

ORDINANCE NO. 4329 FOURTH SERIES

AN ORDINANCE AMENDING SECTION 22-A-60(d), (f), (o), (p), (q), (r) and (s), 28-A, 28-C-1(1), 28-C-3(i), AND 28-C-6(b) AND (c) OF THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SACRAMENTO, ORDINANCE NO. 2550, FOURTH SERIES, AND ADDING SECTION 40.404(h) TO CHAPTER 40 OF THE SACRAMENTO CITY CODE, RELATING TO CONDOMINIUM CONVERSIONS, AND DECLARING SAID ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

APPROVED
BY THE CITY COUNCIL

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO: MAR 20 1980

SECTION 1.

OFFICE OF THE
CITY CLERK

Section 22-A-60(d) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(d) Reserved.

SECTION 2.

Section 22-A-60(f) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(f) Condominium. Condominium shall mean and include:

(1) "Condominium" as defined by Section 783 of the Civil Code;

(2) "Community Apartment Project" as defined by Section 11004 of the Business and Professions Code;

(3) "Stock Cooperative" as defined by Section 11003.2 of the Business and Professions Code; and,

(4) "Planned Development" as defined by Section 11003 of the Business and Professions Code.

(5) "Limited Equity Housing Cooperative" as defined by Section 11003.4 of the Business and Professions Code.

The term "condominium" specifically includes, but is not limited to the conversion of any existing structure for sale pursuant to a method described in subsections (1)-(5) of this subsection.

SECTION 3.

Sections 22-A-60-(o),(p)(q), and (r) of the Comprehensive Zoning Ordinance of the City of Sacramento are hereby amended to read as follows:

(o) Residential Condominium Project. Residential condominium project shall mean the new construction of a condominium project intended for residential occupancy, the conversion of a building used for multiple family rental housing to condominium ownership intended for residential or nonresidential occupancy, and the conversion of a nonresidential building to condominium ownership intended for residential occupancy.

(p) Special Category. Special category refers to persons or tenants who fall within one or more of the following categories:

- (1) Elderly, defined as individuals 62 years of age or older;
- (2) handicapped or disabled, as defined in Section 50072 of the California Health and Safety Code or Section 223 of the United States Social Security Act, 42 USC 423;
- (3) low income, as defined in subsection (l) above;
- (4) moderate income, as defined in subsection (m) above;
- (5) single heads of household residing with one or more minor children.

(q) Unjust Eviction. An unjust eviction is an eviction for other than one or more of the following reasons:

- (1) The tenant has failed to pay the rent to which the landlord is entitled;
- (2) the tenant has violated an obligation or covenant of the tenancy other than the obligation to surrender possession upon proper notice and has failed to cure such violation after receiving written notice thereof from the landlord.
- (3) the tenant is committing or permitting to exist a nuisance in, or is causing damage to, the rental unit or to the appurtenance thereof, or to the common areas of the property containing the rental unit, or is creating an unreasonable interference with comfort, safety, or enjoyment of any of the other residents of the same or any adjacent building.
- (4) the tenant is using or permitting a rental unit to be used for any illegal purpose.

(5) the tenant who had a written lease or rental agreement which terminated on or after the effective date of this provision, has refused, after written request or demand by the landlord, to execute a written extension or renewal thereof for a further term of like duration with similar provisions and in such terms as are not inconsistent with or violative of any provisions of this subsection.

(6) the tenant has refused the landlord reasonable access to the unit for the purpose of making repairs or improvements, or for the purpose of inspection as permitted or required by the lease or by law, or for the purpose of showing the rental unit to any prospective purchaser or mortgagee.

(7) the person in possession of the rental unit at the end of the lease or rental term is a subtenant or assignee not approved by the landlord, where the lease or rental agreement requires approval by the landlord of any assignment or subtenancy.

