

Housing Trust Fund. We also expand and standardize the benefits for tenants who want to purchase their units and for tenants who re-locate. A.H.O.P. is a refinement of the “condominium conversion” proposal heard by the Planning Commission nearly three years ago in January 2004.

ADDITIONAL AMENDMENTS

We listened carefully to the ideas and concerns discussed at the two recent Planning Commission meetings on October 18 and November 1, 2006. We are proposing additional amendments to address the key issues raised at these meetings. For the CED Committee meeting already scheduled for November 28, 2006, we plan to provide a fully updated “red-lined” version of the existing law to reflect the amendments proposed in this report.

Amendments Already Incorporated in the Proposal:

The version of the ordinance before you today already includes three improvements to our Sept 28th version:

- ✓ Increased the Penalties if Building Owner (a.k.a. the “Subdivider”) Fails to Notify Tenants Properly [Sections 16.36.020 and 16.36.030]
- ✓ Retained “Conversion Rights” as an option for Building Owners (the other option is the In-Lieu Fee) [Section 16.36.070(A) through (H)]
- ✓ Clarified the Effective Date [Section 16.36.070 (L)]

New Policy Amendments:

We have now developed the following additional amendments that we hope the CED Committee will also recommend to the full City Council.

1. **Reduce the Proposed Cap from 1,500 Conversions a Year to Only 800 a Year**
Our proposal would, for the first time, institute a cap on the number of conversions allowed each year. Nevertheless, a majority of the Planning Commissioners and several citizens speaking at the Commission meetings expressed concern that the proposed cap is too high. The rationale for the cap of 1,500 was to increase our City’s homeownership rate from 41% to over 50% in only 10 years. Nevertheless, we are reducing the cap to only 800 conversions a year, which means that our proposal would impact fewer than 1% of the City’s 88,300 rental units. The downside of reducing the cap is that it is likely to lengthen from 10 years to nearly 20 years the time it will take for Oakland to achieve a 50% homeownership rate.
2. **Increase the 5% discount on the purchase price for existing tenants to a 10% discount.**
This change will enable thousands more Oaklander renters to become homeowners. For example, a tenant would receive a \$30,000 discount on a converted condominium selling for \$300,000. To ensure tenants truly benefit from this substantial discount in the selling price,

we are adding language to enable Staff in the Planning Department to craft appropriate regulations. These regulations would ensure that the building owner does not simply increase the sales price to “recover” this discount. For example, the Staff could determine the market value of each unit by **requiring each building owner to pay for independent appraisal reports** from a qualified appraiser who is licensed in the State of California and a Member of the Appraisal Institute (MAI).

3. **Require the building owners to pay certain “closing costs” not to exceed \$15,000 per unit.** As with the 10% discount, only tenants already renting at the building who are buying a unit in the building would be eligible for this benefit. This benefit is in addition to the 10% discount. Closing costs would include such items as recording fees, title insurance, escrow fees, notary fees, document preparation / delivery fees, the City’s Real Estate Transfer Tax, and third party reports required by the lender (such as appraisal reports and inspection reports). The building owner would not have to pay for lender fees (such as “points”) or other costs not truly required to close the transaction. “Closing Costs” will be clearly defined.
4. **Increase the In-Lieu Fee each year as the Consumer Price Index increases**
So that our proposed In-Lieu fees paid by the Building Owners to the new Affordable Housing Trust Fund increase with inflation, we would add the following language to Section 16.36.070 between (J) and (K): “Beginning on July 1, 2008 said In-Lieu Fees shall be automatically adjusted (and rounded up the nearest \$100 increment) based on the annual increase, if any, in the Consumer Price Index, All Items, for the San Francisco--Oakland--San Jose area, as published by the U.S. Department of Labor Statistics. Said Fees shall be published in the City's Master Fee Schedule.”
5. **Require Building Owners Seeking to Convert Their Buildings to Upgrade Fire Safety**
On page 12 of their report, dated November 14, 2006, CEDA Staff recommends that we use this opportunity to require the building owners to upgrade fire safety in the following ways:
 - install interconnected smoke alarms throughout the building(s),
 - install emergency exit lighting in all hallways,
 - install “Knox Boxes” at building entries to provide quick access to firefighters, and
 - provide prominently displayed addressing on the building’s exterior (so that emergency responders can more easily locate the building).

