

REVISED LEGISLATIVE DIGEST

(1/28/2013, Amended in Committee)

[Subdivision Code - Condominium Conversion Impact Fee]

Ordinance amending the Subdivision Code, by adding Section 1396.4, to adopt a condominium conversion impact fee applicable to buildings participating but not being selected in the 2012 or 2013 condominium conversion lotteries only, subject to specified requirements, including lifetime leases for non-purchasing tenants; 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 which 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. 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 impose a one-time fee on condominium conversions that would allow those buildings which participated but lost in the 2012 or 2013 condominium lottery to by-pass the 2014 lottery by paying the specified \$20,000 per unit fee. The fee would be reduced 20% for every year before 2013 that the building participated in the lottery, and the fee revenue collected would be placed into the Mayor's Office Home Ownership Assistance Loan Fund. The Ordinance also would require that all non-purchasing tenants at the time of final or parcel map approval of the condominium subdivision receive a lifetime lease with certain specified terms and subject to a binding agreement with the City concerning the lease. In recognition of the lifetime lease requirements, buildings would receive a refund on the condominium conversion fee tied to the number of units associated with a lifetime lease. The legislation would establish various time periods to pay the fee and complete steps of the conversion process. The Ordinance also would adopt environmental findings.

BOARD of SUPERVISORS



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MEMORANDUM

TO: Youth Commission
Attn: Mario Yedidia, Director

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: February 14, 2013

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed ordinance, introduced by Supervisor Farrell on June 12, 2013:

File No. 120669

Ordinance amending the Subdivision Code, by adding Section 1396.4, to adopt a condominium conversion impact fee applicable to buildings participating but not being selected in the 2012 or 2013 condominium conversion lotteries only, subject to specified requirements, including lifetime leases for non-purchasing tenants; and adopting environmental findings.

This matter will be heard in Committee on February 25, 2013 at 10:00 a.m. in the Legislative Chamber.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

1 [Subdivision Code - Condominium Conversion Impact Fee]

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3 Ordinance amending the Subdivision Code, by adding Section 1396.4, to adopt a
4 condominium conversion impact fee applicable to buildings ~~qualifying for participating~~
5 but not being selected ~~or participating~~ in the 2012 or 2013 condominium conversion
6 lotteries only, subject to specified requirements, including lifetime leases for non-
7 purchasing tenants; and adopting environmental findings.

8 NOTE: Additions are *single-underline italics Times New Roman*;
9 deletions are *strike-through 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. Findings. (a) The Planning Department has determined that the actions
13 contemplated in this Ordinance are in compliance with the California Environmental Quality
14 Act (California Public Resources Code sections 21000 et seq.). Said determination is on file
15 with the Clerk of the Board of Supervisors in File No. 120669 and is incorporated herein by
16 reference.

17 (b) A copy of the report on the fees identified herein is in Clerk of the Board of
18 Supervisors File No. 120669 and is incorporated herein by reference. The City Controller's
19 Office has independently confirmed that the fee amounts identified in said report remain valid.
20 This determination is on file with the Clerk of the Board of Supervisors File No. 120669 and is
21 incorporated herein by reference.

22 Section 2. The San Francisco Subdivision Code is hereby amended by adding
23 Section 1396.4, to read as follows:

24 SEC. 1396.4. CONDOMINIUM CONVERSION IMPACT FEE.

1 (a) Findings. The findings of Planning Code Section 415.1 concerning the City's inclusionary
2 affordable housing program are incorporated herein by reference and support the basis for charging
3 the fee set forth herein as it relates to the conversion of dwelling units into condominiums.

4 (b) Any building that: (1) participated in the 2013 or 2012 condominium conversion lottery,
5 but was not selected for conversion or (2) could have participated in the 2013 condominium
6 conversion lottery, but elected not to do so, may bypass the provisions of Section 1396 (the annual
7 lottery conversion limitation) if the building owners for said building comply with Section 1396.3(g)(1)
8 and pay the condominium conversion impact fee subject to the requirements of this Section. In
9 addition, no property subject to the prohibition set forth in Section 1396.2 is eligible for said
10 bypass.