(r) Unreasonable Economic Hardship. Unreasonable economic hardship shall mean a hardship which renders the project economically infeasible and incapable of being accomplished in a successful manner within a reasonable period of time.

(s) Unreasonable Rent Increase. Unreasonable rent increases refer to increases in rent that substantially exceed the housing component of the Consumer Price Index on an annualized basis and which cannot otherwise be justified by costs of physical improvements to the building or site, repairs for damages, taxes, or other expenses attributable to the operation of the building, or by changes in the market demand for rental housing.

SECTION 4.

Section 28-A of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

A. Purpose and Objectives.

The City Council finds it necessary to establish requirements and procedures for the control and approval of residential condominium new construction and residential condominium conversions. By their unique character and requirements, condominium and condominium conversion projects differ specifically from other subdivisions and apartments. The unique status of such projects tends to magnify the effects associated with higher urban densities to the point where they may lead to conditions of mismanagement, neglect, and blight that impact upon the public health, safety, welfare and economic prosperity of the City of Sacramento. Such projects may conflict with the policies of the City of Sacramento to provide a reasonable balance of rental and ownership housing within the City and within the City's neighborhoods, to provide a variety of individual choice of tenure, type, price and location of housing, and to insure an adequate supply of rental housing for low and moderate income persons and families.

It is also recognized, however, that such projects may benefit the City by providing a source of low and moderate income ownership housing. To insure that the problems are avoided in both the short and long term, while maximizing the benefits of such projects, it is the express intent of the City of Sacramento to treat such projects differently from the multiple-family dwellings or other structures which are not condominium new construction and condominium conversion projects in the City of Sacramento. This section is intended to apply only to residential condominium projects, both new construction and conversions, and to insure such projects are approved consistent with policies and objectives of the City of Sacramento, particularly the following:

1. to make adequate provision for the housing needs of all economic segments of the community;

2. to facilitate inhabitant ownership of residential units, while recognizing the need and providing for a reasonable balance of rental and ownership housing;

3. to help mitigate the impact of eviction for residents of rental units as a result of their units being converted to condominiums;

4. to inform existing tenants and prospective condominium purchasers of the construction or conversion applications, its overall impacts, and the physical conditions of the structure offered for purchase;

5. to insure that new units being constructed and rental units being converted to condominiums meet the reasonable physical standards as required by this section and all other Sacramento City Code provisions.

SECTION 5.

Section 28-C-1(1) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(1) In addition to the information required in (a) through (k) of this subsection, the City Council, City Planning Commission, or planning director may require additional information necessary to evaluate said conversion project in order to make proper findings in accordance with the purposes and objectives set forth in this subsection A of this Section, and as required by Subsection C-6 of this Section, the adopted City General Plan, or any specific or community plan or element thereof in effect at the time of such application. Such information may include, but shall not be limited to:

(i) An economic report comparing the units in the conversion project, as both rentals and ownership units, with housing available within the community plan areas affected by the project;

(ii) An economic report on proposed project unit costs, monthly association costs, and comparative rates City-wide;

(iii) An economic report on availability of comparable rental units at similar rental rates remaining within the affected community plan areas, including vacancy rate information;

(iv) A report outlining the available low and moderate income housing units (rental and sales housing) within the affected community plan areas;

(v) A report on the feasibility of providing all or a portion of the conversion units for sale to low and moderate income individuals or families;

(vi) A report on the feasibility of not converting a portion of the total units in order to retain them for rental occupancy;

(vii) Any additional information considered reasonable in determining housing needs, housing availability, costs, and housing impacts of the proposed conversion.

SECTION 6.

Section 28-C-3(i) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(i) No building constructed after the effective date of Ordinance No. 4305, Fourth Series, shall be permitted to be converted to condominium ownership unless the building was constructed in full compliance with all applicable building codes and the development standards contained in subsection D-2 of this Section, applicable to new condominium construction, in effect at the time of the last alteration, repair, relocation, or reconstruction of the building, or, if none, at the time of first construction.

