

**CITY OF OAKLAND**  
**AGENDA REPORT**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2009 OCT 29 PM 5:40

TO: Office of the City Administrator  
ATTN: Dan Lindheim  
FROM: Councilmembers Kernighan and Kaplan  
DATE: November 10, 2009

**An Ordinance Adopting the Following:**

**1) Amending OMC Chapter 16.36, Condominium Conversions, As Follows:**

**a) To Establish a Pilot Program Providing an Alternate Means for a Limited Number of Higher Rent Apartments to Convert to Condominiums and to Establish Increased Tenant Protections in Buildings so Converted and to Establish an Impact Fee for Such Conversions;**

**B) To Facilitate a Limited Number of Established and Qualified Tenancy in Common Properties to Convert to Condominiums by Eliminating the Requirement for Obtaining Conversion Rights; and**

**C) To Clarify That Residential Rental Units Newly Constructed or Created from Nonresidential Space Can Use the Conversion Rights They Generated To Convert Those Rental Units To Condominiums on a One for One Basis.**

**2) Amending the Master Fee Schedule to Set the Amount of the Impact Fee for Higher Rent Condominium Conversions at \$15,000.**

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**SUMMARY**

This is a proposal to amend Oakland's Condominium Conversion Ordinance, OMC Chapter 16.36, to change three aspects of the Ordinance. The most significant amendment would create a pilot program allowing certain higher rent apartment buildings to convert without acquiring condominium conversion rights, but with the payment of an impact fee. Any buildings converting pursuant to this pilot program would also have to comply with increased tenant protections beyond what are already in the Ordinance.

There are two other amendments included in this proposal. One is a change that would allow a limited number of residential properties owned as Tenants in Common to convert to Condominiums. This would apply to buildings with 5 or more units, where two-thirds of the units have been occupied by owners (or their parents or children) for at least the past two years.

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The third change to the Ordinance is to clarify ambiguous language in the Ordinance that applies to an instance that comes up only rarely. This language makes clear that the conversion rights generated by newly constructed rental units can be used to convert those same rental units to condominiums on a one-for-one basis.

The three different subject matters are discussed separately below, labeled as Amendments A, B, and C.

### **Amendment A. Pilot Program for Conversion of Higher Rent Buildings**

#### BACKGROUND

The issue of condominium conversion has generated a lot of controversy in past years for a variety of reasons, not the least of which is the history of how conversions took place in other cities over the past 30 years. In many cities large numbers of conversions were carried out with few if any controls, which had the effect of substantially reducing the supply of affordable rental units in some cities. Further, conversions took place without adequate protections for tenants' rights which led to many tenants being forced to leave their homes when a building was converted to condos. In order to avoid these outcomes, Oakland adopted a Condominium Conversion Ordinance in 1981, with the intent of limiting the number of conversions that could take place and providing some protections for tenants. This Ordinance has effectively limited the number of conversions that have taken place since its enactment. City staff does not have exact numbers, but estimates that between 500 to 1,000 units have converted in the past 28 years, the vast majority of which have been outside the "impact zone".

#### Conversion Rights

In order to avoid a reduction in supply of rental housing, the Ordinance allowed condo conversions to take place only if an equivalent number of new rental units were created in Oakland. The mechanism to track this replacement was the concept of "conversion rights." The Ordinance provided that one conversion right was created for every new rental unit built. In order for the owner of an existing rental building to convert to condos, that owner must acquire conversion rights from the owner of newly created rental units. The conversion rights also created a financial incentive to produce rental housing units because a developer of rental housing could sell the conversion rights thereby incentivizing the building of new rental housing. Further, the Ordinance designated a geographic area that was considered most in demand for conversions as the "Impact Zone." (A map of the Impact zones--Primary and Secondary--is attached as Exhibit A.) In order to convert a unit in the Impact Zone, the owner must acquire a conversion right which was generated within the Impact zone as well. Until the past five years, very few new rental units were built in the Impact Zone, which effectively limited the number of condo conversions that could take place there.

## KEY ISSUES

### Potential for City Benefit and Increased Protections for Tenants

We are proposing the following Pilot Program as an amendment to the Oakland Condominium Conversion Ordinance. Under the Pilot Program, a maximum of 300 units in higher rent residential buildings in the Impact Zone (including both Primary and Secondary Impact zones) could convert to condominiums during a period of two years. After that the Pilot Program sunsets, unless re-enacted by the City Council. Instead of acquiring conversion rights, qualifying buildings would pay the City an impact fee approximately equivalent to the price for conversion rights in the private market. The impact fee would be used to partially mitigate the loss of rental units. Also, in order to receive rights to convert under this Pilot Program, the subdivider would have to agree to additional tenant protections beyond what is currently required in the Condominium Conversion Ordinance.

### Increased Tenant Protections

Currently the Ordinance contains a variety of tenant protections including the requirement that tenants age 62 and over must receive a lifetime lease in the building. Under the Pilot Program, *all tenants in the building to be converted must be offered a lifetime lease*. The lease will limit the rent to the same annual increase as Oakland's Rent Stabilization Ordinance. In addition, a tenant could not be evicted except when the tenant is in violation of the lease (which would have to be established in court.) Effectively, this means that all tenants who wish to remain as renters may do so, for as many years as they like.

To doubly assure that tenants cannot be forced to move from their unit, a further protection is provided: As a condition of entering into this agreement with the City, the subdivider must agree not to separately sell a unit which is occupied by a tenant with a lifetime lease. This provision is being included in order to avoid a situation where a condo is sold to someone who then wishes to invoke the owner move-in exception to Measure EE (Just Cause Ordinance). Such a situation could not take place under the Pilot program because the subdivider must agree not to sell the occupied unit in the first place.

Some people have inquired about whether the Pilot Program provides for new re-location benefits. It does not, for the simple reason that no tenant will be forced to re-locate under the terms of this Pilot Program.

The Pilot Program does provide that sitting tenants are entitled to a 10% discount on the purchase price, should they choose to purchase a condominium in the building.

### Condo Conversion Need Not Harm Sitting Tenants

Many of us have heard horror stories of buildings where a condo conversion has been handled irresponsibly and without consideration for the well-being of the sitting tenants. What many

people do not know is that many rental buildings have converted to condos without adversely affecting the current tenants and without evicting any of them. Typically, one does not hear about these buildings because there are no complaints. Right here in Oakland there are rental buildings which have received a subdivision map, and then gradually transitioned from rentals to ownership by selling the units only as they became vacant through voluntary turn-over. It may take five years or more years before a majority of the units are owner-occupied in this scenario. This model of gradually transitioning from rentals to condos works well for the subdivider because he/she continues to receive rental income while slowly making the improvements to vacant units and selling them. This is the model that is required under the Pilot Program.

Pilot Program Is Limited to Higher Rent buildings.

The City of Oakland has declared its intent to not only maintain, but increase, the number of rental units that are affordable to residents with low income and moderate incomes. The City dedicates millions of Redevelopment dollars each year to the creation of new affordable housing and also has a program for loans to rehabilitate existing housing. In keeping with the City's policy to maintain the supply of affordable housing, this Pilot Program is restricted to buildings where the average rent in the building is at the high end of the Oakland rental market.

The language defining "higher rent buildings" in the proposed amendment to Section I (1) is as follows:

"For purposes of this section, higher rent buildings consist of buildings where the average rent for units which have been rented to new tenants in the period October 1 2007, through October 31, 2009 is at least \$2,105 per month."

The purpose of this section is to limit the conversions to the highest-priced rental buildings in the city and thereby minimize the impact on tenants in more moderately priced rental units. To arrive at the benchmark rent of \$2,105, we reviewed the current average asking rents for new rentals in Oakland as reported by the industry standard leader, Real Facts. (Real Facts rent survey for Oakland is attached as Exhibit C.)

According to Real Facts, the average rent in the third quarter of 2009 for the city of Oakland is \$1,504. We have arrived at the threshold rent \$2,105 for participation in the Pilot Program by increasing the average rent by 40%. That produces a rent of \$2,105 which is used as the definition of higher rent units.

There has been some discussion of HUD standards on affordability and some expression of concern that under HUD standards a moderate income family of four could afford a rental of \$2,000 per month. However, that definition can be misleading in practical application. The

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buildings that are contemplated herein may include one bedroom units that rent for more than \$2,000 month, which would not be suitable housing for a family of four. Such buildings may also include two and three bedroom units that rent for rates in excess of \$3,000 per month. These would not be affordable to a moderate income family of four. Since condo conversion applies to all of the units in the building and not just a select few that may or may not meet HUD standards on affordability, it is necessary to have a measure that calculates the average rents for all units of all bedroom sizes in building that may be converted.

The purpose of this section defining “higher rent buildings” is to avoid loss of rental housing that is affordable to low and moderate income people. That goal is accomplished by looking at *actual* Oakland rents, as shown in this survey, and restricting participation to buildings where the average rent is significantly above the average rents in Oakland.

The higher rent building must show rents over an average of two years prior to the adoption of this Ordinance. This is to discourage property owners from attempting to raise their asking rent just to try to meet the definition of higher rent in this proposed amendment.

#### Mitigation Fee for Conversion of Higher Rent Rental Units

The proposed impact fee for the pilot program is \$15,000 per unit converted. This fee is commensurate with the fees paid in the private market for condo conversion rights. In this case, the fee is collected for condo conversion and used to mitigate the loss of rental housing. State law requires that a mitigation fee collected cannot exceed the amount needed to produce the mitigation. This fee meets the legal standard in that it is less than the replacement cost of a rental unit, less than the average City subsidy for an affordable unit, and less than the average loan value for a rehabilitation loan. Because one of the purposes of conversion rights was to incentivize the development of new housing, it is appropriate to set the fee at this amount.

Based on projects that were awarded City/Agency funds in FY 2008-09, the cost of development of rental housing ranged from \$344,00 to \$495,000 per unit, with a City/Agency subsidy of between \$32,000 and \$118,000 (the \$32,000 is exceptional). For rehabilitation of existing affordable housing, our FY 2008-09 projects were awarded an average of \$29,000 each in City/Agency funds for rehab costs only (this doesn't include other funds or the cost of acquiring the existing land and structures).

The mitigation fees collected under the pilot program will be set aside for the rehabilitation of existing vacant, distressed and/or foreclosed affordable rental housing developments in the Affordable Housing Trust Fund (Fund 7450).

The purpose of the Fund is described in OMC 15.68.100:

“Funds deposited into the Affordable Housing Trust Fund, and all interest and investment earnings thereon, shall be used to increase, improve, and preserve the supply of affordable housing in the City of Oakland, with priority given to housing for very low income households. For purposes of this paragraph, to "preserve" affordable housing means to acquire, refinance, or rehabilitate housing that is at imminent risk of loss to the affordable housing supply due to termination of use restrictions, non-renewal of subsidy contract, or physical conditions that are likely to result in vacation of the property.”

#### FISCAL IMPACT

Conversion of buildings pursuant to the terms of the Pilot Program will generate \$15,000 per converted unit to the City, to be deposited in the Affordable Housing Trust Fund. A building of 100 units would therefore generate an impact fee of \$1.5 million. Conversion of apartment buildings to condominiums will also result in a substantial increases in annual taxes paid to the City by that property. A building that was assessed as one parcel is now assessed as many parcels, each paying parcel taxes. Each time a condominium unit is sold, Oakland receives real estate transfer tax. Individual units are re-assessed for ad valorem property tax when rental units become owner-occupied, with a resulting dramatic increase in annual property taxes paid to Oakland.

