

FILE NO. 050133

ORDINANCE NO. 46-05

1 [Defense Costs of Residential Hotel Ordinance.]

2
 3 **Ordinance amending Section 41.13 of the San Francisco Administrative Code, the**
 4 **Residential Hotel Unit Conversion and Demolition Ordinance, to clarify that funds in the**
 5 **Residential Hotel Preservation Fund may be expended both to create replacement**
 6 **housing and to administer defend the Ordinance, ~~including defending it~~ against legal**
 7 **challenge.**

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

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

12 Section 1. The San Francisco Administrative Code is hereby amended by amending
 13 Section 41.13, to read as follows:

14 Sec. 41.13. ONE-FOR-ONE REPLACEMENT.

15 (a) Prior to the issuance of a permit to convert, the owner or operator shall provide one-
 16 for-one replacement of the units to be converted by one of the following methods:

17 (1) Construct or cause to be constructed a comparable unit to be made available at
 18 comparable rent to replace each of the units to be converted; or

19 (2) Cause to be brought back into the housing market a comparable unit from any
 20 building which was not subject to the provisions of this Chapter; or

21 (3) Construct or cause to be constructed or rehabilitated apartment units for elderly,
 22 disabled or low- income persons or households which may be provided at a ratio of less than
 23 one-to-one; or construct or cause to be constructed transitional housing which may include
 24 emergency housing. The construction of any replacement housing under this subsection shall
 25 be evaluated by the City Planning Commission in accordance with the provisions of Section

Supervisor Peskin
 BOARD OF SUPERVISORS

1 303 of the City Planning Code. A notice of said City Planning Commission hearing shall be
2 posted by the owner or operator 10 calendar days before the hearing; or

3 (4) Pay to the City and County of San Francisco an amount equal to 80 percent of the
4 cost of construction of an equal number of comparable units plus site acquisition cost. All such
5 payments shall go into a San Francisco Residential Hotel Preservation Fund Account. The
6 Department of Real Estate shall determine this amount based upon two independent
7 appraisals; or

8 (5) Contribute to a public entity or nonprofit organization, who will use the funds to
9 construct comparable units, an amount at least equal to 80 percent of the cost of construction
10 of an equal number of comparable units plus site acquisition cost. The Department of Real
11 Estate shall determine this amount based upon two independent appraisals. In addition to
12 compliance with all relevant City ordinances and regulations, the public entity or nonprofit
13 organization and the housing development proposal of such public entity or nonprofit
14 organization shall be subject to approval by the Mayor's Office of Housing.

15 (A) Such contribution shall be paid to the approved public entity or nonprofit organization
16 in installments from an escrow account supervised by the Mayor's Office of Housing, upon
17 application by such public entity or nonprofit organization to the Mayor's Office of Housing, for
18 specified expenditures, including but not limited to site acquisition costs, architect's fees, and
19 construction costs; such payment shall be approved by the Mayor's Office of Housing prior to
20 release of funds.

21 (B) The permit to convert shall be issued by the City when owner or operator deposits
22 the full amount of funds in an escrow account described in subsection 41.13(a)(5)(A) above,
23 or provides other form of non-refundable security acceptable to the City Attorney and the
24 Mayor's Office of Housing.

1 (C) In the event that the public entity or nonprofit organization is unable to complete
2 construction of the replacement housing, any unpaid amounts shall be released to the City. All
3 such funds shall go into a San Francisco Residential Hotel Preservation Fund Account.

4 (b) Any displaced permanent resident relocated to replacement units provided under
5 Subdivision (a) above shall be deemed to have continued his occupancy in the converted unit
6 for the purpose of administering Subsection (k) of Section 37.2, San Francisco Administrative
7 Code (San Francisco Rent Stabilization and Arbitration Ordinance).

8 (c) Any replacement units shall continue to be subject to the provisions of this Chapter.

9 (d) In the event that a completed application for a permit to convert is filed by a hotel
10 owner or operator no later than the effective date of this amended Chapter, and such hotel
11 owner or operator elects to provide one-for-one replacement of the residential units pursuant
12 to Section 41.13(a) (4) or Section 41.13(a) (5) herein, the hotel owner or operator shall be
13 obligated to pay to the City and County of San Francisco an amount equal to 40 percent of the
14 cost of construction of an equal number of comparable units plus site acquisition cost,
15 provided that such hotel owner or operator shall pay such amount to the City or provide to the
16 City security for such payment in a form satisfactory to the Mayor's Office of Housing and the
17 City Attorney within 90 days following the date that the Department of Building Inspection
18 determines that the application for a permit to convert is complete, or, if necessary, 10 days
19 following final action, including any appeals, by the Planning Commission or appellate body,
20 or 10 days following the Department of Real Estate's determination of such amount,
21 whichever occurs latest. In the event that a hotel owner or operator elects to provide one-for-
22 one replacement pursuant to Section 41.13(a)(2) or (a)(5) herein and the Mayor's Office of
23 Housing has not approved a proposal or organization thereunder prior to the effective date of
24 this amended Chapter, the Department of Building Inspection shall not reject such application
25

