

1 [Subdivision Code - Condominium Conversion Fee Appeals and Fee Deferral]

2
3 **Ordinance amending the Subdivision Code to authorize the Clerk of the Board of**
4 **Supervisors to reject appeals of the condominium conversion fee when the appeal**
5 **does not challenge the relationship or nexus between the impact of development and**
6 **the amount of the fee charged, to modify the fee deferral process administered by the**
7 **Department of Public Works, to allow conversions to proceed with a gap in ownership**
8 **occupancy due to foreclosure, and affirming the Planning Department's California**
9 **Environmental Quality Act determination.**

10 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.
12 **Deletions to Codes** are in ~~*italics Times New Roman font*~~.
13 **Board amendment additions** are in double-underlined Arial font.
14 **Board amendment deletions** are in ~~Arial font~~.
15 **Asterisks (* * * *)** indicate the omission of unchanged Code
16 subsections or parts of tables.

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

18 Section 1. Affirming the Environmental Determination. The Planning Department has
19 determined that the actions contemplated in this Ordinance comply with the California
20 Environmental Quality Act (California Public Resources Code Section 21000 et seq.). The
21 Board of Supervisors hereby affirms this determination. A copy of said determination is on file
22 with the Clerk of the Board of Supervisors in File No.131146 and incorporated herein by
23 reference.

24 Section 2.

25 The Subdivision Code is hereby amended by revising Section 1396.4, to read as
follows:

1 **SEC. 1396.4. CONDOMINIUM CONVERSION FEE AND EXPEDITED CONVERSION**
2 **PROGRAM.**

3 ***

4 (b) Any building may be exempted from the annual lottery provisions of Section 1396 if
5 the building owners for said building comply with Section 1396.3 (g)(1) and all the
6 requirements of this Section 1396.4 . Notwithstanding the foregoing, no property or applicant
7 subject to any of the prohibition on conversions set forth in Section 1396.2, in particular a
8 property with the eviction(s) set forth in Section 1396.2 (b), is eligible for the Expedited
9 Conversion program under this Section 1396.4 . Eligible buildings as set forth in this Section
10 (b) may exercise their option to participate in this program according to the following
11 requirements:

12 ***

13 (8) For applications for conversion pursuant to Subsections (3)-(7) only, a unit that is
14 "occupied continuously" shall be defined as a unit occupied continuously by an owner of
15 record for the six year period without an interruption of occupancy and so long as the
16 applicant owner(s) occupied the subject unit as his/her principal place of residence for no less
17 than one year prior to the time of application. (A) Notwithstanding the occupancy
18 requirements set forth above, each building may have one unit where there is an interruption
19 in occupancy for no more than a three month period that is incident to the sale or transfer to a
20 subsequent owner of record who occupied the same unit. For any unit with an interruption of
21 occupancy, the applicant shall provide evidence to establish to the satisfaction of the
22 Department that the period did not exceed three months. (B) *Notwithstanding the occupancy*
23 *requirements set forth above, each building may have one unit where there is an interruption in*
24 *occupancy for no more than a one year period if the sale or transfer to a subsequent owner of record*
25 *who occupied the same unit was delayed during the term of a bank foreclosure against the former*

1 owner's interest in the building related to the subject unit. For any unit with an interruption of
2 occupancy as a result of a foreclosure as described in Subsection (B), the applicant shall provide
3 evidence to establish to the satisfaction of the Department that the period did not exceed one (1) year.

4 ***

5 (j) **Waiver or reduction of fee based on absence of reasonable relationship ~~or~~**
6 ~~deferred payment based upon limited means.~~

7 (1) A project applicant of any project subject to the requirements in this Section may
8 appeal to the Board of Supervisors for a reduction, adjustment, or waiver of the requirements
9 based upon the absence of any reasonable relationship or nexus between the impact of
10 development and the amount of the fee charged ~~or for the reasons set forth in Subsection (2)~~
11 ~~below, a project applicant may request a waiver from the Board of Supervisors.~~

