

Purpose of Condominium Conversion Regulations

The purpose of the Affordable Homes for Oaklanders' Plan is to increase homeownership opportunities for Oakland residents, allow the conversion of apartments to condominiums while protecting the interests of the tenants by requiring that tenants receive adequate notice of proposed *condominium conversions*, are advised of their rights with respect to the conversion of their apartment to a condominium, and are afforded reasonable relocation assistance. It is also the intent of these regulations to protect the interests of the community and prospective purchasers by requiring the *applicant* to provide certain information regarding the condition of the *structure* and to require reasonable improvements for the health, safety, and general welfare of the public.

Requirements for Conversion Application:

- (a) Application Packets for Conversions shall contain the following information in addition to that required by previous provisions of this Code:
 - (1) A building history detailing the date of construction, major uses since construction, major repairs since construction, current ownership of buildings and underlying land, and the proposed ownership upon conversion;
 - (2) A report of residential record ("3-R Report"), obtained from the Bureau of Building Inspection;
 - (3) A rental history detailing for each unit the size in square feet, the number of bedrooms, the current or last rental rate, the monthly rental rate for the preceding five years, the monthly vacancy over the preceding three years, and the names of the current tenant or tenants for each unit, including the names of all tenants aged 62 or older or permanently disabled who have resided in the building over the past three years to the extent that such information is known or can be made known to the subdivider;
 - (4) A building condition and sales program report including:
 - (A) A building inspector's report made by either the Bureau of Building Inspection or a certified engineer or architect acceptable to the Bureau of Building Inspection; with said report to contain any Housing Code violations and incipient or potential deficiencies including electrical, plumbing and boiler and energy conservation requirements; where a building to be converted to condominiums is two years old or less, a Certificate of Completion issued by the Bureau of Building Inspection may be accepted in lieu of a building inspector's report;
 - (B) A statement of repairs and improvements and projected cost of same the subdivider plans to make before conveyance of the units by the subdivider;
 - (C) A list of the proposed sales prices for each unit including an indication as to whether the unit will be sold in fee simple or a leasehold interest, the estimated condominium

association dues, the rentals if a leasehold interest is proposed, and a statement of the proposed sales program, particularly plans to promote affirmative action in housing; this information to be used to assure compliance with the requirements of this Code and SMA. The sales prices listed for each unit shall remain in effect and shall not be increased by the subdivider until the unit is sold to the tenant or until the tenant has waived his or her right of first refusal and the unit is made available to the general public, provided that the sales price may be increased by the following amounts: (1) The percentage increase in the Housing Component of the "Bay Area Consumer Price Index, U.S. Dept. of Labor," above the price index in existence as of the date the application is filed; and (2) the pro rata actual cost of any repairs or improvements made by the applicant in addition to those set forth in the application, pursuant to Section 1381(a)(4)(B). During this period of time, any reduction in price of any one unit from the price level indicated on the statement shall not be made without comparable reductions to the prices of all other units;

(D) A summary of tenant contacts including all meetings held with tenants and all information provided to them about the project and their own options; a list of all tenants who have expressed a desire to buy their own units; proposed methods of dealing with those tenants who do not plan to buy, especially those aged 62 or older, the permanently disabled and families with children; and any proposed program for relocation services;

(5) A copy of the purchase agreement to be used for the project;

(6) Copies of all management documents submitted to the California State Department of Real Estate.

SEC. ____ . DENIAL OF TENTATIVE MAP.

When the City Planning Commission determines that vacancies in the project have been increased, or elderly or permanently disabled tenants displaced or discriminated against in leasing units, or evictions have occurred for the purpose of preparing the building for conversion, or if rents in the project over the previous 18 months preceding the date of filing the application have been increased substantially greater than any increase in the residential rent component of the "Bay Area Cost of Living Index, U.S. Dept. of Labor," (except for increases reasonably related to construction of Code-required capital improvements directly related to Code enforcement, or to recoup the costs thereof), or when the City Planning Commission determines that the subdivider has knowingly submitted incorrect information (to mislead or misdirect efforts by agencies of the City Oakland in the administration of this Code), the Tentative Map shall be disapproved and the subdivider may not reapply for 18 months from the date of denial. In evaluation of the current vacancy level under this Section, the increase in rental rates for each unit over the preceding five years and the average monthly vacancy rate for the project over the preceding three years shall be considered. In the evaluation of displacement of elderly tenants any such displacements over the preceding three years, and the reasons therefor, shall be considered.

SEC. ____ . RIGHT OF TENANTS TO CONTRACT FOR THE PURCHASE OF UNIT.

(a) The present tenant or tenants at the date of filing of the application for a Tentative Map of any unit to be converted or, in the event of a voluntary vacation, or eviction for cause, the tenant or tenants in occupancy at the date of issuance of the State Department of Real Estate's Final Subdivision Public Report shall be given a nontransferable contract right to purchase the unit occupied at a ten percent (10%) discount of the price offered to the general public.

