

CITY OF OAKLAND
AGENDA REPORT

OFFICE OF THE CITY CLERK
2006 NOV - 2 PM 3:50

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: November 14, 2006
RE: **Consideration of revisions to the City of Oakland Subdivision Regulations (Title 16 of the Oakland Municipal Code – Condominium Conversions) regarding conversion of rental housing to condominium ownership as requested by Council members De La Fuente, Brooks and Chang; changes include substituting a fee to be paid to a Housing Trust Fund rather than the requirement for purchasing a conversion right in the private market; establishment of a cap of 1,500 units per year and changes to the required tenant assistance program; New Chapter 16 would be entitled “Conversions to Homeownership”**

SUMMARY

Council President De La Fuente and Council Members Brooks and Chang have jointly introduced an ordinance amending Oakland Municipal Code (OMC) Chapter 16.36, pertaining to conversion of existing rental units into ownership condominiums. The proposed amendments have four key parts:

- In addition to the requirement to purchase conversion rights to other existing rental units on the private market, an option of paying a per room fee would be provided as part of the conversion process. This fee would be placed in a newly established Housing Trust Fund to fund affordable housing.
- An annual cap of 1,500 units would be placed on the number of conversions granted by the City.
- The existing geographic restrictions on conversions (for instance around Lake Merritt and Adams Point) would remain, but owners of rental buildings who wish to convert would be able to pay a fee into the Housing Trust Fund.
- Tenant Assistance Programs would be refined and expanded to encourage home ownership and provide more assistance for displaced tenants.

The Planning Commission reviewed these proposed changes at their October 18, 2006 meeting and continued their review at the November 1, 2006 meeting.

This staff report provides detailed information about the proposed amendments. In addition, major issues associated with these changes is presented, along with Planning Commission comments, public comments, staff comments and recommendations for further changes. A redlined version of the ordinance is attached; this version includes changes that have been suggested during the Planning Commission’s review process.

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FISCAL IMPACT

Adoption of this ordinance will not have any direct impacts on City revenues. The City Council previously established a Development Services Fund for planning and building permits to cover the processing of planning and zoning applications. This Fund is fully cost covering. Condominium conversions are a form of subdivision, and are covered in the master fee schedule. Depending on the number of condominium conversions permitted by the amendments, planning and building services staff would need to be increased from 3 to 12 FTE. Planning, civil engineering, inspection and records administration staffing would all need to be increased to accommodate the likely increase in application volume. The proposed annual cap of 1,500 units represents approximately 1,100 more units than are presently processed annually. It is proposed that the increased costs would be covered by a surcharge on condominium conversion subdivision maps, pro-rated by the size of the conversion. Given that the proposed effective date is July 1, 2007, staff would recommend that the required modifications to the master fee schedule be covered as part of the FY 2007-09 budget process.

BACKGROUND

The Oakland City Council adopted the current ordinance pertaining to condominium conversions in 1981 and amended it in 1982 and 1984. The law sets forth the regulations by which rental units can convert to ownership units. Current law places restrictions on the ability to convert in order to preserve rental housing and protect tenants from displacement. In the existing regulations, a conversion is defined as a change in the type of ownership from residential rental realty to a stock cooperative, a condominium or community apartment project. It applies to buildings for which a certificate of occupancy has been issued for a multi-family rental building. Under the existing ordinance, all existing rental properties fall under this category as well as any newly constructed residential building that has received an occupancy permit but has not applied for a subdivision approval to sell the units separately. Most new residential projects automatically submit a subdivision map as part of land use approvals to preserve this right to sell units separately in the future.

The current ordinance further requires that each conversion of buildings of five or more units anywhere in the City and buildings with any number of units within the existing "Impact Areas" obtain a "conversion right" which is created from a newly constructed or rehabilitated unit that must remain a rental unit for seven (7) years. It defines a "Condominium Conversion Impact Area" as an area of the City where the rental housing supply was being negatively impacted by conversions at the time of adoption in the early 1980's. (Please refer to attached map for specific definition of the Primary and Secondary areas which are located around Lake Merritt and Adams Point as well as generally in the area west of Broadway, adjacent to the City of Piedmont.)

Subdividers are required to notify tenants of the proposed conversion and develop a Tenant Assistance Program that is approved by the City prior to conversion.

In 2004, staff recommended changes to the Ordinance that were reviewed and considered by the Planning Commission. These changes did not move forward due to the high degree of public concern. The proposal now before the Council takes into account many of the concerns raised in 2004. In addition, the Council Members sponsoring this proposal have included provisions for additional tenant protections and a new significant funding source for affordable housing through the creation of a Housing Trust Fund.

The table below presents the key provisions of the existing ordinance, followed by the Council Members' 9-27-06 version and suggestions that have been made by staff and others to further refine the proposal.

Description and Comparison of Key Condominium Conversion Ordinance Provisions

Existing Ordinance	Proposed Amendments by Council Members 9-27-06
1. <u>Ordinance Title</u> : Condominium Conversions	Title changed to: "Conversions to Homeowner Condominiums"
2. <u>Four or fewer dwelling units</u> are exempt from the conversion requirements. (16.36.010)	Four or fewer dwelling units would be included within the definition of "conversion" – requiring payment of conversion fee to the proposed Housing Trust Fund
3. <u>Notice to Existing and Prospective Tenants</u> : need to confirm that notice has been provided by use of mail delivery receipt. (16.36.020)	A monetary penalty provision has been added if subdivider fails to give proper notice to existing tenants and monetary penalties have been increased for failure to give notice to prospective tenants.
4. <u>Provisions for Tenants 62 years or older</u> : Tenants 62 or older have the option of a lifetime lease on their unit or any other available unit in the building. (16.36.050)	Provisions for a lifetime lease on occupied unit remains; the option to occupy another available unit and receive a lifetime lease has been eliminated.

Existing Ordinance	Proposed Amendments by Council Members 9-27-06
<p>5. <u>Tenant Rights</u>: Specific protections and rights are established including no rent increases during conversion process or one year after; right of first refusal to purchase, right to occupy up to 180 days after final subdivision report and lifetime leases for tenants 62 or older. (16.36.050 A.)</p>	<p>Establishes more specific Tenant Assistance Program provisions (see # 6, below); keeps provision for lifetime lease for persons 62 and older but only for their occupied unit, not any available unit(see # 4).</p>
<p>6. <u>Tenant Assistance Program</u>: Program must contain efforts to minimize tenant displacement and tenant relocation assistance. There are no specific requirements but only suggestions concerning incentives toward ownership and requirement that special efforts must be made for hard to relocate tenants, disabled and the elderly. (16.36.050 B.)</p>	<p>--Proposal more clearly specifies and expands components of Tenant Assistance Program in order to streamline process and provide a more generous package such as cash equal to six months of free rent for those tenants who choose to move rather than to buy their unit. Also – conformity finding would be required as a part of staff review. Current practice is cursory review to insure that minimum requirements have been established. --Proposal includes provision to submit an alternative Tenant Assistance Program to the Planning Commission for review and approval. (New section 16.36.050. C. and D.)</p>
<p>7. <u>Requirements for Approving a Conversion</u>: Planning Commission must find that every converted unit will be replaced with a rental unit added to the City's housing supply. This requirement is accomplished through the purchase of "conversion rights" and must be locked in for a minimum of 7 years (16.36.070.)</p>	<p>--Requirement for replacement unit is an option and another option has been added to pay a conversion fee based on \$2,000/room. Such fees will be placed in a new Housing Trust Fund. Fees in the "conversion impact areas" would be \$3,000/room. An estimate of \$12,500 has been calculated based on a 5 room average. --Fees will be waived if all tenants purchase their units.</p>

<p>8. <u>Basis for Denying a Conversion:</u> Planning Commission given the authority to deny conversion application outright in the “conversion impact areas” if it is demonstrated that rental housing supply has been negatively impacted by previous conversions (16.36.070 G.)</p>	<p>Planning Commission has authority to deny a conversion if it finds that subdivider vacated units in the building proposed for conversion in order to avoid tenant assistance and relocation or if the Preliminary Tenant Assistance Program does not meet standards in 16.36.050 (see # 6).</p>
<p>9. <u>No annual cap placed on the number of units that can be converted.</u></p>	<p>Annual cap of 1,500 units established for conversion.</p>
<p>10. <u>Annual Reporting requirement:</u> Subdivider needs to submit informational reports to the City pertaining to tenants displaced since the filing of the tentative map and to buyers of the units being converted</p>	<p>In addition to the current informational reporting requirements, Director of City Planning shall submit an annual report to the City Council regarding the number and location of conversions, changes to City’s percentages of owner occupied and renter occupied units, number of tenants who purchased units and amount deposited in the Housing Trust Fund.</p>

KEY ISSUES AND IMPACTS

The proposed changes to the condominium conversion ordinance are well founded and build on the comments and concerns previously raised about the existing ordinance. In particular, the desire to revise the procedures and account for changed circumstances in law and market conditions since the original ordinance was enacted in 1981. Although more rental units and homeownership units have been added in Oakland, homeownership rates continues to lag other adjacent counties and other parts of the country. According to the 2000 Census, only 41 percent of Oakland households own their own homes, compared to 55 percent for Alameda County and 58 percent for the San Francisco-Oakland-San Jose Census Metropolitan Statistical Area (CMSA), 57 percent for California and 67 percent for the country in general. Homeownership rates for the cities of San Jose, Fresno, Sacramento, Anaheim, San Diego, Santa Ana, Oakland, Long Beach, Los Angeles and San Francisco range from 35% to 61.8%. Of these ten cities, Oakland ranks seventh (7th). Oakland also ranks 1003 of 1080 jurisdictions in California for homeownership rates.