As an example of the increase in various taxes payable to Oakland on a converted building, attached to this report is a chart showing the taxes paid now by the apartment building at 1200 Lakeshore and comparing that to the taxes that would be generated by the same building if it were to convert to condominiums. (Exhibit D.) The chart shows that when half of the 173 units have been sold as condominiums, the increase in annual total tax revenues going to the City for that building will be \$940,000. See the chart for other tax details such as the increase in School Tax revenue.

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#### **Amendment B. Pilot Program for Conversion of Properties Owned as Tenants in Common**

Buildings with five units or more owned by residents as tenants in common may be converted to condominiums without requiring conversion rights if the property meets the following conditions:

1. The property is in the primary or secondary Impact Zone.

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2. Two thirds of the units in the property have been occupied continuously by TIC owners of the building, (or their parents or children) as their principal place of residence for at least two years prior to this amendment.
3. None of the units were removed from the rental market by use of the Ellis Act within five years prior to application for the conversion.

### Rationale

***Demonstrated ownership and stability.*** The requirement for 2/3rds owner-occupancy by owners or their children and parents for a period of two years before application to convert is to ensure that these TICs were not purchased for speculation. These TIC's provide workforce housing for ordinary Oakland citizens who have sought ownership rather than rental status. Because these units are overwhelmingly owner occupied, allowing them to convert does not significantly reduce the number of rental units in the city. Moreover, existing city housing policy promotes both rental and homeownership as goals for the city. This proposal is therefore consistent with the city housing goals as they pertain to promoting homeownership for median income workforce residents.

***The restriction against Ellis Act evictions protects against tenant evictions.*** The prohibition against the use of the Ellis Act to empty out tenants from buildings insures that this Pilot Program cannot be used by any owner who has used that method to convert a rental building to a TIC building..

***Reasonable limits on the number of conversions during the pilot program.*** By restricting the number of TIC conversions to 60 during the pilot program the City reduces the chance that these conversions will have significant impact on the supply of rental housing. First, no more than 1/3<sup>rd</sup> of any building can be rental, thus few rental units will be affected. Second, we do not believe there are many TIC buildings with five or more units in Oakland that meet the requirements of two year occupancy with no prior Ellis Act evictions. For these reasons, the impact on rentals will be minimal.

### Why Do TIC Owners want to convert to condos?

***High interest rates required of TIC owners.*** We know of only one lending company, Circle Bank, which provides TIC financing in the East Bay. Banks, other than Circle Bank, don't understand TIC ownership and financing and reject requests for lending. There is no statewide or national market for TIC lending.

The current minimum interest rate for TIC loans is 7.75%, almost 2 ½ to 3% above current market rates for single family and condo residential lenders. This higher rate eliminates opportunities for many people who might be eligible for ownership of a TIC.

***High down payment requirements for new TIC owners.*** TIC buyers must come up with a 35% down payment to qualify for a TIC loan. The lender, Circle Bank, will only loan 65% of the appraised price of a unit. This compares to 75% to 90% loans for single family homes and condos. The higher down payment requirement greatly restricts the pool of buyers of TICs. As such, if a TIC owner wants to sell his or her interest to a new buyer, the pool of potential buyers is unreasonably restricted.

***Traditional HOA policies for building maintenance do not apply and it is difficult to require 100% participation of owners.*** Routine maintenance, retrofitting, roof, and other structural repairs, which maintain the integrity and value of the whole parcel and ensure compliance with health and safety laws, are very difficult to coordinate in a TIC. Under the TIC method, recalcitrant owners can refuse to participate in needed repairs to maintain the value of the parcel, thereby adversely affecting the majority of other owners and the few renters in the building. Condo HOA laws are more precise and effective to ensure that all owners participate in building maintenance and life safety repairs.

***Responsive to citizen needs and City budgetary needs for the foreseeable future.*** Conversion of TICs to individual condo units will not only allow the owners to refinance and save money on interest, but will also provide new revenue to the city from new parcel taxes and transfer taxes as units are sold from time to time and higher property values for property taxes.

***No adverse impact on the City.*** A limited number of conversions for people who have owner occupied their property for two years without evicting tenants under the Ellis Act will have **no adverse impact** in the city. On the other hand, **it will help** ordinary workforce citizens who purchased their housing under a form of ownership that presents hardships that could be avoided by condo ownership. This is a good policy option and the right thing to do for Oakland residents.

#### FISCAL IMPACT

There is some fiscal benefit to the City as the properties will increase in value when owned as condominiums and therefore will generate more property tax and parcel taxes for Oakland. Should the units sell separately, the sale will generate real estate transfer tax as well.



**Amendment C. Use of Conversion Rights on the Property that Generated the Rights.**

This proposed amendment to OMC 16.36.070 A would clarify existing law regarding the right to use conversion rights on the property that generates the rights on a one- for- one basis. The proposed amendment provides:

“In addition to being used for the conversion of housing units on another property, conversion rights may be used on the property that generated the conversion rights on a one-for-one basis.”

**Rationale**

Existing Oakland law provides that conversion rights are generated when new rental units are constructed. These rights can be created either by the construction of new rental units or by the creation of rental units through the conversion of commercial space to new residential rental units.

The conversion rights so generated can be used to allow condo conversion of other rental properties on a one-for-one basis, provided that the rights are used within seven years of the date that the Certificate of Occupancy is issued. However, if the developer seeks to use the conversion rights *on the building that created the rights*, the City has an ambiguous and inconsistent policy that the rights may not be used on a one-for-one basis. The Planning Commission adopted a policy that for each new rental unit created, the owner can use only half those conversion rights on the building that generated the rights. For example, if an owner converted a commercial building into 50 new rental units, he would create 50 condo conversion rights that he could use to convert 50 rental units in other buildings in the city. However, if after he created the 50 unit building, he sought to convert that 50 unit building into condos, his conversion rights could only be used to convert ½ of the building (25 units).

This is an illogical policy and has no basis in the language of the Ordinance itself. If a developer can use rights on a one-for-one basis on other properties, he should be able to use the rights on a one- for- one basis on the property that created the rights. The one sentence added to the Ordinance will correct and clarify the issue.

This construction of the Ordinance also has the unintended consequence of encouraging the removal of rent-controlled rental units from the Oakland housing market. Older buildings are subject to the rent restrictions in OMC 8.22 et.seq. Newly constructed rental units are exempt from rent regulation (OMC 8.22.030 A (5)). If the owner can only use ½ of a conversion right on his exempt rental property, but a whole conversion right on an older rent regulated building, the owner is more likely to use the conversion rights to on a rent controlled building.

The city should prefer the conversion of exempt properties rather than older rent-controlled properties as the older rent-controlled buildings are likely to have longer term tenants and greater price affordability. This policy preference will be accomplished by clarifying that owners can use conversion rights created by newly constructed units in their newly constructed building on a one-for-one basis.

### **FISCAL IMPACT**

There is no fiscal impact to the City from this clarification as to the use of condo conversion rights.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** The conversion of a limited number of higher rent apartments to condos will generate increased property taxes, parcel taxes and transfer taxes every year in the future. The impact fee that the City will charge for the right to convert will generate funds that the City can use to rehabilitate older rental housing and assist with the building of new rental housing.

**Environmental:** The impact fees received by the City under the Pilot Program will assist with the remediation of blighted properties. There are no physical environmental impacts of the conversions, as the residential buildings already exist.

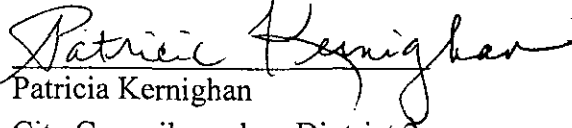
**Social Equity:** The pilot program for converting higher rent units will not remove low or moderately price housing from the rental market. Existing tenants of the converted buildings will receive lifetime leases and therefore will not be displaced. They will continue to receive the benefits of the Oakland Rent Stabilization Ordinance. The impact fees paid for the conversion rights will be used to rehabilitate rental housing that is affordable to low income residents of Oakland.

**Disability and Senior Citizen Access:** There are no physical access issues, as all the affected buildings already exist. All tenants of residential buildings to be converted will receive lifetime leases so they can remain as renters for as many years as they like. This applies to disabled and senior citizens as well, so there is no adverse impact on seniors or persons with disabilities.

**ACTION REQUESTED OF THE CITY COUNCIL**

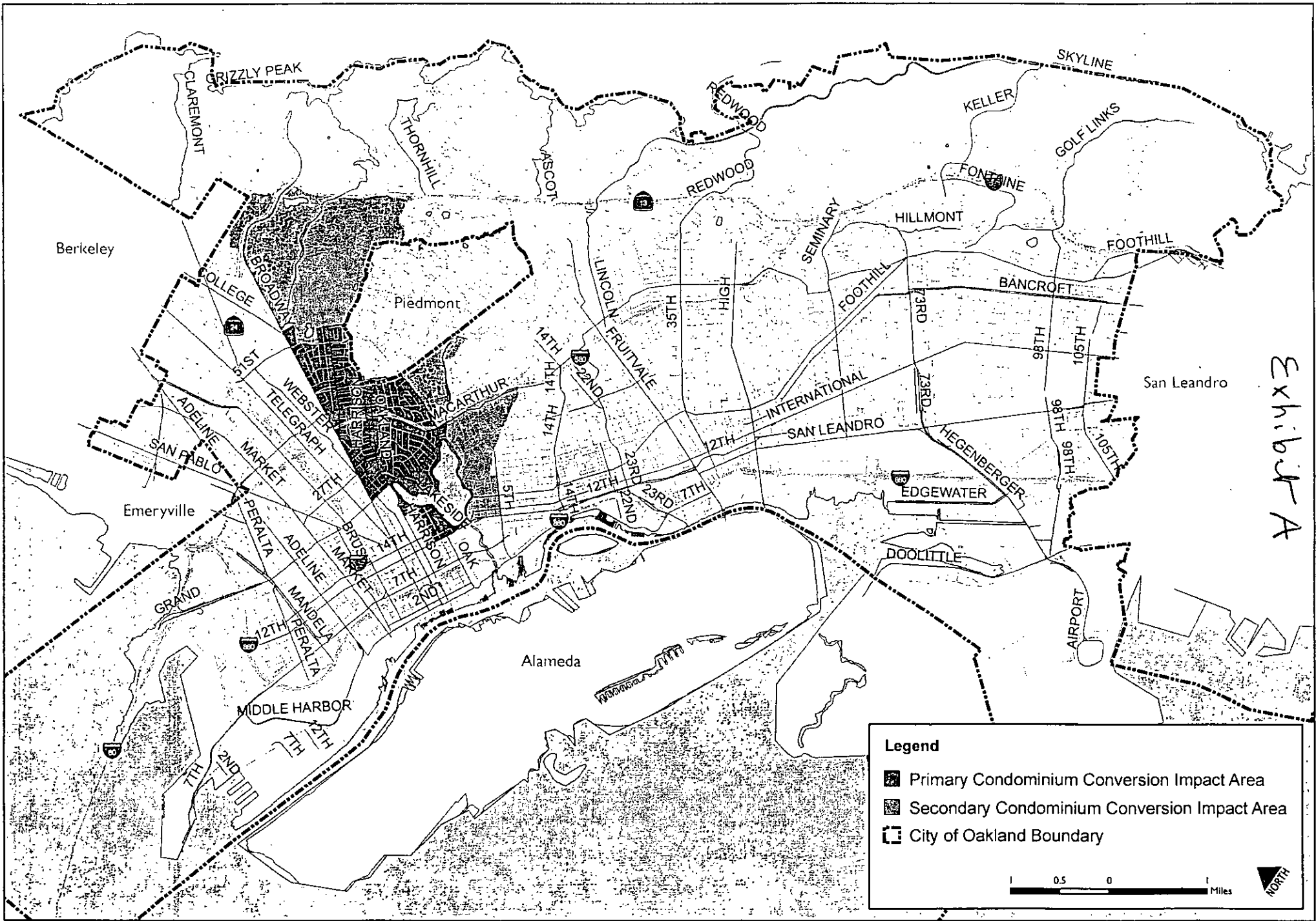
Council is requested to adopt the proposed Amendments to the Condominium Conversion Ordinance for the reasons set forth above.