SECTION 7.

Section 28-C-6(b) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(b) The Council shall not approve a special permit pursuant to this Section where it finds the apartment building or residential complex proposed for conversion represents a unique and needed rental

housing resource in the City or in the neighborhood, taking into consideration such factors as the need for a balanced rental-owner housing supply, current rental rates, the unavailability of comparable housing, and extraordinary tenant displacement problems which would result from conversion, in spite of the relocation assistance and mitigation measures offered by the applicant. In evaluating a project for purposes of this subsection, the City Planning Commission and City Council shall consider the rental history of the building, including the number and types of special category tenants over the preceding three (3) years, the number of unjust evictions, and the number of unreasonable rent increases.

SECTION 8.

Section 28-C-b(c) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(c) In evaluating an application for a special permit pursuant to this subsection C, the City Planning Commission and City Council shall consider the results of the tenant survey required by subsection C-1-k. If the Planning Commission or Council finds that less than a significant number of tenants have indicated their approval in principle to the proposed conversion, the Planning Commission or Council shall consider the nature and extent of tenant disapproval and shall reexamine the application with respect to the criteria for review and all other provisions of this Section to insure the proposed project complies.

SECTION 9.

Section 40.404(h) is hereby added to Chapter 40 of the Sacramento City Code to read as follows:

(h) With respect to tentative maps for residential condominium conversion projects, the completed application for a special permit for such conversion project required by Section 28-C of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series.

SECTION 10. Emergency.

This ordinance is hereby declared to be an emergency measure to take effect immediately. The facts constituting the emergency are the expiration on March 26, 1980, of the existing moratorium on the conversion of residential structures to condominium ownership, the existence of numerous residential structures in the City of Sacramento which have been proposed for conversion to condominium ownership, and the need to insure, in the interests of the public health, safety and welfare, that the regulations contained in this ordinance take effect before the expiration of the moratorium and

are made applicable to all proposed residential condominium conversion projects.

ENACTED:

EFFECTIVE: .

MAYOR

ATTEST:

CITY CLERK



CITY OF SACRAMENTO

OFFICE OF THE CITY CLERK

915 I STREET
CITY HALL ROOM 203

SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 449-5426

LORRAINE MAGANA
CITY CLERK

MEMORANDUM

TO: JAMES JACKSON, CITY ATTORNEY
FROM: JACI PAPPAS, ACTING CITY CLERK
SUBJECT: REFERRAL OF ITEM NO. 22, AGENDA OF MARCH 25, 1980
DATE: MARCH 26, 1980

RE: M-394: Condo/Condo Conversions:

Report back 4-8-80 with following ordinances:

- A. Language to allow challenge of vacancy rate by any party.
- B. Sunset provision to terminate present condo conversion ordinance 7-1-80.

Report back on following prior to 7-1-80:

- A. Language re: inclusionary housing.
- B. Language re: unjust evictions.

cc: City Manager
Planning Director

22 (1-6 A-c)
~~43~~
20



CITY OF SACRAMENTO

CITY PLANNING DEPARTMENT

815 "I" STREET
CITY HALL - ROOM 308

SACRAMENTO, CALIF. 95814
TELEPHONE (916) 448-5604

Marty Van Duyn

PLANNING DIRECTOR

March 6, 1980

APPROVED
BY THE CITY COUNCIL

MAR 11 1980

OFFICE OF THE
CITY CLERK

REPORTS CONT.
TD 3-25-80
020. ADD.

City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: Condominium Conversion Ordinance (Ordinance No. 4305,
Fourth Series) (M-394)

SUMMARY

On January 15, 1980, the City Council adopted the condominium conversion ordinance to be in effect within 60 days. During the 60-day period, the Council requested staff to respond to several areas of concern and to prepare reports back on several issues and possible amendments to the ordinance. This memorandum, as well as the attached material, responds to the Council's request.

