

1 [Ordinance to Provide Tenant Home Ownership and to Regulate the Formation of Certain
2 Condominium-Type Ownership Structures.]

3 **Ordinance amending the San Francisco Subdivision Code by amending Sections 1302,**
4 **1308, 1359, 1388, 1396, and 1396.1 and by adding Section 1316, to provide tenant home**
5 **ownership and to regulate the formation of certain condominium-type ownership**
6 **structures where an exclusive right of occupancy exists but is not specified in the**
7 **deed, to amend the annual condominium conversion requirements pertaining to**
8 **tenants and owner occupants, to amend the definition of tenant, to exempt certain**
9 **tenancies-in-common from the annual limit on condominium conversions, to create a**
10 **special lottery process for purchasing tenants, to create an exemption from the lottery**
11 **for two unit buildings where at least one unit has been owner occupied for one year**
12 **prior to application for conversion, to create a pool of 200 conversions with restrictions**
13 **on resale price in the condominium lottery specifically for purchasing tenants of**
14 **median income or less, to increase the conversion limit to 200 units and 200 units with**
15 **restrictions on resale price and to make these limits permanent, and to add and amend**
16 **other definitions to implement these measures.**

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18 Note: Additions are *single-underline italics Times New Roman*;
19 deletions are ~~*strikethrough italics Times New Roman*~~.
20 Board amendment additions are double underlined.
21 Board amendment deletions are ~~strikethrough normal~~.

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

23 Section 1. FINDINGS. The Board of Supervisors of the City and County of San
24 Francisco hereby finds and declares as follows:
25

1 A. The proposed amendments encourage and ensure the development of
2 residential subdivisions consistent with the objectives of the California Subdivision Map Act
3 and the San Francisco General Plan.

4 B. Community apartment and stock cooperative conversions are similar to
5 condominiums in that they have a unique character and affect on the City's population and
6 housing stock, and therefore, like condominium conversions, differ from other subdivisions
7 and require the adoption of special requirements for conversions. The purposes of the
8 requirements for conversion of condominiums are specified in Section 1302, and include, but
9 are not limited to: protecting purchasers of converted housing; promoting the meaningful
10 expansion of homeownership opportunities for existing tenants; and preserving a reasonable
11 balance of ownership and rental housing within the City. This legislation will clarify that these
12 purposes underlie the requirements relating to community apartments and stock cooperatives
13 as well.

14 C. The unregulated conversion of apartment buildings into tenancies-in-common
15 prevents the City from insuring that subdivisions are consistent with the objectives of the
16 Subdivision Map Act and conform to the San Francisco General Plan.

17 D. Tenancies-in-common where the exclusive right of occupancy is not specified in
18 the deed are similar to condominiums and community apartments, have the same impact on
19 population and housing stock, and raise significant consumer protection issues regarding the
20 disclosure of the exclusive right of occupancy and potential fraud and exploitation of the public
21 and purchaser. For these reasons and for the reasons stated in section 1302, the City finds
22 that tenancies-in-common where the exclusive right of occupancy is not specified in the deed
23 are not in the best interest of the public health, safety and welfare.

24 E. The City reasserts its policy, stated in section 1302(c)(2), of the San Francisco
25 Subdivision Code, of promoting the meaningful expansion of homeownership opportunities for

1 existing tenants and preventing the displacement of existing tenants by requiring a high
2 degree of tenant intent to purchase their rental units as a condition of approval of applications
3 for residential conversion. Also towards the end of promoting home ownership opportunities
4 for tenants, this legislation would preserve the ability of tenants representing 50% of the units
5 in a building to purchase their units in agreement with the owner and to go through the
6 conversion process.

7 Section 2. The San Francisco Subdivision Code is hereby amended by amending
8 Sections 1302, 1308, 1359, 1388, 1396, and 1396.1 and by adding Section 1316 to read as
9 follows:

10 Sec. 1302. PURPOSES. (a) This Code is enacted to establish procedures and
11 requirements for the control and approval of subdivision development within the City and
12 County of San Francisco in accordance with SMA.

13 (b) This Code is enacted to encourage and ensure the development of
14 subdivisions consistent with the objectives of the San Francisco Master Plan.

