

92-09

FILE NO. 090474

ORDINANCE NO.

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[Divided ownership of ROOTS program projects comprised of separate legal parcels.]  
**Ordinance amending San Francisco Board of Supervisors Ordinance No. 34-07 by permitting projects that are the subject of ROOTS program grants to be comprised of separate legal parcels.**

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

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

Section 1. San Francisco Ordinance 34-07 ("Revised ROOTS Ordinance") revised the mandatory components of the ROOTS program set forth in San Francisco Ordinance 71-06 ("Original ROOTS Ordinance") to read as follows:

"Based on work done as of the date of this Ordinance, the Board of Supervisors recommends that the Controller disburse, as appropriate, the \$1,000,0000 appropriated for the Real Ownership Opportunities for Tenants Program and certify that the Mayor's Office of Housing and the Board of Supervisors have created the Real Ownership Opportunities for Tenants program which includes all of the following components:

"(a) Provide a program designed to give grants only to non-profit organizations specifically chartered to provide permanent affordable housing. The types of organizations eligible for grants shall be clearly defined by the Mayor's Office of Housing or by ordinance by the Board of Supervisors and may either be a Resident Association or an outside organization working with residents.

"(b) The program must provide that all projects funded with funds from this Supplemental Appropriation ("Funds") meet the following criteria to be outlined in a program

1 manual established by the Mayor's Office of Housing or in an ordinance approved by the  
2 Board of Supervisors:

3           "(1) At least fifty percent (50%) of tenants residing in the ROOTS-eligible  
4 housing at the time of application and benefiting from the grant must be households making  
5 no more than 80% of the San Francisco Area Median Income as determined by the United  
6 States Department of Housing and Urban Development;

7           "(2) All housing purchases supported through the funds shall be purchased  
8 under a formula that restricts the resale price of individual units with resale restrictions  
9 enforced by recorded deed restrictions and a 99-year ground lease of the land with a validly  
10 formed Community Land Trust that gives the Community Land Trust the right of first refusal to  
11 purchase any unit. Upon resale of the land, a new 99 year ground lease would be executed  
12 with the new buyer, thereby maintaining the affordability in perpetuity. Upon resale of any  
13 unit, resale restrictions must apply to continue to make the unit affordable. The Articles of

14 Incorporation, the Bylaws of the Community Land Trust, and the occupancy agreement of a  
15 validly formed Limited Equity Housing Cooperative, shall require that the purchase and sale of  
16 the stock or membership interests of members of ROOTS assisted housing cooperatives who  
17 cease to be permanent residents will be at a price that is no greater than a "Restricted Value"  
18 as determined by the applicable Articles, Bylaws, occupancy agreement, or other applicable  
19 documents. The Restricted Value shall not exceed the aggregate of the following:

20           "a. the consideration paid for the membership or shares by the first  
21 occupant of the subject unit, as shown on the books of the resident housing cooperative ;

22           "b. the value, as determined by the Board of Directors of the resident  
23 housing cooperative, of any improvements installed at the expense of the member with the  
24 prior approval of the Board of directors;

1 "c. accumulated interest, or an inflation allowance at a rate which may  
2 be based on a cost-of-living index, an income index, or market-interest index. Any increment  
3 pursuant to this paragraph shall not exceed a 10 percent annual increase on the consideration  
4 paid for the membership or share by the first occupant of the unit involved.

5 "(3) Eligible projects must split the ownership of the land (which would be held  
6 by a non-profit entity chartered to provide affordable housing) and the building with its  
7 improvements (held by a residents housing cooperative).

8 "(4) Eligible projects must demonstrate that tenants representing a majority  
9 (60%) of the units in a building must sign "Intent to Purchase" forms to begin the process.  
10 Applicants must demonstrate how the involved housing cooperative is structured to provide a  
11 democratic decision making process.

12 "(5) This fund is intended to fund the creation of permanently affordable  
13 cooperatives as defined by applicable local, state and federal laws. All buildings converted  
14 from rental to cooperative housing are still subject to state and local condominium laws and  
15 restrictions.

16 "(6) Tenants who do not wish to become cooperative owners must be allowed  
17 to rent from the cooperative at the price as they did pre-conversion using a lifetime lease.

