency affordable housing programs administered or funded by the City.
19 first to Residential Certificate of Preference Holders under the San Francisco Redevelopment
20 Agency's Property Owner and Occupant Preference Program, as reprinted September 11,
21 2008 and effective October 1, 2008 and on file with the Clerk of the Board in File No.
22 080521, who meet all of the qualifications for the unit or assistance; and second to any Displaced
23 Tenant, as defined herein, who meets all of the qualifications for the unit or assistance, provided that
24 the following limitations shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may
25 apply the preference to existing, currently-occupied developments only for three years from the date the

1 landlord filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of
2 intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California
3 Government Code Section 7060 et seq. and the corresponding provisions of the San Francisco Rent
4 Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13)
5 and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments going through the
6 initial occupancy process only for six years from the date the landlord filed with the Rent Board a
7 notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited
8 above, and the corresponding provisions of the Rent Ordinance; and (iii) for any new residential
9 development going through the initial occupancy process, the Displaced Tenant preference shall apply
10 only to twenty percent (20%) of the units in such development. The Displaced Tenant's preference
11 shall still apply even if such Displaced Tenant declines a unit offered through application of the
12 preference, but upon accepting and occupying a unit obtained using the preference, such Displaced
13 Tenant's preference terminates.

14 The Mayor's Office of Housing shall develop procedures and amend its regulations within 90
15 days of the effective date of this legislation to implement the requirements of this Section MOHCD shall
16 implement the Certificate of Preference Holder requirements of this Section by developing procedures
17 and amending its applicable regulations within 90 days of the effective date of Ordinance No. 232-08,
18 and MOHCD shall implement the Displaced Tenant preference requirements of this Section by
19 developing procedures and amending its applicable regulations within 90 days of the effective date of
20 the ordinance creating the Displaced Tenant preference. Said procedures and regulations shall be
21 subject to approval by Resolution of the Board of Supervisors. The requirements of this
22 paragraph are directory rather than mandatory.

23 For purposes of this Section, "Displaced Tenant" shall mean any tenant residing in San
24 Francisco who on or after January 1, 2012 has received a notice that his or her landlord plans to
25 withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the

1 corresponding provisions of the Rent Ordinance, cited above, and, who, as of the date of receipt of the
2 notice of withdrawal from the rental market, has resided in his or her unit continuously for: (i) at least
3 ten years; or (ii) at least five years, if the tenant can verify that he or she is suffering from a life
4 threatening illness as certified by his or her primary care physician or that he or she is disabled, as
5 defined in Administrative Code Section 37.9(i). MOHCD shall establish a process for a tenant to
6 verify his or her status as a "Displaced Tenant," which, at a minimum, shall require a tenant to show:
7 (i) the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the rental
8 market; (ii) the tenant meets the ten or five year residency requirement stated above; and (iii) the
9 tenant either: (A) is listed on the notice of withdrawal; (B) is listed on the lease for the unit in question;
10 or (C) has other evidence sufficient to establish, in MOHCD's reasonable discretion, that he or she has
11 lived in the unit for the required five or ten year period, as applicable. If the Rent Board grants a
12 landlord's request to rescind the Notice of Intent to Withdraw Rental Units under the Ellis Act
13 before a tenant moves out of his or her unit, if at any time prior to moving out of his or her unit,
14 a tenant's landlord rescinds the notice of withdrawal from the rental market, such tenant shall no
15 longer qualify as a "Displaced Tenant". Additionally, if a person disputes a MOHCD determination
16 that he or she does not qualify as a "Displaced Tenant" under this Section, such person shall have the
17 right to a hearing conducted by a Rent Board Administrative Law Judge (as defined in Administrative
18 Code Section 37.2(f)), with MOHCD as the responding party.

19 The Board of Supervisors shall hold a hearing on the status of this ~~Section~~ legislation
20 within 2 years of the effective date of ~~Ordinance 232-08~~ this legislation to assess its impact, or at
21 such time as the ~~Mayor's Office of Housing~~ MOHCD certifies to the Board of Supervisors that, in
22 any one fiscal year, the percent of Residential Certificate of Preference holders obtaining an
23 affordable housing unit by taking advantage of the applicable preferences in this
24 ~~Section~~ legislation in all of the City's affordable housing programs combined exceeds 50% of
25

1 the total number of units made available through the City's affordable housing programs in
2 that year.

3 The Board of Supervisors shall hold an initial hearing to assess the impact of the Displaced
4 Tenant preference within one year of the effective date of the ordinance creating the Displaced Tenant
5 preference. The Board of Supervisors shall hold a subsequent hearing within three years of
6 the effective date, at which MOHCD and the Rent Board shall submit a report on the
7 demographics and income levels of beneficiaries of the Displaced Tenant preference system.

8
9 **SEC. 37.6. POWERS AND DUTIES.**

10 In addition to other powers and duties set forth in this Chapter, and in addition to
11 powers under the Charter and under other City Codes, including powers and duties under
12 Administrative Code Chapter 49 ("Interest Rates on Security Deposits"), the Board shall have
13 the power to:

14 * * * *

15 (o) As provided by Administrative Code Section 24.8, utilize Administrative Law Judges to
16 hear and decide petitions from persons who dispute the Mayor's Office of Housing and Community
17 Development's determination that such person does not qualify as a "Displaced Tenant" (as defined in
18 Administrative Code Section 24.8).

