



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Administrative Code Text Change

HEARING DATE: SEPTMEBER 20, 2012

Project Name: **Amendments relating to the Administrative Code:
Public Housing Right to Return to Revitalized Housing**

Case Number: 2012.1066U [Board File No. 12-0812]

Initiated by: Supervisor Olague / Introduced July 31, 2012

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Recommendation: **No Action at This Time**

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ADMINISTRATIVE CODE AMENDMENT

The proposed Ordinance would amend the San Francisco Administrative Code, by adding Chapter 39, Sections 39.1 through 39.9, to establish the San Francisco Right to Revitalized Housing Ordinance and set City policy regarding the Right to Return to Revitalized Public Housing Units.

The Way It Is Now:

There is currently no existing Federal, State or City law that guarantees a person who has been displaced by a public housing revitalization project the right of return to the development once the work is complete. There is existing Federal law that requires that anyone displaced by a public housing revitalization project be provided relocation assistance and to ensure that there is comparable housing or temporary housing. This can either be through the Housing Choice Voucher Program (formerly "Section 8") or placement in temporary or other permanent housing. Because there is no right-of-return there is no process outlining the right-of-return.

Currently, there is an entity called the "San Francisco Relocation Appeals Board" that is under the auspices of the Mayor's Office of Housing. The Appeals Board meets once a year and is described on their web site as "a resource for individuals and families whose residence or business is displaced by public action."

The Way It Would Be:

The proposed Ordinance would establish a right-of-return in the City of San Francisco so that a person who has been displaced by a public housing revitalization project will have the right of return to the development once the work is complete. This would apply only to public housing projects (i.e. projects on property owned by the San Francisco Housing Authority¹) that received money from the Mayor's

¹ The San Francisco Housing Authority is a separate agency not under the control of the City and County of San Francisco. It administers many affordable housing and homeless programs funded by the U.S. Office of Housing and Urban Development (HUD), the U.S. Department of Agriculture (USDA), and the State of California.

Office of Housing. It would not apply to other projects that receive money from the Mayor's Office of Housing. The Ordinance would also establish a framework for the relocation process and establish the San Francisco Relocation Appeals Board as the appeal body for any relocation appeals.

BACKGROUND

The largest public housing effort underway in San Francisco is HOPE SF. According to the HOPE SF website, the "HOPE SF initiative seeks to transform eight of San Francisco's most distressed public housing sites into vibrant, thriving communities through holistic revitalization. HOPE SF will transform 2,500 severely deteriorated public housing sites into sustainable, mixed-income communities with neighborhood retail, community centers, parks, and playgrounds." Particularly relevant to this proposed Ordinance is the HOPE SF commitment to "replace every public housing unit and add new homes to the eight project sites. The final mix of housing will include public housing, market-rate, and affordable rental and ownership housing²." The five active HOPE SF public housing properties include: Hunters View, Sunnyside-Velasco, Westside Courts, Potrero Terrace and Potrero Annex, Alice Griffith. Two future HOPE SF sites include Hunters Point and Westbrook.

Prior to HOPE SF, San Francisco revitalized five public housing projects with funding from HOPE VI. An evaluation of HOPE VI prepared by the UC Berkeley Health Impact Group, for the purposes of evaluating HOPE VI stated,

"There are major concerns about the time taken for redevelopment (in some cases more than a few years), displacement of population caused by the long redevelopment timelines, and the push towards fewer units and mixed-income housing. Rates of return of original residents back to HOPE VI sites vary considerably, but generally are below 50%, which raises serious questions about how relocations were handled (about a third received section 8 vouchers that could be accepted regionally, about a half were relocated to other public housing sites, and the remainder left the public housing program), and whether this resulted in a major exodus away from the redeveloped sites and ensuing gentrification. Worse, in some cases, poor record-keeping may have prevented some of the original residents in reclaiming their spots in the HOPE VI housing (Peterson 2005). Moreover, new screening criteria for the redeveloped sites may have filtered out some residents from returning. Evidence suggests that on the average, original residents had moved to areas of lower poverty and crime, but it is unclear what economic hardships this has created, or how the disruption of social ties and social services has impacted health³."

ISSUES AND CONSIDERATIONS

- Public housing is more than just a physical structure it is a home for the people and families who live within it.

