

As amended in committee
November 29, 2005.

FILE NO. 051462

ORDINANCE NO.

1 [Condominium conversion lottery based on seniority of participation.]

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3 **Ordinance amending Subdivision Code Section 1396.1 to prioritize the condominium**
4 **conversion lottery based on seniority of participation in prior lotteries and making**
5 **environmental findings.**

6 Note: Additions are single-underline italics Times New Roman;
7 deletions are ~~strikethrough italics Times New Roman~~.
8 Board amendment additions are double underlined.
9 Board amendment deletions are ~~strikethrough normal~~.

9 Be it ordained by the People of the City and County of San Francisco:

10 Section 1. Environmental Findings. The Planning Department has determined that the
11 actions contemplated in this Ordinance are in compliance with the California Environmental
12 Quality Act (California Public Resources Code sections 21000 et seq.). Said determination is
13 on file with the Clerk of the Board of Supervisors in File No. 051462 and is incorporated herein
14 by reference.

15 Section 2. The San Francisco Subdivision Code is hereby amended by amending
16 Section 1396.1, to read as follows:

17 SEC. 1396.1. ANNUAL CONVERSION LIMITATION LOTTERY PROCEDURES.

18 This Section shall govern conduct of the lottery required by Section 1396 for the
19 conversion of residential units.

20 (a) The lottery shall be comprised of two pools (Pool A and Pool B).

21 (b) Pool A.

22 (1) ~~For the 1995 lottery, Pool A shall consist only of those eligible buildings which~~
23 ~~participated but which failed to be selected in any previous lottery held during the years 1990 through~~
24 ~~1994. For the 1996 lottery, Pool A shall consist of only those eligible buildings which participated but~~
25 ~~failed to be selected in any lottery held during the years 1990 through 1994 and the 1995 lottery. For~~

1 ~~all subsequent lotteries after 1996~~, Pool A shall consist of only those eligible buildings which
2 participated but which have failed to be selected for conversion in at least three previous
3 lotteries, ~~two of which must be lotteries held after 1994~~. In addition, Pool A eligibility requires that
4 each applicant for the lottery certify under penalty of perjury, and the Department must verify
5 with the Rent Stabilization and Arbitration Board, and with the Human Rights Commission as
6 applicable, that since January 1, 2000 1999, no eviction as defined in San Francisco
7 Administrative Code Section 37.9(a)(8)—(14) of a senior, disabled person, or catastrophically
8 ill tenant as defined below has occurred, or if an eviction has taken place under Administrative
9 Code Section 37.9(a)(11) or (14), that the original tenant reoccupied the unit after a temporary
10 eviction. For purposes of this section a "senior" shall be a person who is 60 years or older
11 and has been residing in the unit for 10 years or more at the time of the lottery; a "disabled"
12 tenant is defined for purposes of this Section as a person who is disabled within the meaning
13 of Title 42 U.S.C. Section 12102(2)(A); and a "catastrophically ill" tenant is defined for
14 purposes of this Subsection as a person who is disabled as defined above, and who is
15 suffering from a life threatening illness as certified by his or her primary care physician. If an
16 applicant for Pool A cannot satisfy this certification requirement, the applicant shall participate
17 in Pool B as set forth in Subsections (c)-(g). This certification also is subject to the
18 procedures of Subsection (g)(4). If all buildings eligible in Pool A comprise 100 or fewer units,
19 all such buildings shall automatically be approved for conversion. Any unallocated units in
20 Pool A shall be added to Pool B.

21 (2) If all buildings eligible in Pool A comprise more than 100 units, the
22 Director of the Department of Public Works (Director) shall ~~conduct a lottery among the buildings~~
23 ~~eligible for Pool A so that no more than 100 units are selected for conversion in Pool A rank the~~
24 ~~buildings according to the number of times a building has participated in and failed to be selected in~~
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1 any lottery, to be known as a Class. The Director shall enter the buildings having participated the most
2 times into the Senior Class. If the total number of units in the Senior Class exceeds 100 units, then the
3 Director shall conduct a lottery among all the buildings eligible for the Senior Class so that no more
4 than 100 units are selected for conversion in Pool A. If the total number of units in the Senior Class is
5 fewer than 100 units, all buildings shall automatically be approved for conversion. If there are
6 remaining units to be selected to reach the maximum total of 100 units in Pool A, the process will then
7 proceed to the next most senior Class. If the next most senior Class would result in more than 100 total
8 units being selected in Pool A, then the Director shall conduct a lottery among all the buildings eligible
9 for the next most senior Class so that no more than 100 total units are selected for conversion in Pool
10 A. If the number of units in next most senior Class(es) combined with the units previously selected in
11 Pool A is fewer than 100 total units, all buildings in the next most senior Class shall automatically be
12 approved for conversion. If there are remaining units to be selected to reach the maximum total of 100
13 units in Pool A, the process will then proceed as described above for the next most senior Class so that
14 those buildings with the most seniority are prioritized over the junior Class(es). At such time as the
15 number of units in the Class next eligible for conversion exceeds the total number of units remaining
16 for selection in Pool A, a lottery will be held among that Class to determine which units shall be
17 selected for conversion as part of Pool A. All buildings not selected for conversion through the
18 Pool A lottery shall then participate in Pool B, under the procedures set forth below.

19 (c) Pool B.

20 (1) Pool B shall consist of all eligible buildings pursuant to Section 1396
21 above, together with any buildings from Pool A that were not selected for conversion in the
22 Pool A lottery.

23 (2) Buildings from Pool B shall be selected for conversion by random
24 selection of lottery tickets submitted for eligible buildings.