11 (c) Eligible buildings as set forth in Subsection (b) may exercise their option to participate in
12 this fee program according to the following requirements:

13 (1) The applicant(s) for the subject building shall pay the fee specified in Subsection (e)
14 no later than January 24, 2014 for the entire building.

15 (2) No later than the last business day before July 25, 2014:

16 (i) DPW shall determined that the applicant's condominium conversion
17 subdivision application is complete, or

18 (ii) The application is deemed complete by operation of law.

19 (3) The applicant shall obtain final and effective tentative approval of the condominium
20 subdivision or parcel map no later than December 31, 2014.

21 (4) Any map application subject to a required public hearing on the subdivision or a
22 subdivision appeal shall have the time limit set forth in Subsection (c)(3) suspended until March 13,
23 2015.

24 (5) The Director of the Department of Public Works is authorized to waive the time
25 limit set forth in Subsection (c)(3) as it applies to a particular building due to extenuating or unique

1 circumstances. Such waiver may be granted only after a public hearing and in no case shall the time
2 limit extend beyond July 24, 2015.

3 (6) The applicant(s) must meet the following requirements applicable to Subdivision
4 Code Article 9, Conversions: Sections 1381, 1382, 1383, 1386, 1387, 1388, 1389, 1390,
5 1391(a) and (b), 1392, 1393, 1394, and 1395. In addition, the applicant(s) must certify that to
6 the extent any tenant vacates his or her unit after January 28, 2013 and before recordation of
7 the final parcel or subdivision map, such tenant did so voluntarily or if an eviction or eviction
8 notice occurred it was not pursuant to Administrative Code Sections 37.9(a)(8)-(14). If an
9 eviction has taken place under 37.9(a)(11) or 37.9(a)(14) then the applicant(s) shall certify
10 that the original tenant reoccupied the unit after the temporary eviction.

11 (d) Should the subdivision application be denied or be rejected as untimely in accordance with
12 the dates specified above, or the tentative subdivision map or tentative parcel map disapproved, DPW
13 the City shall refund the entirety of the applicant's fee specified in Subsection (e).

14 (e) The fee amount is \$20,000.00 per unit. Said fee is reduced for each year the building has
15 participated in the condominium conversion lottery up to and including the 2013 lottery in accordance
16 with the following formula:

17 (1) 2 years of participation, 20% fee reduction per unit;

18 (2) 3 years of participation, 40% fee reduction per unit;

19 (3) 4 years of participation, 60% fee reduction per unit; and

20 (4) 5 or more years of participation, 80% fee reduction per unit.

21 (f) For purposes of Section (e), a building's owner(s) shall get credit only for those years that
22 it he or she participated in the lottery even though such building could have qualified for and
23 participated in other condominium conversion lotteries.

24 (g) Life Time Lease for Non-purchasing Tenants. No subdivider or subsequent condominium
25 unit owner shall refuse to renew a lease or extend a rental agreement to any non-purchasing tenant at