15 (c) Recognizing that, by their unique character and impact on the City's
16 population and housing stock, condominium, community apartment, and stock cooperative
17 conversion subdivisions differ from other subdivisions, implementation of Subsections (a) and
18 (b) of this Section requires the adoption of special requirements for conversions, the purposes
19 of which are:

20 (1) To preserve a reasonable balance of ownership and rental housing within
21 the City and County of San Francisco by providing for an annual limitation on the number of
22 units which may be converted to condominiums, community apartments, and stock cooperatives in
23 any year.

24
25

1 (2) To promote the meaningful expansion of homeownership opportunities
2 for existing tenants and to prevent the displacement of existing tenants by requiring a high
3 degree of tenant intent to purchase their rental units as a condition of approval.

4 (3) To reduce the impact of conversions on nonpurchasing tenants who may
5 be required to relocate, by providing for procedures for notification and adequate time and
6 assistance for relocation, and providing for the reimbursement of costs resulting from such
7 relocation.

8 (4) To prevent the displacement of elderly and disabled tenants by assuring
9 them of extended leases to remain in their units subsequent to conversion.

10 (5) To assure that purchasers of converted housing have been properly
11 informed as to the physical condition of the structure which is offered for purchase.

12 (6) To prevent the effective loss of the City's low or moderate income
13 housing stock by requiring sales price limitations on those units proposed for conversion
14 which are found to be part of the low or moderate income housing stock.

15 (7) To expand the supply of the City's low or moderate income housing stock
16 by provision of a minimum of 10 percent low or moderate income housing units in any
17 condominium subdivision, or by construction of an equivalent number of such units elsewhere,
18 or by in-lieu payments into a City housing development fund.

19 (d) Tenancies-in-common where there is an exclusive right of occupancy that is not
20 specified in the deed are similar to condominiums and community apartments and have the same
21 impact on population and housing stock, and raise significant consumer protection issues regarding the
22 disclosure of the exclusive right of occupancy. For these reasons and for the foregoing reasons in
23 subsections 1 through 7, the City finds that tenancies-in-common where the exclusive right of
24 occupancy is not specified in the deed are not in the best interest of the public health, safety and
25 welfare.

1 Sec. 1308. SUBDIVISIONS.

2 (a) "Common areas" shall mean an entire project excepting all units therein
3 granted or reserved.

4 (b) "Community Apartments" shall mean an estate in real property consisting
5 of an undivided interest in common in a parcel of real property and the improvements thereon
6 coupled with the right of exclusive occupancy, as specified in Section 1316 (a) and (b), of any
7 apartment located therein.

8 (c) "Condominium" shall mean an estate in real property consisting of an
9 undivided interest in common in a portion of a parcel of real property together with a separate
10 interest in space in a residential, industrial, or commercial building on such real property, such
11 as an apartment, office, or store. A Condominium may include in addition a separate interest
12 in other portions of such real property. Such estate may, with respect to the duration of its
13 enjoyment, be either (1) an estate of inheritance or perpetual estate, (2) an estate for life, or
14 (3) and estate for years, such as a leasehold or subleasehold. This definition is intended to
15 conform to Section 783 of the California Civil Code and any other section of California law.

16 (d) "Conversion" shall mean a subdivision which changes the type of
17 ownership of real property to that defined as a Condominium project, Community Apartment
18 project or Stock Cooperative and in which two or more condominiums, community apartments
19 or units in a stock cooperative are newly created wholly or in substantial part within an existing
20 structure or structures, regardless of the present or prior use of such structures and of
21 whether substantial improvements have been made to such structures.

22 (e) "Project" shall mean the entire parcel or real property divided or to be
23 divided in any of the methods defined as a subdivision.

24 (f) "Stock Cooperative" shall mean a corporation formed or availed of
25 primarily for the purpose of holding title to, either in fee simple or for a term of years, improved

1 real property, if all or substantially all of the shareholders of such corporation receive a right of
2 exclusive occupancy, as specified in Section 1316 (a) and (b), in a portion of the real property,
3 title to which is held by the corporation, which right of occupancy is transferable only
4 concurrently with the transfer of the share or shares of stock in the corporation held by the
5 person having such right of occupancy.