In addition, conversion rights are nearly impossible to find and there is no central point of monitoring to ascertain whether the value of these rights is consistent or whether there has been compliance with the seven year restriction on conversion of those units. Providing additional home ownership opportunities at below the average sales price for new units or single family homes would be an important tool for the City as most converted condominiums will cost less than a single family home.

These proposed changes are not without consequence. There needs to be careful review of the change in policy direction and a review of protections to avoid or minimize problems in project/program administration. This proposal represents a major shift in approach and purpose from protection of rental housing to encouraging home ownership. It is with these thoughts in mind that staff presents the major issues to be considered.

Conversion Within the Context of Related State and Local Laws.

Four pieces of legislation have come into effect since the adoption of the 1981 Condominium Conversion Ordinance, all of which potentially influence how rental units are converted to ownership units and the process by which they are taken out of the rental stock. These laws are summarized below:

Costa-Hawkins Rental Housing Act (1995): Costa-Hawkins phased out rent regulations on single-family units, including condominiums. The net effect of this legislation for cities that have rent regulations was to encourage landlords to convert to condominiums in order to gain an exemption from rent regulations. The State legislature revised the Costa-Hawkins Act in 2001 by requiring the subdividing landlord to sell units to a third party before they are exempt from rent regulations. The effect of this change was to prohibit the landlord from converting to condominiums to make the units exempt from rent regulations. Costa-Hawkins does not exempt condominiums from locally enacted just cause eviction restrictions.

The Ellis Act (1986): The Ellis Act permits a landlord to evict tenants in order to get out of the rental business at any time. It also limits the power of local jurisdictions to regulate the process by which it may be exercised. In September 2003, the City Council enacted an ordinance consistent with Ellis Act regulations to allow landlords to withdraw units from the rental market (OMC 8.22.400.) The ordinance provides for extended eviction notices – 120 days for most tenants, and one year for elderly and disabled tenants. The ordinance also gives evicted tenants specific rights should the landlord return the rental units to the rental market, including first right of refusal to re-rent their unit(s) and the right to sue for damages if the eviction was in bad faith.

Measure EE – Just Cause Eviction Ordinance (2002): Measure EE was an Oakland voter enacted initiative that protects tenants against arbitrary, unreasonable, discriminatory, or retaliatory evictions. Under the ordinance, landlords must show good cause for eviction by proving that specific conditions exist. The net effect is that landlords desiring to convert their rental properties to condominiums can no longer evict tenants by using a “no cause” eviction to vacate condominium units for sale to third parties.

Rent Adjustment Ordinance (1980): The Rent Arbitration Ordinance regulates rents in Oakland, including rented condominiums.

Public Comments to Date

During the Planning Commission's October 2006 meeting, many comments were received that ran the gamut between support and opposition. Major comments received are summarized below:

- The objective of increasing home ownership throughout Oakland is important, and increasing the number of conversions permitted will increase first time homebuyer opportunities given that converted units often sell below the prices set for newly constructed housing.
- It is important to expand homeownership opportunities for Oakland citizens such as teachers, firefighters, and the like so that these households can be a part of the community they work in.
- Affordable rental housing stock would be permanently removed as the result of these changes. Only ten to fifteen percent of Oakland households presently living in existing rental units would meet the income requirements for purchasing condominium units, measured at the low end of the market (\$250,000-300,000.)
- Many existing tenants will be displaced, and these households will have fewer housing options, thereby creating more impacts on the housing market.
- Once units are converted, if brought back onto the rental market, they will not be subject to the City's rent adjustment ordinance.
- A socio-economic impact study is required prior to adopting the amendments so that the impacts to the rental housing supply and existing tenants can be determined.
- The most desirable rental housing will be taken off the market, thereby increasing the economic segregation above and below I-580.
- These proposed amendments are not exempt from the California Environmental Quality Act (CEQA) due to potential impacts to traffic, parking and overcrowding.
- Seniors, low income households and people with disabilities will be impacted disproportionately due to the already limited rental housing choices.

Planning Commission Comments

The Planning Commissioners had the following comments regarding the proposed ordinance amendments:

- Increasing homeownership is an important objective but it must be balanced with the potential impacts from tenant displacement.
- Homeownership and steady employment are key factors in economic success. Therefore, employment growth is an equally important objective.
- The 1500 annual unit cap is too high.
- If all tenants wish to convert in a building then the conversion fees should be waived since there would be no displacement.
- The amount of the conversion fee is an important issue. Perhaps an annual monitoring and adjustment of this fee should be included, such as a pilot program.
- Another important tool for increasing homeownership and providing affordable housing is a housing bond, such as Los Angeles (\$ 1 billion bond measure on the November, 2006 ballot).
- A socio-economic impact study needs to be completed prior to any changes in the ordinance.
- Senior renters should be protected.
- Down payment assistance is critical to the success of tenants being able to afford their units.
- Public education and outreach efforts should be a part of this effort so that tenants can be educated about the homeownership assistance programs and the responsibilities of homeownership.
- Geographic impact areas should still be subject to the conversion rights requirement without the option to pay the conversion fee.
- One way to strike a balance is for the ten year increase in homeownership to 50 percent of Oakland households to be increased to 15-20 years.

Geographic Impact Areas

The purpose of placing the original restrictions on the two impact areas was two fold. First, there is a high concentration of rental units in these areas and secondly, these are highly desirable parts of Oakland in which to live. Although the impact areas would remain and an annual cap would be established, the new proposal might result in many older, larger apartment buildings being converted because conversion rights would no longer be required and the annual cap is fairly high. Retaining rental units in more desirable areas is an important consideration with regard to condition, location and balance.

Keeping the Conversion Rights Provision

Rather than eliminating the option for subdividers to purchase conversion rights as a means of preserving rental housing, the Planning Commission and staff recommend that this provision be retained. Instead, the conversion fee can be added, as another approach to meeting the objective of preserving rental units. In addition, since purchasing conversion rights would result in no net loss of rental units, these types of conversions may fall outside the annual cap. The version of the ordinance dated October 25, 2006 incorporates this change.

Annual Cap

The proposal would establish an annual cap of 1,500 conversions; no such cap is currently in place. Other cities have adopted such an approach. For instance, San Francisco allows 200 conversions per year and Berkeley allows 100. The Council Members who have sponsored this ordinance propose a cap of 1,500 units because, according to their calculations, if 1,500 Oakland renters become homeowners each year, over the next 10 years Oakland's homeownership rate would increase from 41 to 50 percent.

The 1,500 unit/year number may be problematic with regard to administration and monitoring. Up until 3-4 years ago, there were only a handful of conversion applications. Presently, there are about 400 units/year up for conversion, all in smaller properties. This number alone has placed a tremendous administrative burden on staff. Another related issue is how to manage applications that may exceed the established annual cap. One suggestion would be to allow applications for conversion to be accepted by a date certain each year on a "first come, first served basis." Any applications that exceed the annual cap can be placed, in order received, on a waiting list for the following year. These applications would then receive preference. This approach provides more certainty to applicants and eliminates the need to reapply.

Conversions of Buildings When a Certain Percentage of Tenants will Purchase Their Units.