1 the time of Final Map or Parcel Map approval. Any extended leases or rental agreements made
2 pursuant hereto shall expire only upon the death or demise of such tenant or the last surviving member
3 of the tenant's household, provided such surviving member is related to the tenant by blood, marriage,
4 or domestic partnership, and is aged 62 or older at the time of death or demise of such tenant, or at
5 such time as the tenant voluntarily vacates the unit after giving due notice of such intent to vacate.
6 Each lease shall contain a provision allowing the tenant to terminate the lease and vacate the unit upon
7 30 days' notice. Rent charged during the term of any extended lease or rental agreement pursuant to
8 the provisions of this Section shall not exceed the rent charged at the time of filing of the application
9 for conversion, plus any increases proportionate to the increases in the residential rent component of
10 the "Bay Area Cost of Living Index, U.S. Dept. of Labor," provided that the rental increase provisions
11 of this Section shall be operative only in the absence of other applicable rent increase or arbitration
12 laws. This Section shall not alter or abridge the rights or obligations of the parties in performance of
13 their covenants, including but not limited to the provision of services, payment of rent or the
14 obligations imposed by Sections 1941, 1941.1 and 1941.2 of the California Civil Code. There shall be
15 no decrease in dwelling unit maintenance or other services historically provided to such units and such
16 tenants. A binding and recorded agreement between the City and property owner(s)
17 concerning this requirement shall be a tentative map condition imposed on each parcel or
18 subdivision map subject to this Subsection 1396.4(g). For purposes of this Subsection, the
19 Board of Supervisors delegates authority to the DPW Director, in consultation with the
20 Mayor's Office of Housing, to enter in said agreement on behalf of the City and County of San
21 Francisco.

22 (h) In recognition of the rental requirements of Section (g), the fee for each unit in which a
23 non-purchasing tenant resides at the time specified in Section (g) shall be refunded to the subdivider
24 under the following formula:

25 (1) One unit, 10% fee reduction for such unit;

1 (2) Two units, 20% fee reduction for each unit;

2 (3) Three units, 30% fee reduction for each unit.

3 (i) Upon confirmation of compliance with the rental requirement, DPW or the City
4 department in possession of the fee revenue shall refund the amount specified in Section (h) to the
5 subdivider and have all remaining fee revenues transferred to the Citywide Affordable Housing Fund
6 Mayor's Office Home Ownership Assistance Loan Fund.

7 (j) Waiver or reduction of fee based on absence of reasonable relationship.

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

13 (2) Any appeal of waiver requests under this clause shall be made in writing and filed
14 with the Clerk of the Board no later than 15 days after the date the sponsor is required to pay and has
15 paid to the Treasurer the fee as required in this Section. The appeal shall set forth in detail the factual
16 and legal basis for the claim of waiver, reduction, or adjustment. The Board of Supervisors shall
17 consider the appeal at the hearing within 60 days after the filing of the appeal. The appellant shall
18 bear the burden of presenting substantial evidence to support the appeal, including comparable
19 technical information to support appellant's position. If a reduction, adjustment, or waiver is granted,
20 any change of use or scope of the project shall invalidate the waiver, adjustment or reduction of the fee.
21 If the Board grants a reduction, adjustment or waiver, the Clerk of the Board shall promptly transmit
22 the nature and extent of the reduction, adjustment or waiver to the Treasurer and Department of Public
23 Works.

24 (k) Any building that participates in the fee program set forth herein shall automatically be
25 ineligible to participate in the 2014 condominium conversion lottery. DPW The City shall refund to

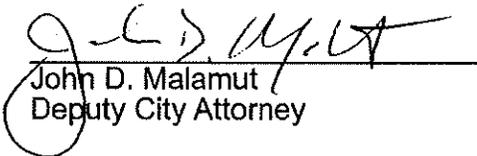
1 the applicant any fees paid to participate in the 2014 lottery and shall remove any lottery tickets
2 associated with the subject building from the lottery drawing.

3 (l) Buildings that convert pursuant to this Section shall have no effect on the terms and
4 conditions of Section 1341A, 1385A, or 1396 of this Code.

5 Section 3. Effective Date. This ordinance shall become effective 30 days from the
6 date of passage.

7 Section 4. This section is uncodified. In enacting this Ordinance, the Board intends to
8 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
9 punctuation, charts, diagrams, or any other constituent part of the Subdivision Code that are
10 explicitly shown in this legislation as additions, deletions, Board amendment additions, and
11 Board amendment deletions in accordance with the "Note" that appears under the official title
12 of the legislation.

13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By: 
16 John D. Malamut
17 Deputy City Attorney