19
20 Section 3. The Administrative Code is hereby amended by revising Sections 10.100-
21 110, 10.100-370, and 43.3.4 to read as follows:

22 **SEC. 10.100-110. MAYOR'S HOUSING AFFORDABILITY FUND.**

23 (a) Establishment of Fund. The Mayor's Housing Affordability Fund is created as a
24 category two fund to receive any prior legally binding obligations, any grants, gifts, bequests
25 from private sources for the purposes cited in subsection (b), any monies repaid to the City as

1 a result of loans made by the City to developers to assist in the development of affordable
2 housing, any repayments of monies to the City where the City is beneficiary under a
3 promissory note which was acquired as a result of the City's housing affordability assistance,
4 any repayments of loans made from this fund and any monies otherwise appropriated to the
5 fund.

6 (b) Use of Fund. The fund shall be used exclusively for the purpose of providing
7 financial assistance to for-profit and nonprofit housing developers, where the contribution of
8 monies from the fund will allow units in a project to be affordable to persons and families of
9 low and moderate income. City departments may recover any costs of administering any
10 project receiving funds from the Mayor's Housing Affordability Fund. The Mayor's Office of
11 Housing *and Community Development* ("MOHCD") shall develop procedures and amend its
12 regulations such that, for all projects funded by this fund, it requires the project sponsor or its
13 successor in interest to give preference in occupying units or receiving assistance first to
14 Residential Certificate of Preference Holders under the San Francisco Redevelopment
15 Agency's Property Owner and Occupant Preference Program, as reprinted September 11,
16 2008 and effective October 1, 2008 and on file with the Clerk of the Board in File No. 080521,
17 who meet all of the qualifications for the unit or assistance; and second to any Displaced Tenant,
18 as defined in Administrative Code Section 24.8, who meets all of the qualifications for the unit or
19 assistance, provided that the following limitations shall apply to the Displaced Tenant preference: (i) a
20 Displaced Tenant may apply the preference to existing, currently-occupied developments only for three
21 years from the date the landlord filed with the Residential Rent Stabilization and Arbitration Board
22 ("Rent Board") a notice of intent to withdraw the tenant's unit from the rental market pursuant to the
23 Ellis Act, California Government Code Section 7060 et seq. and the corresponding provisions of the
24 San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code
25 Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments

1 going through the initial occupancy process only for six years from the date the landlord filed with the
2 Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis
3 Act, cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for any new
4 residential development going through the initial occupancy process, the Displaced Tenant preference
5 shall apply only to twenty percent (20%) of the units in such development. The Displaced Tenant's
6 preference shall still apply even if such Displaced Tenant declines a unit offered through application of
7 the preference, but upon accepting and occupying a unit obtained using the preference, such Displaced
8 Tenant's preference terminates. The Mayor's Office of Housing shall develop procedures and amend
9 its regulations within 90 days of the effective date of this legislation to implement the requirements of
10 this Section.

11 MOHCD shall implement the Certificate of Preference Holder requirements of this Section by
12 developing procedures and amending its applicable regulations within 90 days of the effective date of
13 Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of
14 this Section by developing procedures and amending its applicable regulations within 90 days of the
15 effective date of the ordinance creating the Displaced Tenant preference. Said procedures and
16 regulations shall be subject to approval by Resolution of the Board of Supervisors. The
17 requirements of this paragraph are directory rather than mandatory.

18
19
20 **SEC. 10.100-370. SAN FRANCISCO HOPE SF FUND.**

21 (a) Establishment of Fund. The HOPE SF Fund is hereby established as a category
22 four fund for the purpose of assisting in the replacement and/or rehabilitation of distressed
23 public housing projects in the City and County of San Francisco.

24 * * * *

1 (d) Administration of Fund. The fund shall be administered by the Mayor's Office of
2 Housing *and Community Development* ("*MOHCD*"). The Director of *MOHCD*~~*the Mayor's Office of*~~
3 ~~*Housing*~~ shall promulgate such rules and regulations as he or she may deem appropriate to
4 carry out the provisions of the fund. Such rules and regulations shall be developed in
5 consultation with any appropriate agencies or organizations with which the Director, or his or
6 her designee, may choose to consult. The rules and regulations shall be subject to a public
7 hearing and approved by resolution of the Board of Supervisors. ~~*The Mayor's Office of Housing*~~
8 *MOHCD* shall develop procedures such that, for all projects funded by the HOPE SF Fund,
9 ~~*MOHCD the Mayor's Office of Housing*~~ requires the project sponsor or its successor in interest to
10 give preference in occupying units first to any current occupants of a housing development
11 receiving Funds, *and* second to Residential Certificate of Preference Holders under the San
12 Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as
13 reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the
14 Board in File No. 080521, who meet all of the qualifications for the unit; *and third to any*
15 *Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications*
16 *for the unit or assistance, provided that the following limitations shall apply to the Displaced Tenant*
17 *preference: (i) a Displaced Tenant may apply the preference to existing, currently-occupied*
18 *developments only for three years from the date the landlord filed with the Residential Rent*
19 *Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's unit*
20 *from the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and*
21 *the corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance*
22 *("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may*
23 *apply the preference to new developments going through the initial occupancy process only for six*
24 *years from the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's*
25 *unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of*