(b) The right of contract for purchase of the unit shall extend for 60 days from the date the unit is initially offered to the tenant in writing by the subdivider. The period of acceptance of the offer may be extended if such an agreement is executed in writing by the subdivider and tenant, provided that the tenant may cancel the purchase agreement if the unit is not conveyed to that tenant within six months of the agreement to purchase.

(c) The offer of sale may not be extended by the subdivider to the tenant until the recordation of the Final Map or Parcel Map, and until the issuance of the State Department of Real Estate's Final Subdivision Public Report.

SEC. _____. RENT INCREASE LIMITATION.

The rent to tenants at the time of filing the application for conversion shall not be increased for the period between the filing of the application until relocation takes place or until the subdivision is denied or withdrawn, except that such period shall not exceed two years. At the end of such period, and for one-year period thereafter, any increase in rent shall not exceed the proportionate increase in the residential rent component of the "Bay Area Cost of Living Index, U.S. Dept. of Labor," over that period of time, provided, that the rental increase provisions of this section shall be operative only in the absence of other rent increase or arbitration laws. In cases of hardship due to unusual circumstances to the subdivider, or in cases where a rent increase authorized herein is considered by the tenant to be not consistent with increases in the residential rent component of the "Bay Area Cost of Living Index, U.S. Dept. of Labor," either a subdivider or a tenant may request relief under this Section from the Director of Public Works or his or her designee. In considering the reasonableness of a rent increase, the Director shall consider the current rent paid for comparable units in comparable areas.

SEC. _____. SEC. 1392. SUBDIVIDER TO PROVIDE MOVING EXPENSES.

(a) The subdivider shall bear the cost of moving expenses of any tenant who relocates from the building to be converted. The tenant, at his or her option, shall be reimbursed either for the actual moving expenses up to a maximum of \$1,000, or for the fixed amount allowed by the moving expense schedule of the Central Relocation Services agency. In the event the unit is occupied by a subtenant under an agreement with the tenant, the moving expense reimbursement herein provided shall be shared proportionately by both parties in relation to the actual costs of moving the property of each party.

(b) Availability for such assistance shall be limited to the 120-day period or the period of any lease extension as provided in Section 1391(a) unless a contrary agreement is reached by the subdivider and tenant; provided that tenants aged 62 years or older, or permanently disabled whose tenancy is extended pursuant to Section 1391(c), would be eligible for such assistance at such time that such tenant elects to voluntarily vacate the unit and gives due notice therefor.

(c) Those parties who lease a unit subsequent to the date of filing the application for conversion shall not be eligible to receive assistance provided in this Section unless such an agreement is made between the subdivider and prospective tenant.

SEC. _____. VACATION OF UNITS: STATUTORY NOTICE OF EVICTION REQUIRED

(c) No subdivider or subsequent condominium unit owner shall refuse to renew a lease or extend a rental agreement to any nonpurchasing tenant aged 62 or older at the time of recordation; of the Final Map or Parcel Map, or any tenant permanently disabled. Any extended leases or rental agreements made pursuant hereto shall expire only upon the death or demise of such tenant or the last surviving member of the tenant's household, provided such surviving member is related to the tenant by blood or marriage and is aged 62 or older at the time of death or demise of such tenant, or at such time as the tenant voluntarily vacates the unit after giving due notice of such intent to vacate. Each lease shall contain a provision allowing the tenant to terminate the lease and vacate the unit upon 30 days' notice. Rent charged during the term of any extended lease or rental agreement pursuant to the provisions of this Section shall not exceed the rent charged at the time of filing of the application for conversion, plus any increases proportionate to the increases in the residential rent component of the "Bay Area Cost of Living Index, U.S. Dept. of Labor," provided that the rental increase provisions of this Section shall be operative only in the absence of other applicable rent increase or arbitration laws. This Section shall not alter or abridge the rights or obligations of the parties in performance of their covenants, including but not limited to the provision of services, payment of rent or the obligations imposed by Sections 1941, 1941.1 and 1941.2 of the California Civil Code. There shall be no decrease in dwelling unit maintenance or other services historically provided to such units and such tenants.

SEC. _____. TIME LIMITS FOR REAPPLICATION.

(a) In the event an application for condominium conversion subdivision is withdrawn by the applicant, said application may not be resubmitted for six months from the date of withdrawal.

(b) In the event an application for condominium conversion subdivision is denied, or a Tentative Map is disapproved, the applicant therefor may not submit a new application for the same building for one year from the date of such denial, except that this period may be extended pursuant to the provisions of Section _____.

SEC. 1395. TIME LIMITS FOR SALE.

All units approved for conversion shall be offered for sale to the tenants within one year of the issuance of the State Department of Real Estate's Final Subdivision Public Report.