Respectfully submitted,

  
Patricia Kernighan  
City Councilmember, District 2

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November 10, 2009



**Primary Condominium Conversion Impact Area**

October 20, 2009

**Condominium Conversion Impact Areas**

More than 100 units in a lot

Impact Area	APN	Address	# of Units	Lot Area	Owner	Use*
Primary	008 062708500	210 14TH ST	159	10032	JACKSON COURTYARDS 45 LLC	Condominiums (Common area of condo or planned development)
	008 063100101	1497 LAKESIDE DR	195	29660	NOBLE TOWER PRESERVATION LP	Residential high-rise (7 or more stories)
	008 062701802	1431 JACKSON ST	160	12949	GAEHWILER MARTIN A TR & MARTIN A JR	Multiple residential ( 5 or more units)
	008 062703803	1850 ALICE ST	274	56055	CALIFORNIA NEVADA METHODIST HOMES	Nursing or boarding homes
	009 068506602	280 28TH ST	150	44560	SATELLITE SENIOR HOMES II INC	Church homes
	010 078502302	520 VAN BUREN AVE	109	49553	REDDY HANUMANDLA R & HANUMANDLA J TRS	Multiple residential ( 5 or more units)
	012 099102101	110 41ST ST	148	49593	AMERICAN BAPTIST HOMES OF THE WEST	Church homes
	008 062701001	1525 JACKSON ST	172	77847	HODGE CAPITAL COMPANY	Multiple residential ( 5 or more units)
	010 076800500	2332 HARRISON ST	147	14216	MULUGETA BENYAM & PAULA R	Motel
	010 082301505	401 SANTA CLARA AVE	103	41681	AMERICAN BAPTIST HOMES OF THE WEST	Church homes
	010 079800105	251 28TH ST	201	51746	CHRISTIAN CHURCH HOMES OF NORTHERN CALIFORNIA	Residential high-rise (7 or more stories)
	008 062701801	0 JACKSON ST	121	360	CITY OF OAKLAND	Exempt public agencies
	009 068502602	275 28TH ST	200	48639	WESTLAKE CHRISTIAN TERRACE WEST LLC	Multiple residential ( 5 or more units)
	012 093901501	215 W MACARTHUR BLVD	250	71848	PIEDMONT HOUSING ASSOCIATES	Multiple residential ( 5 or more units)
	010 076901301	100 BAY PL	285	35720	EPISCOPAL HOMES FOUNDATION	Nursing or boarding homes
	012 099101702	17 LINDA AVE	148	43768	AMERICAN BAPTIST HOMES OF THE WEST	Church homes
013 113401703	4500 GILBERT ST	156	46386	CLAREMONT HOUSE INCORPORATED	Multiple residential ( 5 or more units)	
Secondary	020 012902302	1200 LAKESHORE AVE	171	43401	ROSE VENTURES III INC & GRANITE 1200 LLC	Residential high-rise (7 or more stories)
	020 018200705	118 E 16TH ST	143	12332	ROSE SHARON PARTNERS LP	Residential high-rise (7 or more stories)

\*From Alameda County Assessor's Use Codes (9/9/2003)

Exhibit B

Oakland is 1 of 12 cities in Alameda County (with at least 5 communities)

Rent ranking for cities in Alameda County		Occupancy ranking for cities in Alameda County	
City	Avg Rent	City	Avg Occ.
1. Emeryville	\$1,925	1. Emeryville	97.1%
2. Dublin	\$1,647	2. Livermore	95.3%
3. Oakland	\$1,504	3. Castro Valley	95.1%
4. Pleasanton	\$1,483	4. Union City	94.9%
5. Newark	\$1,471	5. Fremont	94.8%
6. Alameda	\$1,410	6. Hayward	94.6%
7. Fremont	\$1,368	7. Dublin	94.6%
8. Livermore	\$1,236	8. Newark	94.4%
9. Union City	\$1,229	9. Alameda	93.9%
10. Castro Valley	\$1,171	10. San Leandro	93.4%
11. Hayward	\$1,168	11. Pleasanton	87.7%
12. San Leandro	\$1,094	12. Oakland	85.1%

Rent growth % Rankings Yr. over Yr. for cities in Alameda County		Occupancy growth Rankings Yr. over Yr. for cities in Alameda County	
City	Avg Rent	City	Avg Occ.
1. Castro Valley	-0.6%	1. Dublin	0.9%
2. Emeryville	-1.5%	2. Emeryville	0.6%
3. Dublin	-2.8%	3. Newark	-1.2%
4. Livermore	-4.6%	4. Alameda	-1.2%
5. Alameda	-4.8%	5. Union City	-1.7%
6. Hayward	-5.4%	6. Hayward	-1.7%
7. San Leandro	-6.0%	7. Fremont	-1.7%
8. Oakland	-6.6%	8. Livermore	-1.8%
9. Newark	-7.2%	9. Castro Valley	-2.3%
10. Fremont	-7.5%	10. Oakland	-3.3%
11. Pleasanton	-9.0%	11. San Leandro	-3.5%
12. Union City	-9.1%	12. Pleasanton	-8.7%

Alameda County is 1 of 5 counties in San Francisco-Oakland-Fremont CA MSA

Rent ranking  
for counties in San Francisco-Oakland-Fremont  
CA MSA

County	Avg Rent
1. San Francisco	\$2,270
2. Marin	\$1,659
3. San Mateo	\$1,650
4. Alameda	\$1,371
5. Contra Costa	\$1,233

Occupancy ranking  
for counties in San Francisco-Oakland-Fremont CA  
MSA

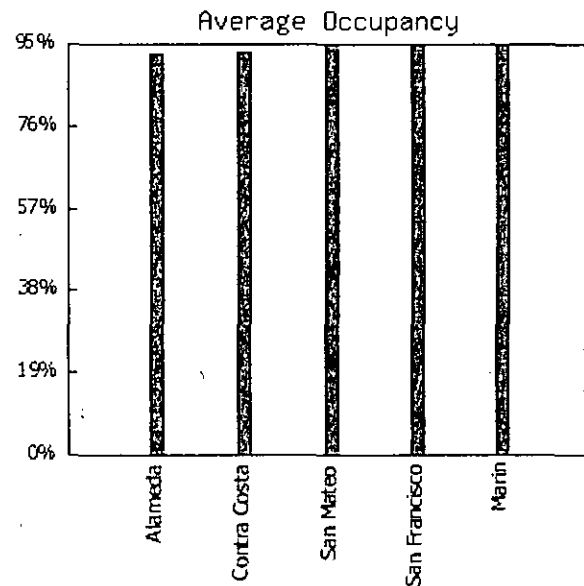
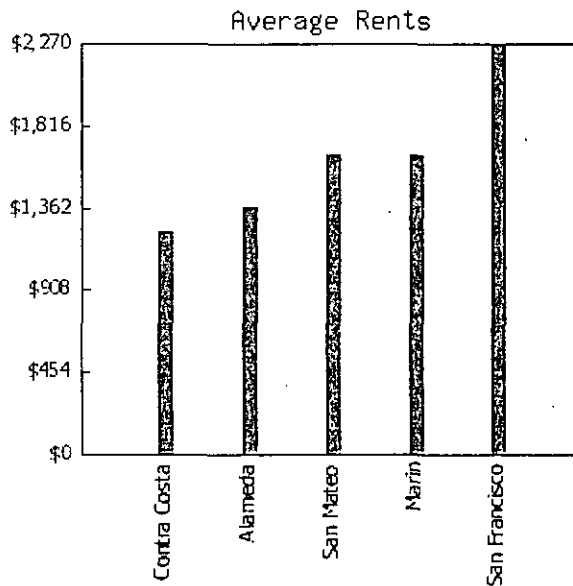
County	Avg Occ.
1. Marin	95.9%
2. San Francisco	95.8%
3. San Mateo	95.4%
4. Contra Costa	93.9%
5. Alameda	93.5%

Rent growth % Rankings Yr. over Yr.  
for counties in San Francisco-Oakland-Fremont  
CA MSA

County	Avg Rent
1. Marin	-2.9%
2. San Francisco	-5.6%
3. Alameda	-5.9%
4. Contra Costa	-7.0%
5. San Mateo	-9.1%

Occupancy growth Rankings Yr. over Yr.  
for counties in San Francisco-Oakland-Fremont  
CA MSA

County	Avg Occ.
1. San Mateo	-1.0%
2. San Francisco	-1.0%
3. Marin	-1.4%
4. Alameda	-2.1%
5. Contra Costa	-2.2%



**Inventory Analysis**

Oakland  
3Q2009

Properties/Units	21 / 3,095	Average units per property	147
Class A	4 / 1,357	Average year built	1969
Class B	0 /	Size range (units)	50 - 665
Class C	17 / 1,738	Age range	1913 - 2008

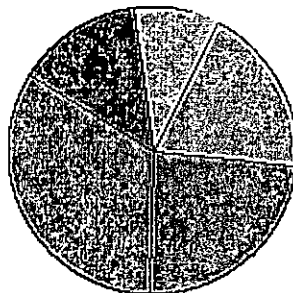
**Unit Mix** (all unit types appear in this report)

Totals	Units	% of Mix	Benchmark % of Mix	Average Sq. Ft	Benchmark Avg Sq Ft	Average Rent	Benchmark Avg. Rent	Avg. Rent Sq. Ft.	Benchmark Avg. Rent Sq. Ft.
All	3,095	100.0%	100.0%	837	842	\$1,504	\$1,300	\$1.80	\$1.54
Urban Loft studio	278	9.0%	5.1%	487	473	\$958	\$1,100	\$1.97	\$2.33
jr 1bd									
1bd 1bth	1,680	54.3%	38.6%	734	701	\$1,332	\$1,157	\$1.81	\$1.65
1bd 1.5bth									
1bd TH									
2bd 1bth	326	10.5%	17.8%	919	863	\$1,441	\$1,155	\$1.57	\$1.34
2bd 1.5bth									
2bd 2bth	623	20.1%	25.7%	1,046	1,009	\$1,974	\$1,499	\$1.89	\$1.49
2bd 2.5th	84	2.7%	0.1%	1,500	1,222	\$2,495	\$1,867	\$1.66	\$1.53
2bd TH	20	0.6%	3.4%	1,300	1,076	\$1,600	\$1,604	\$1.23	\$1.49
3bd 1bth	16	0.5%	0.2%	900	1,006	\$1,300	\$1,311	\$1.44	\$1.30
3bd 1.5bth									
3bd 2bth	68	2.2%	3.6%	1,532	1,234	\$2,775	\$1,713	\$1.81	\$1.39
3bd 3bth									
3bd TH									
4bd									
5bd 2bth									
5bd TH									

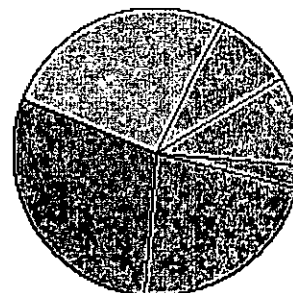
**Age of Existing Inventory**

Area: Oakland

Benchmark: Nor Cal Region



- Pre 1960s (5)
- 1960s (7)
- 1970s (3)
- 1980s (2)
- 1990s (1)
- 2000s (4)



