

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

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3 **Ordinance amending the Subdivision Code by amending ~~Section 1396~~ to extend the**
4 **~~annual 200-unit condominium conversion lottery until 2008~~; adding Section 1396.3 to**
5 **prioritize the condominium conversion lottery based on seniority of participation in**
6 **prior lotteries and to continue this lottery selection process for two years; and making**
7 **environmental findings.**

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

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

19 ~~SEC. 1396. ANNUAL CONVERSION LIMITATION.~~

20 ~~— This Section governing annual limitation shall apply only to conversion of~~
21 ~~residential units.~~

22 ~~— Applications for conversion of residential units, whether vacant or occupied,~~
23 ~~shall not be accepted by the Department of Public Works during the period of January 1, 1994~~
24 ~~through December 31, 2006, inclusive, except that a maximum of 200 units as selected yearly~~
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1 by lottery by the Department of Public Works from all eligible applicants, may be approved for
2 conversion per year during the aforementioned period for the following categories of buildings:

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

6 —— (b) —— Buildings consisting of six units or less in which 50 percent or more of the
7 units have been occupied continuously by the applicant owners of record for three years prior
8 to the 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,
10 on or before December 31, 1982, met the criteria for community apartments in Section 1308
11 of this Code and which were approved as a subdivision by the Department of Public Works on
12 or before December 31, 1982, and where 75 percent of the units have been occupied
13 continuously by the applicant owners of record for three years prior to the date of registration
14 for the lottery as selected by the Director.

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

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

23 Section 3. The San Francisco Subdivision Code is hereby amended by adding
24 Section 1396.3, to read as follows:

1 SEC. 1396.3. ANNUAL CONVERSION LIMITATION LOTTERY PROCEDURES.

2 This Section shall govern conduct of the lottery required by Section 1396 and shall prevail over
3 the lottery selection process of Section 1396.1 for the conversion of residential 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 Rights
10 Commission as applicable, that since January 1, 2000, no eviction as defined in San Francisco
11 Administrative Code Section 37.9(a)(8)—(14) of a senior, disabled person, or catastrophically ill
12 tenant as defined below has occurred, or if an eviction has taken place under Administrative Code
13 Section 37.9(a)(11) or (14), that the original tenant reoccupied the unit after a temporary eviction. For
14 purposes of this section a "senior" shall be a person who is 60 years or older and has been residing in
15 the unit for 10 years or more at the time of the lottery; a "disabled" tenant is defined for purposes of
16 this Section as a person who is disabled within the meaning of Title 42 U.S.C. Section 12102(2)(A); and
17 a "catastrophically ill" tenant is defined for purposes of this Subsection as a person who is disabled as
18 defined above, and who is suffering from a life threatening illness as certified by his or her primary
19 care physician. If an applicant for Pool A cannot satisfy this certification requirement, the applicant
20 shall participate in Pool B as set forth in Subsections (c)-(g). This certification also is subject to the
21 procedures of Subsection (g)(4). If all buildings eligible in Pool A comprise 100 or fewer units, all
22 such buildings shall automatically be approved for conversion. Any unallocated units in Pool A shall
23 be added to Pool B.

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

22 (c) Pool B.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (h) Standby List.

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

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

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

1 (i) Sunset Provision. This Section 1396.3 shall remain in effect only until December 31,
2 2008; provided however, that the Board of Supervisors retains its full authority to extend, modify, or
3 terminate this Section at any time.

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5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney

7 By: _____
8 John D. Malamut
9 Deputy City Attorney

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