Several alternatives provided herein and additional amendments are being suggested by the City Attorney's office. Because major amendments to the ordinance are to be discussed, the Attorney's office has requested readvertising and rehearings on the matter for March 25, 1980. This material is being presented to the Council at this time in order to provide a reasonable public review period prior to the March 25 hearing.

The Attorney's office has also advised our department that other amendments, not included with the attached material, may be proposed by their office, to be distributed prior to the March 25 meeting. The Council is, however, being requested to extend the moratorium period to March 26, 1980, by adopting the attached moratorium ordinance.

BACKGROUND

During the final hearings on the condominium conversion ordinance, the Council requested additional information and potential ordinance amendments on a variety of issues. The issues requiring response involved the following:

APPROVED
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MAR 25 1980

OFFICE OF THE
CITY CLERK

FILED REPORTS 1-6

ADD PLS 22-6-C, AS AMENDMENTS (ATTACH. D)

1. Report back on whether or not the City can, in its condominium ordinance, require that only owner-occupants of a condominium project be voting members of the ownership association.
2. Report back on whether or not the City can, in its condominium ordinance or otherwise prohibit housing discrimination against families with children.
3. Requiring the inclusionary standards of the new City Housing Element be provided in the conversion ordinance.
4. Report back on sound attenuation standards and known impacts relative to differing standards.
5. Report back on including a professional management review of the proposed condominium management structure and association to determine its viability.
6. Report back on the methodology utilized in determining the five percent vacancy rate information and possible alternatives.

Items numbered 1 and 2 have been examined by the City Attorney's office and detailed in the attached six-page memorandum addressed to the Council dated March 4 (Attachment "A").

Item #3. The inclusionary provisions of the Housing Element, as recommended by the Housing Element Committee, are at the present time being reviewed by the City Attorney's office. The complexity of the inclusionary requirements and the related Housing Element support material still necessary to complete the inclusionary program will involve additional legal review and public hearings before the Planning Commission and City Council. The staff recommends that the Council proceed with the condominium ordinance without including the low to moderate inclusionary housing requirements. Initial condominium conversion applications will not be ready for public hearing before the Planning Commission until July or August. The inclusionary provisions of the Housing Element would in all likelihood be resolved by that time and the City Attorney's office has determined that projects under review would be subject to any adopted inclusionary requirements in effect at the time of hearing (see Attachment "H").

Item #4. The Council requested a reply from staff on what the noticeable effects would be if the sound attenuation standards were modified from those included in the existing ordinance. The City's Director of Building Inspections Division has provided an analysis of sound attenuation which is included herein as Attachment "B".

Item #5. The Council requested that the staff provide an amendment to the ordinance requiring some sort of professionally qualified review of the project's management and association structure in order to be assured that proper initial and ongoing managerial techniques are provided for.

ANALYSIS1. Introduction - State Preemption

The analysis of both questions addressed in this memorandum involves the issue of state preemption in the subject fields of law. A brief review of preemption principles, therefore, is provided here.

A city has the power to enact legislation which is not in conflict with the general laws of the state. This principle is derived from California Constitution Article XI §7 which reads as follows:

A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.

The term "conflict" within the meaning of Article XI §7 has been broadly construed by the courts. Generally, the following have been held to create "conflicts" with the general laws of the state: ordinances which authorize that which is prohibited by state law, ordinances which prohibit that which is authorized by state law, ordinances which result in an impermissible duplication of state law, and ordinances which impose additional requirements in a field which is fully occupied by state law. Pipoly v. Benson (1942) 20 Cal.2d 366; Farmer v. Behma (1909) 9 Cal.App. 773; In re Means (1939) 14 Cal.2d 254; In re Sic (1887) 73 Cal. 142; Santa Clara County Contractors etc.Assn. v. City of Santa Clara (1962) 232 Cal. App.2d 564.