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1 (3) Each building in Pool B shall receive one lottery ticket for the current
2 lottery, ~~plus a maximum of one lottery ticket for any and all lotteries held during the years 1990~~
3 ~~through 1994 in which the building participated but failed to be selected for conversion in the lottery,~~
4 plus one lottery ticket for every lottery ~~after 1994~~ in which the building participated but failed to
5 be selected for conversion.

6 ~~(4) — No building in Pool B shall receive more than five tickets.~~

7 (d) Applicants shall provide proof of participation in past lotteries to the Director.

8 (1) Proof of participation in any lottery held during the years 1990 through
9 1994 shall be as follows:

10 (i) Presentation by the registrant of a letter of regret from the Director for any
11 lottery held during the years 1990 through 1994; or

12 (ii) Presentation by the registrant of a cancelled check for payment of lottery
13 registration fees from any lottery held during the years 1990 through 1994; or

14 (iii) Any other proof of participation in any lottery held during the years 1990
15 through 1994, as determined acceptable by the Director.

16 (2) Proof of participation in any lottery held in or after 1995 shall be
17 determined upon presentation by the registrant of a letter of regret from the Director.

18 (e) Commencing with the 1997 lottery, any building seeking more than one lottery
19 ticket shall demonstrate to the satisfaction of the Director that one or more of the qualified
20 owners of the building were owners of the building at the time of the lotteries in which the
21 building participated but failed to be selected for conversion.

22 (f) For purposes of determining whether a building failed to be selected for
23 conversion in a previous lottery:

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1 (1) Those buildings which were chosen in a previous lottery but were not
2 converted for any reason whatsoever shall not be considered as having failed to be selected
3 in that lottery.

4 (2) Any previous failures to be selected by lottery do not have to occur in
5 consecutive years.

6 (3) No credit shall be given for any year in which the building did not
7 participate in the lottery.

8 (g) In addition to the other provisions relating to Pool A and Pool B described in
9 subsections (b) through (f) above:

10 (1) the first 175 units selected by lottery in Pools A and B must meet the
11 following requirements: the Applicant for the lottery must certify under penalty of perjury and
12 the Department must verify with the Rent Stabilization and Arbitration Board, and with the
13 Human Rights Commission as applicable, that since November 16, 2004, no eviction as
14 defined in San Francisco Administrative Code Section 37.9(a)(8)—(14) of a senior, disabled
15 person, or catastrophically ill tenant as defined below has occurred, or if an eviction has taken
16 place under Administrative Code Section 37.9(a)(11) or (14), that the original tenant
17 reoccupied the unit after a temporary eviction. For purposes of this section a "senior" shall be
18 a person who is 60 years or older and has been residing in the unit for 10 years or more at the
19 time of the lottery; a "disabled" tenant is defined for purposes of this Section as a person who
20 is disabled within the meaning of Title 42 U.S.C. Section 12102(2)(A); and a "catastrophically
21 ill" tenant is defined for purposes of this Subsection as a person who is disabled as defined
22 above, and who is suffering from a life threatening illness as certified by his or her primary
23 care physician.

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1 (2) If there are not 175 units that meet the requirements of subsection (g)(1)
2 above, then the remaining units will not be awarded by lottery in that year's lottery or any
3 future lottery. If there are more than 175 units that meet the requirements of subsection (g)(1)
4 above, then those units may compete for the remaining 25 units as described in subsection
5 (g)(3) below.

6 (3) The remaining 25 units in Pool A and Pool B will be selected as described
7 in subsections (b) through (f) and may, but do not need to, meet the additional requirements
8 of subsection (g)(1) above.

9 (4) If the Department determines that an Applicant has knowingly provided
10 false material information under subsection (g)(1) above, the Department shall immediately
11 deny the application for the lottery, or if the Applicant has submitted an application for
12 conversion, shall immediately deny the application for conversion. Moreover, the Department,
13 the Director or other authorized person or entity may also enforce the provisions of this
14 Section under Section 1304 or any other applicable provision of law as warranted.

15 (h) Standby List.

16 (1) Once all units have been allocated in Pools A and B, the remaining buildings
17 shall be placed on a standby list. Buildings on the standby list may convert in the event that selected
18 units in Pools A and B are unable to convert within the time limits that the Department establishes.

19 (2) The standby list shall be determined by a lottery or, if necessary, a series of
20 lotteries among a Class(es) of buildings prioritized by seniority of participation in the annual
21 condominium conversion lottery. Only buildings satisfying the requirements of subsection (g)(1) shall
22 be assigned to the standby list in the manner specified above.

23 (3) Those buildings that cannot satisfy the requirements of subsection (g)(1), shall
24 be placed on the standby list only after all other buildings have been selected for the standby list as set
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1 forth in subsection (2) above. The buildings subject to this provision shall be placed on the standby list
2 by random selection without regard to seniority.

3 (i) The amended provisions of Section 1396.1, as enacted by this Ordinance No.
4 shall remain in effect only until December 31, 2006; provided however, that the Board of
5 Supervisors retains its full authority to extend, modify, or terminate this legislation at any time.

6 Section 3. This Section is uncodified. No later than August 1, 2006, the Department of
7 Public Works shall report to the Board of Supervisors on the effect of this legislation. Said
8 report shall analyze the 2006 condominium conversion lottery results, including the number of
9 participants and years of participation; selected winners in Pools A and B and years of
10 participation; number of participants that were unable to submit confirmation concerning
11 evictions under Section 1396.1(b) or (g) and their status in the lottery; and results of the
12 stand-by list selection process.

13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By: _____
16 John D. Malamut
17 Deputy City Attorney

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