There are a number of options available to strengthen the objective of tenants being able to purchase their units and thus increase homeownership for Oaklanders, and minimize tenant displacement. The Council Members' proposal includes an exemption from the conversion fee if all tenants in the building are participating in the conversion. Other limited exemptions from either the fee or the conversion rights provisions are available when the net effect would be no displacement of existing tenants. Any approach that involves a certain number of tenants consenting to conversion complicates the administration process. Staff suggests that a further exemption for tenants in common ownership and limited equity cooperative ownership be added to the ordinance. These are variations on the homeownership model and could be allowed based on identified criteria and confirmation of ownership status.

Protection of Rental Stock and the Need for Increased Homeownership

Context of Rental Households in Oakland and Income Levels. It is important to account for the major disparity of incomes of those households who own vs. rent in Oakland. Presented below are some key facts to consider about who may derive the benefits vs. who would be adversely affected due to displacement:

- The 2000 Census showed 88,301 renter households in Oakland, with an average median income of \$29,278. (This gross figure includes approximately 9,000 subsidized units, Section 8 units, and other non-profit housing that would not be affected by the conversion ordinance.)
- To account for inflation, the current average annual income range for these households is approximately \$35,000-40,000. The income required to purchase a \$375,000 unit is approximately \$75,000/year. Only 8 to 13 percent current renters would fall into this category.
- An affordable unit for purchase to these households would be approximately \$175,000 - 185,000. Given the average range of sales prices for rental units that have been converted (\$350,000 – 400,000), there is a huge affordability gap.
- This affordability gap could be partially filled with the City's first-time home buyers program or State assistance (total: up to \$125,000 – including \$75,000 from the City and \$50,000 from the California Housing Finance Agency). However, a significant gap would still remain.

Amount of Conversion Fee. The average City subsidy to aid in the construction of new affordable rental units is \$80-150,000. In order to more directly connect the amount of the fee to the objective of increasing rental housing and encouraging first time homebuyers, staff urges

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the City Council to carefully review the amount of the fee in relation to the loss of rental housing stock and the ability of the City to construct new affordable rental housing stock using the conversion fees.

Code Requirements for Building Upgrade Could be Further Standardized and Clarified.

Although the current condominium conversion ordinance OMC Chapter 16.36, "Condominium Conversion", has several provisions to ensure that prospective buyers are fully informed of the life-expectancy of habitability systems in the building (roof deterioration, wood frame pest damage, electrical and plumbing capacity, etc.), it currently does not require any fire protection upgrades or seismic safety analysis to insure that condominium conversion buyers enjoy the same degree of protection as other OMC ordinances that provide for live/ work conversions and historic building retrofitting. The existing ordinance requires that information on building systems be provided to prospective purchasers, similar to standard practices in real estate sales. The only upgrade required by the existing ordinance pertains to noise insulation standards. Neither the state model building code nor the model fire code considers the conversion of an existing multiple-family dwelling to condominium ownership a "change of occupancy". Therefore, neither code mandates any analysis of or upgrades to the building's life/safety systems.

The Building Services Division and the Fire Prevention Bureau of the Fire Services Agency are recommend two life/safety amendments to the current proposal which will require:

- a seismic analysis (similar to the California Historic Building Code) to determine the structural weak-points in buildings constructed before 1984 which would contribute to a collapse hazard during an earthquake;
- an upgrade of the building's fire warning system to a level required for Live/Work conversions.

The seismic analysis report will include a "plain English" summary of structural elements which should be strengthened to meet Historic Building Code design requirements (75% of current building code). As a condition of sale, the building will have to be upgraded with interconnected smoke alarms, exit signs and lighting, building and unit address numbering, and door keys for emergency access by the Fire Department.

The intent of these amendments is to standardize life safety improvements, thereby providing certainty, and to ensure that potential buyers are aware of the potential seismic risks of a structure prior to purchase. Since the vast majority of the City's rental stock was constructed prior to 1984, staff believes that these provisions will insure compliance with current minimum life/safety standards and also provide a "buyer beware" set of seismic information that will allow thoughtful consideration prior to making a substantial investment in real property.

Specifically, the earthquake analysis would assess and describe the extent of structural strengthening older buildings would need to in order to upgrade them to the (somewhat "relaxed") Historical Building Code safety standards (such as adding foundation anchor bolts, adding plywood in the crawl space to wall framing, bolting outside staircases and parapets to walls, etc.). Any upgrade would still be voluntary, but prospective buyers would know up-front the extent of a "potential fix".

The installation of 1) "early warning" devices (interconnected smoke alarms), b) hallway emergency exit lighting, c) firefighter "Knox boxes" at the main entry with door keys, and d) "prominent" building addressing (so an ambulance driver can find the building) are not costly and are typically required when Building Services plan checks live/ work conversions of older buildings (change-of-use from commercial/ industrial to residential triggers staff's ability to require these changes). The electrical wiring for the smoke detectors and exit lighting can be easily tapped into the existing building wiring. Exterior building numbering is an important safety feature for timely identification in an emergency, and tacking up numbers on interior doors is a minimal expense. Knox boxes (similar to what realtors use to store door keys for vacant houses) are an industry standard item, and will mitigate the potential liability for multiple-owners attributable to delays in gaining immediate access for emergency responders.

Environmental Review

Staff has determined that this project would be exempt from further review under the California Environmental Quality Act (CEQA) under the following Guideline Sections:

- 1) Section 15061(b)(3), State CEQA Guidelines, "General Rule," no possibility of significant effect on the environment because the housing units being converted already exist and a change in occupancy does not in and of itself constitute an environmental impact.
- 2) Section 15183, State CEQA Guidelines, "Projects Consistent with a Community Plan, General Plan or Zoning." This project constitutes a series of amendments to an existing portion of the City of Oakland Subdivision Ordinance. As described in detail in the October 18, 2006 Planning Commission report and in the findings attached to the draft ordinance, the amendments are consistent with a broad set of current General Plan policies and objectives concerning condominium conversion policies, increasing home ownership opportunities and encouraging a mix of housing costs, unit sizes, types and ownership structures. There has been previous environmental review for the General Plan Land Use and Transportation Element (LUTE – certified EIR in 1998) and a 2004 Negative Declaration for the General Plan Housing Element.
- 3) Section 15301 (k), State CEQA Guidelines, Existing Facilities – Division of Existing Multiple Family or Single-Family residences into common-interest ownership and subdivision of existing commercial or industrial buildings, where no physical changes occur and which are

not otherwise exempt. This exemption is specific to the proposed condominium conversion ordinance as it applies to existing housing units where there are not physical changes occurring.

Other Minor Issues

Staff suggests that when an alternative Tenant Assistance Program does not meet the proposed requirements, that specific criteria be developed to permit the Planning Commission to review these alternative requests in an objective manner (Section 16.36.050 D.)

SUSTAINABLE OPPORTUNITIES

Economic: Adoption of the ordinance will provide more home ownership opportunities for citizens and provide opportunities and incentives for some Oakland renters to own condominium units. Conversely, depending on the annual conversion limit that is established, existing rental units will be eliminated from the City's housing stock.

Environmental: Adoption of the ordinance will not have a direct impact on the environment since the housing units that will be affected by the ordinance changes already exist. Life safety measures will be improved, thus increasing public safety in the existing housing stock, the majority of which is of an older vintage.

Social Equity: Increased home ownership opportunities for Oakland is an important objective to improve communities and increase neighborhood investment. However, a portion of the existing rental housing stock will be eliminated over time. A portion of this existing rental stock is much more affordable than the average price of a condominium ownership unit. Much of this existing rental housing stock is now protected through the rental adjustment ordinance.

DISABILITY AND SENIOR CITIZEN ACCESS

This ordinance will not directly affect disability or senior citizen access because the housing units potentially affected already exist. Over time, it may affect the availability of rental units that are more affordable to disabled and senior citizens.

RECOMMENDATION(S) AND RATIONALE

The proposed ordinance amendments represent a distinct change in the intent of the condominium conversion provisions that have been in effect during the past 25 years. The change in approach would likely increase home ownership opportunities for first time

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homebuyers and some renters in Oakland, but it would also decrease the amount of available rental housing stock over time. City Council Members must carefully consider the consequences of this change in policy.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council:

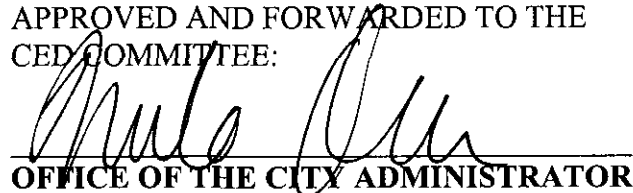
- 1) Take public testimony concerning the proposed amendments to Title 16.36 – Condominium Conversions.
- 2) Review and consider the proposed amendments to the ordinance.