An exception to the "conflict with general laws" limitation of Article XI §7 is provided to charter cities with respect to municipal affairs in California Constitution Article XI §5. However, because neither area of law addressed in this memorandum appears to involve a municipal affair, this issue will not be examined.

Therefore, for purposes of this memorandum, the preemption issue will be limited to a determination of whether or not a conflict would exist between the applicable state law and the proposed local regulation.

2. Voting Rights of Members of Ownership AssociationA. Applicable State Statutes

The state Subdivided Lands Act, Bus. and Prof. Code §11000 et seq. sets out a uniform, statewide procedure, administered by the Real Estate Commissioner, to protect purchasers of interests in new subdivisions from fraud, misrepresentation, and deceit in the marketing of subdivided land. It has been held that the law is designed to

provide prospective buyers with a full and complete understanding of the risks which will be assumed, prior to the purchase of a parcel within the subdivision. The intent of the law is to prevent the occurrence of a variety of substantive wrongs before they occur. Handeland v. Department of Real Estate (1976) 58 Cal. App.3d 373; Bowman, Ogden's Revised California Real Property Law, §25.3 (1975).

The State Real Estate Commissioner is charged with the enforcement of the law (Bus. and Prof. Code §§10050, 10071), and is authorized to adopt such rules and regulations as are reasonably necessary to carry out its provisions (Bus. and Prof. Code §11001).

The provisions of the law include numerous requirements concerning the method of creating and financing the project, the method of transferring ownership and control of the project to the new owners, and the method of informing prospective purchasers of all aspects of the project before a contract of sale is executed. The following specific provisions are pertinent to the question addressed.

The law requires that the Commissioner issue a public report on a subdivision before any lot or parcel is sold or leased (Bus. and Prof. §§ 11018, 11018.2, 11018.5). The public report is an informational document designed to inform prospective purchasers about all aspects of a subdivision. As such, the public report must be issued and must be given to the prospective purchaser before a sales contract or lease is executed (Bus. and Prof. Code §§11018.1, 11018.2). Violation of these provisions is a public offense, punishable by fine and/or imprisonment (Bus. and Prof. Code §11023).

To qualify for a public report, a subdivider creating condominium-type interests must provide for a reasonable method of transferring ownership and control of the project to the new owners and must make "reasonable arrangements" with respect to the interest of each purchaser of a condominium unit for the operation, management, and control of the project as a whole (Bus. and Prof. Code §11018.5). The Commissioner, by regulation, has determined that these provisions require that each condominium owner be given one vote for each interest owned, for the vote is the manner by which each interest in the project can participate in the operation, management, and control of the project (10 Cal. Adm. Code §2792.18).

Under state law, therefore, a condominium subdivider must provide a one-vote-per-interest arrangement in the documents governing a condominium project before a public report will be issued.

The staff has had little success in narrowing down an ordinance provision which could cover this type of review. There are very few qualified individuals who would be willing to review and verify such measures and no independent professionals locally available to easily clear private projects. In addition, our staff has contacted the State Department of Real Estate and they have indicated that their clearinghouse review of condominium ownership structures mandates an extensive "Association" arrangement and Conditions, Covenants and Restrictions requirements which cover the initial and on-going project performance. The Department of Real Estate also indicated that they would not recommend that local ordinances attempt to cover such areas of review in order to avoid conflicting regulations. Our department has examined the Department of Real Estate's regulations within this area and we feel that the existing State mandated regulations are sufficient in meeting the Council's concern.

Item #6. The present ordinance uses a five percent vacancy rate by community plan area as a criterion for approving proposed condominium conversion projects. The Council expressed two concerns over the use of the criterion: the accuracy of the survey used to determine the vacancy rate and the fact that the survey is conducted only one time a year.