6 (g) "Subdivider" shall mean a person, firm, corporation, partnership or
7 association who proposes to divide, divides or causes to be divided real property into a
8 subdivision for himself or for others. City agencies, including the San Francisco
9 Redevelopment Agency, are exempted from this definition.

10 (h) "Subdivision" shall mean the division of any improved or unimproved
11 land, shown on the latest equalized County assessment roll as a unit or as contiguous units,
12 for the purpose of sale, lease or financing, whether immediate or future. Property shall be
13 considered as contiguous units even if it is separated by roads, streets, utility easements or
14 railroad rights-of-way. This definition shall specifically but not exclusively include
15 Condominiums, Community Apartments, Stock Cooperatives and Conversions.

16 (i) "Unit" shall mean the elements of a project which are to be owned
17 individually ~~and not in common with the owners of other elements of the project~~ or to be exclusively
18 occupied by an owner of record of the property, or a shareholder of the owner of record of the
19 property.

20 (j) "Tenant", for purposes of the San Francisco Subdivision Code, shall mean a
21 person or persons entitled under a lease, rental agreement or other agreement with the owner
22 of record of the property ~~owner~~ or his or her agent to occupy a dwelling unit to the exclusion of
23 others, except that a "Tenant" cannot be an owner of record of the property or a shareholder of the
24 owner of record. For purposes of this definition, "Tenant" shall also mean "Subtenant" as
25

1 defined in Section 1308(k) where the subtenant occupies and resides in the unit in agreement
2 with ~~and to the exclusion of the tenant~~ and with the consent of the owner.

3 (k) "Subtenant" shall mean a person or persons whose rights to occupy a
4 dwelling are derived from the tenant rather than from the property owner or his or her agent.

5 (l) "Low-Income Housing Stock" shall mean those rental dwelling units in
6 buildings being proposed for conversion for which the rent, at the time the application for
7 conversion is filed, does not exceed 25 percent of the gross monthly income of a low-income
8 household as defined in Section 1309(e). For purposes of applying this Section and Section
9 1309(e), a studio apartment shall be deemed to be a one-person household, a one-bedroom
10 apartment shall be deemed to be a two-person household, a two-bedroom apartment shall be
11 deemed to be a three-person household, and a three-bedroom apartment shall be deemed to
12 be a four-person household.

13 (m) "Moderate-Income Housing Stock" shall mean those rental dwelling units
14 in buildings being proposed for condominium conversion, the rental for which at the time of
15 filing the application for conversion exceeds the amount which would cause the unit to be
16 defined as low-income housing stock pursuant to Section 1308(l), but does not exceed 25
17 percent of the gross monthly income of a moderate-income household as defined in Section
18 1309(f). In relating the size of the unit to household size, the same relationships set forth for
19 low-income housing shall apply.

20 (n) "Allowable capital improvements" shall mean a physical improvement to a
21 dwelling unit which satisfies the following criteria: (1) adds value to the unit or prolongs its life; (2)
22 has a useful life of more than one year, and must not otherwise be considered normal repair or
23 maintenance which would be required to maintain the dwelling in good condition; (3) satisfies the
24 criteria for a capital improvement under the Internal Revenue Code; and (4) is constructed in
25 accordance with all applicable codes, laws and regulations.

1 (o) "Gross Income" shall mean all income from whatever source derived as provided
2 in the Internal Revenue Code (26 U.S.C. Section 61) whether or not exempt from federal income tax.

3 (p) "Household" shall mean any person or persons who reside or intend to reside in
4 the same housing unit.

5 (q) "Household of median income" shall mean a household whose combined annual
6 gross income for all members does not exceed one hundred (100) percent of the median income for the
7 San Francisco Metropolitan Statistical Area, as calculated by the United States Department of Housing
8 and Urban Development (HUD) and adjusted for household size.

9 (r) "Purchasing tenant" shall be a person who: (1) has lived in a certain unit as a
10 tenant for a minimum of one preceding year as of the date of initial registration for the lottery as
11 selected by the Director; (2) wishes to purchase, or has purchased pursuant to Section 1396, the unit in
12 which he or she resides, and (3) has entered into a purchasing tenant agreement as defined herein.