1 as incomplete for such lack of information. If a hotel owner or operator applies for a permit to
2 convert using the one-for-one replacement option described in 41.13(a)(2) or (a)(5) and the
3 Mayor's Office of Housing does not approve a housing development proposal or a nonprofit
4 organization, or such project fails to progress through no fault of the owner or operator, such
5 applicant shall be permitted to provide one-for-one replacement pursuant to Section
6 41.13(a)(4) at 40 percent of the cost of construction of an equal number of comparable units
7 plus site acquisition costs, provided that such applicant files the application under Section
8 41.13(a)(2) or (a)(5) no later than the effective date of this amended Chapter. The hotel owner
9 or operator shall identify such housing proposal or nonprofit organization within 180 days of
10 the effective date of this amended Chapter. In the event that the Mayor's Office of Housing
11 finds that the permit applicant has acted in good faith in seeking a project, the Mayor's Office
12 of Housing may exercise its reasonable discretion to extend the provisions of this subsection
13 for an additional 180 days. In the event that a project approved by the Mayor's Office of
14 Housing fails to move forward through no fault of the permit applicant, the applicant may
15 substitute another project within six months of being notified by the Mayor's Office of Housing
16 of a failure of the prior project to move forward. The Mayor's Office of Housing may extend
17 this period for an additional 180 days to identify such new proposal. The City shall issue a
18 permit to convert under this subsection 41.13(d) only if the hotel owner or operator has either
19 paid the 40-percent in lieu fee to the City pursuant to Section 41.13(a)(4) herein or complied
20 with the requirements of Sections 41.13(a)(2) or (a)(5) as applicable. In the event that a hotel
21 owner or operator has not complied with any of these requirements and the City has not
22 issued a permit to convert or if the Mayor's Office of Housing has not found the hotel owner or
23 operator has acted in good faith in seeking a project pursuant to subsections 41.13(a)(2) or
24 (a)(5) or this subsection, no later than 180 days following the effective date of this amended
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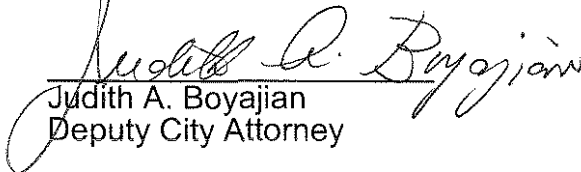
1 Chapter, or such later date as herein provided, this Subsection 41.13(d) shall no longer be
2 applicable, City shall refund any amounts deposited as security pursuant to the terms herein,
3 and such hotel owner or operator shall comply with all applicable terms of this Chapter.

4 (e) When a residential unit is approved for conversion to another use pursuant to the
5 provisions of Subsection 41.13(a)(2), (a)(4) or (a)(5) above, such unit shall not be deemed to
6 be reconverted into a residential unit regardless of any interim uses after payment as set forth
7 in Subsections 41.13(a)(2), (a)(4) or (a)(5).

8 (f) The funds deposited in the Residential Hotel Preservation Fund may be used to (i) create new
9 affordable rental housing to replace the affordable housing lost as a result of the conversion or
10 demolition of residential hotel units subject to this Ordinance and (ii) administer defend the
11 Ordinance against legal challenge, including the legal costs and attorney's fees incurred in the
12 defense defending the Ordinance against legal challenge.

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

16 By:

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18 Judith A. Boyajian
19 Deputy City Attorney
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City and County of San Francisco

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

Tails Ordinance

File Number: 050133

Date Passed:

Ordinance amending Section 41.13 of the San Francisco Administrative Code, the Residential Hotel Unit Conversion and Demolition Ordinance, to clarify that funds in the Residential Hotel Preservation Fund may be expended both to create replacement housing and to administer the Ordinance, including defending it against legal challenge.

March 1, 2005 Board of Supervisors — PASSED ON FIRST READING

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell,
McGoldrick, Mirkarimi, Peskin, Sandoval



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Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell,
McGoldrick, Mirkarimi, Peskin, Sandoval

March 15, 2005 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell,
McGoldrick, Mirkarimi, Peskin, Sandoval

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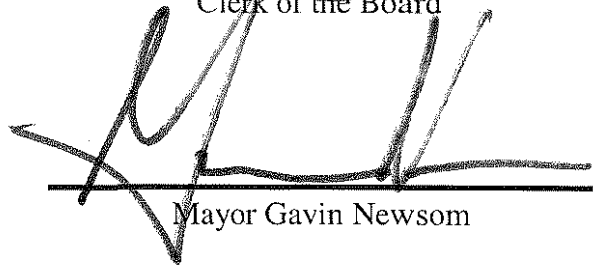
I hereby certify that the foregoing Ordinance
was FINALLY PASSED on March 15, 2005
by the Board of Supervisors of the City and
County of San Francisco.

MAR 23 2005

Date Approved



Gloria L. Young
Clerk of the Board



Mayor Gavin Newsom