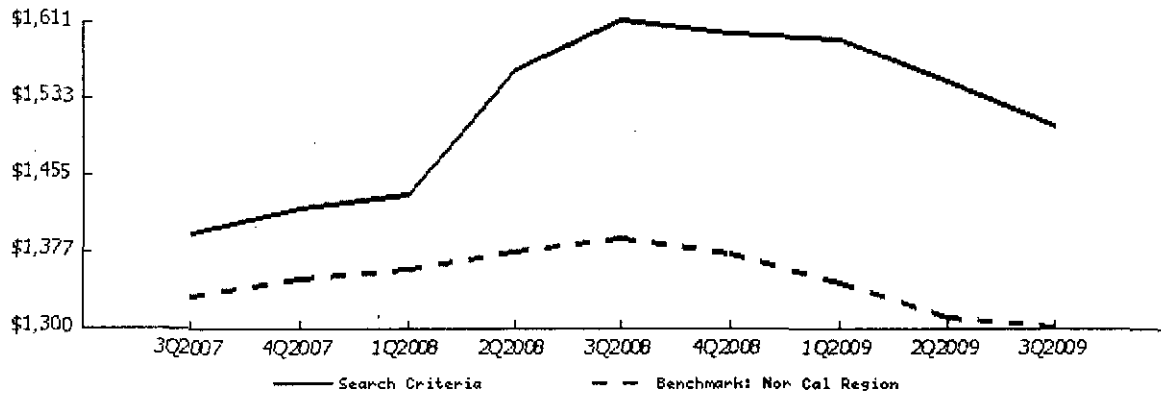
- Pre 1960s (48)
- 1960s (411)
- 1970s (559)
- 1980s (496)
- 1990s (169)
- 2000s (191)



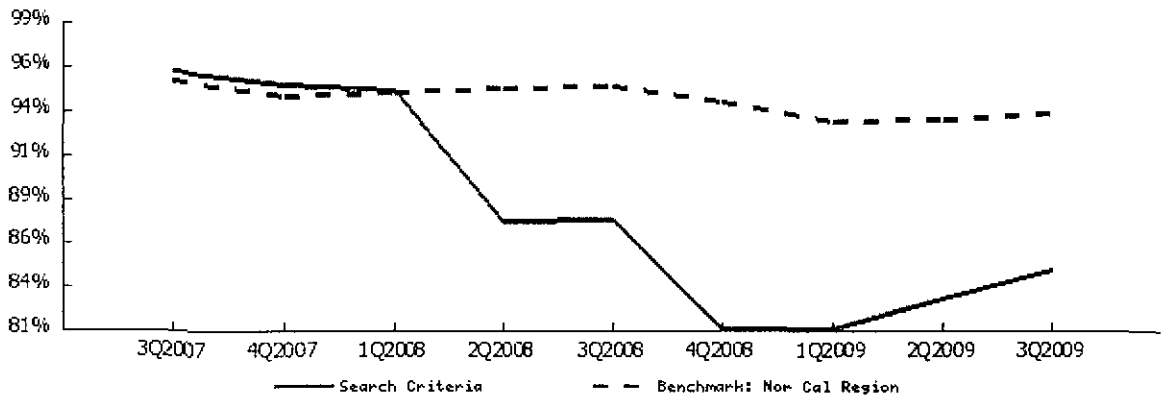
**Rental Trends for City Oakland**

All Classes  
Quarterly Trend

	Average Asking Rent									
	3Q2007	4Q2007	1Q2008	2Q2008	3Q2008	4Q2008	1Q2009	2Q2009	3Q2009	1 Yr. Change
AVERAGE	\$1,395	\$1,420	\$1,435	\$1,561	\$1,611	\$1,599	\$1,592	\$1,550	\$1,504	-6.6%
studio	\$802	\$829	\$843	\$902	\$905	\$911	\$915	\$892	\$958	5.8%
jr 1bd										
1bd 1bth	\$1,266	\$1,283	\$1,288	\$1,382	\$1,449	\$1,445	\$1,441	\$1,402	\$1,332	-8.0%
2bd 1bth	\$1,449	\$1,456	\$1,482	\$1,495	\$1,504	\$1,401	\$1,337	\$1,379	\$1,441	-4.2%
2bd 2bth	\$1,836	\$1,846	\$1,885	\$2,078	\$2,133	\$2,134	\$2,141	\$2,076	\$1,974	-7.5%
2bd TH	\$1,624	\$1,624	\$1,624	\$1,624	\$1,624	\$1,624	\$1,624	\$1,600	\$1,600	-1.5%
3bd 2bth	\$2,616	\$2,629	\$2,629	\$3,082	\$3,180	\$3,180	\$3,170	\$3,201	\$2,775	-12.7%
3bd TH										



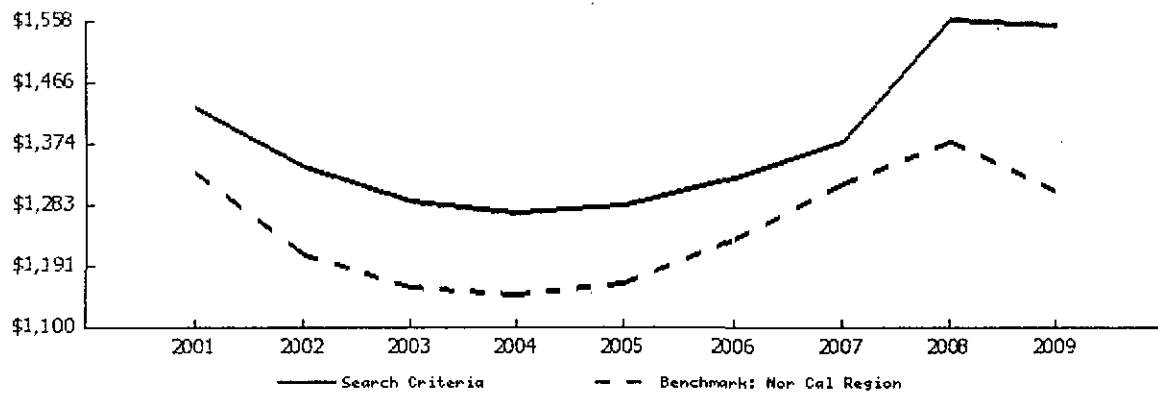
	Average Occupancy Rate									
	3Q2007	4Q2007	1Q2008	2Q2008	3Q2008	4Q2008	1Q2009	2Q2009	3Q2009	1 Yr. Change
AVERAGE	96.3%	95.5%	95.2%	87.8%	88.0%	81.8%	81.8%	83.5%	85.1%	-3.3%



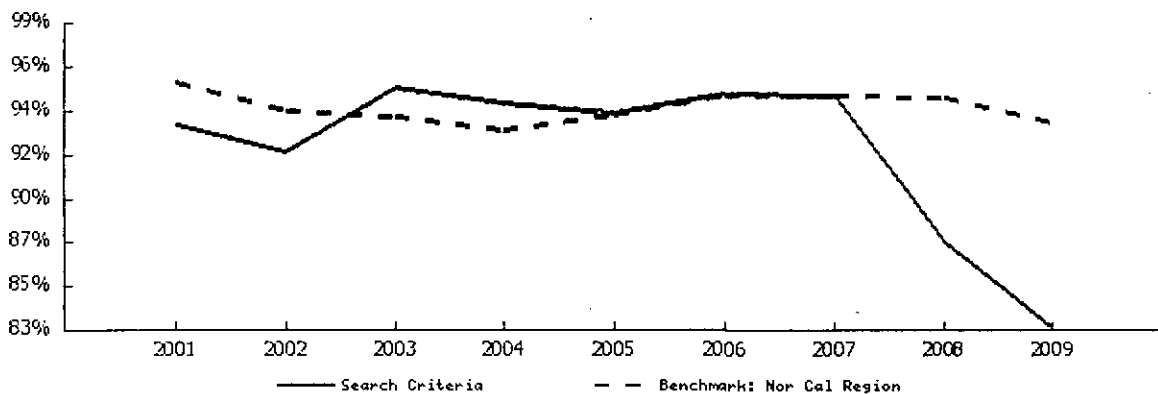
**Rental Trends for City Oakland**

All Classes  
Annual Trend

	Average Asking Rent									
	2001	2002	2003	2004	2005	2006	2007	2008	2009	4 Yr. Change
AVERAGE	\$1,428	\$1,339	\$1,288	\$1,270	\$1,282	\$1,320	\$1,376	\$1,558	\$1,550	20.9%
studio	\$838	\$840	\$809	\$793	\$780	\$791	\$808	\$891	\$919	17.9%
jr 1bd	\$944	\$906	\$875	\$862	\$845					
1bd 1bth	\$1,294	\$1,209	\$1,137	\$1,122	\$1,127	\$1,156	\$1,233	\$1,397	\$1,393	23.6%
2bd 1bth	\$1,310	\$1,265	\$1,319	\$1,289	\$1,338	\$1,418	\$1,435	\$1,470	\$1,386	3.6%
2bd 2bth	\$1,964	\$1,785	\$1,672	\$1,641	\$1,658	\$1,734	\$1,812	\$2,071	\$2,067	24.7%
2bd TH	\$1,967	\$1,670	\$1,617	\$1,629	\$1,620	\$1,627	\$1,624	\$1,624	\$1,609	-0.7%
3bd 2bth	\$2,591	\$2,580	\$2,576	\$2,596	\$2,583	\$2,618	\$2,610	\$3,075	\$3,049	18.0%
3bd TH										



	Average Occupancy Rate									
	2001	2002	2003	2004	2005	2006	2007	2008	2009	4 Yr. Change
AVERAGE	93.8%	92.4%	95.6%	94.8%	94.4%	95.3%	95.2%	87.8%	83.4%	-11.6%



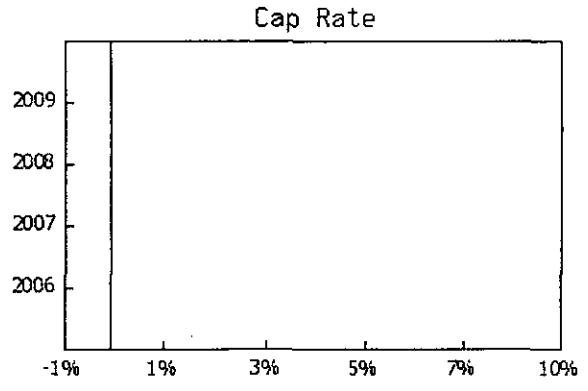
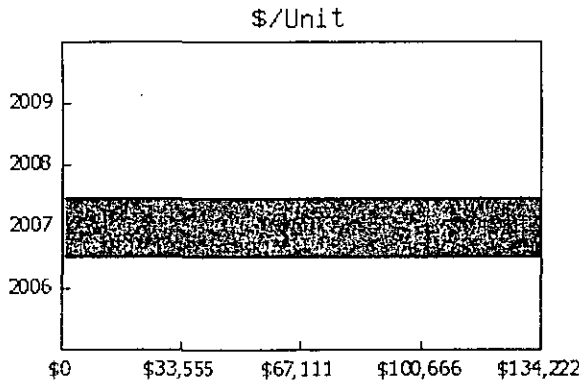
**Sales Trends for City Oakland**

2006-2009 , All Classes

	2009	2008	2007	2006
Total Transactions	0	0	3	0
Total Dollar Value			\$36,240,000	
Total Square Feet			165,557	
Total Units			270	

<b>Median Year Built</b>			<b>1970</b>	
Average Square Footage			55,185	
Average Sale Price			\$12,080,000	
Average Price Per Square Foot			\$218.90	
Average CAP Rate				
Average GRM				
Average Units			90.0	
Average Price Per Unit			\$134,222	