1 the Rent Ordinance; and (iii) for any new residential development going through the initial occupancy
2 process, the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such
3 development. The Displaced Tenant's preference shall still apply even if such Displaced Tenant
4 declines a unit offered through application of the preference, but upon accepting and occupying a unit
5 obtained using the preference, such Displaced Tenant's preference terminates.~~The Mayor's Office of~~
6 ~~Housing and Community Development shall develop procedures and amend its regulations within 90~~
7 ~~days of the effective date of this legislation to implement the preference described in this Section.~~

8 MOHCD shall implement the Certificate of Preference Holder requirements of this Section by
9 developing procedures and amending its applicable regulations within 90 days of the effective date of
10 Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of
11 this Section by developing procedures and amending its applicable regulations within 90 days of the
12 effective date of the ordinance creating the Displaced Tenant preference. Said procedures and
13 regulations shall be subject to approval by Resolution of the Board of Supervisors. The
14 requirements of this paragraph are directory rather than mandatory.

15
16 **SEC. 43.3.4. PROPOSED USE OF BOND PROCEEDS.**

17 Following payment of costs of issuance, 85 percent of the bond proceeds will be used
18 for the development of affordable rental housing through the development account described
19 in the regulations, and 15 percent of the bond proceeds will be used for downpayment
20 assistance for low and moderate income first-time homebuyers through the downpayment
21 assistance loan account described in the program regulations; including all legally permissible
22 administrative costs related to the program. The Mayor's Office of Housing and Community
23 Development ("MOHCD") shall develop procedures and amend its regulations such that, for all
24 projects funded by this affordable housing and home ownership bond program, including
25 multifamily rental projects and down payment assistance to individual households, it requires

1 the project sponsor or its successor in interest to give preference in occupying units or
2 receiving assistance first to Residential Certificate of Preference Holders under the San
3 Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as
4 reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the
5 Board in File No. 080521, who meet all of the qualifications for the unit or assistance; and
6 second to any Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the
7 qualifications for the unit or assistance, provided that the following limitations shall apply to the
8 Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to existing, currently-
9 occupied developments only for three years from the date the landlord filed with the Residential Rent
10 Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's unit
11 from the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and
12 the corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance
13 ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may
14 apply the preference to new developments going through the initial occupancy process only for six
15 years from the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's
16 unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of
17 the Rent Ordinance; and (iii) for any new residential development going through the initial occupancy
18 process, the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such
19 development. The Displaced Tenant's preference shall still apply even if such Displaced Tenant
20 declines a unit offered through application of the preference, but upon accepting and occupying a unit
21 obtained using the preference, such Displaced Tenant's preference terminates. The Mayor's Office of
22 Housing shall develop procedures and amend its regulations within 90 days of the effective date of this
23 legislation to implement the requirements of this Section.

24 MOHCD shall implement the Certificate of Preference Holder requirements of this Section by
25 developing procedures and amending its applicable regulations within 90 days of the effective date of

1 Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of
2 this Section by developing procedures and amending its applicable regulations within 90 days of the
3 effective date of the ordinance creating the Displaced Tenant preference. Said procedures and
4 regulations shall be subject to approval by Resolution of the Board of Supervisors. The
5 requirements of this paragraph are directory rather than mandatory.
6

7 Section 4. The Planning Code is hereby amended by revising Sections 413.10, 415.5,
8 415.6 and 415.7 to read as follows:

9 **SEC. 413.10. CITYWIDE AFFORDABLE HOUSING FUND.**

10 All monies contributed pursuant to Sections 413.6 or 413.8 or assessed pursuant to
11 Section 413.9 shall be deposited in the special fund maintained by the Controller called the
12 Citywide Affordable Housing Fund ("Fund"). The receipts in the Fund are hereby appropriated
13 in accordance with law to be used solely to increase the supply of housing affordable to
14 qualifying households subject to the conditions of this Section. The Mayor's Office of Housing
15 and Community Development ("MOHCD") ~~MOH~~ shall develop procedures such that, for all
16 projects funded by the Citywide Affordable Housing Fund, MOHCD requires the project
17 sponsor or its successor in interest to give preference in occupying units first to Residential
18 Certificate of Preference Holders under the San Francisco Redevelopment Agency's Property
19 Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective
20 October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet all of the
21 qualifications for the unit; and second to any Displaced Tenant, as defined in Administrative Code
22 Section 24.8, who meets all of the qualifications for the unit or assistance, provided that the following
23 limitations shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the
24 preference to existing, currently-occupied developments only for three years from the date the landlord
25 filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to

1 withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California Government
2 Code Section 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization
3 and Arbitration Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A;
4 (ii) a Displaced Tenant may apply the preference to new developments going through the initial
5 occupancy process only for six years from the date the landlord filed with the Rent Board a notice of
6 intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and
7 the corresponding provisions of the Rent Ordinance; and (iii) for any new residential development
8 going through the initial occupancy process, the Displaced Tenant preference shall apply only to
9 twenty percent (20%) of the units in such development. The Displaced Tenant's preference shall still
10 apply even if such Displaced Tenant declines a unit offered through application of the preference, but
11 upon accepting and occupying a unit obtained using the preference, such Displaced Tenant's
12 preference terminates. The Mayor's Office of Housing shall develop procedures and amend its
13 regulations within 90 days of the effective date of this legislation to implement the requirements of this
14 Section.

