



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: April 21, 2006 REPORT NO: 06-043

ATTENTION: Committee on Land Use and Housing
Agenda of April 26, 2006

SUBJECT: Amendments to Regulations Related to Condominium Conversions

REFERENCES: CMR 05-060 and CMR05-163

REQUESTED ACTION:

Committee recommendation to the City Council that it adopt amendments to the Land Development Code dealing with condominium conversions and associated requirements for relocation assistance, noticing, parking, and inclusionary housing.

STAFF RECOMMENDATION:

Staff recommends the condominium conversion regulations be amended to:

- Provide relocation assistance to all tenants displaced by a conversion;
- Improve the noticing requirements;
- Require minimum parking standards;
- Require onsite inclusionary housing for projects of ten or more units; and
- Make minor corrections and clarifications.

Staff further recommends that, for all provisions except parking, the ordinance be applied to projects that have not received tentative map approval prior to the effective date of the ordinance. For parking, the ordinance would apply to those projects whose applications for a tentative map had not been deemed complete prior to the date of the City Council hearing on the ordinance.

SUMMARY:

On September 14, 2005 the Land Use and Housing Committee held a workshop to discuss potential amendments to the City's regulations for condominium conversions. City Managers Report (No. 05-163) provided thirteen City Manager policy recommendations to be considered for inclusion in an amended condominium conversion ordinance. Several recommendations were controversial, others were generally accepted. Those generally accepted recommendations were drafted into an ordinance and presented to the City Council separate from the remaining more controversial recommendations.

On January 24, 2006 the City Council unanimously adopted amendments to the condominium conversion regulations. The amendments primarily addressed consumer concerns and were

generally accepted by all stakeholders. The amendments included: preparation of a Building Conditions Report; replacement of integral components of a building with a useful life of five or fewer years; upgrades to current standards for specified development standards; and noticing timelines for a summary of tenant benefits.

Positions on the outstanding issues of relocation assistance, noticing, parking, and inclusionary housing follow. Each issue includes a discussion of the current Municipal Code requirements, a brief discussion of the benefits and shortcomings of the requirements, and staff recommendation.

Relocation Assistance

The Municipal Code currently requires that relocation assistance be provided to households with income less than 100% of the area median income (AMI). HUD currently calculates 100% AMI to be \$63,400 for a family of four. The relocation assistance is to be equivalent to three months rent or the average of the previous three months rent, whichever is higher. The relocation payment is to be provided no later than the date the tenant receives the notice to terminate tenancy. This requirement of the Municipal Code is not in effect for any year in which the determination is made that the annual average rental vacancy rate exceeds seven percent. This provision of the ordinance was developed with the understanding that increased vacancies would be accompanied by decreased rents and/or move-in promotions (such as no first or last months rent).

Benefits of Existing Regulations - Application of the current regulations has only limited direct financial consequences on converters. This limits the potential to pass on increased costs to buyers thus assisting in providing a housing alternative that is more affordable than new construction. In tight rental markets, the regulations provide relocation assistance to households with the greatest need (less than 100 percent AMI).

Shortcomings -The evictions of tenants to accommodate a condominium conversion can cause financial and other hardship to even those tenants earning greater than 100 percent AMI, including seniors and members of the disabled community. Also, the data that is relied upon by the City in making the vacancy rate determination is variable and may be unreliable particularly for the lower cost rental units.

Implementation of the current requirements has added administrative expense to the San Diego Housing Commission, which is designated as the agency responsible for determining which, if any, residents meet the financial qualification for the relocation assistance. Making the determination of qualified household has been problematic for the Housing Commission in at least three arenas. First, households often are reluctant to provide the information for reasons of privacy and identity theft, thereby extending the time and effort needed to effectively conduct the survey. Households that do not cooperate self-select out of receiving assistance even though they may be eligible. Second, the review process has been time consuming and demanding for staff and converters. The survey process can take up to 60 days to complete and, due to the large number of conversions in the pipeline, the Housing Commission has had to increase dedicated staff from 2 to 4 full time positions. Finally, administrative costs of surveying each unit within a project exceed the fees collected in accordance with fee structure of the ordinance. As currently adopted, the Housing Commission may be reimbursed through a deposit account for only those

units that qualify for assistance, and not for the costs incurred surveying non-qualifying units which tend to be the vast majority of units surveyed.

