

FILE NO. 081087

10/07/08

ORDINANCE NO. 238-08

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

2
3 **Ordinance amending the Subdivision Code by amending Section 1396 to extend the**
4 **annual 200-unit condominium conversion lottery; amending Section 1396.3 to continue**
5 **the prioritization of the condominium conversion lottery based on seniority of**
6 **participation in prior lotteries; and making environmental findings.**

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

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

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

16 Section 2. The San Francisco Subdivision Code is hereby amended by amending
17 Section 1396, to read as follows:

18 SEC. 1396. ANNUAL CONVERSION LIMITATION.

19 This Section governing annual limitation shall apply only to conversion of
20 residential units.

21 Applications for conversion of residential units, whether vacant or occupied,
22 shall not be accepted by the Department of Public Works ~~during the period of January 1, 1994~~
23 ~~through December 31, 2008, inclusive~~, except that a maximum of 200 units as selected yearly by
24 lottery by the Department of Public Works from all eligible applicants, may be approved for
25 conversion per year during the ~~mentioned~~ period for the following categories of buildings:

1 (a) buildings consisting of four units or less in which one of the units has been
2 occupied continuously by one of the applicant owners of record for three years prior to the
3 date of registration for the lottery as selected by the Director;

4 (b) Buildings consisting of six units or less in which 50 percent or more of the units
5 have been occupied continuously by the applicant owners of record for three years prior to the
6 date of registration for the lottery as selected by the Director; or

7 (c) Community apartments as defined in Section 1308 of this Code, which, on or
8 before December 31, 1982, met the criteria for community apartments in Section 1308 of this
9 Code and which were approved as a subdivision by the Department of Public Works on or
10 before December 31, 1982, and where 75 percent of the units have been occupied
11 continuously by the applicant owners of record for three years prior to the date of registration
12 for the lottery as selected by the Director.

13 The conversion of a stock cooperative as defined in Section 1308 of this Code to
14 condominiums shall be exempt from the annual limitation imposed on the number of
15 conversions in this Section and from the requirement to be selected by lottery where 75
16 percent of the units have been occupied continuously by the applicant owners of record for
17 three years prior to the date of registration for the lottery as selected by the Director.

18 No application for conversion of a residential building submitted by a registrant shall be
19 approved by the Department of Public Works to fill the unused portion of the 200-unit annual
20 limitation for the previous year.

21 Section 3. The San Francisco Subdivision Code is hereby amended by amending
22 Section 1396.3, to read as follows:

23 SEC. 1396.3. ANNUAL CONVERSION LIMITATION LOTTERY PROCEDURES
24 BASED ON SENIORITY OF PARTICIPATION.

1 This Section shall govern conduct of the lottery required by Section 1396 and shall
2 prevail over the lottery selection process of Section 1396.1 for the conversion of residential
3 units.

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

5 (b) Pool A.

6 (1) Pool A shall consist of only those eligible buildings which participated but which
7 have failed to be selected for conversion in at least three previous lotteries. In addition, Pool A
8 eligibility requires that each applicant for the lottery certify under penalty of perjury, and the
9 Department must verify with the Rent Stabilization and Arbitration Board, and with the Human
10 Rights Commission as applicable, that since January 1, 2000, no eviction as defined in San
11 Francisco Administrative Code Section 37.9(a)(8)--(14) of a senior, disabled person, or
12 catastrophically ill tenant as defined below has occurred, or if an eviction has taken place
13 under Administrative Code Section 37.9(a)(11) or (14), that the original tenant reoccupied the
14 unit after a temporary eviction. For purposes of this section a "senior" shall be a person who is
15 60 years or older and has been residing in the unit for 10 years or more at the time of the
16 lottery; a "disabled" tenant is defined for purposes of this Section as a person who is disabled
17 within the meaning of Title 42 U.S.C. Section 12102(2)(A); and a "catastrophically ill" tenant is
18 defined for purposes of this Subsection as a person who is disabled as defined above, and
19 who is suffering from a life threatening illness as certified by his or her primary care physician.
20 If an applicant for Pool A cannot satisfy this certification requirement, the applicant shall
21 participate in Pool B as set forth in Subsections (c)--(g). This certification also is subject to the
22 procedures of Subsection (g)(4). If all buildings eligible in Pool A comprise 100 or fewer units,
23 all such buildings shall automatically be approved for conversion. Any unallocated units in
24 Pool A shall be added to Pool B.
25

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

24 (c) Pool B.
25

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

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

6 (3) Each building in Pool B shall receive one lottery ticket for the current lottery, plus
7 one lottery ticket for every lottery in which the building participated but failed to be selected for
8 conversion.