13 (s) "Purchasing Tenant Agreement" shall be a written and notarized agreement
14 between a purchasing tenant and the owner of record where the purchasing tenant resides (1) for the
15 sale to the tenant of his or her unit, and (2) to enter jointly into the lottery for conversion of the
16 building.

17 Sec. 1316. Recordation of Exclusive Right of Occupancy.

18 (a) An owner of record of a property, or a shareholder of the owner of record of a
19 property, in a building containing three or more units may not have a right of exclusive occupancy
20 unless that right of exclusive occupancy is specified in the deed of the owner who has the right of
21 exclusive occupancy.

22 (b) An owner of an undivided interest in common in real property containing three
23 or more units shall not have the right of exclusive occupancy of any unit on the property except
24 pursuant to an approved condominium, community apartment or stock cooperative subdivision.

1 (c) Subsections (a) and (b) shall not apply if every owner of the property who has an
2 exclusive right of occupancy of any unit on the property is related to each other as grandparents,
3 parents, brothers, sisters, children, grandchildren, or spouses, or are registered as Domestic Partners
4 pursuant to San Francisco Administrative Code 62.1-62.8.

5 (d) This section shall apply to all transfers of interests in real property after the
6 effective date of this Ordinance. An applicant shall bear the burden of demonstrating that his or her
7 property satisfies all the requirements of subsection (e) or (f).

8 (e) An owner of an interest in a 100% owner-occupied building containing three to
9 six units in which all units were owner occupied on ~~January 1~~ July 15, 2001 who, on the effective
10 date of this Ordinance, has a right of exclusive occupancy of a unit in the building which is not
11 specified in the deed may file an application for conversion under this Article:

12 (1) subject to Article 9 but not subject to the tenant intent to purchase requirements
13 of Section 1388 or to the requirement of section 1396 that at least one of the units has been occupied
14 continuously by one of the applicant owners of record for three years prior to the date of registration
15 for the lottery, or

16 (2) through a special conversion process subject to Article 9 but not subject to the
17 tenant intent to purchase requirements of Section 1388 and not subject to the annual conversion
18 limitations of Section 1396 if such application is filed within a ~~270-day~~ two-year application window
19 beginning ~~270~~ 180 days after the effective date of this legislation.

20 (f) A person who is either an owner of an interest in a 100% owner-occupied
21 building containing three to six units in which all units became owner occupied after January 1, 2001
22 but before the effective date of this legislation, or a person who is an owner of an interest in a four,
23 five, or six-unit building in which all but one of the units is owner-occupied on the effective date of this
24 Ordinance, has a right of exclusive occupancy of a unit in the building which is not specified in the
25 deed:

1 (1) may file an application for conversion subject to Article 9 but shall not be subject to
2 the tenant intent to purchase requirements of Section 1388 or to the requirement of Section 1396 that at
3 least one of the units has been occupied continuously by one of the applicant owners of record for three
4 years prior to the date of registration for the lottery, but

5 (2) may not apply for conversion pursuant to subsection ~~(d)~~(e)(2) of this section.

6 (g) All other owners of an interest in an owner-occupied building who have not yet
7 converted shall be subject to all of the provisions of Article 9.

8 (h) Notwithstanding Section 1305, if any part of this Section 1316 is held invalid, the
9 remainder of the Section shall automatically terminate and shall be of no force and effect.

10 SEC. 1359. PARCEL MAP.

11 (a) The requirements of Subsection (c) of Section 1356 of this Code
12 shall apply to Parcel Maps.

13 (b) The Parcel Map shall conform to the requirements of Chapter 2,
14 Article 3 of SMA and to the Subdivision Regulations regarding detailed format and contents.

15 (c) In the case of Conversions where a Tentative Map is not required,
16 the requirements of Sections 1314 and the requirements of Article 9 on Conversions shall
17 apply, provided that hearings as provided in Sections 1313 and 1332 shall not be required,
18 and the 10-percent low and moderate income occupancy as provided in Section 1341 shall
19 not be required, and provided further that Article 9 shall not be applied to two-unit buildings
20 where ~~both units are~~ at least one unit is owner-occupied for one year prior to the application for
21 Conversion. The Director of Planning, however, shall make the determination pursuant to
22 Section 1385 concerning preservation of low and moderate income housing.