Respectfully submitted,



Claudia Cappio
Development Director, CEDA

APPROVED AND FORWARDED TO THE
CED COMMITTEE:



OFFICE OF THE CITY ADMINISTRATOR

Attachments:

- A) Proposed Ordinance – dated 1-1-06, redlined against 9-27-06 and presented to the Planning Commission on November 1, 2006
- B) Planning Commission Staff Reports dated October 18, 2006 and November 1, 2006
- C) Council Members’ Powerpoint presentation
- D) Location of Condominium Conversions - 2006

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Chapter 16.36 CONDOMINIUM CONVERSIONS TO HOMEOWNER CONDOMINIUMS

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.

16.36.150 Annual Reports to the City Council

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)

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

A. Actual moving expenses, not to exceed \$1,000.00, -incurred when moving from the subject property; and

B. , 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 Six months rent one thousand dollars (\$1,000.00); or the amount of rental assistance in the Tenant Assistance Program, whichever is greater; and

CB. The first and last month's rent on the tenant's new rental unit, if any, immediately after moving from the subject property, or two thousand dollars (\$2,000.00), whichever is greater. (Prior code § 7-7.03)

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 tenant who was entitled to such notice, an amount equal to the sum of the following:

A. Actual moving expenses, not to exceed \$1,000.00, incurred when moving from the subject property; and

B. Six months rent or the amount of rental assistance in the Tenant Assistance Program, whichever is greater; and

C. The first and last month's rent on the tenant's new rental unit, if any, immediately after moving from the subject property, or two thousand dollars (\$2,000.00), whichever is greater. (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. . (See Section 16.36.060 C for recommend content of "favorable terms and conditions.")

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 canceling 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.

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. Subdivider shall also include actions and procedures to enable hard-to-relocate tenants to remain as tenants.

~~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)~~

C. The subdivider's TAP shall be deemed in compliance with the Sections 16.36.060 B. 1. and 16.36.080 if it contains the following components:

1. All tenants have been referred to a City-designated homebuyer counseling agency at least 6 months prior to the approval of the subdivision.

2. Each tenant who was a tenant of record one year prior to the submission of the application for the subdivision shall receive a reduction in the purchase price of the unit in an amount that equals or exceeds 5% of the general sales price.

3. At the sole option of the tenant, the tenant may use the reduced price to buy the unit, or if the tenant opts to relocate, the tenant may demand payment equal to 50% of that amount from the subdivider in lieu of purchasing the unit.

4. If the tenant opts for 2 or 3, above, no additional relocation assistance is due.

5. If the tenant does not opt for 2 or 3, above, and the tenant opts to relocate, the tenant shall be entitled to relocation payments equal to 6 months rent. The discounts and relocation payments in 2, 3, and 4 above are on a unit by unit basis, one discount or relocation per unit to be shared by the tenants of record.

D. If the subdivider wishes to present an alternative TAP they may and the Commission may approve such a TAP upon making findings that it is in the best interests of the City that the alternative TAP be accepted.

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. 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. The conversion rights so generated can be applied to the conversion of the building being rehabilitated. 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.

IA. Notwithstanding the foregoing sections A-H inclusive, the Advisory Agency shall grant approval of a tentative map for a Condominium —conversion that would ordinarily require conversion rights, if the subdivider agrees that, prior to final map approval, subdivider will make an In Lieu Feeaffordable housing payment into a Housing Trust Fund which shall be used for any housing assistance programs for very low, low, and moderate income Oakland residents approved by the City Council. All loans made from the Fund shall require that repayments are deposited into the Fund. Such In Lieu Feeaffordable housing payment, if made in accordance with provisions of this chapter, shall be found to avoid the negative impact the conversion may otherwise have had on the City's rental housing supply for very low, low, and moderate income households.

JB. The In Lieu Feeaffordable housing payment referred to in this section shall not exceed \$3,000 per room for conversion of rental units located in census tracts 4034, 4035, 4036, 4037, 4038, 4039, 4040,4041; 4042, 4042, 4043, 4052, and 4053. For rental units that are not located in those census tracts, the affordable housing payment shall not exceed \$2,000 per room. The number of rooms in a residential unit that the subdivider seeks to convert shall be determined in accordance with the number listed in the City of Oakland Report of Residential Building Records (3 R report).

KC. The requirement to make In Lieu Feeaffordable housing payments can be waived if all of the units in the residential property are being sold to tenants in the building.

LA. The In Lieu Fee procedures outlined in subsections I-K inclusive shall become effective on July 1, 2007, or earlier at the election of the applicant.

ME. The total number of units that the agency can approve in any calendar year cannot exceed 1500. Once applications for this amount have been received by the Agency no additional applications will be considered until those in the approval process are denied or until the following calendar year. Applications will be considered on a first-come first-serve basis.

~~NEI~~. 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 where the subdivider is required to make an In Lieu Fee affordable housing payment or involving conversion rights, evidence, in the manner specified by the Advisory Agency as set forth in Section 16.36.070, that the subdivider has made the payment or 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 Annual Reports to the City Council

Within sixty (60) days of the end of the calendar year the Director of the Community and Economic Development Agency ~~City Planning~~ shall report to the City Council information regarding the following:

- A. The number and location of Homeowner conversion approved.
- B. Changes to the City's percentage of owner occupied and renter occupied units.
- C. Number of tenants who purchase a converted unit.
- D. The amount of conversion fees received by the City and placed in the Housing Trust Fund.

Location:	CITYWIDE
Proposal:	Consideration of revisions to the City of Oakland Subdivision Regulations (Title 16 of the Oakland Municipal Code) regarding conversion of rental housing to condominium ownership as requested by Council members De la Fuente, Brooks and Chang. These changes include substituting a fee to be paid to a Housing Trust Fund rather than the requirement for purchasing a conversion right in the private market; establishment of a cap of 1,500 units per year and changes to the required tenant assistance program.
Applicant:	City of Oakland
Case File Number:	None. Amendment to the Municipal Code
Environmental Determination:	Exempt, Section 15061(b)(3), State CEQA Guidelines, "General Rule," no possibility of significant effect on the environment
Status:	The Council Rules Committee has requested the Planning Commission's review and recommendation of the proposed Condominium Conversion Ordinance. Staff recommends that the Planning Commission hear public testimony on the proposed amendments and forward recommendations to the Oakland City Council
Staff recommendation:	Staff recommends that the Planning Commission hear public testimony on the proposed amendments and forward recommendations to the Oakland City Council
For further information:	Contact Eric Angstadt at (510) 238-6190 or by email at eaangstadt@oaklandnet.com .

SUMMARY

Council President De La Fuente and Council Members' Brooks and Chang have jointly introduced an ordinance amending OMC Chapter 16.36, pertaining to conversion of existing rental units into ownership condominiums. The proposed amendments have four key parts:

- Instead of the requirement to purchase conversion rights to other existing rental units on the private market, a per room fee would be charged as part of the conversion process. This fee would be placed in a newly established Housing Trust Fund to fund other affordable housing projects.
- An annual cap of 1,500 units would be placed on the number of conversions granted by the City.
- The existing geographic restrictions on conversions (for instance around Lake Merritt and Adams Point) would remain, but owners of rental buildings who wish to convert would be able to pay a fee into the Housing Trust Fund.
- Tenant Assistance Programs would be refined and expanded to encourage home ownership and provide more assistance for displaced tenants.

The Planning Commission is requested to review and consider these proposed amendments and forward its recommendations to the City Council. The CED Committee is expected to consider this issue at their November 14, 2006 meeting. This schedule gives the Commission another opportunity to continue its discussion to the November 1, 2006 meeting, if desired. The effective date of these changes is proposed to be July 1, 2007.

BACKGROUND

The Oakland City Council adopted the current ordinance pertaining to condominium conversions in 1981 and amended it in 1982 and 1984. The law sets forth the regulations by which rental units can convert to ownership units. Current law places restrictions on the ability to convert in order to preserve rental housing and protect tenants from displacement. In the existing regulations, a conversion is defined as a change in the type of ownership from residential rental realty to a stock cooperative, a condominium or community apartment project. It applies to buildings for which a certificate of occupancy has been issued for a multi-family rental building. Under the existing ordinance, all existing rental properties fall under this category as well as any newly constructed residential building that has received an occupancy permit but has not applied for a subdivision approval to sell the units separately. Most new residential projects automatically submit a subdivision map as part of land use approvals to preserve this right to sell units separately in the future.