15 MOHCD shall implement the Certificate of Preference Holder requirements of this Section by
16 developing procedures and amending its applicable regulations within 90 days of the effective date of
17 Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of
18 this Section by developing procedures and amending its applicable regulations within 90 days of the
19 effective date of the ordinance creating the Displaced Tenant preference. Said procedures and
20 regulations shall be subject to approval by Resolution of the Board of Supervisors. The
21 requirements of this paragraph are directory rather than mandatory.

22 The Fund shall be administered and expended by the Director of MOHCD, who shall
23 have the authority to prescribe rules and regulations governing the Fund which are consistent
24 with Section 413.1 et seq. No portion of the Fund may be used, by way of loan or otherwise, to
25 pay any administrative, general overhead, or similar expense of any entity.

1
2 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

3 * * * *

4 (f) Use of Fees. All monies contributed pursuant to this Section shall be deposited in
5 the special fund maintained by the Controller called the Citywide Affordable Housing Fund.
6 MOH *The Mayor's Office of Housing and Community Development* ("MOHCD") shall use the funds
7 in the following manner:

8 (1) Except as provided in subsection (2) below, the receipts in the Fund are
9 hereby appropriated in accordance with law to be used to:

10 (A) increase the supply of housing affordable to qualifying households subject
11 to the conditions of this Section; and

12 (B) provide assistance to low and moderate income homebuyers; and

13 (C) pay the expenses of MOHCD in connection with monitoring and
14 administering compliance with the requirements of the Program. MOHCD is authorized to use
15 funds in an amount not to exceed \$200,000 every 5 years to conduct follow-up studies under
16 Section 415.9(e) and to update the affordable housing fee amounts as described above in
17 Section 415.5(b). All other monitoring and administrative expenses shall be appropriated
18 through the annual budget process or supplemental appropriation for MOHCD. The fund shall
19 be administered and expended by MOHCD, which shall have the authority to prescribe rules
20 and regulations governing the Fund which are consistent with this Section.

21 (2) "Small Sites Funds."

22 (A) Designation of Funds. MOHCD shall designate and separately account for
23 10% percent of all fees that it receives under Section 415.1et seq., excluding fees that are
24 geographically targeted such as those in Sections 415.6(a)(1) and 827(b)(C), to support
25 acquisition and rehabilitation of Small Sites ("Small Sites Funds"). MOHCD shall continue to

1 divert 10 percent of all fees for this purpose until the Small Sites Funds reach a total of \$15
2 million at which point, MOHCD will stop designating funds for this purpose. At such time as
3 designated Small Sites Funds are expended and dip below \$15 million, MOHCD shall start
4 designating funds again for this purpose, such that at no time the Small Sites Funds shall
5 exceed \$15 million. When the total amount of fees paid to the City under Section 415.1et seq.
6 totals less than \$10 million over the preceding 12 month period, MOHCD is authorized to
7 temporarily divert funds from the Small Sites Fund for other purposes. MOHCD must keep
8 track of the diverted funds, however, such that when the amount of fees paid to the City under
9 Section 415.1et seq. meets or exceeds \$10 million over the preceding 12 month period,
10 MOHCD shall commit all of the previously diverted funds and 10 percent of any new funds,
11 subject to the cap above, to the Small Sites Fund.

12 (B) Use of Small Sites Funds. The funds shall be used exclusively to acquire or
13 rehabilitate "Small Sites" defined as properties consisting of less than 25 units. Units
14 supported by monies from the fund shall be designated as housing affordable to qualifying
15 households as defined in Section 415.1 for no less than 55 years. Properties supported by the
16 Small Sites Funds must be either

17 (i) rental properties that will be maintained as rental properties;
18 (ii) vacant properties that were formerly rental properties as long as those
19 properties have been vacant for a minimum of two years prior to the effective date of this
20 legislation,

21 (iii) properties that have been the subject of foreclosure or
22 (iv) a Limited Equity Housing Cooperative as defined in Subdivision Code
23 Sections 1399.1et seq. or a property owned or leased by a non-profit entity modeled as a
24 Community Land Trust.

1 (C) Initial Funds. If, within 18 months from the date of adoption of this ordinance,
2 MOHCD dedicates an initial one-time contribution of other eligible funds to be used initially as
3 Small Sites Funds, MOHCD may use the equivalent amount of Small Sites Funds received
4 from fees for other purposes permitted by the Citywide Affordable Housing Fund until the
5 amount of the initial one-time contribution is reached.

6 (D) Annual Report. At the end of each fiscal year, MOHCD shall issue a report to
7 the Board of Supervisors regarding the amount of Small Sites Funds received from fees under
8 this legislation, and a report of how those funds were used.

9 (E) Intent. In adopting this ordinance regarding Small Sites Funds, the Board of
10 Supervisors does not intend to preclude MOHCD from expending other eligible sources of
11 funding on Small Sites as described in this Section, or from allocating or expending more than
12 \$15 million of other eligible funds on Small Sites.