Even though these upgrades are not required and they are not tied to the goals of increasing homeownership and affordable housing, we are incorporating them into A.H.O.P. in order to improve fire safety.

6. **Exempt from the In-Lieu Fee & Closing Costs Payments Any Conversion Applications Received Before July 1, 2008 for 2 to 4-Unit Buildings Outside of Impact Area**
Owners of 2 to 4-Unit Buildings located outside of the Impact Area are not required by the existing law to obtain “conversion rights” and existing law does not charge a “conversion fee” or “In-Lieu Fee.” We believe, however, that all tenants should receive similar benefits, regardless of the size or location of their buildings -- which is why our original A.H.O.P. proposal includes these smaller buildings. Nevertheless, to provide the owners of these small

buildings with a reasonable transition period, we are further extending the date when the “In-Lieu Fee” and new Closing Cost Payments (mentioned above) would apply. This responds to comments made repeatedly at the Planning Commission meetings.

7. Strengthen Provisions for Notifying Tenants:

As stated earlier, we have already amended our original proposal by increasing the penalties building owners pay if they fail to notify tenants properly of an upcoming conversion. [See Sections 16.36.020 and 16.36.030]. We propose to strengthen this provision by requiring the building owner to provide to the Planning Department copies of the initial notification letters that they provide to each tenant. These must be signed by the building owner and addressed separately to each tenant.

8. Strengthen Provisions to Enforce the Ordinance:

The City Attorney’s Office is drafting language to strengthen the enforcement of the ordinance. This will include enabling tenants and building owners to ask the City’s Housing, Residential Rent and Relocation Board (a.k.a. the Rent Board) for an expedited review of alleged violations of the ordinance.

New Technical Amendments:

9. Further Clarify the “Effective Date”

The City Attorney’s Office is drafting language to further clarify the Effective Date. Currently, Section 16.36.070(L) states, “The In Lieu procedures outlined in subsections I-K inclusive shall become effective on July 1, 2007, or earlier at the election of the applicant.” (As stated earlier, conversions of small buildings outside of the Impact Area would not be subject to the In-Lieu fee or the closing cost credits until July 1, 2008.)

10. Further Clarify The First-Come, First-Serve Process for Reviewing Applications:

We would like to clarify the process for reviewing applications on a first-come, first-serve basis by using the following language:

“Section 16.36.070 (M). The total number of units that the agency can approve in any calendar year cannot exceed 800. Each application will be processed in order of the date the application is deemed complete by the Advisory Agency. Once 800 units are approved, the Advisory Agency may grant no further approvals in that calendar year. Accepted and complete applications for units above the annual cap will remain on file and be processed in order of date deemed complete, and will be acted upon in the next calendar year.”

11. Change the Title for Subsection 16.36.070 to Make It More Clear

Currently, the Title of this Subsection says, “Action on the tentative map or tentative parcel map.” We are going to change this title so that it is clear the building owner has more than one option when converting the building from renter to ownership units: buy conversion rights or pay the In-Lieu fee.

12. Insert a Severability Clause

The City Attorney is drafting a “severability clause.” This is standard language so that, if any part of the ordinance is invalidated, the rest of the ordinance remains in effect.

Additional Technical Amendments:

We may offer additional *technical* amendments to ensure that the revised ordinance is clear.

NEXT STEPS

For the CED Committee meeting already scheduled for November 28, 2006, we plan to provide a fully updated “red-lined” version of the existing law to reflect the amendments proposed in this report.

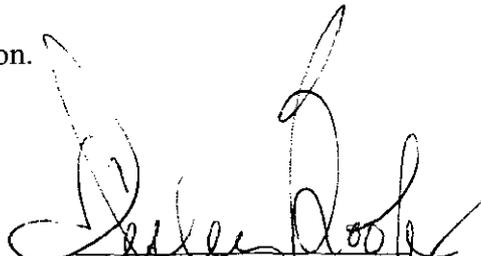
RECOMMENDATION:

We recommend that the City Council adopt these amendments to Chapter 16.36 of the Oakland Municipal Code.

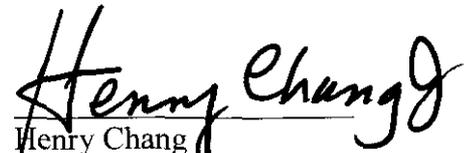
Thank you for your consideration.