18 "(7) Once sold, units must be owner-occupied, with certain exceptions made  
19 for up to 12 months in any 3 year period. Subletting to roommates is allowable, but rent  
20 charged can be no higher than the prorated costs to the owner.

21 "(8) Proposals that would prevent displacement of existing tenants from  
22 eviction will be given priority in the selection process.

1           "(c) After the Controller has authorized the disbursement of the Funds to the Mayor's  
2 Office of Housing, the Mayor's Office of Housing shall thereafter make an annual report to the  
3 Budget and Finance Committee on its expenditure of the Funds."

4           Section 2. The Mayor's Office of Housing has reviewed the Revised ROOTS  
5 Ordinance and recommends the following modifications. First, the Mayor's Office of Housing  
6 proposes allowing the projects that are assisted by ROOTS to be allowed to be comprised of  
7 one or more separate legal parcels if the land parcel is owned by a qualifying sponsor  
8 organization and the residential parcel is either owned by a qualifying resident cooperative  
9 organization or owned by a qualifying sponsor organization that enters into a 99-year ground  
10 lease with a qualifying resident cooperative organization. Second, the Mayor's Office of  
11 Housing proposes changes to clarify that a purchaser of a membership interest in a qualifying  
12 resident cooperative organization will have a lifetime right to occupy a project residential unit  
13 and an equity interest in such cooperative organization. Based on the recommendations of

14 the Mayor's Office of Housing, the Board of Supervisors hereby amends the provisions of  
15 Ordinance No. 34-07, to read as follows:

16           Based on work done as of the date of this Ordinance, the Board of Supervisors  
17 ~~recommends that the Controller disburse, as appropriate, the \$1,000,0000 appropriated for~~  
18 ~~the Real Ownership Opportunities for Tenants Program and certifies~~ that the Mayor's Office  
19 of Housing and the Board of Supervisors have revised ~~created~~ the Real Ownership  
20 Opportunities for Tenants ("ROOTS") program to be comprised of which includes all of the  
21 following components:

22           "(a) The ROOTS ~~Provide~~ a program shall be designed to give grants only to non-  
23 profit entities organizations specifically organized chartered to provide permanent affordable  
24 housing. The types of entities organizations eligible for grants shall be clearly defined by the  
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1 Mayor's Office of Housing or by ordinance by the Board of Supervisors and may either be a  
2 non-profit entity comprised of residential tenants at a project Resident Association or an  
3 outside non-profit entity organization working with such residential tenants.

4 (b) ~~All The program must provide that all~~ projects funded with ROOTS funds ~~from~~  
5 ~~this Supplemental Appropriation~~ ("Funds") shall meet the following criteria, which shall ~~to~~ be  
6 further outlined in a program regulations manual established by the Director of the Mayor's  
7 Office of Housing for ROOTS grants or in an ordinance approved by the Board of Supervisors:

8 (1) At least fifty percent (50%) of tenants residing in the ROOTS-eligible  
9 project housing at the time of application and benefiting from the grant must be households  
10 making no more than 80% of the San Francisco Area Median Income as determined by the  
11 United States Department of Housing and Urban Development;

12 (2) Once converted to cooperative housing, eligible projects must meet at  
13 least one of the following criteria:

14 A. The project must be comprised of improved real property that is  
15 owned by a validly-formed non-profit entity specifically organized to provide affordable  
16 housing or a validly-formed non-profit entity or governmental entity otherwise approved by the  
17 Director of the Mayor's Office of Housing (a "Sponsor Organization") and leases the  
18 residential improvements through a 99-year lease that transfers ownership or possessory  
19 rights of, or grants the right to purchase for no more than fair market value, such residential  
20 improvements (a "ROOTS Lease"), to a validly-formed limited equity housing cooperative that  
21 meets all of the requirements in Section 33007.5 of the California Health and Safety Code, as  
22 may be amended (a "Cooperative"); or

23 B. The project must be comprised of separate legal parcels that  
24 include, but is not limited to, a land parcel (the "Land Parcel") owned in fee by a Sponsor  
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1 Organization and a residential improvement parcel (the "Residential Parcel") owned in fee by  
2 a Cooperative or with the Residential Parcel owned in fee by the Sponsor Organization and  
3 leased to the Cooperative through a ROOTS Lease.

