Ordinance amending the Administrative Code to provide standards for Residential Tenant Financial Hardship Applications seeking relief from landlord passthrough of capital improvement costs to a tenant, and procedures for reviewing and deciding the Applications; and to require landlord the Rent Board to provide notice to tenants regarding financial hardship application procedures, when a landlord applies for certification of capital improvement costs.

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

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

Section 1. The Administrative Code is hereby amended by amending Section 37.7(h), and adding Section 37.7(i) and (j) to read as follows:

Section 37.7. CERTIFICATION OF RENT INCREASES FOR CAPITAL IMPROVEMENTS, REHABILITATION WORK, ENERGY CONSERVATION IMPROVEMENTS, AND RENEWABLE ENERGY IMPROVEMENTS.

Section 37.7(h). Tenant Financial Hardship Applications.

(1) A tenant may file a hardship application at any time on grounds of financial hardship with respect to any rent increase based on certified costs of capital improvements, rehabilitation work, energy conservation improvements, or renewable energy improvements.
Payment of such rent increases(s) set forth in the hardship application shall be stayed for a period of 60 days from the date of filing, and the stay shall be extended if the Board accepts the application for hearing from the date of filing until a decision is made on the Tenant Financial Hardship Application.

(2) Hardship applications shall be available in multiple languages.

(3) Multilingual notice of hardship application procedures shall be mailed with each Administrative Law Judge or Board decision.

(4) Within six months after the effective date of this ordinance February 21, 2003 the Rent Board shall implement a process for direct outreach to landlords and tenants whose primary language is not English, regarding availability and use of the hardship application procedure. Within three months of implementation the Board shall provide a report to the Board of Supervisors regarding this outreach program, describing the implementation process and any known results.

Section 37.7(i), Tenant Financial Hardship Application Standards and Process.

(1) Standards for Establishing Financial Hardship. A tenant will qualify under Subsection 37.7(h) for relief from payment of a certified capital improvement passthrough, if the tenant demonstrates that one of the following financial hardship situations applies:

(A) Tenant is a recipient of means-tested public assistance, such as Social Security Supplemental Security Income (SSI), General Assistance (GA), Temporary Assistance for Needy Families (TANF), or California Work Opportunity and Responsibility to Kids (CalWORKS); or

(B) Gross household income is less than 80% of the current Unadjusted Area Median Income (AMI) as published by the U.S. Department of Housing and Urban Development (HUD) for the “Metro Fair Market Rent Area” that includes San Francisco; and rent charged is greater than 33% of gross household income; and assets, excluding non-liquid assets and retirement accounts, do not
exceed asset amounts permitted by the Mayor's Office of Housing when determining eligibility for
below market rate (BMR) home ownership; or.

(C) Exceptional circumstances exist, such as excessive medical bills.

(2) Procedures for Filing. A Tenant Financial Hardship Application must be filed:

(A) By each occupant in the unit who is 18 years of age or older, except not by any
subtenant who pays rent to the master tenant (the gross income of the master tenant must include the
amount of the subtenant’s rent payment);

(B) Under penalty of perjury, stating that the tenant qualifies under one of the
standards in Subsection 37.7(i)(1)(A), (B), or (C);

(C) With documentation demonstrating the tenant’s qualifications; and,

(D) With an acknowledgment that the Rent Board will provide a copy of the Tenant
Financial Hardship Application to the landlord.

(3) Stay of Payment. Payment of a certified capital improvement passthrough that is the
subject of a Subsection 37.7(i)(1) Tenant Financial Hardship Application shall be stayed from the
date of filing until a decision is made on the Tenant’s Financial Hardship Application.

(4) Hearing Options. Decision.

(A) A decision on the Application will be issued administratively by a Rent Board
Administrative Law Judge unless a hearing is requested by the landlord within fifteen days of the date
the completed Tenant Financial Hardship Application is mailed to the landlord by the Rent Board, or
unless a Rent Board Administrative Law Judge otherwise determines that a hearing is needed.

(B) Landlord Request for Hearing. Procedures.

(i) A landlord’s request for a hearing on the Application shall specify the
claim(s) in the Application that the landlord disputes, and attach any relevant documentation.

