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. EHAP 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still residing in the unit that they are being evicted from so long as the NOI for that unit was filed and has not been rescinded.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(2) If the NOI was rescinded by the landlord, applicants must demonstrate that they moved out prior to the date it was rescinded.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
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 Disability** as applicable
- Proof of participation in the federal Supplemental Security Income/California State Supplemental Program (SSI/SSP)
  OR

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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
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.