

REVISED LEGISLATIVE DIGEST

(6/11/2013, Amended in Board)

[Subdivision Code - Condominium Conversion Fee]

Ordinance amending the Subdivision Code, by adding Section 1396.4, to adopt a condominium conversion fee applicable to certain buildings that would be permitted to convert during a seven year period, and subject to specified requirements, including lifetime leases for non-purchasing tenants; adding Section 1396.5, to suspend the annual condominium conversion lottery until 2024 and resume said lottery under specified circumstances tied to permanently affordable rental housing production; amending Section 1396, to restrict future condominium lotteries to buildings of no more than four units with a specified number of owner occupied units for three years prior to the lottery and provide an exception for certain five- and six-unit buildings to participate in the lottery; and adopting environmental findings.

Existing Law

The San Francisco Subdivision Code regulates the conversion of apartments and tenancy-in-common buildings to condominium subdivisions and prohibits the conversion of buildings in excess of 6 units. Subdivision Code Section 1396 limits the number of conversions to 200 units annually that are selected in a condominium lottery. In order to participate in the lottery, a specified number of building owners must continuously occupy a unit(s) in the building for at least three years in advance of the lottery. The Subdivision Code requires at least 1 owner occupant in a 2, 3, or 4-unit building and at least 3 owner occupants in a 5 or 6-unit building. Section 1396.3 sets forth the selection process for the annual 200-unit condominium lottery and bases the selection process, in part, on seniority of participation in past lotteries.

Amendments to Current Law

This Ordinance would suspend the condominium conversion lottery until at least 2024. Between the effective date of the legislation and April 15, 2020, referred to as the Expedited Conversion program, specified 2-6 unit buildings could convert to condominiums once the applicants meet certain identified requirements for ownership and owner-occupation terms and pay a \$20,000 per unit condominium conversion fee. The fee would be reduced 20% for every year before 2013 that the building participated in the lottery. The fee revenue collected would be placed into two different Mayor's Office Housing funds with 75% earmarked for the Housing Trust Fund and 25% dedicated to small site acquisition to purchase market rate housing and convert it to affordable housing. The Ordinance also would require that: (1) all non-purchasing tenants at the time of final or parcel map approval of the condominium subdivision be presented with a written offer for a lifetime lease with certain specified terms, (2) there be a binding and recorded agreement between the owner(s) and the City concerning

the lease and (3) there be a binding and recorded lifetime lease between the owner(s) and the tenant(s) if the tenant(s) accept the written offer. The legislation would adopt special provisions that apply if there is a contract or option to sell a unit or interest in a building potentially subject to a lifetime lease. In recognition of the lifetime lease requirements, buildings would receive a refund on the condominium conversion impact fee tied to the number of units associated with a lifetime lease. The Ordinance would establish time periods and procedures to pay the fee or to defer fee payment and complete steps in the conversion process. The legislation provides for a public notice and comment period and potential public hearings in advance of any tentative approval action of the map by the Department of Public Works.

The legislation would provide that after suspension of the condominium conversion lottery, which can be no earlier than 2024, the lottery would resume either when the maximum suspension period is reached based on a formula related to conversions pursuant to the expedited conversion process or earlier if the City meets specified thresholds for production of new affordable units. When the lottery resumes, the Ordinance would limit the maximum building size for conversion to a 4-unit building, although an exception is provided for certain 5 or 6-unit buildings that meet specified qualifications. While the owner-occupancy requirement would stay the same as current law (3 years), the legislation also would require that any 3-unit building have at least 2 owner-occupants and any 4-unit building have at least 3 owner-occupants. In addition, the legislation would prohibit buildings from participating in the lottery if there were certain evictions within a 7-year period before the lottery.

The Ordinance contains a provision that if any lawsuit is filed against two specific sections of the legislation, the expedited conversion program would be suspended at the time the lawsuit is served on the City and until a final judgment is issued in favor of the City. During this time, applicants could seek a refund of the conversion fee and any unexpended permit fees. When the lawsuit is served on the City, the City would not accept any new conversion applications. Depending on which of the two identified sections of the new law is challenged, the impact to pending applicants would be different. If the challenged provision is the new proposed Section 1396.5 (suspension of the condominium lottery), then any pending applicant who obtains a final and effective tentative parcel map or tentative map on or before 6 months from the service of the lawsuit can proceed to final parcel map or subdivision map approval for the conversion under the Expedited Conversion program. If the challenged provision is the new proposed Section 1396.4(g) (property owner obligations related to the lifetime lease) or both Sections 1396.4(g) and 1396.5, then: (1) any pending applicant who did not obtain a final and effective tentative parcel map or tentative map on the date of service of the lawsuit would be prohibited from converting through the Expedited Conversion program and (2) any pending applicant who obtained a final and effective tentative parcel map or tentative map prior to the date of service of the lawsuit could proceed to final parcel map or subdivision map approval for the conversion. In addition, if only Section 1396.4(g) is challenged, then a building that does not have any non-owning tenants can apply for conversion and obtain a final parcel or subdivision map at any time as long as it meets the requirements of the Expedited Conversion Program.

The Ordinance specifies that if a court upholds a challenge to Section 1396.4(g), Section 1396.5, or both, then the Expedited Conversion program will resume. If a court finds that Section 1396.4(g), Section 1396.5, or both is/are invalid, then: (1) the Expedited Conversion program will terminate for those buildings not otherwise authorized to convert, (2) the condominium conversion lottery will resume in January 2024, and (3) the Board would hold a public hearing(s) to consider revisions to the condominium conversion process that are consistent with the court's findings, among other issues. The Ordinance also would adopt environmental findings.