13 (3) For all projects funded by the Citywide Affordable Housing Fund, MOHCD requires the
14 project sponsor or its successor in interest to give preference in occupying units first to Residential
15 Certificate of Preference Holders under the San Francisco Redevelopment Agency's Property Owner
16 and Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and
17 on file with the Clerk of the Board in File No. 080521, who otherwise meet all of the requirements for a
18 unit; and second to any Displaced Tenant, as defined in Administrative Code Section 24.8, who meets
19 all of the qualifications for the unit or assistance, provided that the following limitations shall apply to
20 the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to existing,
21 currently-occupied developments only for three years from the date the landlord filed with the
22 Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the
23 tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section
24 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration
25 Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced

1 Tenant may apply the preference to new developments going through the initial occupancy process only
2 for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the
3 tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding
4 provisions of the Rent Ordinance; and (iii) for any new residential development going through the
5 initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of
6 the units in such development. The Displaced Tenant's preference shall still apply even if such
7 Displaced Tenant declines a unit offered through application of the preference, but upon accepting and
8 occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.
9 Otherwise, it is the policy of the City to treat all households equally in allocating affordable units under
10 this Program.

11
12 **SEC. 415.6. ON-SITE AFFORDABLE HOUSING ALTERNATIVE.**

13 If a project sponsor is eligible and elects to provide on-site units pursuant to Section
14 415.5(g), the development project shall meet the following requirements:

15 * * * *

16 (d) Marketing the Units: MOH The Mayor's Office of Housing and Community Development
17 ("MOHCD") shall be responsible for overseeing and monitoring the marketing of affordable
18 units under this Section. In general, the marketing requirements and procedures shall be
19 contained in the Procedures Manual as amended from time to time and shall apply to the
20 affordable units in the project. MOHCD may develop occupancy standards for units of different
21 bedroom sizes in the Procedures Manual in order to promote an efficient allocation of
22 affordable units. MOHCD may require in the Procedures Manual that prospective purchasers
23 complete homebuyer education training or fulfill other requirements. MOHCD shall develop a
24 list of minimum qualifications for marketing firms that market affordable units under Section
25 415.5et seq., referred to the Procedures Manual as Below Market Rate (BMR units). No

1 developer marketing units under the Program shall be able to market affordable units except
2 through a firm meeting all of the minimum qualifications. The Notice of Special Restrictions or
3 conditions of approval shall specify that the marketing requirements and procedures
4 contained in the Procedures Manual as amended from time to time, shall apply to the
5 affordable units in the project.

6 (1) Lottery: At the initial offering of affordable units in a housing project and when
7 ownership units become available for re-sale in any housing project subject to this Program
8 after the initial offering, MOHCD must require the use of a public lottery approved by MOHCD
9 to select purchasers or tenants.

10 (2) Preferences: MOHCD shall create a lottery system that gives the following
11 preferences: (A) first to Residential Certificate of Preference Holders under the San Francisco
12 Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted
13 September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in
14 File No. 080521, who meet the qualifications of the Program; ~~(B) and~~ second to any Displaced
15 Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications for the unit
16 or assistance, provided that the following limitations shall apply to the Displaced Tenant preference:
17 (i) a Displaced Tenant may apply the preference to existing, currently-occupied developments only for
18 three years from the date the landlord filed with the Residential Rent Stabilization and Arbitration
19 Board ("Rent Board") a notice of intent to withdraw the tenant's unit from the rental market pursuant
20 to the Ellis Act, California Government Code Section 7060 et seq. and the corresponding provisions of
21 the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative
22 Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new
23 developments going through the initial occupancy process only for six years from the date the landlord
24 filed with the Rent Board a notice of intent to withdraw the tenant's unit from the rental market
25 pursuant to the Ellis Act, cited above, and the corresponding provisions of the Rent Ordinance; and

1 (iii) for any new residential development going through the initial occupancy process, the Displaced
2 Tenant preference shall apply only to twenty percent (20%) of the units in such development; and (C)
3 third to people who live or work in San Francisco who meet the qualifications of the Program.
4 The Displaced Tenant's preference shall still apply even if such Displaced Tenant declines a unit
5 offered through application of the preference, but upon accepting and occupying a unit obtained using
6 the preference, such Displaced Tenant's preference terminates. MOHCD shall propose policies and
7 procedures for implementing these preferences to the Planning Commission for inclusion in
8 the Procedures Manual. Otherwise, it is the policy of the Board of Supervisors-City to treat all
9 households equally in allocating affordable units under this Program.

10
11 **SEC. 415.7. OFF-SITE AFFORDABLE HOUSING ALTERNATIVE.**

12 If the project sponsor is eligible and selects pursuant to Section 415.5(g) to provide off-
13 site units to satisfy the requirements of Section 415.1et seq., the project sponsor shall notify
14 the Planning Department and the Mayor's Office of Housing and Community Development
15 ("MOHCD") MOH of its intent as early as possible. The Planning Department and MOHCD
16 shall provide an evaluation of the project's compliance with this Section prior to approval by
17 the Planning Commission or Planning Department. The development project shall meet the
18 following requirements:

19 * * * *

20 (e) Marketing the Units: MOHCD shall be responsible for overseeing and monitoring
21 the marketing of affordable units under this Section. In general, the marketing requirements
22 and procedures shall be contained in the Procedures Manual as amended from time to time
23 and shall apply to the affordable units in the project. MOHCD may develop occupancy
24 standards for units of different bedroom sizes in the Procedures Manual in order to promote
25 an efficient allocation of affordable units. MOHCD may require in the Procedures Manual that

1 prospective purchasers complete homebuyer education training or fulfill other requirements.
2 MOHCD shall develop a list of minimum qualifications for marketing firms that market
3 affordable units under Section 415.1et seq., referred to the Procedures Manual as Below
4 Market Rate (BMR units). No project sponsor marketing units under the Program shall be able
5 to market BMR units except through a firm meeting all of the minimum qualifications. The
6 Notice of Special Restrictions or conditions of approval shall specify that the marketing
7 requirements and procedures contained in the Procedures Manual as amended from time to
8 time, shall apply to the affordable units in the project.