The current ordinance further requires that each conversion of buildings of five or more units anywhere in the City and buildings with any number of units within the existing "Impact Areas" obtain a "conversion right" which is created from a newly constructed or rehabilitated unit that must remain a rental unit for seven (7) years. It defines a "Condominium Conversion Impact Area" as an area of the City where rental housing supply was being negatively impacted by conversions at the time of adoption in the early 1980's. (Please refer to attached map for specific definition of the Primary and Secondary areas which are located around Lake Merritt and Adams Point as well as generally in the area West of Broadway, adjacent to Piedmont.)

Subdividers are required to notify tenants of the proposed conversion and develop a Tenant Assistance Program that is approved by the City prior to conversion.

In 2004, staff recommended changes to the Ordinance that were reviewed and considered by the Planning Commission but did not move forward due to the high degree of public concern. The proposal now before the Commission takes into account many of the concerns raised in 2004. In addition, the City Council Members who have sponsored this latest proposal have also included provisions for additional tenant protections and a new significant funding source for affordable housing through the creation of a Housing Trust Fund.

Detailed Description of Proposed Changes. A redlined copy of the proposed ordinance changes are attached to this staff report. The following summary table presents the major changes proposed between the existing ordinance and the proposed amendments

Existing Ordinance	Proposed Amendments
1. <u>Ordinance Title:</u> Condominium Conversions	<u>Title changed to:</u> "Conversions to Homeowner Condominiums"
2. <u>Four or fewer dwelling units</u> are exempt from the conversion requirements. (16.36.010)	<u>Four or fewer dwelling units</u> would be included within the definition of "conversion" – requiring payment of conversion fee to the proposed Housing Trust Fund
3. <u>Notice to Existing and Prospective Tenants:</u> need to confirm that notice has been provided by use of mail delivery receipt. (16.36.020)	A monetary penalty provision has been added if subdivider fails to give proper notice to existing tenants and monetary penalties have been increased for failure to give notice to prospective tenants.

<p>4. <u>Provisions for Tenants 62 years or older:</u> Tenants 62 or older have the option of a lifetime lease on their unit or any other available unit in the building. (16.36.050)</p>	<p>Provisions for a lifetime lease on occupied unit remains; the option to occupy another available unit and receive a lifetime lease has been eliminated.</p>
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<p>5. <u>Tenant Rights:</u> Specific protections and rights are established including no rent increases during conversion process or one year after; right of first refusal to purchase, right to occupy up to 180 days after final subdivision report and lifetime leases for tenants 62 or older. (16.36.050 A.)</p>	<p>Establishes a more specific Tenant Assistance Program provisions (see # 6, below); keeps provision for lifetime lease for persons 62 and older but only for their occupied unit, not any available unit(see # 4).</p>
<p>6. <u>Tenant Assistance Program:</u> Program must contain efforts to minimize tenant displacement and tenant relocation assistance. No specific requirements but suggestions concerning incentives toward ownership and requirement that special efforts must be made for hard to relocate tenants, disabled and the elderly. (16.36.050 B.)</p>	<p>--Proposal to more clearly specify and expand components of Tenant Assistance Program in order to streamline process and provide a more generous package such as cash equal to six months of free rent for those tenants who choose to move rather than to buy their unit. Also – conformity finding would be required as a part of staff review. Current practice is cursory review to assure that <i>minimum requirements</i> have been established. --Proposal also includes provision to submit an <i>alternative Tenant Assistance Program to the Planning Commission</i> for review and approval. (New section 16.36.050. C. and D.)</p>
<p>7. <u>Requirements for Approving a Conversion:</u> Planning Commission must find that every converted unit will be replaced with a rental unit added to the City’s housing supply. This requirement is accomplished through the purchasing of “conversion right” and must be locked in for a minimum of 7 years. (16.36.070)</p>	<p>--Requirement for replacement unit has been eliminated and instead a \$2,000/room fee has been established to be placed a new Housing Trust Fund. Fees in the “conversion impact areas” would be \$3,000/room. Estimate of \$12,500/unit based on a 5 room average (2 bedrooms plus kitchen, dining room and living room). --Fees would be waived if all tenants purchase their units.</p>
<p>8. <u>Basis for Denying a Conversion:</u> Planning Commission given the authority to deny conversion application outright in the “conversion impact areas” if it is demonstrated that rental housing supply has been negatively impacted by previous conversions (16.36.070 G.)</p>	<p>Planning Commission has authority to deny a conversion if it finds that subdivider vacated units in the building proposed for conversion in order to avoid tenant assistance and relocation or if the Preliminary Tenant Assistance Program does not meet standards in 16.36.050 (see # 6).</p>
<p>9. <u>No annual cap placed on the number of units that can be converted.</u></p>	<p>Annual cap of 1,500 units established for conversion.</p>
<p>10. <u>Annual Reporting requirement:</u> Subdivider needs to submit informational reports to the City pertaining to tenants displaced since the filing of the tentative map and to buyers of the units being converted.</p>	<p>In addition to the current informational reporting requirements, Director of City Planning shall submit an annual report to the City Council regarding the number and location of conversions, changes to City’s percentages of owner occupied and renter occupied units, number of tenants who purchased units and amount deposited in Housing Trust Fund.</p>

GENERAL PLAN ANALYSIS

Land Use and Transportation Element

The proposed amendments are consistent with the General Plan *Land Use and Transportation Element* (LUTE), Neighborhood Policies N6.1 and N6.2, which encourage diversity in unit sizes and types and increased ownership opportunities for households of all income levels.

Objective N6: Encourage a mix of housing costs, unit sizes, types and ownership structures.

Allowing more units to be converted to homeownership condominium units allows increased homeownership of multi-unit buildings in addition to single family dwellings. Given the comparison between single family and condominium sales prices, condominiums are more affordable than some single family structures and offer additional opportunities available to all Oakland residents.

Policy N6.1 Mixing Housing Types. The City will generally be supportive of a mix of projects that provide a variety of housing types, unit sizes, and lot sizes, which are available to households with a variety of incomes.

Changes to the regulations will allow an increase in homeownership in older multi-unit dwellings that may be more affordable than some single family structures.

Policy N6.2 Increased Home Ownership. Housing developments that increase home ownership opportunities for households of all incomes are desired.

Due to the changes in the housing market and the increase in home prices, many first time home buyers have found it difficult to purchase homes in the area. Alameda County is known as a high-cost area for housing. Many home buyers have chosen to purchase in outlying areas such as Antioch, Tracy, Stockton and Manteca and tolerate a long commute because they have not found housing that they can afford closer to major employment centers such as Oakland.

Housing Element

The 2004 Housing Element contains the following policy pertaining to condominium conversions:

Policy 5.6: Limitations on Conversion of Rental Units to Condominiums – continue to use regulatory controls to limit the loss of rental housing units due to their conversion to condominiums.

Action 5.6.1: Condominium Conversion Ordinance

Continue to implement Planning Code provisions in the existing ordinance to restrict conversions. As noted in Action 2.2.4, the City might consider revisions to provide more opportunities for affordable home ownership, especially to allow existing tenants to purchase their rental units. Changes to the Condominium Conversion Ordinance may be made only if adopted by the City Council following appropriate public notice.

The proposed amendments would continue to provide a framework for converting condominiums and would provide a fee exemption for those projects where the existing tenants were purchasing their building to continue to live in it. The proposed amendments would also be considered after appropriate public notice at both the Planning Commission and the City Council.

ENVIRONMENTAL DETERMINATION

The proposed changes are exempt for the California Environmental Quality Act (CEQA) under the "General Rule" that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Section 15061(b)(3) of the state CEQA Guidelines states that where there is

no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The changes would simply influence the potential ownership structures of existing residential buildings, and would not result in physical changes. There is not potential for the changes to cause a significant effect on the environment.

KEY ISSUES AND IMPACTS

The proposed changes to the condominium conversion ordinance are well founded and build on the comments and concerns previously raised about the existing ordinance. In particular, the desire to revise the procedures and account for changed circumstances in law and market conditions since the original ordinance was enacted in 1981 represents an important step. Although more rental units and homeownership units have been added in Oakland, the homeownership rate continues to lag other adjacent counties and parts of the country. According to the 2000 Census, only 41 percent of Oakland households own their own homes compared to 55 percent for Alameda County and 58 percent for the San Francisco-Oakland-San Jose CMSA, 57 percent for California and 67 percent for the U.S. Homeownership rates for the cities of San Jose, Fresno, Sacramento, Anaheim, San Diego, Santa Ana, Oakland, Long Beach, Los Angeles and San Francisco range from 61.8% to 35%. Of these ten cities, Oakland ranks seventh (7th). Oakland also ranks 1003 of 1080 jurisdictions in California for homeownership rates.