Staff Recommendation - Require that all households displaced by a condominium conversion receive relocation assistance equivalent to three months rent, regardless of income level. The relocation payment would be paid no later than the date the applicant receives the notice to terminate tenancy. The regulation that suspends the relocation payment when the determination is made that the annual average rental vacancy rate exceeds seven percent would be deleted and the method of reimbursing the Housing Commission for costs incurred would be revised to be consistent with current practice. Providing three months relocation assistance to all tenants would be a positive step in minimizing the negative effects of displacing tenants. Out of the 277 condominium conversion projects processed by the Housing Commission staff, approximately 7 percent (19 projects) have waived the required process and provided relocation assistance to all tenants.

Providing relocation assistance to all households evicted due to condominium conversion would remove the need for the San Diego Housing Commission to survey tenants to determine which, if any, qualify for assistance. Although the San Diego Housing Commission would remain in the relocation assistance process, removing the survey requirement would reduce processing time and free up Housing Commission staff. It would provide all households that are required to relocate compensation for their time and costs related to searching for new housing, packing, and moving regardless of their income. This would represent additional costs to the condominium converter which might be offset by the decrease in processing time. Whether additional costs are offset or not, they would be a known factor for the converter which in turn could be passed on to the buyer. It should be noted that many converters currently budget relocation for all tenants in their pro formas. This cost is small when contrasted to the cost of extensive rehabilitation of the buildings that typically occurs prior to the sale of the converted units.

Noticing

The current noticing requirements for condominium conversions are a mixture of the requirements of the California Government Code, the California Civil Code, and the City of San Diego Municipal Code. Attachment 1 provides a listing of the required notices, a description of each notice, the party responsible for providing the notice, and the government code that requires the notice.

Benefits of Existing Regulations - The current noticing requirements provide residents of rental units information regarding proposed conversions beginning with the intent to convert through the hearing process up to the actual conversion and notice to terminate tenancy.

Shortcomings - There is room for improvement in noticing of condominium conversions. The current process for noticing can be confusing. Eleven different notices are required to be provided by either the project applicant or the City. Some may only be provided at a specific time in the process while others can be provided within time spans. Notices are only required in English even though the primary language of many residents in San Diego is Spanish. Additionally, a provision of the California Civil Code expired this year that had required a 60 day notice of the Notice of Termination of Tenancy. Now evictions require only a 30 day

notice. The 30 day period is not a sufficient timeframe for many households to relocate, especially those with special needs.

Staff Recommendation - A number of changes to the noticing requirements would simplify the process, add predictability, and increase accessibility of information to affected tenants.

- Add to the Municipal Code a requirement to provide a 60 day notice for the Notice of Termination of Tenancy to replace the notice that expired at the state level (see Attachment 2).
- Require that applicants provide a Notice of Tenants Rights and Notices at the beginning of the condominium conversion process (see Attachment 3).
- Add to the Land Development Manual samples of all required notices. The samples would identify required elements of the notice.
- Provide on the notice, in Spanish, a location (physical and/or website) where the notice is available in Spanish.
- Provide an internet address in all hearing notices that links to the minutes for the hearing. This would provide the outcome of the hearing for members of the public that were unable to attend the hearing.
- Require that notices be provided in the same language as the rental lease.

Parking Requirement

The amount of parking currently required for a condominium conversion is subject to the Municipal Code regulations for previously conforming premises. Premises that were developed in accordance with the regulations in effect at the time of original approval may make repairs and alterations without having to meet current parking standards, provided that the repairs or alterations do not expand the approved structural envelope.

Benefits of Existing Regulations - Maintaining the existing previously conforming parking standards would allow for the continued “redevelopment” of older buildings that have often been neglected and degrade otherwise attractive neighborhoods. The existing standards would allow rentals units to convert to for-sale condominiums at the current pace and continue to provide many first time homeowner opportunities for households that cannot afford the higher price of newly constructed housing. Maintaining the current regulations provides for a consistent application of previously conforming regulations for multi-family developments. Additionally, to date, no data has been produced to show that converting exacerbates parking issues that exist prior to conversion.