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

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

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

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

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

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

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

24 (f) For purposes of determining whether a building failed to be selected for conversion
25

1 in a previous lottery:

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

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

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

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

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

24 (2) If there are not 175 units that meet the requirements of subsection (g)(1) above,
25

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

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

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

14 (h) Standby List.

15 (1) Once all units have been allocated in Pools A and B, the remaining buildings shall
16 be placed on a standby list as set forth in subsection (2). Buildings on the standby list may
17 convert in the event that selected units in Pools A and B are unable to convert within the time
18 limits that the Department establishes and as long as the maximum number of allocated units
19 is not exceeded.

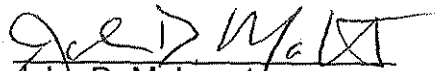
20 (2) The standby list shall be determined by a lottery or, if necessary, a series of
21 lotteries among a Class(es) of buildings prioritized by seniority of participation in the annual
22 condominium conversion lottery. Only buildings satisfying the requirements of subsection
23 (g)(1) shall be assigned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

1 (3) All remaining buildings shall be kept on file with the Department. These buildings
2 are eligible to convert if selected units in Pools A and B and the standby list lottery are unable
3 to convert within the time limits that the Department establishes and as long as the maximum
4 number of allocated units is not exceeded. In such an event, the Department shall conduct a
5 random selection lottery among the remaining buildings for any unallocated units.

6 ~~(i) Sunset Provision. This Section 1396.3 shall remain in effect only until December 31, 2008;~~
7 ~~provided however, that the Board of Supervisors retains its full authority to extend, modify, or~~
8 ~~terminate this Section at any time.~~

9 APPROVED AS TO FORM:
10 DENNIS J. HERRERA, City Attorney

11 By:


12 John D. Malamut
13 Deputy City Attorney



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 081087

Date Passed:

Ordinance amending the Subdivision Code by amending Section 1396 to extend the annual 200-unit condominium conversion lottery; amending Section 1396.3 to continue the prioritization of the condominium conversion lottery based on seniority of participation in prior lotteries; and making environmental findings.

September 23, 2008 Board of Supervisors — PASSED ON FIRST READING

Ayes: 6 - Alioto-Pier, Ammiano, Chu, Elsbernd, Peskin, Sandoval

Noes: 2 - Daly, Maxwell

Excused: 3 - Dufty, McGoldrick, Mirkarimi

October 7, 2008 Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Ayes: 8 - Alioto-Pier, Ammiano, Chu, Daly, Elsbernd, Maxwell, Peskin, Sandoval

Excused: 3 - Dufty, McGoldrick, Mirkarimi

October 7, 2008 Board of Supervisors — PASSED ON FIRST READING AS AMENDED

Ayes: 10 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell, Mirkarimi, Peskin, Sandoval

Excused: 1 - McGoldrick

October 21, 2008 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Alioto-Pier, Ammiano, Chu, Daly, Elsbernd, Maxwell, McGoldrick, Peskin, Sandoval

Excused: 2 - Dufty, Mirkarimi

File No. 081087

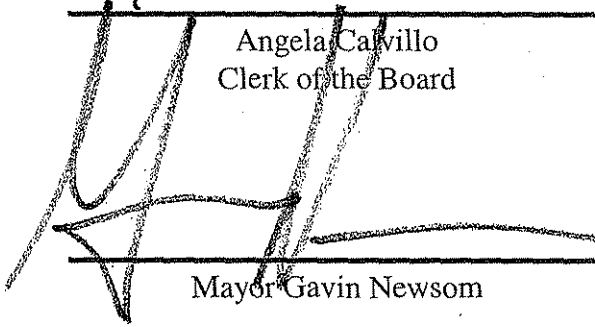
I hereby certify that the foregoing Ordinance
was **FINALLY PASSED** on October 21, 2008
by the Board of Supervisors of the City and
County of San Francisco.



Angela Calvillo
Clerk of the Board

10/30/2008

Date Approved



Mayor Gavin Newsom