In addition, conversion rights are nearly impossible to find and there is no central point of monitoring to ascertain whether the value of these rights is consistent or whether there has been compliance with the seven year restriction on conversion of those units. Providing additional home ownership opportunities below the average sales price of new units or single family homes would be an important tool for the City. Most converted condominiums will cost less than a single family home.

These proposed changes are not without consequence, however. There needs to be careful review of the change in policy direction and protections established to avoid or minimize problems in administration. This proposal represents a major shift in approach and purpose from protection of rental housing to encouraging home ownership. It is with these thoughts in mind that staff presents the major issues that should be considered as part of this discussion.

Conversion Within the Context of Related State and Local Laws.

Four pieces of legislation have come into effect since the adoption of the 1981 Condominium Conversion Ordinance, all of which potentially influence how rental units are converted to ownership units and the process by which they are taken out of the rental stock. These laws are summarized below:

Costa-Hawkins Rental Housing Act (1995): Costa-Hawkins phased out rent regulations on single-family units, including condominiums. The net effect of this legislation for cities that have rent regulations was to encourage landlords to convert to condominiums in order to gain an exemption from rent regulations. The State legislature revised the Costa-Hawkins Act in 2001 by requiring the subdividing landlord to sell units to a third party before they are exempt from rent regulations. The effect of this change was to prohibit the landlord from converting to condominiums to make the units exempt from rent regulations. Costa-Hawkins does not exempt condominiums from locally enacted just cause eviction restrictions.

The Ellis Act (1986): The Ellis Act permits a landlord to evict tenants in order to get out of the rental business at any time. It also limits the power of local jurisdictions to regulate the process by which it may be exercised. In September, 2003, the City Council enacted an ordinance consistent with the Ellis Act regulations to allow landlords to withdraw units from the rental market (OMC 8.22.400.) The

ordinance provides for extended eviction notices – 120 days for most tenants, and one year for elderly and disabled tenants. The ordinance also gives evicted tenants specific rights should the landlord return the rental units to the rental market, including first rights of refusal to re-rent their units and the right to sue for damages if the eviction was in bad faith.

Measure EE – Just Cause Eviction Ordinance (2002): Measure EE was a voter enacted initiative that protects tenants against arbitrary, unreasonable, discriminatory, or retaliatory evictions. Under the ordinance, landlords must show good cause for eviction by proving that specific conditions exist. The net effect is that landlords desiring to convert their rental properties to condominiums can no longer evict tenants by using a “no cause” eviction to vacate condominium units for sale to third parties.

Rent Adjustment Ordinance (1980): The Rent Arbitration Ordinance regulates rents in Oakland, including rented condominiums.

The City Attorney’s office is working on a separate memorandum to the Commission about how these contravening state and local laws may affect the proposed amendments.

Eliminating the Geographic Impact Areas

The purpose of placing the original restrictions on the two impact areas was two fold. First, there is a high concentration rental of units in these areas and secondly, these are highly desirable parts of Oakland to live in. Although the impact areas would remain and an annual cap would be established, the new proposal might result in many older, larger apartment buildings being converted because conversion right would no longer be required and the annual cap is fairly high. Staff suggests that there may be value to reviewing annual limitations on the number of units that may be converted in any one area of the City in order to avoid a rush of conversions in the most desirable areas. The balance of retaining rental units in more desirable areas – with regard to condition and location, is an important consideration.

Annual Cap

The proposal would establish an annual cap of 1500 conversions; no such cap has been in place. Other cities have adopted such an approach. For instance, San Francisco allows 200 conversions per year and Berkeley allows 100. The three Council Members have proposed a cap of 1,500 units because, according to their calculations, if 1,500 Oakland renters become homeowners each year, over the next 10 years Oakland’s homeownership rate would increase from 41 to 50 percent.

The 1,500 unit/year number may be problematic with regard to administration and monitoring. Up until 3-4 years ago, there would be a handful of conversion applications. Presently, there are about 400 units/year up for conversion, all in smaller properties. This number alone has placed a tremendous administrative burden on staff. Staff suggests that the initial (first 2 years) number of conversions be reduced to a lower number, with an escalator clause based on an annual monitoring report and any other issues that may arise. This incremental approach would assure that administrative review procedures, increased staffing and other processing requirements can be successfully established.

Another related issue is how to manage applications that may exceed the established annual cap. Staff suggests a minor amendment which would provide that all applications for conversion be accepted by a date certain each year on a first come, first serve basis. Any applications that exceed the annual cap can be placed, in order received, on a waiting list for the following year. These applications can then receive preference. This approach provides more certainty to applicants and eliminates the need to keep reapplying.

Conversions of Buildings When a Certain Percentage of Tenants will Purchase Their Units.

As a variant to the amendment that allows a fee exemption for those applications where all existing tenants wish to buy their units, staff suggests that this provision be made more flexible. Conversions could be allowed for exemption from the fee when 50% or more of the existing tenants (based on occupancy of either 6-months or 1 year) intend to purchase their units. Staff would be required to receive information and verify that the tenants qualify as existing tenants. This approach provides another avenue for increased home ownership and tenant displacements would be minimized as some percentage of the units in the buildings would not be required to relocate.

Other related options include an exemption for tenants in common ownership and limited equity cooperative ownership. Again, these are variations on the homeownership model. These types of conversions could be allowed based on identified criteria and confirmation of ownership status. Most existing tenants would purchase their units and relocations would be minimal or nonexistent. No replacement units would be required.

Protection of Rental Stock and the Need for Increased Homeownership

Elimination of Conversion Rights Provision. There are a number of important issues to consider when changing policy direction from primarily protecting of rental units to encouraging home ownership. Although the conversion rights provisions have been rarely used, staff suggests that these should not be eliminated altogether. Perhaps the option of paying a conversion fee should be added, thereby leaving the option of using conversion rights if that approach is more appropriate. For larger projects, converting one half of a building and leaving a portion of the units for rental may make more sense to a particular applicant than paying the proposed conversion fee.

Context of Rental Households in Oakland and Income Levels. In addition, it is important to account for the major disparity of incomes of those households who own vs. rent in Oakland. Presented below are some key facts to consider about who may derive the benefits vs. who would be detrimentally affected due to displacement:

- The 2000 Census showed 88,301 renters households in Oakland with an average median income of \$29,278. (This gross figure may include subsidized units, Section 8 units, and other non-profit housing that may not be affected by the conversion ordinance.)
- To account for inflation, the current average range for these households is approximately \$35,000-40,000. The income required to purchase a \$375,000 unit is approximately \$75,000/year. Only 9,600 current renters would fall into this category.
- An affordable unit for purchase to these households would be approximately \$175-185,000. Given the average range of sales prices for rental units that have been converted (\$350,000 – 400,000), there is a huge affordability gap.
- This affordability gap could be partially filled with the City's first-time home buyers program or State assistance (total: up to \$125,000 – including \$75,000 from the City and \$50,000 from the California Housing Finance Agency) – but a significant gap would still remain.

Amount of Conversion Fee. The proposed range of conversion fee (\$ 8,000 for one bedroom unit not in the impact area to \$18,000 for a 3 bedroom unit within the impact area) would not provide amount of funding necessary to close the affordability gap for a typical Oakland renter household. If the intention of this fee is to close affordability gaps for renters who wish to buy their units, this fee needs to be

increased. Similarly, if the intention of this fee is to provide affordable replacement units for renters who may be displaced, this fee needs to be increased. The average City subsidy to aid in the construction of new affordable rental units is \$80-150,000.

Code Requirements for Building Upgrade Could be Further Standardized and Clarified.

Although the current condominium conversion ordinance Oakland Municipal (OMC) (OMC Chapter 16.36), Condominium Conversion, has several provisions to assure that prospective buyers are fully informed of the life-expectancy of habitability systems in the building (roof deterioration, wood frame pest damage, electrical and plumbing capacity, etc.), it currently does not require any fire protection upgrades or seismic safety analysis to assure that condominium conversion buyers enjoy the same degree of protection as other OMC ordinances provide for live/ work conversions and historic building retrofitting. The existing ordinance provides for information on building systems to be provided to prospective purchasers, similar to standard practices in real estate sales. The only upgrade required by the ordinance pertains to noise insulation standards. Neither the state model building code nor the model fire code considers the conversion of an existing multiple-family dwelling to condominium ownership a "change of occupancy". Therefore, neither code mandates any analysis of or upgrades to the building's life/safety systems.