23 Sec. 1388. TENANT INTENT TO PURCHASE. No application for conversion
24 shall be approved unless there are substantial numbers of tenants who have indicated their
25 intent to purchase their rental unit. This intent shall be evidenced by the submittal in writing from at

1 least one tenant in a building containing ~~two or three~~ or four units, or from at least two tenants from
2 two separate units in a building containing ~~four, five or six units~~ by no less than 40 percent of the
3 tenants of intent to purchase forms, as provided by the Department of Public Works. In
4 obtaining or soliciting intent to purchase forms from tenants, subdividers shall comply with any
5 restrictions set forth in the California Business and Professions Code and Regulations of the
6 Real Estate Commissioner. In calculating the total number of units necessary to satisfy this
7 provision, there shall be included in the ~~40 percent~~ one- or two-unit requirement any units in
8 which the occupant qualified for and has expressed an intent to obtain a renewable lifetime
9 lease pursuant to Section 1391(c).

10 Any tenant intent to purchase forms obtained by way of an inducement of the
11 subdivider to provide benefits to that tenant beyond those established by the Code shall be so
12 identified and the specific representations of the subdivider shall be set forth in detail. All such
13 intent to purchase forms shall become a matter of public record and the subdivider shall be
14 required to comply with his or her representations as conditions of approval.

15 The intent to purchase forms, once signed by a tenant, shall be irrevocable by
16 said tenant, for purposes of compliance with this Section, provided, however, that the Director
17 shall invalidate any such form upon a determination that the subdivider has used coercion,
18 fraud, duress, misrepresentation or threat in connection with obtaining or soliciting such form.

19 Sec. 1396. ANNUAL CONVERSION LIMITATION. This Section governing
20 annual limitation shall apply only to conversion of residential units.

21 (a) Applications for conversion of residential units, whether vacant or
22 occupied, shall not be accepted by the Department of Public Works ~~during the period of~~
23 ~~January 1, 1994 through December 31, 2002, inclusive,~~ except that a maximum of 200 units
24 and 200 units with restrictions on resale price, as selected yearly by lottery by the Department of
25 Public Works from all eligible applicants, may be approved for conversion per year ~~during the~~

1 ~~the~~ ~~following~~ ~~categories~~ ~~of~~ ~~buildings~~: (a) — ~~buildings~~ buildings
2 consisting of ~~four~~ six units or less in which one of the units has been occupied continuously by
3 one of the applicant owners of record for three years, or by the required number of purchasing
4 tenants, each for one year, prior to the date of registration for the lottery as selected by the
5 Director.

6 (b) If purchasing tenants as herein defined, representing 100% of the tenants in 50%
7 of the units in a building consisting of six units or less wish to purchase their units, the owner and the
8 purchasing tenants must submit to the Department evidence of a purchasing tenant agreement for at
9 least 50% of the units in the building, and thereafter may jointly register for the lottery. If the owner
10 and purchasing tenants win the lottery, the owner and purchasing tenants may apply for conversion if
11 they provide proof in their application for conversion that a minimum of 50% of the interest in the
12 building has been sold to the purchasing tenants.

13 (c) For purposes of Section (b) above,

14 (1) the requirement of subsection (a) of this section that at least one of the units has been
15 occupied continuously by one of the applicant owners of record is waived, and

16 (2) the provisions of Section 1316 (a) and (b) will be waived for up to two years from the
17 date of transfer of any interest in the property to a purchasing tenant such that the purchasing tenants
18 may own their units and enter into an exclusive right of occupancy that will be recorded upon the
19 completion of a subdivision. The waiver set forth in this subsection (c)(2) may be extended for one
20 additional year or any other time period consistent with the provisions of California Government Code
21 Section 66452.6 upon written request and approval by the Director.

