

BOARD of SUPERVISORS



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March 28, 2014

File No. 131146

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Jones:

On March 11, 2014, Supervisor Breed introduced the following legislation:

**File No. 131146**

**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.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Committee Clerk  
Land Use & Economic Development Committee

Attachment

c: Nannie Turrell, Environmental Planning  
Jeanie Poling, Environmental Planning

*Not a project under CEQA  
Guidelines Sections 15060(c)  
and 15378 because  
there is no direct or  
indirect physical change  
in the environment.  
Nannie Turrell  
March 31, 2014*



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. \_\_\_\_\_ 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           (~~L~~) 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.

14  
15  
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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