12 (2) Any appeal of requests under this clause shall be made in writing and filed with the
13 Clerk of the Board no later than 15 days after the date the sponsor is required to pay and has
14 paid to the Treasurer the fee as required in this Section. The appeal shall set forth in detail the
15 factual and legal basis for the claim of waiver, reduction, or adjustment. Upon receipt of the
16 appeal, the Clerk of the Board of Supervisors shall review the appeal in consultation with the City
17 Attorney. If the Clerk of the Board determines that the appeal on its face challenges, on a factual or
18 legal basis, the relationship or nexus between the impact of development and the amount of the fee
19 charged, then the Clerk of the Board shall schedule a hearing under Subsection (3). If the Clerk of the
20 Board in consultation with the City Attorney determines that the appeal on its face does not challenge,
21 on a factual or legal basis, the relationship or nexus, then the Clerk of the Board shall notify the
22 members of the Board of Supervisors within three business days of the Clerk's receipt of the appeal. If
23 any one member of the Board of Supervisors requests within three business days of the Clerk's
24 notification that the Clerk schedule a hearing on the appeal, then the Clerk shall schedule a hearing
25 under Subsection (3). If no member of the Board requests that the Clerk schedule a hearing, then the

1 Clerk shall inform the appellant and the Department of Public Works, within ten business days from the
2 date of the filing, that the filing does not allege a proper basis for appeal, and shall reject the appeal on
3 behalf of the Board of Supervisors.

4 (3) If the Clerk of the Board schedules a hearing under this Section, the Board of
5 Supervisors shall consider the appeal at the hearing within 60 days after the filing of the
6 appeal. The appellant shall bear the burden of presenting substantial evidence to support the
7 appeal, including comparable technical information to support appellant's position. If a
8 reduction, adjustment, or waiver is granted, any change of use or scope of the project shall
9 invalidate the waiver, adjustment or reduction of the fee. If the Board grants a reduction,
10 adjustment or waiver, the Clerk of the Board shall promptly transmit the nature and extent of
11 the reduction, adjustment or waiver to the Treasurer and Department of Public Works.

12 (k) **Deferred payment based upon limited means.** (3) A project applicant may apply to
13 the Department of Public Works for a deferral of payment of the fee applied to a specific unit as
14 described in Subsection (e) for the period that beginning when the Department completes its
15 review and until the application for expedited conversion is approved receives a complete application
16 until six (6) months after recordation of the final parcel or subdivision map, provided that for the
17 twelve months prior to the date of application, the applicant resided in his or her unit in the
18 subject property as his or her principle place of residence and the applicant's household
19 income was less than 120% of median income of the City and County of San Francisco as
20 determined by the Mayor's Office of Housing. Prior to the final approval of a parcel or
21 subdivision map for any building where an applicant(s) has obtained a fee deferral, the Department
22 shall cause the recordation of a notice of restrictions or other similar document against the title of all
23 owners of the subject property that guarantees payment of the deferred fee at the time set forth in this
24 Subsection.

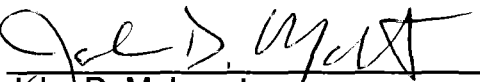
1 (~~k~~) Buildings that convert pursuant to this Section shall have no effect on the terms
2 and conditions of Section 1341A , 1385A , or 1396 of this Code.

3 Section 3. Effective Date. This ordinance shall become effective 30 days after
4 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
5 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
6 of Supervisors overrides the Mayor's veto of the ordinance.

7
8 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
9 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
10 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
11 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
12 additions, and Board amendment deletions in accordance with the "Note" that appears under
13 the official title of the ordinance.

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16 APPROVED AS TO FORM:
17 DENNIS J. HERRERA, City Attorney

18 By:


19 John D. Malamut
20 Deputy City Attorney

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City and County of San Francisco

**Tails
Ordinance**

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

File Number: 131146

Date Passed: April 29, 2014

Ordinance amending the Subdivision Code to authorize the Clerk of the Board of Supervisors to reject appeals of the condominium conversion fee when the appeal does not challenge the relationship or nexus between the impact of development and the amount of the fee charged, to modify the fee deferral process administered by the Department of Public Works, to allow conversions to proceed with a gap in ownership occupancy due to foreclosure, and affirming the Planning Department's California Environmental Quality Act determination.

April 14, 2014 Land Use and Economic Development Committee - RECOMMENDED

April 22, 2014 Board of Supervisors - PASSED ON FIRST READING

Ayes: 10 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Mar, Tang, Wiener and Yee

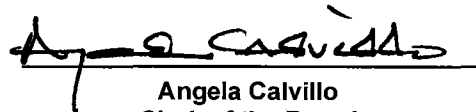
Absent: 1 - Kim

April 29, 2014 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

File No. 131146

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 4/29/2014 by the Board of Supervisors of the City and County of San Francisco.


Angela Calvillo
Clerk of the Board


Mayor


Date Approved