9 (1) Lottery: At the initial offering of affordable units in a housing project and when
10 ownership units become available for resale in any housing project subject to this Program
11 after the initial offering, MOHCD must require the use of a public lottery approved by MOHCD
12 to select purchasers or tenants.

13 (2) Preferences: MOHCD shall create a lottery system that gives *the following*
14 preferences: *(A) first to Residential Certificate of Preference Holders under the San Francisco*
15 *Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted*
16 *September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in*
17 *File No. 080521, who meet the qualifications of the Program; ~~(B)~~ and second to any Displaced*
18 *Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications for the unit*
19 *or assistance, provided that the following limitations shall apply to the Displaced Tenant preference:*
20 *(i) a Displaced Tenant may apply the preference to existing, currently-occupied developments only for*
21 *three years from the date the landlord filed with the Residential Rent Stabilization and Arbitration*
22 *Board ("Rent Board") a notice of intent to withdraw the tenant's unit from the rental market pursuant*
23 *to the Ellis Act, California Government Code Section 7060 et seq. and the corresponding provisions of*
24 *the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative*
25 *Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new*


1 developments going through the initial occupancy process only for six years from the date the landlord
2 filed with the Rent Board a notice of intent to withdraw the tenant's unit from the rental market
3 pursuant to the Ellis Act, cited above, and the corresponding provisions of the Rent Ordinance; and
4 (iii) for any new residential development going through the initial occupancy process, the Displaced
5 Tenant preference shall apply only to twenty percent (20%) of the units in such development; and (C)
6 third to people who live or work in San Francisco who meet the qualifications of the Program.
7 The Displaced Tenant's preference shall still apply even if such Displaced Tenant declines a unit
8 offered through application of the preference, but upon accepting and occupying a unit obtained using
9 the preference, such Displaced Tenant's preference terminates. MOHCD shall propose policies and
10 procedures for implementing these preferences to the Planning Commission for inclusion in
11 the Procedures Manual. Otherwise, it is the policy of the Board of SupervisorsCity to treat all
12 households equally in allocating affordable units under this Program.

13
14 Section 5. Effective Date. This ordinance shall become effective 30 days after
15 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
16 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
17 of Supervisors overrides the Mayor's veto of the ordinance.

18
19 Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
20 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
21 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
22 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
23 additions, and Board amendment deletions in accordance with the "Note" that appears under
24 the official title of the ordinance.

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

By: 
Evan A. Gross
Deputy City Attorney

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City and County of San Francisco
Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 130968

Date Passed: December 10, 2013

Ordinance amending the Administrative and Planning Codes to provide a preference in occupying units or receiving assistance under all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency affordable housing programs administered or funded by the City, to certain tenants being evicted under the Ellis Act, California Government Code, Section 7060 et seq.; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

November 25, 2013 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

November 25, 2013 Land Use and Economic Development Committee - RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

November 26, 2013 Board of Supervisors - PASSED, ON FIRST READING

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

December 10, 2013 Board of Supervisors - FINALLY PASSED

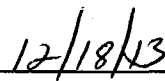
Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

File No. 130968

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 12/10/2013 by the Board of Supervisors of the City and County of San Francisco.


Angela Calvillo
Clerk of the Board


Mayor


Date Approved

**Ellis Act Housing Preference Program
Procedures Manual**

April 4, 2014

(EXCERPT: PP. 6-10)

APPLYING FOR THE CERTIFICATE

Inquiries about applying for the Ellis Act Housing Preference (EAHP) Program certificate should be addressed to the Mayor's Office of Housing and Community Development at (415) 701-5613, via TDD at (415) 701-5503 or at sfhousinginfo@sfgov.org.

Eligibility

Possession of an EAHP certificate does not guarantee that the holder will be eligible for a City Affordable Housing unit. EAHP certificate holders will still be required to meet all other eligibility requirements of the unit for which the holder intends to apply for (e.g. income eligibility, household size requirements, etc.). Additionally, please note that tenants can apply for, and use the EAHP certificate while they are still residing in the unit that they are being evicted from so long as the NOI for that unit was filed and has not been rescinded.

To be eligible for the EAHP, applicants must meet the following criteria:

- (1) A Notice of Intent to Withdraw (NOI) for their unit was filed with the Rent Board on or after January 1, 2012.
- (2) If the NOI was rescinded by the landlord, applicants must demonstrate that they moved out prior to the date it was rescinded.
- (3) Prior to the date the Notice of Intent to Withdraw (NOI) was filed, the applicant had continuously occupied the unit for which the NOI was filed for a period of (i) at least ten years, (ii) at least five years, if the tenant can document that he or she is suffering from a Life-Threatening Illness as certified by his or her primary care physician, or, (iii) at least five years, if the tenant can verify that he or she is Disabled.
- (4) The applicant was at least 18 years of age at the time the Rent Board received the NOI.