² This quote was retrieved from <http://hope-sf.org/basic.php> on September 11, 2012.

³ This quote was retrieved from the report titled "HOPE IV to HOPE SF San Francisco Public Housing Redevelopment A Health Impact Assessment" from report pages Intro 6-7. This document was retrieved from <http://www.healthimpactproject.org/resources/document/hope-vi-to-hope-sf-san-francisco-public-housing-redevelopment.pdf> on September 11, 2012.

- Demolishing housing can have a negative effect on a community by breaking community bonds that have taken years to develop. Allowing those who have been displaced to return would help to lessen this impact.
- There are several agencies as well as some private non-profits that are involved with the funding, construction, administration and maintenance of public housing in San Francisco. There are also Federal, State and local laws that govern public housing. Given the complexity of the issues it is important to ensure that these agencies have had the opportunity to comment on the Ordinance before it is adopted.
- Several policy's in the General Plan and Proposition M findings call for not only the retention and reinvestment in affordable housing, but also the preservation of community and cultural history.

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 not take a position on the proposed Ordinance at this time.

BASIS FOR RECOMMENDATION

The Mayor's office of Housing, the Housing Authority and Supervisor Olague's office are still fine-tuning the legislation and, as of the date of this report, the interested parties have not agreed upon a final version of the Ordinance. Some areas of concern include potential conflicts that the proposed Ordinance has with existing Federal and State Law, the wording of certain provisions that define which residents have the right to return and which body will hear relocation appeals. Planning Department staff have been in contact with staff from the Mayor's Office of Housing and the Housing Authority. The Department has requested that staff from these offices attend the planning hearing to help answer questions from the Commission.

The intent of the proposed Ordinance is supported by General Plan and Proposition M Findings which encourage the rehabilitation and conservation of existing affordable housing to serve the City's existing and expanding housing needs. The following policies specifically address those goals:

- **Policy 2.4:** Promote improvements and continued maintenance to existing units to ensure long term habitation and safety.
- **Policy 4.1:** Develop new housing, and encourage the remodeling of existing housing, for families with children.
- **Policy 4.3:** Create housing for people with disabilities and aging adults by including universal design principles in new and rehabilitated housing units.
- **Policy 9.3:** Maintain and improve the condition of the existing supply of public housing, through programs such as HOPE SF.
- **Prop M Finding 3:** The City's supply of affordable housing will be preserved and enhanced

At the same time, the General Plan and Proposition M findings encourage the retention of not just housing, but also a neighborhood's sense of community and sense of place:

- **Policy 11.9:** Foster development that strengthens local culture sense of place and history.
- **Prop M Finding 2:** The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

While the overall goal of the legislation is supported by the General Plan, because the final version of the Ordinance is not available, the Planning Department is recommending that the Commission not take an action on the item at this time.

ENVIRONMENTAL REVIEW

CEQA review is not required for this ordinance.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any comments on the proposed Ordinance.

RECOMMENDATION: No Action at This Time
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Attachments:

Exhibit A: Board of Supervisors File No. 12-0812

LEGISLATIVE DIGEST

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

Ordinance amending the San Francisco Administrative Code, by adding Chapter 39, Sections 39.1 through 39.9, to establish the San Francisco Right to Revitalized Housing Ordinance and set City policy regarding the Right to Return to Revitalized Public Housing Units.

Existing Law

There is currently no existing City law regarding this subject matter. There is existing Federal law applicable to operations and development of public housing, including but not limited to the United States Housing Act of 1937, as amended (42 U.S.C. §1437). There is existing Federal and State law applicable to relocation assistance, including but not limited to, the California Relocation Assistance Law, Cal. Govt. Code § 7260 *et seq.*; Uniform Relocation Assistance and Real Property Acquisitions Policies Act, 24 U.S.C. 42 U.S.C. §4601 *et seq.*; the Housing and Community Development Act, 42 U.S.C. §5301 *et seq.*; and the United States Housing Act, 42 U.S.C. § 1437. There is also existing Federal and State law governing replacement housing requirements for public housing and Redevelopment Area developments, including but not limited to the Community Redevelopment Law, Cal. Health & Safety Code §33000 *et seq.* and the Housing and Community Development Act, 42 U.S.C. §5301 *et seq.*