22 (d) Purchasing tenants and owners as described in Subsection (b) above shall:

23 (1) be eligible for selection in Pool A if they meet the requirements outlined in Section
24 1396.1(b); and

1 (2) will have preference over all other lottery participants for the first 40 units available
2 in Pool C as defined in Section 1396.1(d)(1). Up to 40 units per year will be selected in a preliminary
3 Pool C lottery which will proceed after termination of the selection process established for Pool A
4 participants in Section 1396.1(b) and after termination of the selection process established for Pool B
5 participants in Section 1396.1(c), and will consist of only units in those buildings that have been
6 registered for the lottery by purchasing tenants and owners as described in Subsection (b) above. After
7 units are selected in this preliminary Pool C lottery, the Pool C lottery shall proceed pursuant to
8 Section 1396.1(d). If there were less than 40 units selected for the preliminary lottery, unallocated
9 units shall be added to Pool C. If there were applicants representing more than 40 units for the
10 preliminary Pool C lottery, those applicants described in Subsection (b) above who did not win the
11 preliminary Pool C lottery will participate in the Pool C lottery pursuant to Section 1396.1(d).

12 (e) To be eligible for conversion under this Section 1396, purchasing tenants and
13 owners of record jointly applying for conversion must provide proof in their application for conversion
14 that they have offered renewed leases or extended rental agreements to all nonpurchasing tenants in
15 the building. Any extended leases or rental agreements made pursuant to this Section shall expire only
16 upon the death or demise of such tenant or the surviving member of the tenant's household, provided
17 such surviving member was a tenant on the date on which the tenancy commenced, or at such time as
18 the tenant voluntarily vacates the unit after giving due notice of such intent to vacate. Each lease shall
19 contain a provision allowing the tenant to terminate the lease and vacate the unit upon 30 days' notice.
20 The lease in effect at the time of subdivision application shall be extended on the same terms and
21 conditions except that rents may be adjusted only pursuant to the provisions set forth in Administrative
22 Code Section 37.3. This Section shall not alter or abridge the rights or obligations of the parties
23 performance of their covenants, including but not limited to the provision of services, payment of rent
24 or the obligations imposed by Sections 1941, 1941.1 and 1941.2 of the California Civil Code. There
25

1 shall be no decrease in dwelling unit maintenance or other services historically provided to such units
2 and such tenants.

3 (f) For purposes of this Section, Subsections (b) through (e), if a nonpurchasing
4 tenant obtains a lease pursuant to Subsection e above and such lease is not invalidated, the provisions
5 of Sections 1390 and 1391 shall not apply.

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

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

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

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

22 SEC. 1396.1. ANNUAL CONVERSION LIMITATION LOTTERY

23 PROCEDURES. This Section shall govern conduct of the lottery required by Section 1396 for
24 the conversion of residential units.

1 (a) The lottery shall be comprised of ~~two~~ three pools ~~of 100 units each~~
2 (Pool A ~~and~~, Pool B, and Pool C).

3 (b) Pool A.

4 (1) Pool A shall consist of 200 units.

5 (2) Pool A shall consist only of those eligible buildings consisting of
6 purchasing tenants pursuant to Section 1396, and where at least one purchasing tenant in a three or
7 four unit building, or at least two purchasing tenants in a five or six unit building, meets the
8 requirement as a median income household as defined in Section 1308. Pool A applicants must apply
9 to the Mayor's Office of Housing for a determination that they qualify as a household of median income
10 and present evidence of this determination to the Director in order to take part in the Pool A lottery.

11 (3) If all buildings eligible in Pool A comprise more than 200 units, the
12 Director of the Department of Public Works shall conduct a lottery among the buildings eligible for
13 pool A so that no more than 200 units are selected for conversion in Pool A. If such a lottery takes
14 place, it will take place before the lottery for Pool B and Pool C. If all buildings eligible in Pool A
15 comprise less than 200 units, the unused portion of Pool A shall not revert to Pools B or C.