Application Process

Each qualified tenant is entitled to their own certificate. Certificates will be issued to individual applicants, rather than to families or groups of individuals. Multiple individuals may not apply for the EAHP certificate with a single application. Youth under 18 years of age seeking to live in affordable housing with an EAHP certificate holder do not need their own certificate in order to receive the EAHP priority. An entire household is entitled to priority placement so long as at least one member of that household holds an EAHP certificate.

The EAHP application forms and a list of required supporting documents are available for download from the MOHCD website. Applicants may also pick up hard copies of the application forms at the Mayor's Office of Housing and Community Development, located at #1 South Van Ness Avenue, 5th Floor.

Only applications that are accurate and complete, with all required documentation attached, will be accepted for review. Applicants may submit their application and attachments by email to sfhousinginfo@sfgov.org, or by mail/in-person at the Mayor's Office of Housing and Community Development. Applications submitted by mail or in person should be addressed as follows:

Ellis Act Housing Preference Program
Mayor's Office of Housing and Community Development
1 South Van Ness Ave, 5th Floor

San Francisco, CA 94103

MOHCD will determine whether or not applicants are eligible within twenty-one (21) calendar days after receiving their complete applications with required documentation. Approved applicants will be issued an official EAHP Certificate. Applicants deemed ineligible will receive a written denial letter including reasons for the determination and information on how to appeal the decision. The appeals process is also described below.

Documentation

Required attachments to the application are:

(1) Proof of Continuous Occupancy

Continuous occupancy means that the same rental unit was a primary residence for a given household at least 10 of 12 months in each calendar year. The applicant must demonstrate continuous occupancy of their rental unit for at least 10 years immediately preceding the date on which the Notice of Intent to Withdraw (NOI) was filed with the Rent Board. MOHCD has, on record, all NOIs that were filed with the Rent Board on or after January 1, 2012. Thus, applicants do not need to supply the NOI to MOHCD. If desired, an applicant may obtain a copy of the NOI for their own records by contacting the Rent Board.

Proof of occupancy will be required for every year of tenancy, up to the required minimum of 10 years (or 5 years for Disabled tenants and tenants with a Life-Threatening Illness). For example, 10 utility bills, one from each year of occupancy, would suffice. Alternately, a combination of the documentation below is allowed. For instance, an official print out from the DMV might cover 7 years of tenancy, while voter registration records might account for an additional 3 years of tenancy.

In cases where an applicant lacks occupancy documentation for one of the five (5) or ten (10) required years, MOHCD may judge that continuous occupancy has nonetheless been sufficiently demonstrated, provided that MOHCD has received satisfactory evidence of occupancy during the years preceding and following the year for which no documentation is available.

As part of the application for an EAHP certificate, ALL applicants must sign an affidavit under penalty of perjury that they were in Continuous Occupancy. Any evidence that the applicant was not occupying the unit continuously for the required five (5) or ten (10) year period will result in a denial of an EHAP application.

The following is a list of documentation in addition to the Continuous Occupancy Affidavit that will be accepted as proof of continuous occupancy.

Note: All records must bear the applicant's name and the address as they appear on the Notice of Intent to Withdraw. All documents must be verifiable by the source. MOHCD reserves the right to reject any documentation as questionable or unverifiable.

- Utility bills (phone, cable, internet, water, or gas) Upon request, Pacific Gas & Electric can provide a monthly payment history which will meet this requirement. Currently, P G & E will provide this history going back to 2002.
- Tax returns
- Voter registration records
- DMV vehicle registration records
- School records

- Paystubs
- Bank statements
- Public benefits records (e.g. SSI/SSP, MediCal, GA, Unemployment Insurance, Foodstamps)
- Proof of rent payment from the applicant to the owner or tenant listed on the Notice of Intent to Withdraw. Rent payment must be documented by bank statements or money order receipt.
- Notarized letter or declaration from the property owner listed on the NOI indicating start and end date of tenancy in the unit listed on the NOI.
- Eviction Notice*
- Notice of Intent to Withdraw**
- Lease***

*Note on Eviction Notice: The applicant's name does not have to be listed on an eviction notice in order for the tenant to qualify for the EAHP certificate. However, if an applicant *does* possess an eviction notice that includes their name, as well as the address as listed on the NOI, then that eviction notice may serve as proof of occupancy for the year in which it was written.

**Note on NOI: The applicant's name does not have to be listed on the NOI in order for the tenant to qualify for an EAHP certificate. However, if an applicant's name *is* listed on the NOI then it may serve as proof of occupancy for the year in which it was filed with the Rent Board. To utilize the NOI as evidence of occupancy during the year it was issued, please indicate so in writing to MOHCD.

***Notes on Leases:

The applicant's name does not have to be listed on the lease in order for the tenant to qualify for an EAHP certificate. Subtenants and tenants without a lease may qualify for the EAHP certificate with sufficient evidence of occupancy.

If an applicant's name *is* listed on the lease but is *not* included on either an NOI or an Eviction Notice, then the lease will be considered proof of occupancy for the term of the lease only. Tenants must submit supplementary documentation for the portion of the required 10-year or 5-year period that the lease does not cover.

If an applicant's name *is* listed on the lease and *also* included on either an NOI or an Eviction Notice, then the lease agreement will be considered sufficient evidence of occupancy for the entire period after its inception until the NOI filing date. Any evidence that the applicant was not occupying the unit continuously for the required five (5) or ten (10) year period, such as evidence that the unit was subletted during that time, will result in a denial of an EHAP application.

