



March 1, 2010

President David Chiu
Supervisors Chris Daly, David Campos, John Avalos and Ross Mirkarimi
San Francisco City Hall
1 Carlton B. Goodlett Place
San Francisco, California 94102

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BOARD OF SUPERVISORS
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BY _____ SK

Dear Supervisors,

I am writing to request that you withdraw by March 2, 2010 your sponsorship of the recently proposed ballot initiative amending the Rent Ordinance to add a new section for "Tenant Financial Hardship Applications."

The Board of Supervisors upheld my veto of a similar piece of legislation proposed last summer, which restricted rent increases if the increases resulted in the total rent exceeding 33% of a tenant's income. This amended measure takes a similar approach, with some modifications.

Not only does this legislation raise significant operational and legal challenges, it also poses real threats to the very audience the sponsors purportedly seek to protect: lower income renters.

Risks for Low Income Renters

Attached is a correspondence forwarded to me by the Executive Director of the Rent Board stating the Rent Board's concerns and questions regarding the immediate and retroactive impacts presented by the proposed measure. The procedures codified in this measure raise the qualifying bar for those applying for hardship relief, and could even put some tenants at higher risk for eviction. In other words, it undermines the existing hardship policies of the Rent Board and hurts the individuals who most need financial relief.

Another concern is that while this proposed measure would protect certain renters from rent increases, it also will likely spur landlords to increase rents on vacant units in order to recuperate their costs – thereby passing on the increased costs to new tenants. This risk was already highlighted in respect to the similar legislation vetoed last fall, when the Controller's Office of Economic Analysis issued a report that showed an "economic scorecard" in which low income households seeking rental housing faced the highest negative impact from this type of policy change. The Controller's report also emphasized that the difficulties would be "especially acute" for recently unemployed workers, who will likely need to find lower cost housing because of their lost income. Our economy has not greatly improved since last summer: now more than ever, low income tenants can ill afford increased market rental rates.



Contradiction with Existing Environmental Policies

This measure imposes new fiscal burdens on landlords at the same time that we as a City are requiring building owners to institute environmental improvements: such as implementing energy efficiency improvements and adhering with mandatory recycling requirements. We need to do more in this arena – by encouraging building owners to make seismic retrofits in order to secure at-risk soft-story buildings, for example – not less. This measure works against policies the Executive and Legislative branches have already instituted: telling landlords that they potentially have to bear the burden of all environmental, safety and upkeep improvements likely will result in the delay or avoidance of this important work.

Misguided Benefits

This ballot measure also creates an income-based private rental subsidy whereby tenants may claim financial hardship regardless of what their income is, as long as their rent comprises more than 33 percent of their gross income and the tenant has faced a wage reduction of 20 percent or more compared to a year before. In other words, a tenant earning \$150,000 a year may claim financial hardship if he or she grossed \$200,000 in the prior year as long as his/her rent was more than 33% of their income. As a point of reference, in a Controller's report from May 2009, it was estimated that over 35 percent of San Francisco renters now spend over one third of their income on housing.

Legal Concerns

These questions relate only to those concerns within our municipality and do not address the measure's conflicts with state and federal law. I have received a cautionary memo from the City Attorney's Office alerting me to the significant legal risks presented by this proposed legislation – many of which were raised in conjunction with the legislation vetoed last summer.

This legislation was submitted without direct consultation with the Rent Board or the City Attorney's Office, and without a public process that would allow for improvements. Moreover, the Rent Board – the entity responsible for creating and implementing the City's hardship policies which has operated well for tenants for decades – is concerned about the practical application of a number of components in this measure. Through bypassing these tested entities, the sponsors are placing in front of voters a measure that has not been vetted by the City and County's experts to ensure the City is pursuing sound policy that has well-researched practical applications and legitimate legal standing.

Our residents deserve better. Please withdraw this measure.

Sincerely,

Gavin Newsom
Mayor

City and County of San Francisco

Residential Rent Stabilization
and Arbitration Board



January 26, 2010

GAVIN NEWSOM
MAYOR

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EXECUTIVE DIRECTOR

DAVID GRUBER
PRESIDENT

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BARTHOLOMEW MURPHY
AMELIA YAROS

The Honorable Gavin Newsom
Mayor, City and County of San Francisco
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Mayor Newsom,

Rent Board staff has had a chance to review the newly submitted ballot measure that would amend the Rent Ordinance by adding Section 37.3(f) "Tenant Financial Hardship Applications". The following are our concerns/questions regarding the proposed amendment:

1. The measure provides that an increase deferred for hardship becomes effective "as of the date the tenant's income or assets changed to permit the increase". The measure therefore authorizes retroactive increases without any real notice to the tenants, which may put them at risk of eviction for non-payment if they did not realize the increase became effective and pay the increased rent due.
2. The measure does not impose any income limits on tenants claiming financial hardship. Thus, a tenant currently grossing \$150,000 can claim financial hardship if the tenant grossed \$200,000 in the prior year as long as the rent comprises 33% or more of gross income.
3. The measure applies to "any rent increase pursuant to 37.3" without specifying a time limit when the rent increase was imposed. Thus, a tenant who has paid annual rent increases for 10 or 15 years in the past could claim financial hardship as to those previously imposed rent increases.
4. The measure does not require that the tenant did not pay more than 33% of gross income at the inception of the tenancy. Thus, a tenant who paid 34% or more of gross income at the inception of the tenancy would be able to claim a financial hardship as to all rent increases.
5. While the measure provides that it is "in addition to any existing hardship provisions in the Rent Stabilization and Arbitration Ordinance or Rules and Regulations at the time this section 37.3 becomes effective", the Rent Board's existing hardship provisions are a long-term policy of the Board that are not codified in the Ordinance or Regulations. Thus, the measure may inadvertently put the Board's




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existing hardship policy at risk. Moreover, the Board's existing hardship policy is in many respects more liberal than the provisions in the proposed measure, and has operated very well for tenants for decades. For example, under current policy, the Board does not require recipients of government benefits to have "not received a cost of living increase in the past 12 months", which is required by the proposed measure. While current Board policy does not apply to annual and/or banked rent increases, the annual increase for next year is set at a mere 0.1%, and concern about banked increases could be directly addressed without raising the problems set forth above. Given how well the current hardship policy has worked for tenants, it may be helpful to identify specific cases or fact patterns that are not sufficiently addressed by the current policy and craft a remedy around those cases.

If you have any questions, or would like to discuss these issues further, please contact me at the below number or Senior Administrative Law Judge Tim Lee of my staff at 252-4603.

Respectfully Submitted,


Delene Wolf
Executive Director
Rent Board
252-4650