16 (4) Units selected for conversion under Pool A shall only be approved for
17 conversion if the purchasing tenants provide proof to the Director of Department of Public Works that
18 the recorded property deed contains a restriction on resale such that any resale within 50 years from
19 the date of the recordation of the sale to the purchasing tenant shall be at a price which does not
20 exceed the growth in the Housing component of the Consumer Price Index, All Urban Consumers, San
21 Francisco-Oakland-San Jose, CA, as published from time to time by the U.S. Department of Labor, and
22 which may include the actual cost of allowable capital improvements, as defined in Section 1308, made
23 by the owner, without any adjustment for either inflation or depreciation. In order to include allowable
24 capital improvements in the resale price, the owner shall keep accurate records relating to the cost and
25 type of improvement. Where capital improvements are made to portions of a building or lot which are

1 shared by other dwelling units, only that portion of the capital improvement attributable to the subject
2 unit shall be considered, and in no event shall the increased value of the unit exceed the actual direct
3 cost of the allowable capital improvements. It shall be a condition of tentative approval or tentative
4 parcel map approval that qualifying buildings record the restriction on the resale price as a Notice of
5 Special Restriction against title and that such restriction shall appear as a note on a final map or
6 parcel map as a matter of record.

7 (5) The President of the Board of Supervisors shall convene a task force to
8 recommend to the Board of Supervisors the appropriate city agency to be responsible for
9 administration of the determination of median income applicants in Section 1396.1(b)(2) and preparing
10 regulations and the monitoring and enforcement of the restriction on resale price of Section
11 1396.1(b)(4). The committee shall consist of a representative from the Mayor's Office of Housing, the
12 Department of Public Works, the Office of the Mayor, and the Board of Supervisors. The committee
13 shall make its recommendation to the Board of Supervisors no later than September 20, 2001.

14 (c) Pool B.

15 (1) For the 1995 lottery, Pool AB shall consist only of those eligible buildings
16 which participated but which failed to be selected in any previous lottery held during the years
17 1990 through 1994. For the 1996 lottery, Pool AB shall consist of only those eligible buildings
18 which participated but failed to be selected in any lottery held during the years 1990 through
19 1994 and the 1995 lottery. For all subsequent lotteries after 1996, Pool AB shall consist of
20 only those eligible buildings which participated but which have failed to be selected for
21 conversion in at least three previous lotteries, two of which must be lotteries held after 1994. If
22 all buildings eligible in Pool AB comprise 100 or fewer units, all such buildings shall
23 automatically be approved for conversion. Any unallocated units in Pool AB shall be added to
24 Pool BC.

1 (2) If all buildings eligible in Pool AB B comprise more than 100 units,
2 the Director of the Department of Public Works (Director) shall conduct a lottery among the
3 buildings eligible for Pool AB so that no more than 100 units are selected for conversion in
4 Pool AB. All buildings not selected for conversion through the Pool AB lottery shall then
5 participate in Pool BC, under the procedures set forth below.

6 (d) Pool C

7 (1) Pool BC shall consist of all eligible buildings pursuant to Section
8 1396 above, together with any buildings from Pool AB that were not selected for conversion in
9 the Pool AB lottery.

10 (2) Buildings from Pool BC shall be selected for conversion by random
11 selection of lottery tickets submitted for eligible buildings.

12 (3) Each building in Pool BC shall receive one lottery ticket for the
13 current lottery, plus a maximum of one lottery ticket for any and all lotteries held during the
14 years 1990 through 1994 in which the building participated but failed to be selected for
15 conversion in the lottery, plus one lottery ticket for every lottery after 1994 in which the
16 building participated but failed to be selected for conversion.

17 (4) No building in Pool BC shall receive more than five tickets.

18 (e) Applicants shall provide proof of participation in past lotteries to the
19 Director.

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

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

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

1 (iii) Any other proof of participation in any lottery held during the years
2 1990 through 1994, as determined acceptable by the Director.

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

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

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

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

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

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

18 Section 3. In the event that there is a lawsuit filed in any court challenging any
19 part of this legislation then Section 1316 will be suspended unless and until there is a final
20 judgment in the lawsuit in all courts and the validity of this legislation is upheld. Specifically,
21 the special conversion process outlined in Section 1316(e)(2) will not take place and the
22 exceptions to the provisions of Article 9 specified in Section 1316(e), and (f) will not take effect
23 if any of the other provisions of Section 1316 or any other portion of this legislation is
24 challenged.

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1 APPROVED AS TO FORM:
2 LOUISE H. RENNE, City Attorney

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4 By: SUSAN S. CLEVELAND

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