	2009	2008	2007	2006
Average Rent/sf (All)	\$1.76	\$1.75	\$1.64	\$1.57
Class A	\$2.02	\$2.10	\$2.04	\$1.95
Class B			\$1.37	\$1.27
Class C	\$1.66	\$1.63	\$1.55	\$1.53
Average Occupancy (All)	92%	94%	96%	95%
Class A	84%	88%	94%	95%
Class B			99%	98%
Class C	95%	97%	96%	95%

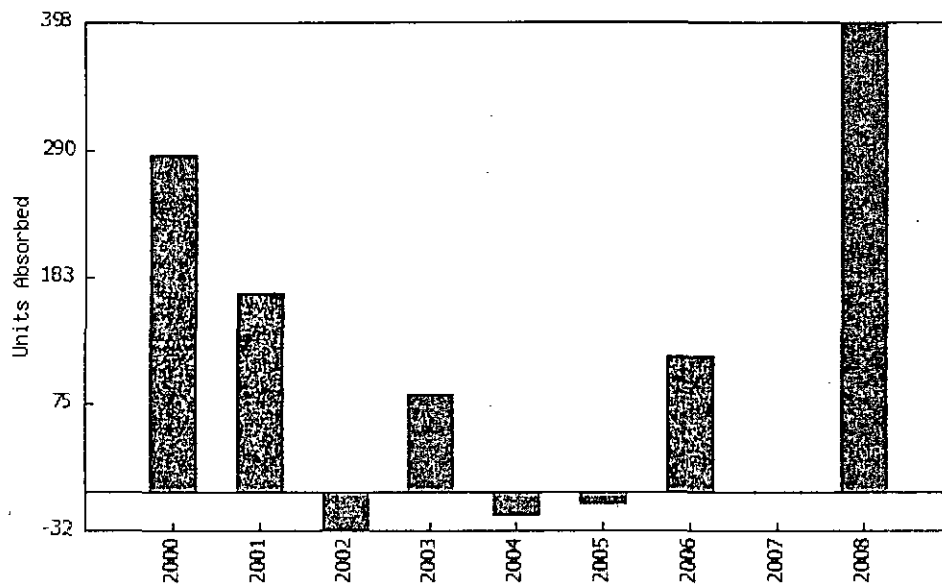


**Absorption**

Oakland  
3Q2009

**Units Absorbed**

	<b>Units Built</b>	<b>Total Units</b>	<b>Occupancy Rate</b>	<b>Occupied Units</b>	<b>Units Absorbed</b>
1999	0	1,738	98.8%	1,717	N/A
2000	282	2,020	99.2%	2,003	286
2001	310	2,330	93.3%	2,173	170
2002	0	2,330	91.9%	2,141	-32
2003	0	2,330	95.5%	2,225	84
2004	0	2,330	94.7%	2,206	-19
2005	0	2,330	94.3%	2,197	-9
2006	100	2,430	95.2%	2,313	116
2007	0	2,430	95.2%	2,313	0
2008	665	3,095	87.6%	2,711	398



10/15/2009

Data source: RealFacts (415)884.2480. Data is deemed reliable but accuracy cannot be guaranteed.

**Area Analysis**

Oakland

3Q2009

Zipcode	Communities	% of Total	Avg. Occupancy	Yr /Yr Change	Avg. Rent	Yr /Yr Change
94612	6	28.6%	70.9%	-3.7%	\$1,512	-10.8%
94606	5	23.8%	91.5%	-1.9%	\$1,588	-3.3%
94610	3	14.3%	98.3%	1.0%	\$1,208	-1.9%
94607	3	14.3%	93.8%	-0.6%	\$1,679	-11.7%
94611	2	9.5%	97.5%	-0.8%	\$1,154	0.0%
94609	1	4.8%	79.6%	-18.8%	\$846	-9.8%
94605	1	4.8%	98.6%	-0.7%	\$1,488	2.1%

10/15/2009

Data source: RealFacts (415)884.2480. Data is deemed reliable but accuracy cannot be guaranteed.

## Public Revenue Increase from Condominium Conversion

1200 Lakeshore Avenue, Oakland

<u>"First Year" Tax Revenues - 50% of Units sold in First Year</u>	<u>Total Tax</u>	<u>Oakland's Share</u>
50% of Ad Valorem Property Taxes for Property as Rental Building	\$133,184	\$75,945
50% of Ad Valorem Property Taxes for Property as Condominiums	\$610,171	\$347,933
100% of Special Assessments as Condominiums	\$121,861	\$81,210
50% of Business License Tax	\$32,104	\$32,104
50% of Transfer Taxes	\$648,750	\$648,750
<b>TOTAL "FIRST YEAR" TAX REVENUES</b>	<b>\$1,546,071</b>	<b>\$1,185,941</b>
Current Tax Revenues as Rental Building	\$369,029	\$245,771
<b>INCREASE IN "FIRST YEAR" TAX REVENUES</b>	<b>\$1,177,042</b>	<b>\$940,171</b>

<u>"Ongoing" Annual Tax Revenues - After 100% of Units Have Been Sold</u>	<u>Total Tax</u>	<u>Oakland's Share</u>
100% of Ad Valorem Property Taxes for Property as Condominiums	\$1,220,342	\$695,866
100% of Special Assessments as Condominiums	\$121,861	\$81,210
0% of Business License Tax	\$0	\$0
Annual Transfer Taxes based on 1/7 of Building Selling Annually	\$187,500	\$187,500
<b>TOTAL "FIRST YEAR" TAX REVENUES</b>	<b>\$1,529,703</b>	<b>\$964,575</b>
Current Tax Revenues as Rental Building	\$369,029	\$245,771
<b>INCREASE IN "ONGOING" ANNUAL TAX REVENUES</b>	<b>\$1,160,675</b>	<b>\$718,805</b>

<u>"First Year" Tax Revenues to Schools - 50% of Units sold in First Year</u>	<u>School Share</u>
50% of Ad Valorem Property Taxes for Property as Rental Building	\$29,508
50% of Ad Valorem Property Taxes for Property as Condominiums	\$135,186
100% of School Measure E Revenue as Condominiums	\$33,735
<b>TOTAL "FIRST YEAR" TAX REVENUES</b>	<b>\$198,429</b>
Current Tax Revenues as Rental Building	\$59,210
<b>INCREASE IN "FIRST YEAR" SCHOOL TAX REVENUES</b>	<b>\$139,219</b>

<u>"Ongoing Annual" Tax Revenues to Schools - After 100% of Units Have</u>	<u>School Share</u>
100% of Ad Valorem Property Taxes for Property as Condominiums	\$270,372
100% of School Measure E Revenue as Condominiums	\$33,735
<b>TOTAL "FIRST YEAR" TAX REVENUES</b>	<b>\$304,107</b>
Current Tax Revenues as Rental Building	\$59,210
<b>INCREASE IN "ONGOING" ANNUAL SCHOOL TAX REVENUES</b>	<b>\$244,897</b>

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APPROVED AS TO FORM AND LEGALITY

**DRAFT**

City Attorney

## OAKLAND CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_ C.M.S.

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An Ordinance Adopting the Following:

1) Amending OMC Chapter 16.36, Condominium Conversions, As Follows:

a) To Establish a Pilot Program Providing an Alternate Means for a Limited Number of Higher Rent Apartments to Convert to Condominiums and to Establish Increased Tenant Protections in Buildings so Converted and to Establish an Impact Fee for Such Conversions;

B) To Facilitate a Limited Number of Established and Qualified Tenancy in Common Properties to Convert to Condominiums by Eliminating the Requirement for Obtaining Conversion Rights; and

C) To Clarify That Residential Rental Units Newly Constructed or Created from Nonresidential Space Can Use the Conversion Rights They Generated To Convert Those Rental Units To Condominiums on a One for One Basis.

2) Amending the Master Fee Schedule to Set the Amount of the Impact Fee for Higher Rent Condominium Conversions at \$15,000.

**WHEREAS**, the City of Oakland has adopted laws and policies to increase homeownership opportunities for Oakland residents; and

**WHEREAS**, said laws and policies include, but are not limited to, City Council Resolution Number 69661 adopted in 1993, the Housing Element of the City's General Plan updated in 2004, and the Consolidated Plan updated 2005 and submitted to the United States Department of Housing and Urban Development; and

**WHEREAS**, despite these laws and policies, the City's homeownership rate has not increased, according to the most reliable data from the U.S. Census; and

**WHEREAS**, the rate of homeownership in the City of Oakland is only 41%, which is much lower than the homeownership rates of the County of Alameda (55%), the State of California (57%), and the nation (67%), according to Year 2000 U.S. Census reports; and

**WHEREAS**, homeownership provides numerous benefits such as enabling Oakland residents to invest their income to build financial security rather than paying rent to a landlord; and

**WHEREAS**, the 2006 Strategic Plan for the United States Department of Housing and Urban Development states, "Homeownership allows an individual or family to make an investment in the future. A home is an asset that can grow in value and provide capital to finance future needs of a family, such as college education or retirement. Homeownership helps stabilize neighborhoods, strengthen communities, and stimulate economic growth. Research has shown that homeownership improves outcomes for children on a number of dimensions including school achievement and dropout rates," and

**WHEREAS**, conversion of rental units to condominiums will increase revenue to the City because of more transfers of real property resulting in more real estate transfer taxes, increasing the assessed valuation on the converted properties thereby increasing property tax revenue; and increasing the number of parcels on which parcel taxes are assessed; and

**WHEREAS**, existing residential buildings that currently serve as rental housing could serve as homeownership housing for Oakland residents; and

**WHEREAS**, the City desires to prevent displacement caused by tenants choosing not to purchase or not being able to purchase their rental units that are converted to homeowner condominiums; and

**WHEREAS**, the City's existing condominium conversion ordinance, adopted in 1981, does not generate any funding for affordable housing, does not have an annual cap on the number of units that can be converted, and does not require any reporting of conversion activities; and

**WHEREAS**, condominium conversions of rental units that have market rents which are at least 35% higher than the average market rents in Oakland would not reduce the supply of rental units available to low and moderate income households if taken off the rental market, so long as the tenancies of existing tenants are preserved; and

**WHEREAS**, whereas an average rent of \$2,100 per month for units in a rent controlled building would approximate a rent level at or above that for moderate income households if the rent were at market, and rents for such units would be chargeable at market rates if the units were vacant pursuant to the Costa-Hawkins Rental Housing Act (California Civil Code §1954.53; and

**WHEREAS**, buildings with rental units in the impact areas set out in O.M.C. 16.36.050 are required to obtain conversion rights from newly constructed rental housing within the



impact area in order to convert to condominiums and owners of larger buildings have historically had difficulty obtaining sufficient conversion rights to convert an entire building; and

**WHEREAS**, the purposes for requiring conversion rights in order to convert existing rental units to condominiums was to maintain the level of non-subsidized rental units in the City and to provide additional economic incentive to build new rental housing because of the potential sale of the conversion rights thereby created to condominium converters; and

**WHEREAS**, converting existing rental units to condominiums removes rental units from the market, therefore it is appropriate for owners of properties converted to condominiums that are permitted by the city to convert without obtaining conversion rights to mitigate the removal of the rental units by providing funds equivalent to what they would otherwise pay for conversion rights to fund additional housing opportunities through renovating housing vacated through foreclosures or other appropriate housing programs; and

**WHEREAS**, City staff conducted a survey of sales of conversion rights and has determined that \$15,000 per unit is a reasonable amount for purchasing conversion rights and that this amount is less than costs of subsidizing the renovation or construction of a new housing unit affordable to a moderate income household; and

**WHEREAS**, the City wishes to avoid displacement of existing tenants and therefore will require owners of buildings seeking to convert higher rent rental units under this amendment to Chapter 16.36 to offer existing tenants lifetime leases and require that such units cannot be sold separately during the term of the lifetime lease;