Shortcomings - A significant number of units proposed for conversion were constructed in the 1950s and 1960s in the older urbanized communities of the City. When these older buildings were constructed, one car per household was the norm and parking was often provided in the required front yard. Since then, the number of cars per household has increased resulting in insufficient on-street parking in many of the urbanized neighborhoods. In recent years, the City has embraced pedestrian friendly policies and regulations intended to encourage pedestrian activity through increased safety (reduce conflicts with the auto, resulting from front yard parking with wide curb cuts) and increased landscape or similar aesthetic street front enhancement. The existing parking standards allow buildings that may be appropriate for redevelopment to “begin a new life” without the benefits associated with compliance with

community plans and current development codes. Additionally, since structural upgrades are required only for integral building components with a useful life of five years or more, there is the potential in these older structures, for significant homeowner investments to maintain the structure over the life of the home loan.

Staff Recommendation - Require a minimum parking standard for condominium conversions. The requirement would be applied to projects that were approved prior to the parking standards adopted on November 23, 1992. Additionally, existing parking spaces within the required front yard setback would not be counted toward the required number of parking spaces. This is consistent with the current method for counting parking spaces. Conversions of historic structures or structures contributing to neighborhood character that cannot comply with parking requirement may request a deviation through a Site Development Permit. This alternative would reduce the number of older buildings being converted thus allowing them to run their course and provide redevelopment opportunities consistent with community plans and current development regulations. In the near term, the reduction of conversions would represent a proportionate reduction of residents displaced by conversions.

This recommendation, with the exception of not counting parking spaces within the front yard setback, has been reviewed and generally accepted by the Community Planners Committee and the Planning Commission. The proposed number of parking spaces required per unit based on size (number of bedrooms) is identified in the table that follows.

Size of Unit	Required Parking Spaces
Studio	1
1 Bedroom	1
2 Bedroom	1.25
3+ Bedroom	1.5

The number of proposed parking spaces is not based on a particular standard that existed at a given time. Instead it is a modification of the parking standards approved in 1971 and 1992. In a review of 73 recent condominium conversion projects, 36 would comply with the proposed parking standard. Of those 7 were constructed prior to 1971, 27 were constructed between 1971 and 1992, and 2 were constructed in 1992 or later. Of the 37 that did not comply with the proposed parking standards, 30 were constructed prior to 1971 and 7 were constructed between 1971 and 1992. Projects that do not comply with the proposed standard could be approved through a Site Development Permit if the findings are made that the building contributes to the community character or provides a community specific benefit.

Inclusionary Housing

The current inclusionary housing requirement for condominium conversions is generally the same as the requirement for new housing. At least ten percent of the total dwelling units are to be affordable to households earning no more than 100 percent of the area median income (currently \$63,400 for a family of four). For condominium conversions, the total number of units used in the calculation is reduced by the number of units that, through an agreement with the Housing Commission, are sold at a price affordable to households earning less than 150

percent of the area median income (currently a family of four earning \$95,100 would pay up to \$373,900). The requirement to provide affordable housing may be satisfied by providing the housing onsite, offsite, or through payment of an in-lieu fee. In-lieu fees are currently \$2.50/square foot for projects of 10 or more units and \$1.25/square foot for projects with fewer than 10 units. For projects submitted after July 3, 2006, in-lieu fees are anticipated to increase to \$7.31/square foot for projects of 10 or more units and \$3.65/square foot for projects with fewer than 10 units. The following tables represent the current sales price restrictions for households earning 100 and 150 percent AMI based on household and dwelling unit size.