4 Such ownership requirements shall be modified to provide for reasonable lender  
5 rights under a loan that funds, in whole or in part, the acquisition, rehabilitation, and/or  
6 permanent financing for the project, as further set forth in the ROOTS program regulations.

7 (3)(2) All projects housing purchases supported through the Ffunds shall be subject to  
8 a deed restriction that includes each of the following conditions:

9 A. Ownership of stock in the Cooperative (a "Membership Unit") shall  
10 provide the owner of such Membership Unit with the exclusive right to occupancy in a project  
11 residential unit. To ensure affordability for the purchase or transfer of a Membership Unit, the  
12 formation documents of the Cooperative and any occupancy agreement that it enters into with  
13 the owners of the Membership Units purchased under a formula that restricts the resale price  
14 of individual units with resale restrictions enforced by recorded deed restrictions and a 99-year  
15 ground lease of the land with a validly formed Community Land Trust that gives the  
16 Community Land Trust the right of first refusal to purchase any unit. Upon resale of the land,  
17 a new 99-year ground lease would be executed with the new buyer, thereby maintaining the  
18 affordability in perpetuity. Upon resale of any unit, resale restrictions must apply to continue  
19 to make the unit affordable. The Articles of Incorporation, the Bylaws of the Community Land  
20 Trust, and the occupancy agreement of a validly formed Limited Equity Housing Cooperative,  
21 shall require that the purchase and transfer of Membership Units sale of the stock or  
22 membership interests of members of ROOTS assisted housing cooperatives who cease to be  
23 permanent residents will be at a price that is no greater than a "Restricted Value", as  
24 determined by the formation documents applicable Articles, Bylaws, occupancy agreements,  
25

1 ~~and or~~ other applicable documents. The Restricted Value shall not exceed the aggregate of  
2 the following:

3           *ia.*     the consideration paid for the Membership Unit membership  
4 ~~or shares~~ by the first owneroccupant of such Membership Unit the subject unit, which shall  
5 be recorded in as shown on the books of the ~~resident housing~~ Cooperative ;

6           *iib.*    the value, as determined by the ~~b~~Board of ~~d~~Directors of the  
7 ~~resident housing~~ Cooperative, of any improvements installed at the expense of the owner  
8 of such Membership Unit member with the prior approval of ~~suchthe~~ bBoard of directors;

9           *iie.*     accumulated interest, or an inflation allowance at a rate  
10 which may be based on a cost-of-living index, an income index, or market-interest index. Any  
11 increment pursuant to this paragraph shall not exceed a 10 percent annual increase on the  
12 consideration paid for ~~suchthe~~ Mmembership Unit or share by the first owneroccupant of such  
13 Membership the Uunit involved.

14           B.     If the project is comprised of a single legal parcel, the entire  
15 property must be owned by a Sponsor Organization that leases the residential improvement  
16 on the real property to a Cooperative through a ROOTS Lease, or if the project is comprised  
17 of separate legal parcels, the Land Parcel shall be owned in fee by a Sponsor Organization  
18 and the Residential Parcel shall be owned in fee by a Cooperative, or the Land Parcel and the  
19 Residential Parcel shall be owned in fee by a Sponsor Organization that leases the  
20 Residential Parcel to a Cooperative through a ROOTS Lease.

21           C.     If the project involves a ROOTS Lease, the real property may only  
22 be sold to another Sponsor Organization that enters into a new ROOTS Lease with the  
23 Cooperative that was the tenant under the previous ROOTS Lease; provided that if the real  
24 property is transferred due to an event of default under a loan that financed the initial  
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1 acquisition, construction or permanent financing for the real property, the initial Sponsor  
2 Organization acquiring the real property may alternatively assume the then-existing ROOTS  
3 Lease for such real property.

4 D. If the project is comprised of separate legal parcels with the Land  
5 Parcel owned by a Sponsor Organization and a Residential Parcel owned by a Cooperative,  
6 the fee owner of the Land Parcel shall, subject to any right of first refusal created pursuant to  
7 San Francisco Administrative Code Section 1399.18(1), have a right of first refusal to  
8 purchase a Membership Unit of the Cooperative that is the fee owner of the Residential  
9 Parcel, and the fee owner of the Land Parcel shall have the right to enforce the price  
10 restrictions on the sale or transfer of such Membership Units specified in subsection (A)  
11 above.