**WHEREAS**, the City wishes to assess the impact and issues pertaining to conversions of higher rent rental units and for this reason wishes to establish the amendments to the ordinance for the conversion of higher rent units in the impact areas as a pilot program with a limitation of 300 units that can be converted over a two-year period with the amendments sunsetting unless otherwise further extended by the City Council prior to the end of the two-year pilot program; and

**WHEREAS**, a number of smaller rental properties have formed as "tenants in common" for ownership/occupancy purposes; and

**WHEREAS**, tenants in common properties often have difficulty financing and transferring ownership because, although each unit is occupied by an owner, the units are not owned individually; and

**WHEREAS**, the City does not wish to promote removal of rental units through the tenants in common mechanism, existing tenants in common owned properties have already removed rent units from the market and therefore their conversion to condominiums would not further erode the number of rental units in the City; and

**WHEREAS**, the City wishes to assess the impact and issues pertaining to conversions of

higher tenants in common units and for this reason wishes to establish the amendments to the ordinance for the conversion of tenants in common units as a pilot program with a limitation of 60 units that can be converted over a two-year period with the amendments sunsetting unless otherwise further extended by the City Council prior to the end of the two-year pilot program; and

**WHEREAS**, some properties that were constructed as rental units not subdivided as condominiums seek to convert to condominiums within less than seven years after construction was completed and the property obtained a certificate of occupancy, but notwithstanding that such properties would have created conversion rights for 100% of the rental units created, the Planning Commission has only permitted the owners to use 50% of the conversion rights to convert the units on the same property to condominiums resulting in properties of half subdivided units and half as one parcel; and

**WHEREAS**, newly constructed rental properties should be able to use 100% of the conversion rights generated on the property that generated the conversion rights so long as the conversion rights would otherwise be available for use on other rental properties; and will

**WHEREAS**, the requirements of the California Environmental Quality Act (CEQA), the Guidelines as prescribed by the Secretary of Resources, and the provisions of the Statement of Objectives, Criteria and Procedures for Implementation of the California Environmental Quality Act for the City of Oakland have been satisfied, and that in accordance with CEQA Guidelines Section 15301 (existing facilities, which includes an exemption under subsection (k) for dividing existing multiple family residences into common interest ownership), and Section 15183 (projects consistent with the general plan), this project is categorically exempted; and

**WHEREAS**, the City Council has received and considered the reports and other documents accompanying this Ordinance as well as public testimony; now therefore

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**Section 1. Oakland Municipal Code Chapter 16.36 Condominium Conversions is Hereby Amended as Follows:** (section numbers and titles are indicated in **bold type**; additions are indicated by underscoring and deletions are indicated by ~~strike-through~~ type; portions of the regulations not cited or not shown in underscoring or strike-through type are not changed)

Chapter 16.36 CONDOMINIUM CONVERSIONS

Sections:

16.36.010 Conversion defined.

16.36.020 Notice of intention to convert.

16.36.030 Notice to prospective tenants.

16.36.040 Tenant notifications.

16.36.050 Tenant rights and the preliminary tenant assistance program.

16.36.060 Tentative map and tentative parcel map requirements for conversions.

16.36.070 Action on the tentative map or tentative parcel map.

16.36.080 Final tenant assistance program.

16.36.090 Information to be filed with final and parcel maps.

16.36.100 Information on final and parcel maps.

16.36.110 Notice of subdivision public report or notice of start of sales program.

16.36.120 Information to be given to prospective buyers.

16.36.130 Noise insulation standards.

16.36.140 Submission of informational reports.

16.36.010 Conversion defined.

"Conversion" means a proposed change in the type of ownership of a parcel or parcels of land, together with the existing attached structures, from residential rental realty to a stock cooperative project containing five or more dwelling units, a condominium project, or a Community Apartment project, regardless of whether substantial improvements have been made to such structures. Whenever an occupancy permit has been issued by the city for a multifamily building, any attempt thereafter to make the project a condominium, community apartment, or stock cooperative shall constitute a conversion. Those multifamily residential buildings having building permits but for which no initial certificate of occupancy has ever been issued and which have never been occupied shall be deemed excluded from the definition of "conversion." This Section shall not apply to a "limited - equity housing cooperative" as defined in Section 11003.4 of the Business and Professions Code.

(Prior code § 7-7.01)

16.36.020 Notice of intention to convert.

At least sixty (60) days prior to filing a tentative map or tentative parcel map for a conversion, the subdivider shall provide all tenants of the building to be converted, individually and in writing, with the following notice:

To the occupant(s) of

\_\_\_\_\_ :  
(Address)

The owner(s) of this building, at (address), plan(s) to file an application for a (tentative map or tentative parcel map) with the city to convert this building to a (condominium, community apartment or stock cooperative project). You shall be given notice of each hearing for which notice is required pursuant to Sections 66451.3 and 66452.5 of the Government Code, and you have the right to appear and the right to be heard at any such hearing.

\_\_\_\_\_  
(signature of owner or owner's agent)

\_\_\_\_\_  
(date)

Accompanying this notice will be written information describing, in general, what steps and actions the subdivider and others, including governmental agencies, will or must take in order for the building to be converted. It will include information on how the tenant will be involved, informed, and assessed at each step in the process and on

what rights the tenant has, whether mandated by state or local government or whether provided voluntarily by the subdivider. It will also include the date on which the subdivider will most likely file the tentative map or tentative parcel map as well as the approximate date on which the subdivider expects the final subdivision public report, if any, to be issued.

Also accompanying this notice will be the notice of tenant rights and the subdivider's preliminary tenant assistance program, both as set forth in Section 16.36.050, and the information concerning tenant notifications as set forth in Section 16.36.040.

All persons who subsequently become tenants shall also be provided with the above notices.

For each application, all documents referred to in this section shall be approved by the Director of City Planning as to form, correctness, and completeness.

The written notice to tenants required by this section shall be deemed satisfied if it complies with the legal requirements for service by mail.

(Prior code § 7-7.02)

**16.36.030 Notice to prospective tenants.**

Commencing at a date not less than sixty (60) days prior to the filing of a tentative map or tentative parcel map, the subdivider shall give notice of such filing, in the form shown below, to each person applying after such date for rental of a unit in the building to be converted. This notice must be given to the prospective tenant prior to the acceptance of any rent or deposit from said prospective tenant.

The notice shall read as follows:

To the prospective occupant(s) of

\_\_\_\_\_  
(Address)

The owner(s) of this building, at (address), has filed or plans to file an application for a (tentative map or tentative parcel map) with the city to convert this building to a (condominium, community apartment, or stock cooperative project). No units may be sold in this building unless the conversion is approved by the City or Oakland and, if five or more units are involved, until after a public report is issued by the Department of Real Estate. If you become a tenant of this building, you shall be given notice of each hearing for which notice is required pursuant to Sections 66451.3 and 66452.5 of the Government Code, and you have the right to appear and the right to be heard at any such hearing.

\_\_\_\_\_  
(signature of owner or owner's agent)

\_\_\_\_\_  
(date)

I have received this notice on

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(prospective tenant's signature)

Prospective tenants shall also receive all accompanying documents described in Section 16.36.020 and all documents set forth in Sections 16.36.040 and 16.36.050.

If the subdivider fails to give notice pursuant to this section, he or she shall pay to each prospective tenant who becomes a tenant and who was entitled to such notice, an amount equal to the sum of the following:

- A. Actual moving expenses incurred when moving from the subject property, but not to exceed a maximum amount, if any, that is specified in the final tenant assistance program, as set forth in Section 16.36.080, or five hundred dollars (\$500.00), whichever is greater; and
- B. The first month's rent on the tenant's new rental unit, if any, immediately after moving from the subject property, but not to exceed five hundred dollars (\$500.00). (Prior code § 7-7.03)

#### 16.36.040 Tenant notifications.

Each tenant shall be given a notice containing the information as set forth below:

A. The city shall provide tenants with the following notices:

1. Each tenant will be given at least ten days' prior written notice of the date, time and place of any public hearing held by the Advisory Agency on the tentative map or tentative parcel map. Such notice shall also advise tenants of their right to appear and be heard.

2. Each tenant will receive a copy of any city report or recommendation concerning tentative map or tentative parcel map at least three days prior to any meeting for which the map appears on the agenda.

3. Each tenant will be given at least three days' prior written notice of the date, time and place of a hearing held to consider an appeal from an action of the Advisory Agency. Such notice shall also advise tenants of their right to appear and be heard. Subdivider shall provide the city with a sufficient number of stamped envelopes addressed to tenants to allow the city to carry out the above responsibilities, such number to be determined by the Director of City Planning.

B. In addition to the notice of intention to convert as set forth in Section 16.36.020 and the notice to prospective tenants as set forth in Section 16.36.030, the subdivider shall also be responsible for the following:

1. Each tenant will be given at least five days' prior written notice of the date, time and place of any meeting held on the tentative map or tentative parcel map other than those set forth in subsections (A)(1) and (A)(3) of this section.

2. Each tenant will be notified individually and in writing of any action taken on the tentative map or tentative parcel map by the Advisory Agency, City Planning Commission, or City Council within two days of such action being taken.

3. Each tenant will be given written notification within ten days of approval of a final map or a parcel map.

4. Each tenant in buildings with five or more units will be given at least ten days' prior written notice that an application for a subdivision public report will be submitted to the California Department of Real Estate. Such notice shall also state that tenants will be notified within five days of subdivider's receipt of the final subdivision public report and that copies will be available upon request; it will also state subdivider's estimate of when the report will be issued.

5. Each tenant in buildings with five or more units will be given written notification within five days of subdivider's receipt of the final subdivision public report. If

the conversion involves four or less units, in which case no public report is issued, each tenant will be given ten days' prior written notice of the start of subdivider's sales program.

The Director of City Planning shall be given a copy of all of the above notices at the same time as the tenants receive them. The written notices required by this section shall be deemed satisfied if they comply with the legal requirements for service by mail. (Prior code § 7-7.04)

16.36.050 Tenant rights and the preliminary tenant assistance program.

A. With regard to any conversion as defined in Section 16.36.010, each tenant shall have the following minimum rights which shall be set forth in a notice of tenant rights.

1. After receipt of this notice, each tenant will be entitled to terminate his or her lease or rental agreement without any penalty upon notifying the subdivider in writing thirty (30) days in advance of such termination; provided, however, that this requirement shall cease upon notice to the tenant of the abandonment of subdivider's efforts to convert the building.

2. No tenant's rent will be increased from the date of issuance of this notice until at least twelve (12) months after the date subdivider files the tentative map or tentative parcel map with the city; provided, however, that this requirement shall cease upon abandonment of subdivider's efforts to convert the building.

3. No remodeling of the interior of tenant-occupied units shall begin until at least thirty (30) days after issuance of the final subdivision public report or, if one is not issued, after the start of subdivider's sales program. (For purposes of this chapter, the start of subdivider's sales program shall be defined as the start of tenants' ninety (90) days first-right-of-refusal period set forth below.)

4. Each tenant shall have an exclusive right to contract for the purchase of his or her unit or, at the tenant's option, any other available unit in the building upon the same or more favorable terms and conditions that such units will be initially offered to the general public, such right to run for at least ninety (90) days from the issuance of the final subdivision public report or, if one is not issued, from the start of subdivider's sales program.

5. Each tenant shall have a right of occupancy of at least one hundred eighty (180) days from the issuance of the final subdivision public report or, if one is not issued, from the start of subdivider's sales program, prior to termination of tenancy due to conversion.