SEC. _____. PROHIBITION ON CONDOMINIUM CONVERSIONS FOR CERTAIN BUILDINGS.

(a) Notwithstanding any provisions in this Code to the contrary the Department of Planning & Zoning shall not accept a residential condominium conversion subdivision application from; and shall deny a tentative subdivision or tentative parcel map for residential condominium conversion submitted by the owner(s) of a building that meets all of the following conditions:

(1) the building had two or more evictions with each eviction associated with a separate unit(s);

(2) issuance of each eviction notice occurred on or after May 1, 2005; and,

(3) issuance of the eviction notice(s) occurred pursuant to City of Oakland Administrative Code Sections _____.

(b) Subsection (a) also shall apply to the owner(s) of a building with one or more evictions if the person(s) evicted was a senior, disabled, or catastrophically ill tenant and the issuance of the eviction notice occurred in accordance with the conditions of Subsections (a)(2) and (3).

(1) For purposes of this Subsection, a "senior" shall be a person who is 60 years or older and has been residing in the unit for ten years or more at the time of issuance of the eviction notice; a "disabled" tenant is defined for purposes of this Section as a person who is disabled within the meaning of Title 42 U.S.C. Section 12102(2)(A); and a "catastrophically ill" tenant is defined for purposes of this Subsection as a person who is disabled as defined above, and who is suffering from a life threatening illness as certified by his or her primary care physician.

(c) Subsections (a) and (b) shall apply to all buildings subject to such provisions without regard to whether the current owner(s) initiated or otherwise participated in the eviction(s).

(d) If the Department determines that an applicant has knowingly provided false material information concerning subsections (a) or (b) above, the Department shall immediately deny the application for the lottery, or if the applicant has submitted an application for conversion, shall immediately deny the application for conversion. Moreover, the Department, the Director, or other authorized person or entity may also enforce the provisions of this Section under section _____ or any other applicable provision of law as warranted.

(e) For purposes of subsections (a) and (b), "eviction" shall mean the issuance of a written notice terminating tenancy pursuant to Administrative Code Sections 37.9(a)(8), 37.9(a)(10), 37.9(a)(11), or 37.9(a)(13); provided, however, that if the property owner(s) issues then withdraws the eviction notice prior to its expiration and the tenant receiving the notice remains in tenancy for at least 120 days following the expiration of the notice, the property owner's action shall not be deemed an eviction pursuant to this subsection.

(f) Notwithstanding the limitations set forth in Subsection (a), a building that meets the conditions of Subsections (a)(1)--(3) but did not result in the issuance of an eviction notice, as defined, to a senior, disabled, or catastrophically ill tenant shall be eligible for conversion ten (10) years following the date of the last eviction from the building. Conversion of a 2-unit building pursuant to this Section shall be subject to Section 1359 except that both units in the building shall be owner-occupied by the same owners of record for ten (10) years prior to the date of application for Conversion. Conversion of a building of up to six (6) units pursuant to this section shall be subject to the provisions of Article 9 except that the owner occupancy requirements of Sections 1396(a) and (b) shall be ten (10) years prior to the date of registration for the lottery as selected by the Director.

(g) Notwithstanding the limitations set forth in Subsection (a) or (b), a building where one or more eviction notices, as defined, were issued after May 1, 2005, shall be exempt from this Section 1396.2 if each unit in the building was occupied by a separate owner of record on April 4, 2006, the introduction date of this legislation.

Ellis Act amendments:

Evict All Tenants: All tenants in every dwelling on the property must be evicted. No partial building evictions shall be allowed.

Future Rentals: During the first two years after an Ellis eviction, no dwellings can be re-rented. If a dwelling is re-rented during the first five years, the maximum rent is the amount paid by the evicted tenant plus any rent increases which would have been allowed

if the dwelling had never been vacated. In addition, during the ten years after the eviction, re-rental must be first offered to the evicted tenant if that tenant has registered for re-rental.

Reporting and Recording: Government filings are required at the time of the eviction and then annually for five years. In addition, a document must be recorded in the County Records describing the ongoing rental restrictions. This document will show up on all future title reports and may affect the value of the property and the owner's ability to obtain financing.

Protected Tenants: Elderly, disabled, and catastrophically ill tenants are not protected from Ellis evictions, but may be entitled to extended notice. Tenants with unexpired leases cannot be evicted.

Moving Expenses: Low income tenants are entitled to moving expenses of \$4,500, and elderly (over 62) and disabled tenants are entitled to moving expenses of \$3,000.

SEC. _____. LOW AND MODERATE INCOME HOUSING REVIEW.

The availability of low and moderate income housing shall be reviewed every two years by the Department of City Planning and the results of this review shall be included in the Department of City Planning's "Residence Element Update" which is submitted to the Oakland City Council.