Amendments to Current Law

It is the intent and purpose of the City to preserve the supply of public housing in the City, prevent or minimize the hardship associated with the displacement and relocation of public housing tenants as a result of a public housing development project, and protect the rights of public housing tenants to: (i) maintain their sense of community, (ii) return to revitalized and fully comparable dwelling units upon completion of a public housing development project, and to (iii) provide independent, third-party oversight of relocation appeals associated with public housing redevelopment. This Ordinance proposes to amend current law to provide such protections. The Ordinance establishes, amongst other things:

- (i) an administrative framework and timeline for the relocation planning process for public housing development projects that obtain financial assistance from the City;
- (ii) the right of all current public housing tenants to return to any new development constructed in connection with a public housing development project, provided they have not been evicted from public housing; and
- (iii) for all current public housing tenants being relocated from any public housing development project that receives financial assistance from the City, the right to have their relocation claims heard by the San Francisco Relocation Appeals Board.

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

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3 **Ordinance amending the San Francisco Administrative Code, by adding Chapter 39,**
4 **Sections 39.1 through 39.9, to establish the San Francisco Right to Revitalized Housing**
5 **Ordinance and set City policy regarding the Right to Return to Revitalized Public**
6 **Housing Units.**

7

8 NOTE: Additions are *single-underline italics Times New Roman*;
9 deletions are ~~*strike-through italics Times New Roman*~~.
10 Board amendment additions are double-underlined;
11 Board amendment deletions are ~~strikethrough normal~~.

10

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

12

12 Section 1. The San Francisco Administrative Code is hereby amended by adding
13 Chapter 39, Section 39.1 through 39.9, to read as follows:

14

CHAPTER 39

15

SEC. 39.1. APPLICATION.

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*This Chapter shall apply as a condition of receipt of any Financial Assistance to be provided by
17 the City to a Public Housing Development Project located within the City.*

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SEC. 39.2. INTENT AND PURPOSE.

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*It is the intent and purpose of the City to expressly give public housing tenants a right to
21 revitalized housing after temporary relocation or displacement as a result of a Public Housing Mixed
22 Finance Development Project so long as the tenant is not in eviction processes, having been duly and
23 properly served with a summons and complaint by the SFHA, or has not been evicted from a unit that is
24 managed by the SFHA. In order to further such purpose, it is the intent of the City that, upon*

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1 notification of his/her eligibility for a revitalized housing unit, the tenant shall not be subject to any
2 additional screening by the landlord or someone acting under the landlord's authority.

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

10
11 **SEC. 39.3. DEFINITIONS.**

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

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

15 (b) "City" means the City and County of San Francisco.

16 (c) "Community Redevelopment Law or CRL" means Cal. Health & Safety Code §33000 et
17 seq.

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

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

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

5 (g) “Initiation Date” is the date of the first notice of eligibility for relocation benefits in
6 connection with a Public Housing Development Project

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

10 (i) “Prior Tenants” means any Current Tenant that moves from a Public Housing Unit located
11 in an Existing Public Housing Development, with or without relocation assistance, on or after the
12 Initiation Date of a Public Housing Development Project, unless the Current Tenant was notified, in
13 writing, before such move of their eligibility for relocation assistance and rehousing in a Replacement
14 Unit; provided, any tenant that is evicted for just cause in accordance with applicable law shall not be
15 a Prior Tenant.

16 (j) “Public Housing Development Project” means a development or redevelopment project that
17 involves the demolition, disposition, removal, revitalization, rehabilitation, and/or conversion, in whole
18 or in part, of an Existing Public Housing Development and/or the relocation of Current Tenant(s) in
19 connection therewith.

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

23 (l) “Relocation Assistance Laws” means any and all federal, state, and local relocation
24 assistance laws that may be applicable to a Public Housing Development Project, including but not
25 limited to, the California Relocation Assistance Law, Cal. Govt. Code § 7260 et seq.; Uniform

1 Relocation Assistance and Real Property Acquisitions Policies Act, 24 U.S.C. 42 U.S.C. §4601 et seq.;
2 the Housing and Community Development Act, 42 U.S.C. §5301 et seq.; the United States Housing Act,
3 42 U.S.C. § 1437 and all regulations, guidelines, and/or HUD Handbooks adopted in connection with
4 each; and this Chapter.