6. Tenants in units containing a tenant sixty-two (62) years or older shall be provided a lifetime lease on their unit or, at tenant's option, on any other available unit in the building. Such leases, to commence no later than the date of issuance of the final subdivision public report, or, if one is not issued, no later than the start of subdivider's sales program, shall be subject to the following conditions:

a. Tenants shall have the option of cancelling the lease at any time upon thirty (30) days' written notice to the owner.

b. Tenants cannot be evicted except for just cause.

c. Right of occupancy shall be nontransferable.

d. The first year's base monthly rent for the unit shall be set at no more than the rent existing on the unit one year prior to the filing of the tentative map or

tentative parcel map increased by no more than seventy-five (75) percent of the percentage increase in the residential rent component of the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland Metropolitan Area (Bay Area Rental CPI) from the date one year prior to the filing of the tentative map or tentative parcel map to the effective date of the lifetime lease.

e. Subsequent rent adjustments, if any, may be made no sooner than one year from the effective date of the lifetime lease, shall be limited to no more than one per year, and the percentage increase in the Bay Area Rental CPI for the most recent twelve (12) month period.

f. Notwithstanding the above, no rent increase shall exceed any rent increase guidelines adopted by the city.

g. Except as provided hereinabove, terms and conditions of the lifetime lease shall be the same as those contained in tenant's current lease or rental agreement.

The preliminary tenant assistance program, as set forth in subsection B of this section, shall make provision for the above minimum rights on the terms set forth above or on terms more favorable to the tenant.

7. This subsection applies only to Tenants in properties converted pursuant to Sections 16.36.070 I ("higher rent buildings"). The subdivider must offer a lifetime lease to each tenant for the unit in which that tenant resides at the time the subdivider files the application to convert. Such lease, if accepted by the tenant within 6 months from the time of offer, shall commence no later than the date of issuance of the final subdivision public report, or, if one is not issued, no later than the start of subdivider's sales program, and shall be subject to the following conditions:

a. A tenant shall have the option of cancelling the lease at any time upon thirty (30) days' written notice to the owner;

b. The lease shall include a termination clause that provides that the rental agreement can only be terminated for a cause pursuant to Oakland or state law in which the tenant is at fault;

c. In the event that the unit ceases to be covered by Oakland's Rent Adjustment Ordinance, the agreement must provide that subsequent rent adjustments, if any, may be made no sooner than one year from the effective date of the lifetime lease, shall be limited to no more than one per year and shall be limited to the percentage increase in the Bay Area Rental CPI for the most recent twelve (12) month period and may include other rent increases that would otherwise be allowed pursuant to the following exceptions: no increase is allowed for an increase in debt service and no increase may be allowed for any capital improvement legally required for the conversion to condominiums or undertaken primarily for the purpose of increasing the marketability of the property. Disputes over rent increases may be mediated or arbitrated, including using Rent Adjustment Program staff. The building owner and tenant shall continue to pay the Oakland Rent Program annual fee for as long as the tenancy continues.

d. The lifetime lease may not be assigned nor sublet by the tenant without the express written consent of the subdivider, provided that this prohibition does not preclude the tenant from including as an occupant a spouse, domestic partner, child, parent, grandchild, or grandparent who is in occupancy at the time the lifetime

lease is executed, and subject to any occupancy restrictions in the tenant's rental agreement prior to the lifetime lease. The lifetime lease terminates whenever the last of the original tenant or tenants ceases to occupy the unit as her or his principal place of residence. Original tenant is the person in occupancy at the time the lifetime lease is executed, if that person is a legal tenant.

e. This subsection applies to the subdivider, including any successor in interest or assignee.

B. The subdivider's preliminary tenant assistance Program (PTAP) shall consist of at least two parts: efforts to minimize tenant displacement, and tenant relocation assistance.

1. In the first part of the PTAP, subdivider shall describe those incentives and inducements that would increase the potential for, and ability of, tenants to become owners in the conversion. Subdivider shall also include actions and procedures to enable hard-to-relocate tenants to remain as tenants.

2. The second part of the PTAP shall include all relocation and moving assistance and information to be provided to each tenant and all steps the subdivider will take to ensure the successful relocation of each tenant in the event that conversion takes place and the tenant chooses not to purchase a unit or remain as a tenant. In both parts of the PTAP, subdivider shall give particular attention to specific steps that will be taken to assist the elderly, disabled, and other tenants who may encounter difficulty in finding new quarters.

(Prior code § 7-7.05)

16.36.060 Tentative map and tentative parcel map requirements for conversions.

In addition to other matters required in this title, the subdivider shall submit to the Advisory Agency, along with the tentative map or tentative parcel map of a conversion, one copy of each of the notices and other documents to be provided to all tenants and prospective tenants pursuant to Sections 16.36.020 through 16.36.050. Subdivider shall also certify on the tentative map or tentative parcel map the following:

A. That all tenants have received all documents set forth in Sections 16.36.020, 16.36.040 and 16.36.050 of the Oakland Municipal Code; and that all prospective new tenants have received and will receive said documents, along with the notice set forth in Section 16.36.030 of the Oakland Municipal Code;

B. That all tenants and Director of City Planning will receive all notices as set forth in subsection B of Section 16.36.040 of the Oakland Municipal Code, and that they will receive all information as required in Section 16.36.080 of the Oakland Municipal Code. The Director of City Planning may require other information to be filed with the tentative map or tentative parcel map which, in the Director's opinion, will assist in determining whether the project is consistent with the purposes set forth in Section 16.04.010 or will assist in making any of the findings as set forth in Section 16.36.070. Any such determination by the Director of City Planning may be appealed to the City Planning Commission in the manner set forth in Section 17.132.020 of the zoning regulations of the city.

The Director of City Planning may waive the tenant notification requirements contained in Sections 16.36.020 and 16.36.040 where the building proposed for conversion is not



tenant-occupied at the time of tentative map or tentative parcel map application. Where the building proposed for conversion is not tenant-occupied and the subdivider declares under penalty of perjury that no unit within the building will be rented prior to final or parcel map approval, the Director of City Planning may waive the tenant assistance requirements set forth in Sections 16.36.050 and 16.36.080.  
(Prior code § 7-7.06)

16.36.070 Action on the tentative map or tentative parcel map.

Action by the Advisory Agency shall be governed, in addition to that set forth in Section 16.08.030, by the following:

A. The Advisory Agency shall deny approval of a tentative map for the conversion of five or more housing units unless it finds that every converted unit will be replaced with a rental unit added to the City's housing supply. Such replacement, if made in accordance with provisions of this chapter, shall be found to avoid the negative impact the conversion would otherwise have had on the City's rental housing supply.

Accordingly, a conversion of five or more housing units shall be approved, subject to meeting all other requirements prescribed by state and city, if the subdivider agrees that, prior to final map approval, subdivider will, in a manner acceptable to the Advisory Agency, demonstrate that subdivider owns "conversion rights" equal in number to the units proposed for conversion. "Conversion rights" are generated by projects which add housing units to the city's rental supply, and one conversion right is equivalent to one housing unit within such a project. Conversion rights may be generated by project(s) either undertaken by the subdivider or by others from whom subdivider has obtained or acquired such "rights" in a legally binding manner. In addition to being used for the conversion of housing units on another property, conversion rights may be used on the property that generated the conversion rights on a one for one basis. No conversion rights shall be generated by project(s) which are intended to become the property of the Oakland Housing Authority. Subdivider shall provide the Advisory Agency with information concerning the intended location and type of rental units that will generate the conversion rights of which subdivider intends to demonstrate ownership.

B. Project(s) generating conversion rights may involve new rental construction, increasing the number of units in an existing residential rental building, or converting a nonresidential building to residential rental units.

C. Conversion rights may also be generated by bringing back into the supply, through major rehabilitation, a residential rental building that has been vacant for at least one year prior to commencement of work on the rehabilitation project. Anyone attempting to generate conversion rights by rehabilitating a vacant residential rental building must demonstrate to the satisfaction of the Director of City Planning that the building was indeed vacant for at least one year, that the work did indeed involve major rehabilitation, and that the building was not vacated for the purpose of generating conversion rights. For purposes of this chapter, rehabilitation shall be deemed "major" if it equals twenty (20) percent of the total value of the building after rehabilitation.

D. Conversion rights may also be generated by the construction of a condominium, community apartment, or stock cooperative project if the owner of such project, for which final map approval has been obtained, makes an agreement in writing with the city that for a period of not less than seven years, the owner will offer the units in the

project to the public as conventional rental units subject to a lease that shall contain no commitment for later purchase of the unit, the form of said lease to be approved by the Director of City Planning. Subsequent sale of any unit prior to the expiration of the seven-year rental period shall be subject to the same terms and conditions stated in said written agreement.

E. Tentative map approval of the conversion must take place no later than seven years from the issuance of a certificate of occupancy on the project(s) generating the conversion rights. Project(s) for which building permits were issued prior to March 18, 1980 cannot generate conversion rights.

F. No units in the building approved for conversion shall be sold until a certificate of occupancy has been issued by the City Building Official on the project(s) generating the conversion rights. For buildings of five or more units, subdivider shall request the California Department of Real Estate in writing to not issue the final subdivision public report until said Department has received written notification by the subdivider to issue said report. Said notification must include written approval from the Director of City Planning, which approval shall not be given until all necessary certificates of occupancy have been issued.

G. Notwithstanding the above, the Advisory Agency shall deny approval of a tentative map or tentative parcel map if it finds that the conversion is proposed to take place in the "conversion impact area," an area of the city whose rental housing supply has been negatively impacted by previous conversions. The conversion impact area shall contain two sections: the primary section consisting of Census Tracts 4034, 4035, 4036, 4037, 4039, 4040, and 4041; and the secondary section consisting of Census Tracts 4038, 4042, 4043, 4052, and 4053.

H. A conversion which would otherwise be denied due to its location within the conversion impact area shall be approved, subject to meeting all other requirements prescribed by state and city, if the subdivider agrees to replace (using the conversion rights method described above) each converted unit with a rental unit according to the following: For conversions to take place in the primary section of the conversion impact area, conversion rights must be generated within the primary section; for conversions to take place in the secondary section, conversion rights must be generated within the conversion impact area.

I. Pilot program for conversion of "higher rent" rental housing units within a conversion impact area. As an alternative to the requirement for the subdivider to obtain conversion rights for the number of units to be converted pursuant to subsections 16.36.070 A through H above, commencing on the effective date of this enactment of this subsection 16.36.070 I and ending two years thereafter, the Advisory Agency shall accept applications for a maximum of 300 "higher rent" rental housing units provided such units meet the following qualifications:

1. The average rent for units in the building to be converted must be at least \$2,105 per month for the month immediately preceding the application;

3. The building must be at ninety percent (90%) occupancy for the month immediately preceding the application;

4. The building must contain at least one hundred (100) rental units;

5. No rental unit on the property was removed from the rental market by use of the Ellis Act nor were any of the units vacated by threatened use of the Ellis Act

within five (5) years prior to the date of application for the conversion;

6. The subdivider must pay a Condominium Conversion Impact Fee to the City of Oakland for each unit to be converted. The fee shall be deposited into a fund that is dedicated to address the rehabilitation of rental housing units or the construction of new rental housing units. The amount of the fee will be set in the Master Fee schedule. The fee must be paid not later than the time of final approval of the subdivision map and with final approval conditioned on the fee payment.

7. The subdivider must offer a lifetime lease pursuant to subsection 16.36.050J to all tenants not purchasing a unit who lawfully occupy the property at the time that the application for a tentative map is submitted. The lifetime lease shall provide that the subdivider and all subsequent owners shall set all future increases shall according to the terms and provisions of the Oakland Rent Stabilization Ordinance, and further, as a condition of obtaining rights from the city of Oakland as set forth in subsection 6 above, the owner must voluntarily agree that he or she will not separately sell any unit that is occupied by a tenant who has a lifetime lease, such proscription on sale shall run with the land and bind the subdivider and subsequent owners of the building, as long as any lifetime lease remains in effect; The purpose of this prohibition on the sale of the unit is to assure that rental terms on life time leases will continue to be governed by the provisions of Oakland's rent stabilization and eviction laws.