Ignacio De La Fuente
President of the City Council



Desley Brooks
Councilmember (D-6)



Henry Chang
Councilmember At-Large

Report prepared by:
Alex Pedersen, Office of the City Council President

Attachments

Please see the four additional Power Point slides which provide a brief update to the October 18, 2006 Power Point presentation (The October 18, 2006 Power Point presentation is already in the agenda packet).

Amendments Proposed in Response to Key Concerns at Planning Commission

Existing Law	Sept.28 Proposal	Amended Proposal
No annual conversion cap	1,500 annual conversion cap	800 annual conversion cap
No required discount for tenants to purchase unit	5% required discount to tenants to purchase unit	10% required discount to tenants to purchase unit
No required closing cost assistance	No required closing cost assistance	Building owner pays certain closing costs up to \$15,000
Building owners pay developers – no funds for affordable housing.	New Conversion Fee option paid to new Affordable Housing Trust Fund for Oakland residents.	New Conversion Fee will increase each year with inflation.
Small building (2-4 units) exempt from requirement to buy conversion rights.	Small buildings required to pay new conversion fee.	Small buildings, outside Impact Area, exempt from fee and closing costs before July 1, 2008.

99% of Oakland's Renter Households Would Not Be Affected By Conversion

- This homeownership proposal would impact less than 1% of the City's 88,000 rental units annually.
- Over 26,929 rental units in Oakland are ineligible for conversion:
 - 3,308 HOA housing units (low-income)
 - 496 Section 8 mod-rehab units (low-income)
 - 6,690 Privately-owned assisted housing (low-income)
 - 16,132 Single family homes that are rented (many low-income)
 - Thousands of additional units receiving City or Federal subsidies. (low-income)
- Of the 1% potentially affected...
 - many will become homeowners.
 - all households with seniors are eligible for lifetime leases for their unit.
 - 10,871 low-income Oakland households receive Section 8 vouchers to pay fair market rents.

Sources: 2000 U.S. Census (single family homes), Consolidated Plan for Housing and Community Development, 2005 (for all other units). There may be some overlap between single family homes and privately-owned assisted housing.

At Least 33,000 Oakland Renters Can Afford to Become Homeowners

- **33,000** Oakland renter households make at least \$50,000 – the income needed to own a \$300,000 home with the new 10% discount.
- Thousands more Oakland renters can buy using:
 - New Affordable Housing Trust Fund
 - City Mortgage Assistance Program – \$75,000
 - American Dream Downpayment – 6% of purchase price
 - California HFA Programs – approximately \$30,000
 - Barbara Lee's new W.O.W. Program - \$100,000
 - Individual Development Accounts and other savings

Assumptions: 30-year fixed rate Cal HFA mortgage at 5.0%, 3% downpayment, \$225/mo HOA fees, 1.3% property taxes, mortgage insurance at 0.86%, 40% income spent on housing, 10% tenant discount. Incomes from 2000 U.S. Census, adjusted according to Dept. of Labor Bureau of Labor Statistics Employment Cost Index. Oakland household incomes likely higher than reported in Census.

Homeownership Can Be More Affordable Than Renting

Sales Price	\$300,000	\$375,000
AHOP 10% Tenant Discount	\$30,000	\$37,500
City, State, or Federal Assistance	\$123,500	\$123,500
Mortgage Payment	\$743/mo	\$1,094/mo
Property Tax	\$259/mo	\$323/mo
HOA Dues (incl. homeowners insurance)	\$225/mo	\$225/mo
Tax Deduction	-\$250/mo	-354/mo
Net Monthly Cost	\$977/mo	\$1,288/mo
Average Market Rent in City of Oakland	\$1,339/mo	

Assumptions: 30-year fixed rate Cal HFA mortgage at 5.0% rate, 3% downpayment, \$225/mo. HOA fees, 1.3% property taxes, 10% discount on unit, assistance from City and State. For a household earning \$50,280 (60% AMI for a 4-person household) \$977 is only 23.3% of this household's monthly income and \$1,288 is 30.75%. Avg. Rent from 3rd Quarter 2006 in Oakland. RealFacts. Inc.