5 (m) “Replacement Housing Laws” means any and all federal, state, and local replacement
6 housing laws that may be applicable to a Public Housing Development Project, including but not
7 limited to, the Community Redevelopment Law, Cal. Health & Safety Code §33000 et seq.; the Housing
8 and Community Development Act, 42 U.S.C. §5301 et seq.; and all regulations, guidelines, and/or
9 HUD Handbooks or Notices adopted in connection with each; and this Chapter.

10 (n) “Replacement Unit(s)” means a Public Housing Unit or other residential unit that is
11 developed under federal regulations stated in 24 CFR Part 941 to replace a Public Housing Unit that is
12 demolished, disposed of, removed, revitalized, rehabilitated or converted as a result of a Public
13 Housing Development Project.

14 (o) “SFHA” means the San Francisco Housing Authority, a public body, corporate and politic,
15 organized and existing under the California Housing Authorities Law (Cal. Health & Saf. Code §
16 34200 et seq.).

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18 **SEC. 39.4. REQUIREMENTS FOR AGREEMENTS FOR FINANCIAL ASSISTANCE.**

19 Every officer and employee of the City shall include in any Agreement a provision requiring the
20 recipient of the Financial Assistance, as a condition of receiving the Financial Assistance, to provide
21 Current Tenants and Prior Tenants with a Replacement Unit as provided in subsection (1) and (2) and
22 to obtain review of relocation plans as provided in subsection (3). In addition, the recipient of the
23 Financial Assistance shall be required, as a condition of receiving the Financial Assistance, to include
24 these requirements in any contract with SFHA regarding the Public Housing Development Project.

25 Every officer and employee of the City who enters into such Agreement shall confer with the City

1 Attorney's Office in drafting and negotiating the provisions thereof in order to implement these
2 requirements, including the provision of appropriate remedies for violation of the Agreement.

3 (1) **Right to Replacement Unit.** Subject to Section 39.4(b), all Current Tenants and Prior
4 Tenants whose tenancy at the Existing Public Housing Development Project was not lawfully
5 terminated prior to or after the Initiation Date, unless such lawful termination was done pursuant to the
6 relocation plan in connection with the Public Housing Development Project, shall have a right to, and
7 the highest priority for, a Replacement Unit at the New Development or, if applicable, for an off-site
8 Replacement Unit.

9 (2) **Eligibility and Screening Criteria.** Current Tenants and Prior Tenants shall be deemed
10 eligible for a Replacement Unit, and shall not be subjected to any eligibility or screening criteria for a
11 Replacement Unit other than income eligibility restrictions that may apply to a suitable Replacement
12 Unit due to a subsidy affecting the unit.

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

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22 **SEC. 39.5. APPEALS.**

23 For all Public Housing Development Projects, the Relocation Appeals Board shall be the
24 independent third party to review relocation claims and make advisory recommendations thereon to the
25 SFHA for its final determination. In reviewing the claim and making recommendations to the SFHA,

1 the Relocation Appeals Board shall be guided by the provisions of the Appeals/Grievance Procedure
2 established as part of the adopted relocation plan for the Public Housing Development Project.

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4 **SEC. 39.6. APPLICATION OF OTHER LAWS.**

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

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8 **SEC. 39.7. ENFORCEABILITY.**

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

12
13 **SEC. 39.8. CITY UNDERTAKING LIMITED TO PROMOTION OF GENERAL WELFARE**

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

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

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

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

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8 Section 2. Effective Date. This ordinance shall become effective 30 days from the
9 date of passage. This ordinance is intended to have prospective effect only.

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11 Section 3. This section is uncodified. In enacting this Ordinance, the Board intends to
12 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
13 punctuation, charts, diagrams, or any other constituent part of the Administrative Code that
14 are explicitly shown in this legislation as additions, deletions, Board amendment additions,
15 and Board amendment deletions in accordance with the "Note" that appears under the official
16 title of the legislation.

17
18 APPROVED AS TO FORM:
19 DENNIS J. HERRERA, City Attorney

20 By: _____
21 EVAN GROSS
22 Deputy City Attorney