100 Percent Area median Income (2005)			
Household Size	Unit Size	Income	Restricted Price
One	Studio	\$ 44,400	\$ 157,000
Two	1 Bedroom	\$ 50,700	\$ 184,000
Three	2 Bedroom	\$ 57,050	\$ 211,100
Four	3 Bedroom	\$ 63, 400	\$ 238,300

150 Percent Area Median Income (2005)			
Household Size	Unit Size	Income	Restricted Price
One	Studio	\$ 66,550	\$ 251,900
Two	1 Bedroom	\$ 76,100	\$ 292,400
Three	2 Bedroom	\$ 85,600	\$ 333,100
Four	3 Bedroom	\$ 95,100	\$ 373,900

Benefits of Existing Regulations - Application of the current inclusionary housing requirements for condominium conversions is generally the same as applied to all other residential development. The purchase price of converted units is typically less than the price of new construction, and as a result, units in condominium conversions provide first-time homeowner opportunities for many households. Requirements beyond those in place could result in an increase in the purchase price of converted units making them less available to the first-time homebuyer.

Shortcomings - Prior to conversion many units are rented at affordable rates to low income households, which include portions of the senior and disabled community. When a conversion occurs, those households may have difficulty in locating a suitable apartment in the same community at a similar rental rate. This difficulty is more pronounced for those that rely on close proximity to shopping, transit, and social/medical services. The current requirements for inclusionary housing, which allow for payment of in-lieu fees instead of providing affordable units, are more attractive to developers.

Staff Recommendation - Require condominium conversion projects to satisfy their inclusionary housing requirements onsite for every whole number of units required under the inclusionary housing regulations with payment of the in-lieu fee for fractions of units required.

This requirement would guarantee provision of affordable housing opportunities. Since tenants have the first right of refusal to purchase units in the building, this alternative would make it possible for qualified households, in projects with more than ten units, to remain in their

complex, in a suitable unit, at an affordable price. The alternative would not affect small scale projects of nine or fewer units and therefore not result in additional costs being passed on to the home buyer in smaller projects. Projects of ten or more units would be directly affected and would be required to dedicate one of every ten units as an affordable housing unit. This would represent additional costs to the condominium converter. The additional cost would be a known factor for the converter which in turn could result in an increase in the purchase price of the remaining units.

FISCAL CONSIDERATIONS:

The Development Services Department is an enterprise funded department and collects fees from applicants submitting applications for condominium conversions. The proposed regulations would continue to provide a mechanism to reimburse the housing commission for their involvement.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

- City Council adopted regulations for condominium conversions that generally provide consumer protections on January 24, 2006.
- The Land Use and Housing Committee held a workshop to discuss possible amendments to the regulations for condominium conversions on September 14, 2005.
- The Planning Commission held a workshop to discuss possible amendments to the regulations for condominium conversions on May 20, 2005.
- The Land Use and Housing Committee and the Planning Commission jointly held a workshop on issues related to condominium conversions on March 4, 2005.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

In addition to the four previously listed public hearings, presentations have been made to the following:

- Community Planners Committee voted 16-7-0 to support the recommended amendments (including those recently adopted by the Council) on October 5, 2005.
- The Technical Advisory Committee on April 12, 2006 and earlier on July 13, 2005 discussed the condominium conversion regulations. On April 12, 2006 the Committee, by a vote 10-1-0, supported the good neighbor/building conditions report requirements, the expanded relocation assistance, and the improved noticing package. The committee did not support requirements for onsite inclusionary housing and parking standards. The Committee also voted 14-0-0 to recommend that the provision of readily achievable accessible units be determined to be a community benefit that would satisfy the findings for deviations to the condominium conversion regulations.

The Development Services Department has also provides updated information on condominium conversions, including strikout/underlined drafts of the proposed regulations, on its website at <http://www.sandiego.gov/development-services/industry/condoconver.shtml>.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

There are many stakeholders representing the wide spectrum of concerns regarding increasing the regulations for condominium conversions. They include, but are not limited to, condominium converters, existing tenants, prospective buyers, the Affordable Housing Coalition of San Diego, Affordable Housing Advocates, the Building Industry Association, members of the real estate industry, members of the disabled community, and community planning groups.

Respectfully submitted,

Gary Halbert
Development Services Director

James T. Waring
Deputy Chief Operating Officer of
Land Use and Economic Development

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Attachments:

1. [Required Notices](#)
2. [Sample 60-Day Notice of termination of Tenancy](#)
3. [Sample Notice of Tenants Rights and Notices](#)
4. [Draft Condominium Conversion Regulations - Strikeout/Underline](#)