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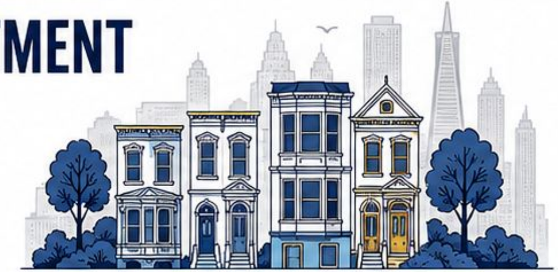
WHEN A RENT-CONTROLLED APARTMENT BECOMES A PIED-À-TERRE

UNDERSTANDING SAN FRANCISCO RENT BOARD RULE 1.21

A tenant may maintain more than one residence—but only one principal place of residence.
If a rent-controlled unit is no longer being used as the tenant's primary home,
a housing provider may petition the Rent Board to remove rent increase limitations.



1 IDENTIFY THE ISSUE

Does the evidence suggest the tenant no longer uses the unit as their principal place of residence?

2 GATHER OBJECTIVE EVIDENCE

Examples include:

- DMV records
- Voter registration
- Utility usage
- Mailing address
- Homeowner's exemption
- Occupancy patterns
- Statements and admissions

3 FILE PETITION & SERVE RENT INCREASE NOTICE

File the Rule 1.21 petition with the Rent Board requesting a determination that the tenant no longer occupies the unit as their principal place of residence.

Then promptly serve the applicable rent increase notice (typically 60- or 90-day notice).

The notice period runs while the petition is pending.

4 RENT BOARD HEARING

The landlord bears the burden of proving the tenant no longer principally resides in the unit.

Both parties may present testimony and documentary evidence.

5 FAVORABLE DECISION

If the petition is granted, the Rent Board finds that the unit is no longer subject to San Francisco's ordinary annual rent increase limitations for that tenancy.

6 MARKET RENT TAKES EFFECT

The increased rent may be collected once both of the following have occurred:

- The required notice period has expired, and
- The landlord has received a favorable Rule 1.21 decision.

WHAT THE RENT BOARD CONSIDERS (TOTALITY OF THE CIRCUMSTANCES)

The Rent Board considers the totality of the circumstances, including whether:

1. Public records show the unit as the tenant's residence on DMV/vehicle registration, driver's license, voter registration, or with any public agency, including federal, state, and local taxing authorities.
2. Utilities are billed to and paid by the tenant at the unit.
3. The tenant's personal possessions have been moved into the unit.
4. The tenant has claimed a homeowner's tax exemption for another property.
5. The unit is the place where the tenant normally returns home, allowing for reasonable temporary absences (e.g., military service, hospitalization, vacation, family emergency, travel for work or education, or other reasonable periods of absence).
6. There is credible testimony from individuals with personal knowledge, or other credible evidence, that the tenant actually occupies the unit as their principal place of residence.

No single factor controls the outcome.

A RENT-CONTROLLED UNIT IS PROTECTED FOR A HOME, NOT A PLACEHOLDER.

Rule 1.21 cases succeed through objective evidence, careful preparation, and strict adherence to Rent Board procedures.

TIMING MATTERS

File the Rule 1.21 petition BEFORE serving the rent increase notice.
In most cases, serve the notice immediately after filing so the 60- or 90-day notice period runs while the petition is pending. ***The increased rent cannot be collected until the Rent Board issues a favorable ruling.***