- Tenants who signed a lease at least 10 years prior to the date listed on the NOI, *and* who are named on the NOI, need only submit the Lease document as evidence of continuous occupancy.
- Tenants who signed a lease less than 10 years prior to the date listed on the NOI, *and* who are named on the NOI, must submit supplementary documentation for the portion of the required 10-year or 5-year period prior to the lease inception.

(2) Proof of Disability⁸ Status (as applicable)

- Proof of participation in the federal Supplemental Security Income/California State Supplemental Program (SSI/SSP)
- OR

⁸ As defined in Administrative Code Section 37.9 (i)

- Doctor's certification provided on the MOHCD form from a licensed physician or other medical professional accepted by the Social Security Administration. The certification shall serve as proof that the applicant qualifies for SSI/SSP. SSI/SSP eligibility requires the applicant is unable to do substantial, gainful activity because of a mental or physical impairment that can be expected to last for a continuous period of at least 12 months or that will result in death. "Substantial, gainful activity" generally means work with wages in excess of \$500 per month.⁹

Acceptable medical sources are:

- licensed physicians;
- licensed or certified psychologists only for purposes of establishing mental retardation, learning disabilities, and borderline intellectual functioning ;
- licensed optometrists only for purposes of establishing visual disorders;
- licensed speech-language pathologists only for purposes of establishing speech or language impairments¹⁰.

The certification form must be submitted to MOHCD directly from the licensed physician or medical professional.

(3) Proof of Life -Threatening Illness (as applicable)

- Doctor's certification provided on the MOHCD certification form and completed by a licensed physician. For purposes of this program, the definition of Life-Threatening Illness is: A chronic, severe, and life-threatening physical illness that requires continuous medical treatment, for example HIV disease, cancer or severe heart disease. Doctor's certification of life-threatening illness must describe how the condition meets at least one of the below criteria.
 1. substantially impedes the individual's ability to work or perform one or more activities of daily living
 2. has a prognosis of 12 months or less

The certification form must be submitted to MOHCD directly from the licensed physician or medical professional.

Questions and Appeals

Inquiries about documentation required for the EAHP certificate application, and other questions regarding the application process, should be addressed to the Mayor's Office of Housing and Community Development at (415) 701-5613, via TDD at (415) 701-5503 or at sfhousinginfo@sfgov.org.

Applicants who wish to dispute MOHCD's initial eligibility determination may request, in writing, that the Director of Homeownership & Below Market Rate Programs review and reconsider their application. Any supplementary materials or additional information demonstrating eligibility should be submitted at the same time as the request for reconsideration. Requests for reconsideration may be emailed to sfhousinginfo@sfgov.org with the subject heading "Request for EAHP Application Reconsideration"

Requests for reconsideration may be delivered by mail or person to:

Director of Below Market Rate Programs
Ellis Act Housing Preference Program

⁹ From: <http://www.cdss.ca.gov/agedblinddisabled/Pg1423.htm>

¹⁰ From: <http://www.ssa.gov/disability/professionals/bluebook/evidentiary.htm>

Mayor's Office of Housing and Community Development
1 South Van Ness Ave, 5th Floor
San Francisco, CA 94103

Upon receipt of the request for reconsideration, the complete application package will be reviewed by the Director of Homeownership & Below Market Rate Programs and a final MOHCD determination of whether or not the applicant is eligible shall be made within seven (7) calendar days.

Applicants who wish to dispute the final MOHCD determination made by the Director of Homeownership & Below Market Rate Programs are entitled to a hearing at the Rent Board.

The request for a Rent Board hearing must be in writing and may be delivered via email to sfhousinginfo@sfgov.org with the subject heading "Request for EAHP Rent Board Hearing"

Requests for a Rent Board hearing may be delivered by mail or person to:

Request for EAHP Rent Board Hearing
Ellis Act Housing Preference Program
Mayor's Office of Housing and Community Development
1 South Van Ness Ave, 5th Floor
San Francisco, CA 94103

Upon receiving the written request for a Rent Board hearing, MOHCD will provide the Rent Board with application materials and any supplementary information from the applicant as well as contact information for the applicant and any named representatives indicated in the request for Rent Board hearing. The Rent Board will then send a Notice of Hearing at least 10 days before the hearing date to MOHCD and to the applicant and their named representatives.

Requests for postponements must be submitted in writing and will be granted only when there is good cause, such as travel plans made prior to receipt of the Notice of Hearing. Evidence of conflicting plans must be submitted with the request for postponement.

On the hearing date, the applicant and MOHCD may each appear to present evidence and argue their position. The hearing process is designed so that no one needs an attorney, although parties are entitled to have an attorney or other authorized representative assist them at the hearing. The parties or their representatives are permitted to present testimony and evidence, and to cross-examine the other parties and their witnesses. The Administrative Law Judge may also ask questions of the parties and witnesses to ensure that all pertinent facts are brought out. The record may be held open for the submission of additional evidence after the hearing.

After the record is closed, the Rent Board Administrative Law Judge will issue a written decision that will be mailed to all the parties and their representatives. If no appeal is filed, the decision becomes final. If an appeal is filed, portions of the decision may be stayed until the Rent Board Commission acts on the appeal.

For more information on the hearing process, refer to the Rent Board website.