(ii) A Rent Board Administrative Law Judge will review any landlord request for
hearing, to determine whether a hearing is necessary to resolve disputed facts.
(iii) If the landlord's request for a hearing is granted, it will be the landlord's
burden to demonstrate that the tenant's financial hardship eligibility under Subsection 37.7(i)(1)
criteria, as stated in the Application, has not been established.

(iv) If it is determined that a hearing as requested by the landlord is not needed
to determine the facts, a decision on the Application will be issued administratively by a Rent Board
Administrative Law Judge.

(5) Term of Relief. Relief from payment of a certified capital improvement passthrough may be
for an indefinite period, or for a limited period of time, all subject to the landlord's request to reopen
the case if the landlord has information that the tenant is no longer eligible.

(6) Change in Tenant Eligibility Status. If a tenant is granted relief from payment of a
certified capital improvement passthrough under Subsection 37.7(i)(1), and subsequently the tenant is
no longer eligible for such relief:

(A) The tenant shall notify the Rent Board of this changed eligibility status in writing
within 60 days, with a copy to the landlord.

(B) Whether or not the tenant notifies the Rent Board and landlord as provided in
Subsection 37.7(i)(6)(A), the landlord may notify the Rent Board if the landlord has information that
the tenant is no longer eligible, with a copy to the tenant.

(C) Upon receipt of notice under Subsection 37.7(i)(6)(A) or (B), a Rent Board
Administrative Law Judge shall decide whether to grant or deny the previously granted relief. That
decision may be made administratively by a Rent Board Administrative Law Judge without a hearing
unless the Administrative Law Judge determines that a hearing is needed, or unless the landlord
requests a hearing. Any such hearing shall be promptly scheduled.

(7) Any decision granting or denying the Tenant Financial Hardship Application, or any
subsequent decision on a previously granted Tenant Financial Hardship Application, may be appealed
to the Rent Board. The Rent Board’s final decision will be subject to judicial review by writ of
Section 37.7(i). Notice to Tenants Regarding Tenant Financial Hardship Applications.

Section 2. This section is uncodified.

Subsection 37.7(i) of this Ordinance as adopted ("Tenant Financial Hardship Application Standards and Process") shall apply to Tenant Financial Hardship Applications filed under Administrative Code subsection 37.7(h) that are pending at the time this Ordinance becomes effective; except that, tenants shall be permitted to amend their applications to comply with Subsection 37.7(i)(2) "Procedures for Filing." Subsection 37.7(i) shall fully apply to all applications filed after the date this Ordinance becomes effective.

Subsection 37.7(j) of this Ordinance as adopted ("Landlord Notice to Tenants Regarding Tenant Financial Hardship Applications") shall apply only to applications that are filed after the effective date of this ordinance.

Section 3. This section is uncodified.

Effective Date. This ordinance shall become effective 30 days from the date of passage.
Section 4. This section is uncodified.

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

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

By: JONATHAN GIVNER
Deputy City Attorney

Mayor Lee; Supervisors Chiu, Kim, Mar
BOARD OF SUPERVISORS

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09/17/2013
File Number: 130706  Date Passed: September 24, 2013

Ordinance amending the Administrative Code to provide standards for Residential Tenant Financial Hardship Applications seeking relief from landlord passthrough of capital improvement costs to a tenant, and procedures for reviewing and deciding the applications; and to require the Rent Board to provide notice to tenants regarding financial hardship application procedures, when a landlord applies for certification of capital improvement costs.

September 09, 2013 Land Use and Economic Development Committee - AMENDED

September 09, 2013 Land Use and Economic Development Committee - RECOMMENDED AS AMENDED

September 17, 2013 Board of Supervisors - AMENDED
    Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

September 17, 2013 Board of Supervisors - PASSED ON FIRST READING AS AMENDED
    Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

September 24, 2013 Board of Supervisors - FINALLY PASSED
    Ayes: 10 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang and Wiener
    Absent: 1 - Yee
I hereby certify that the foregoing Ordinance was FINALLY PASSED on 9/24/2013 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

10/3/2013
Date Approved