8. The City will record a deed of trust against any unit in the subdivided property that is subject to a lifetime lease to secure performance under this Subsection 16.36.070I, and permitting release of the deed of trust whenever a tenant with a lifetime lease vacates voluntarily or evicted for cause

9. The subdivider must offer each existing tenant a first right of refusal to purchase her or his unit at a discount of at least ten percent below the asking price or selling price for a comparable unit in the building whenever the subdivider is authorized to start marketing the converted units pursuant to state law.

10. The subdivider must comply with all other applicable provisions of this Chapter 16.36 except as modified by this subsection 16.36.070I.

J. Pilot program for the conversion of established tenancy-in-common ownership buildings of five (5) units or greater located in a conversion impact area. Units in properties owned by residents as tenants-in-common may be converted to condominiums without requiring conversion rights if the property meets the following conditions:

1. The property is located within an impact area;

2. Two Thirds (2/3) of the units in the property have been occupied continuously by owners as tenants-in-common of the property as their principal place of residence for at least two years prior to the date of the enactment of this subsection 16.36.070J; for purposes of the section owner occupancy includes occupancy by the owners' children or parents.

3. No rental unit on property was removed from the rental market by use of the Ellis Act nor were any of the units vacated by threatened use of the Ellis Act within

five (5) years prior to the date of application for the conversion;

4. No more than one hundred (60) units may be converted pursuant to this subsection 16.36.070J;

5. This subsection, 16.36.070J, expires two years from the date of the enactment of this subsection 16.36.070J.

6. The subdivider must comply with all other applicable provisions of this Chapter 16.36 except as modified by this subsection 16.36.070J.

I. Notwithstanding other provisions of this section, the Advisory Agency shall deny approval of a tentative map or tentative parcel map if it finds that the subdivider vacated units in the building proposed for conversion in order to avoid providing payments and other benefits to tenants as described in the tenant assistance program. It shall also deny approval if it finds that the subdivider's preliminary tenant assistance program, as set forth in Section 16.36.050, or any submission required by Section 16.36.020, 16.36.040 or 16.36.060 is unacceptable or otherwise inconsistent with the purpose of this title as it concerns the city's housing goals and policies.

(Prior code § 7-7.07)

**16.36.080 Final tenant assistance program.**

If the tentative map or tentative parcel map is approved, subdivider shall prepare a final tenant assistance program (FTAP) in conformity with any conditions of approval relating to the tenant assistance program. Within two days of receiving such approval, subdivider shall distribute a copy of the FTAP to each tenant and to the Director of City Planning. If the Advisory Agency approves the map, the FTAP shall be accompanied by a written notice advising tenants of the action of the Advisory Agency and informing them of their right to appeal the decision to the City Council, if a tentative map is involved, or to the City Planning Commission, if a tentative parcel map is involved, within fifteen (15) days of the date of the decision.

(Prior code § 7-7.08)

**16.36.090 Information to be filed with final and parcel maps.**

In addition to other matters required in this title, the following shall be filed with the final or parcel map:

- A. A copy of the final tenant assistance program as described in Section 16.36.080;
- B. A copy of the notice of subdivision public report or notice of start of sales program as set forth in Section 16.36.110;
- C. A certificate of occupancy issued by the City Building Official subsequent to the date of filing of the tentative map or tentative parcel map;
- D. One copy each of the following documents more fully described in subsections A, B and C of Section 16.36.120: written notice to be given to prospective buyers; property report; structural pest report; and report describing the building's utilities, storage space, and laundry facilities;
- E. For tentative map or tentative parcel map approvals involving conversion rights, evidence, in the manner specified by the Advisory Agency as set forth in Section 16.36.070, that the subdivider owns conversion rights equal in number to the units to be converted.

No final or parcel map shall be approved until the above requirements have been met.  
(Prior code § 7-7.09)

16.36.100 Information on final and parcel maps.

In addition to other matters required in this title, the information on the final or parcel map shall show, under the owner's certificate, the following:

- A. For final maps only, a statement pursuant to Section 66427.1 of the State of California Subdivision Map Act;
- B. A statement certifying that copies of the property report, structural pest report, and utilities/storage space/laundry facilities report, all more fully described in Section 16.36.120, were submitted along with subdivider's request for a certificate of occupancy inspection; and, if a final map, that these documents plus a copy of the notice to be given to prospective buyers, more fully described in Section 16.36.120, have been or shall be filed with the California Department of Real Estate in the subdivider's application for public report; and, if a final map, that the subdivider has requested or shall request that the above-mentioned notice to be given to prospective buyers be included in the subdivision public report;
- C. A statement certifying that the Director of City Planning and each tenant in the building to be converted has received or will receive a notice of final or parcel map approval and, for buildings with five or more units, a notice of subdivision public report application as set forth in subsections (B)(3) and (B)(4) of Section 16.36.040;
- D. A statement certifying that the Director of City Planning and each tenant in the building to be converted will receive the notice of subdivision public report or notice of start of sales program as set forth in Section 16.36.110;
- E. For tentative map or tentative parcel map approvals involving conversion rights, a statement certifying, in conformity with Section 16.36.070, that no unit in the conversion will be offered for sale until a certificate of occupancy will have been issued on those project(s) generating conversion rights;
- F. For tentative map approvals involving conversion rights, a statement certifying, in conformity with Section 16.36.070, that the California Department of Real Estate has been or will be requested not to issue the final subdivision public report until so notified in writing by the subdivider, such request to include written approval of the Director of City Planning to the issuance of said report;
- G. A statement certifying, in conformity with Section 16.36.130, that no unit in the conversion will be offered for sale until the unit conforms to the noise insulation standards promulgated in Title 25 of the California Administrative Code, Section 1092, or its successor;
- H. A statement certifying that informational reports will be submitted to the City Planning Director as required by and set forth in Section 16.36.140.

No final or parcel map shall be approved until the above requirements have been met.  
(Prior code § 7-7.10)

16.36.110 Notice of subdivision public report or notice of start of sales program.

Within five days of receipt of the final subdivision public report described in Section 11018 of the California Business and Professions Code, the subdivider of a building with five or more units shall notify, in writing, the Director of City Planning and all

tenants in the building to be converted of the date of issuance of said report. For buildings with four or less units, the subdivider shall give the Director of City Planning and all tenants in the building to be converted ten days' prior written notice of the start of the sales program. Said notices, to be accompanied by the subdivider's final tenant assistance program as set forth in Section 16.36.080, shall also state the following:

A. That, for buildings of five or more units, a copy of the final subdivision public report is available to each tenant upon request;

B. That no remodeling of the interior of tenant-occupied units shall begin until at least *thirty (30) days after issuance of said report or start of the sales program*;

C. That each tenant has an exclusive right to contract for the purchase of the tenant's respective unit, or, at the tenant's option, any other available unit in the building upon the same terms and conditions that such units will be initially offered to the general public or upon terms more favorable to the tenant as indicated in the subdivider's final tenant assistance program attached to this notice, such right to run for a period of not less than ninety (90) days from the date of issuance of said report or the start of the sales program;

D. That each tenant has a right of occupancy of at least one hundred eighty (180) days from the issuance of said report or the start of the sales program or until the expiration of tenant's lease, or as specified in the subdivider's final tenant assistance program attached to this notice, whichever is longer, prior to termination of tenancy due to conversion. This provision 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;

E. That the subdivider will provide each tenant not wishing to purchase a unit with up-to-date information of available apartments of comparable size, price, and location within the city and will take other steps as indicated in the subdivider's final tenant assistance program attached to this notice.

The written notices required by this section shall be deemed satisfied if they comply with the legal requirements for service by mail.

(Prior code § 7-7.11)

16.36.120 Information to be given to prospective buyers.

All prospective buyers of converted units shall be given written notices, stating the existence of a seventy-two (72) hour period following an agreement to purchase, during which period a prospective buyer may withdraw from the agreement to purchase without penalty or cost. The written notice shall also state the availability of the following:

A. A property report prepared and signed by an appropriately licensed contractor or engineer. Said report shall:

1. Describe the condition and useful life of the roof and foundations, and the mechanical, electrical, plumbing, and structural elements of all existing structures on the property, and

2. Estimate future property maintenance costs;

B. A structural pest report prepared and signed by a licensed pest control operator, conforming to California Business and Professions Code, Section 8516;

C. A report describing the building with regard to whether utilities are separately metered; water shutoff valves; availability of protected storage space in addition to closet space ordinarily contained within a unit; and laundry facilities, if any;

D. A statement, signed by a person experienced in the field of acoustical testing and engineering, certifying that the converted unit conforms to the noise insulation standards promulgated in Title 25 of the California Administrative Code, Section 1092, or its successor.

(Prior code § 7-7.12)

16.36.130 Noise insulation standards.

No unit in a building approved for conversion shall be offered for sale unless it conforms to the noise insulation standards promulgated in Title 25 of the California Administrative Code, Section 1092, or its successor.

(Prior code § 7-7.13)

16.36.140 Submission of informational reports.

Within thirty (30) days of the issuance of the final subdivision public report on the conversion of a building with five or more units or the start of the sales program in a building of four units or less, subdivider shall submit to the Director of City Planning informational reports pertaining to tenants of the conversion displaced since the filing of the tentative map or tentative parcel map, and to buyers of the units being converted. The information, as required, shall be submitted on forms to be provided by the City Planning Department. These informational reports shall be submitted annually, and they shall continue to be submitted until all units in the conversion have been sold.

(Prior code § 7-7.14)

16.36.150 Regulations by City Administrator

The City Administrator is authorized to develop regulations to implement this Chapter.

## **Section 2. Amendments to Master Fee Schedule.**

Ordinance number 12880 C.M.S. (Master Fee Schedule), as amended, is hereby amended to establish a Condominium Conversion Impact Fee in the amount of \$15,000 by inserting this fee in the Master Fee Schedule under Community and Economic Development Agency, Miscellaneous section E.

**Section 3.** The City Council finds and determines that this Ordinance is exempt from the requirements of the California Environmental Quality pursuant to the exemptions stated in the recitals above .

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2009

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and  
PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

DATE OF ATTESTATION: \_\_\_\_\_





**An Ordinance Adopting the Following:**

**1) Amending OMC Chapter 16.36, Condominium Conversions, As Follows:**

**a) To Establish a Pilot Program Providing an Alternate Means for a Limited Number of High Rent Apartments to Convert to Condominiums and to Establish Increased Tenant Protections in Buildings so Converted and to Establish an Impact Fee for Such Conversions;**

**B) To Facilitate a Limited Number of Established and Qualified Tenancy in Common Properties to Convert to Condominiums by Eliminating the Requirement for Obtaining Conversion Rights; and**

**C) To Clarify That Residential Rental Units Newly Constructed or Created from Nonresidential Space Can Use the Conversion Rights They Generated To Convert Those Rental Units To Condominiums on a One for One Basis.**

**2) Amending the Master Fee Schedule to Set the Amount of the Impact Fee for Higher Rent Condominium Conversions at \$15,000.**

**Digest**

This Ordinance would amend O.M.C. Chapter 16.36 (Condominium Conversions) to set up a pilot program to permit up to 300 higher rent units located in condominium conversion impact zones to convert to condominiums with the subdivider paying a \$15,000 impact fee, providing existing tenants with lifetime leases, and restricting sales of units occupied by tenants with lifetime leases. The ordinance would also permit the conversion of established tenant-in-common units in condominium conversion impact zones without the requirement to obtain conversion rights. The ordinance would further permit rental properties that have conversion rights to use those conversions to convert the property on which the rights were generated on a unit for unit basis.