12 ~~(4)(3) Eligible projects must split the ownership of the land (which would be held~~  
13 ~~by a non-profit entity chartered to provide affordable housing) and the building with its~~  
14 ~~improvements (held by a residents housing cooperative)."(4) Eligible projects must~~  
15 ~~demonstrate that A project shall only be eligible for the Funds if~~ tenants representing a  
16 majority (60%) of the residential units in ~~thea~~ building ~~must~~ sign "Intent to Purchase" forms to  
17 begin the process to form a Cooperative. Applicants must demonstrate how the proposed or  
18 existing involved housing Ceoperative for such project will be or is structured to provide a  
19 democratic decision making process.

20 (5) ~~Theis Ffunds areis~~ intended to fund the creation of permanently  
21 affordable housing held by Ceoperatives that comply with all as defined by applicable local,  
22 state and federal laws. All buildings converted from rental to ~~ceoperative~~ housing that is held  
23 by a Cooperative are still subject to any applicable state and local condominium laws and  
24 restrictions.



1           (6) If a residential tenant at a project that is converted from rental housing to  
2 housing that is held by a Cooperative Tenants who does not wish to become an owner of a  
3 Membership Unit in such Cooperative, the Cooperative must enter into a lease with such  
4 tenant (the "Pre-Conversion Tenant") that meets the requirements of San Francisco  
5 Administrative Code Section 1399.8A(b)-(h), incorporates the terms specified in San  
6 Francisco Administrative Code Section 1399.8A(i), owners must be and is for the same unit  
7 then leased by the Pre-Conversion Tenant.

8           (7) Once a project is converted to housing that is held by a Cooperative,  
9 except for any unit occupied by a Pre-Conversion Tenant, all residential units in the project  
10 must be occupied by owners of a Membership Unit sold, units must be owner-occupied, with  
11 certain exceptions made for up to 12 months in any 3 year period. Subletting to roommates is  
12 allowable, but the rent charged can be no higher than the prorated Cooperative annual costs  
13 payable by the owner of the Membership Unit occupying such unit.

14           (8) Proposals that would prevent displacement of existing tenants from  
15 eviction will be given priority in the ROOTS program application selection process.

16           (c) After the Controller has authorized the disbursement of the Funds to the Mayor's  
17 Office of Housing, the Mayor's Office of Housing shall thereafter make an annual report to the  
18 Budget and Finance Committee on its expenditure of the Funds.

19  
20 APPROVED AS TO FORM:  
21 DENNIS J. HERRERA, City Attorney

22 By:   
23 Carol Wong Evan Gross  
24 Deputy City Attorney  
25



# City and County of San Francisco

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

## Tails

## Ordinance

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**File Number:** 090474

**Date Passed:**

Ordinance amending San Francisco Board of Supervisors Ordinance No. 34-07 by permitting projects that are the subject of Real Ownership Opportunities for Tenants (ROOTS) program grants to be comprised of separate legal parcels.

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May 19, 2009 Board of Supervisors — PASSED ON FIRST READING

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell, Mirkarimi

June 2, 2009 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell, Mirkarimi

File No. 090474

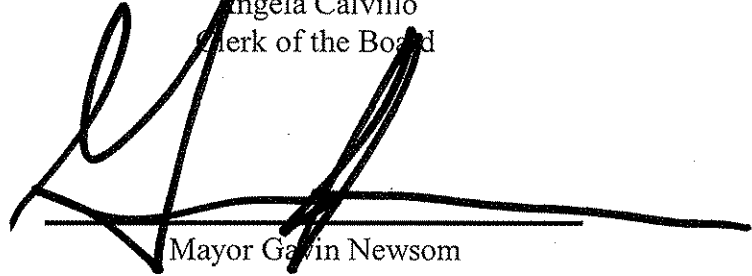
I hereby certify that the foregoing Ordinance  
was **FINALLY PASSED** on June 2, 2009 by  
the Board of Supervisors of the City and  
County of San Francisco.

6/10/09

Date Approved



Angela Calvillo  
Clerk of the Board



Mayor Gavin Newsom