The Building Services Division and the Fire Prevention Bureau of the Fire Services Agency are recommending two life/safety amendments to the current proposal which will require:

- a seismic analysis similar to the California Historic Building Code to determine the structural weak-points in buildings constructed before 1984 which would contribute to a collapse hazard during an earthquake; and will require
- an upgrade of the building's fire warning system to a level required for Live/Work conversions.

The seismic analysis report will include a "plain English" summary of structural elements which should be strengthened to meet Historic Building Code design requirements (75% of current building code). As a condition of sale, the building will have to be upgraded with interconnected smoke alarms, exit signs and lighting, building and unit address numbering, and door keys for emergency access by the Fire Department.

The intent of these amendments is to standardize the set of life safety improvements, thereby providing certainty, and to assure that potential buyers are aware of the potential seismic risks of a structure prior to purchase. Since the vast majority of the City's rental stock was constructed prior to 1984, staff believes that these provisions will assure compliance with current minimum life/safety standards and also provide a "buyer beware" set of seismic information that will allow more thoughtful consideration prior to making a substantial investment in real property.

Specifically, the earthquake analysis would assess and describe the extent of structural strengthening older buildings would need to in order to upgrade them to the (somewhat "relaxed") Historical Building Code safety standards (such as adding foundation anchor bolts, adding plywood in the crawl space to wall framing, bolting outside staircases and parapets to walls, etc.). Any upgrade would still be voluntary, but the buyers would know up-front the extent of a "potential fix".

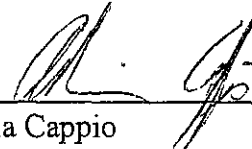
The installation of 1) "early warning" devices (interconnected smoke alarms), b) hallway emergency exit lighting, c) firefighter "knox boxes" at the main entry with door keys, and d) "prominent" building addressing (so an ambulance driver can find the building) are not costly and are typically required when Building Services plan checks live/ work conversions of older buildings (change-of-use from

commercial/ industrial to residential triggers our ability to require this). The electrical wiring for the smoke detectors and exit lighting can be easily tapped into the existing building wiring. Exterior building numbering is an important safety feature for timely identification in an emergency, and tacking up numbers on interior doors is minimally expensive. Knox boxes (similar to what realtors use to store door keys for vacant houses) are an industry standard item, and will mitigate the potential liability for multiple-owners attributable to delays in gaining immediate access for emergency responders.

Other Minor Issues

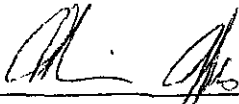
There are a number of minor suggestions to the proposed amendments. Staff will be working directly with the Council Members to provide language revisions. In particular, staff suggests that when an alternative Tenant Assistance Program does not meet the proposed requirements, that specific criteria be developed so that the Planning Commission can review these requests more objectively (Section 16.36.050 D.)

Prepared by:



Claudia Cappio
Director of Development

Approved for forwarding to the
City Planning Commission:



CLAUDIA CAPPIO
Director of Development

Attachments: Proposed Amended OMC Chapter 16.36
Power Point Presentation from Sponsoring Council Members De La Fuente,
Brooks and Chang

Location:	CITYWIDE
Proposal:	Consideration of revisions to the City of Oakland Subdivision Regulations (Title 16 of the Oakland Municipal Code) regarding conversion of rental housing to condominium ownership as requested by Council members De La Fuente, Brooks and Chang. These changes include substituting a fee to be paid to a Housing Trust Fund rather than the requirement for purchasing a conversion right in the private market; establishment of a cap of 1,500 units per year and changes to the required tenant assistance program.
Applicant:	City of Oakland
Case File Number:	None. Amendment to the Municipal Code
Environmental Determination:	Exempt, Section 15061(b)(3), State CEQA Guidelines, "General Rule," no possibility of significant effect on the environment; Section 15183, State CEQA Guidelines, "Projects Consistent with a Community Plan, General Plan or Zoning" and Section 15301 (k), State CEQA Guidelines, Existing Facilities – Division of Existing Multiple Family or Single-Family residences into common-interest ownership and subdivision of existing commercial or industrial buildings, where no physical changes occur and which are not otherwise exempt.
Status:	The Council Rules Committee has requested the Planning Commission's review and recommendation of the proposed Condominium Conversion Ordinance.
Staff recommendation:	Staff recommends that the Planning Commission hear public testimony on the proposed amendments and forward recommendations to the Oakland City Council
For further information:	Contact Eric Angstadt at (510) 238-6190 or by email at eangstadt@oaklandnet.com .

SUMMARY

On October 18, 2006, the Planning Commission began consideration of a series of proposed amendments to the City's condominium conversion ordinance. Council President De La Fuente and Council Members' Brooks and Chang have jointly introduced an ordinance amending OMC Chapter 16.36, allowing a different approach to converting existing rental units into ownership condominiums. The proposed amendments have four key parts:

- Instead of the requirement to purchase conversion rights to other existing rental units on the private market, a per room fee would be charged as part of the conversion process. This fee would be placed in a newly established Housing Trust Fund to fund other affordable housing projects.
- An annual cap of 1,500 units would be placed on the number of conversions granted by the City.
- The existing geographic restrictions on conversions (for instance around Lake Merritt and Adams Point) would remain, but owners of rental buildings who wish to convert would be able to pay a fee into the Housing Trust Fund.
- Tenant Assistance Programs would be refined and expanded to encourage home ownership and provide more assistance for displaced tenants.

Commissioners took public testimony and continued any discussion of recommendations, pending further public testimony. The Commission is requested to review and consider these proposed amendments and forward its recommendations to the City Council. The CED Committee will consider this issue at their November 14, 2006 meeting. The effective date of these changes is proposed to be July 1, 2007.

A copy of the October 18, 2006 staff report is attached to this staff report for reference. The attached draft ordinance has been modified to reflect preliminary suggestions made by the Commission in three areas:

- The penalty for failure to notice existing or prospective tenants has been increased by an additional amount equal to 6 months rent.
- Existing conversion rights have included back into the draft ordinance, and the proposed conversion fee represents a second way to meet the conversion requirements. This proposed fee remains unchanged from the first draft; it is calculated at \$2,000 per room (\$3,000 in the impact areas) of the converting unit, and will be deposited into a Housing trust Fund.
- The effective date of the new conversion fee option is July 1, 2007, or earlier at the election of the applicant.

Prepared by and Approved for forwarding to the
City Planning Commission:



Claudia Cappio
Director of Development

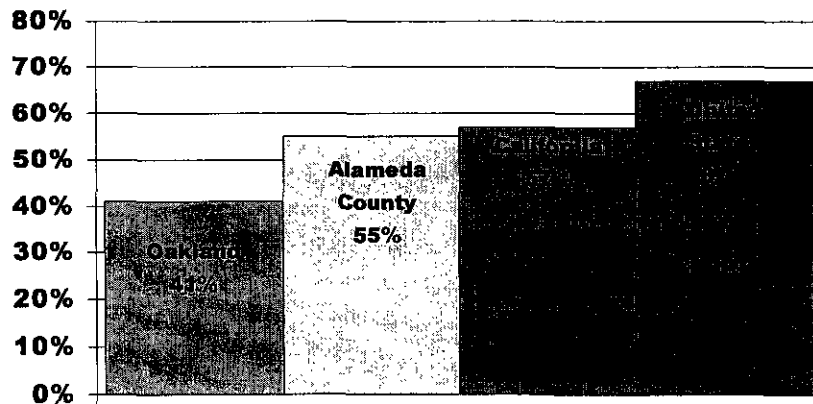
Attachments:

- A) Proposed Amended OMC Chapter 16.36 – dated 9-27-06 and redlined against the existing ordinance
- B) New Draft OMC Chapter 16.36 – dated 10-26-06 and redlined against the existing ordinance
- C) October 18, 2006 staff report
- D) January 7, 2004 staff report as requested by Commission (without attachments)
- E) Power Point Presentation on Proposed Ordinance



**An Introduction to the
AFFORDABLE HOMES FOR
OAKLANDERS PLAN
Sponsored by Council Members
De La Fuente, Brooks and Chang**

**Oakland's Homeownership Rate
is Exceptionally Low**



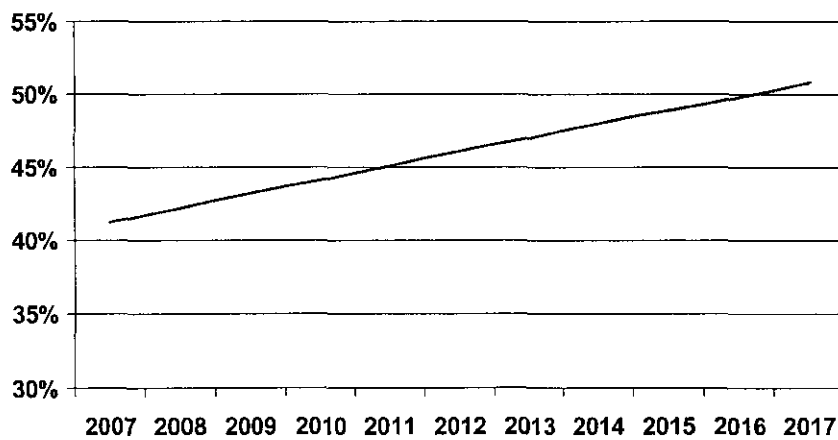
2000 Homeownership Rate

Why Does the Homeownership Rate Matter?

- Homeownership creates financial security for families
- Homeownership benefits public schools and neighborhoods.

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Our Vision: Reaching 50% in 10 Years 15,000 More Oakland Families Will Own Their Home



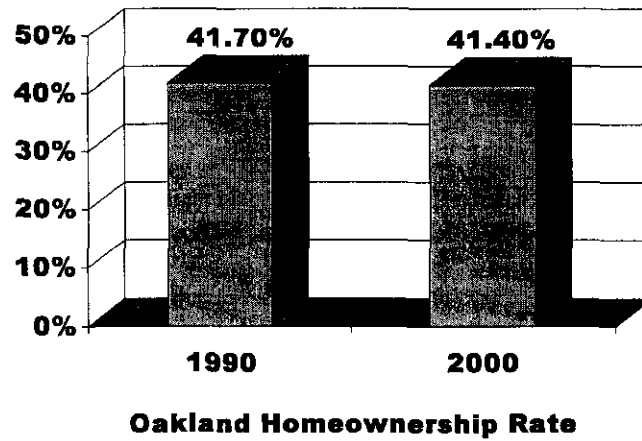
Increasing Oakland's Homeownership Rate from 41% to 51% is a 25% increase.

The City's Existing Tools To Encourage Homeownership:

- ✓ Downpayment assistance
- ✓ Homebuyer financial education
- ✓ Low-Interest loans for new construction

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Existing Tools Have Not Increased Homeownership Rate



Source: 1990 and 2000 U.S. Census. More recent accurate figures are not available.

Increasing Homeownership is the City of Oakland's Policy

City of Oakland Housing Policy (1993 Council Resolution)

- * "The City of Oakland will encourage homeownership to the fullest extent feasible."

Housing Element of City's General Plan (2004)

- * "The City might consider modifications to the Condominium Conversion Ordinance to provide more opportunities for affordable home ownership, especially to allow existing tenants to purchase their rental units."

Consolidated Plan for Housing and Community Development Strategies (2005)

- * "Expansion of the Supply of Affordable Ownership Housing"
- * "Expansion of Ownership Opportunities for First Time Homebuyers"

Another Tool is Needed to Ensure More Oakland Renters Become Homeowners

- ✓ Downpayment assistance
- ✓ Homebuyer financial education
- ✓ Low-Interest loans for new construction
- ✓ ***Affordable Homes for Oaklanders Plan: Converting Rental Units to Homeownership***

Benefits of Converting Rental Housing to Ownership Housing

- Creates homeownership opportunities for families who can't afford new construction
- Creates ownership housing all over the City; not just uptown and downtown
- Enables families to stay in Oakland

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Shortcomings of Existing Conversion Ordinance (Adopted 1981)

- Currently, building owners pay fees to other developers ("conversion rights") – this creates no money for affordable housing.
- Currently, most small buildings (4-units or less) are not required to acquire "conversion rights".
- Currently, there is no limit on the number of conversions.
- Currently, tenants get no discount to buy their units.

Note: Conversion Rights are required for all buildings in the "Impact Area" (around Lake Merritt). See Chapter 16.36 of the Oakland Subdivision Ordinance.

Affordable Homes for Oaklanders
Will Improve Existing Ordinance By:

1. Limiting Conversions
2. Increasing Tenant Benefits
3. Generating Funds for Affordable Housing
4. Requiring an Annual Study and Report

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Affordable Homes for Oaklanders:
1) Limiting The Conversions

- The number of conversions has been increasing each year in Oakland.
- This strategy will limit conversions to 1.7% of City's 90,000 rental units per year (1,500 units).

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Affordable Homes for Oaklanders:
2) Increasing Tenant Benefits

- Tenants will get a 5% discount on buying their unit.
- Tenants who do not purchase will receive cash equal to greater of 6 months rent or 2.5% of selling price.
- Seniors over age 62 will continue to get lifetime leases.
- Tenants will get free homebuyer education.

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**“Just Cause” and Rent Control
Laws Will Still Apply**

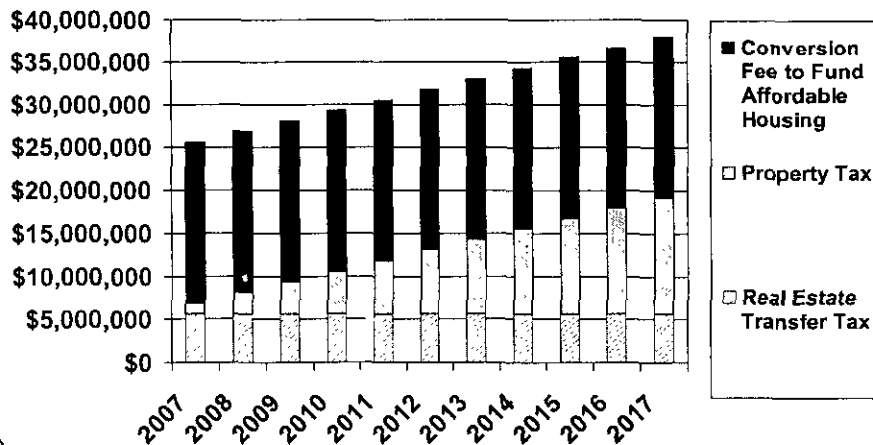
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Affordable Homes for Oaklanders: 3) Generating Funds for Affordable Housing

- Could generate nearly \$20 million per year for an Affordable Housing Trust Fund
- Building owner would pay \$12,500 per unit on average (\$3,000 per room in "impact area", \$2,000 elsewhere)
- Funds will increase downpayment assistance and construction/renovation of affordable housing for Oaklanders.

\$20 million assumes approximately 1500 units. \$12,500 average fee assumes 5 room units (2 bedrooms, dining room, living room, kitchen) and half of conversions in impact area.

Revenues Will Grow Each Year for Affordable Housing and City Services



In 2006 dollars. Assumes average sale price of \$250,000 and maximum of 1.7% of rental units convert each year (approx. 1,500 units).

Affordable Homes for Oaklanders:
4) Requiring an Annual Study/Report

Annual Report to Council to determine:

- Increase in City's homeownership rate.
- The number and location of conversions.
- The number of tenants who buy their units.
- Funds generated and how they are allocated by the city for affordable housing.

The report will provide opportunities to make additional improvements to the ordinance.

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Thousands of Rental Units Will Remain Ineligible for Conversion to Ownership

- Oakland Housing Authority Units
- Section 8 Project-Based Units
- Low Income Housing Tax Credit Units
- Units funded with City-Sponsored Programs

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Effective Date

- This law would go into effect approximately 6 months after enactment.
- Estimated effective date is July 2007.

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How Could *Affordable Homes for Oaklanders* Benefit Our City?

- Enable up to 15,000 Oaklanders to become homeowners (over the first 10 years).
- Triple annual dollars for affordable housing
- Create opportunities to own a home in neighborhoods throughout Oakland.
- Create supply of more affordable homes for Oakland's workforce.

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Public Process With Many Opportunities For Discussion

- Planning Commission Meetings
- City Council Committee Meetings
- Full City Council Meetings

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**An Introduction to the
AFFORDABLE HOMES FOR
OAKLANDERS PLAN
Sponsored by Council Members
De La Fuente, Brooks and Chang**

End of Presentation

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Condominium Conversion Applications Oakland, 2006