To address the first concern, the following amendments are proposed:

- a. Staff recommends amendments to retain the five percent vacancy rate as the standard and require said rate to be determined by the City pursuant to a method established by resolution of the Council, but allow the Council to consider and approve applications in areas where the City's survey shows a vacancy rate as low as four percent (i.e., one percentage point difference) if the applicant can produce evidence satisfactory to the Council that the City's survey is inaccurate and the applicable rate does, in fact, meet the standard.
- b. Staff also recommends an amendment to the ordinance which would prohibit the filing of an application for a condominium conversion project if the above criteria are not met; i.e., the applicable vacancy rate as determined by the City is greater than five percent or the applicable vacancy rate as determined by the City is at least four percent and the applicant submits evidence that the City's survey is inaccurate and that the applicable rate does, in fact, meet the five percent standard.
- c. The ordinance presently allows the Council to approve a conversion project where the applicable vacancy rate is less than five percent if the applicant proposes adequate mitigation measures.

One of the purposes of the provision was to counteract the rigidity of the five percent standard and to accommodate inaccuracies in computing the percentage rate by allowing projects to be approved on a case by case basis if the applicant could prove that with appropriate mitigation measures the negative impacts of the project would be avoided.

In light of the proposed amendment to allow the applicant to challenge the vacancy rate figures, staff is also recommending an amendment that would limit the use of the mitigation measure option to instances where the vacancy rate is equal to or greater than four percent. This amendment would require adoption of a General Plan resolution (Attachment "C") and ordinance amendment (Attachment "C-1").

In practice, these amendments would work as follows: If a project were submitted in a community plan area with a City-determined vacancy rate of 4.5 percent, the applicant could do either of two things. The applicant could accept the City's determination of the vacancy rate and submit an application with mitigation measures; or, because the rate of 4.5 is within one percentage point of the five percent standards, the applicant could submit an application without mitigation measures in an attempt to meet the five percent standard and submit evidence, upon application, that the 4.5 rate is inaccurate and that the vacancy rate, in fact, meets the five percent standard. The Council would not of course be bound by this evidence, but would consider the applicant's evidence along with all other evidence (i.e., the City's determination of vacancy rate) submitted at the hearing to determine whether or not the vacancy standard is met.

If a project were submitted in a community plan area with a City determined vacancy rate of 3.8 percent, the applicant's options would be more limited. Because 3.8 percent is more than one percentage point below the five percent standard, the applicant would not be allowed to challenge the vacancy rate in an attempt to meet the five percent standard. However, because 3.8 percent is within one percentage point of the four percent standard, an applicant would be allowed to submit an application if it included both mitigation measures and evidence that the City's vacancy rate determination was inaccurate and that the vacancy rate, in fact, meets the four percent standard.

To address the second concern, a resolution is proposed which would do the following: establish a date on which vacancy rate percentages will be determined and schedule application deadlines and hearing dates as soon as possible thereafter. This proposed resolution is marked as Attachment "D".

Attached to this report is a copy of the condominium ordinance and Housing Element resolution adopted on January 15, 1980, marked as Attachments "E" and "F". The scheduled hearings on proposed amendments to the ordinance will require adoption of Attachment "G" which is the extension of the present condominium conversion moratorium.

RECOMMENDATION

The staff recommends adoption of Attachment "G" in order to extend the moratorium through March 26, 1980. The other items addressed in

B. Scope of City's Authority

A local ordinance requiring that only owner-occupants of a condominium project be voting members of the ownership association would directly conflict with the provisions of state law discussed above. Such an ordinance would prohibit that which is not only authorized, but required by state law. The ordinance, therefore, would fail under Article XI Section 7 of the Constitution which prohibits the enactment of local ordinances in conflict with the general laws of the state.

It should be noted, however, that the scope of the conflict is quite narrow: the suggested ordinance would prohibit that which is required by state law. There is no suggestion in the Subdivided Lands Act that the Legislature intended to occupy the entire field of law relating to consumer and tenant protection in the purchase of subdivided lands. As such the City, in the exercise of its police power, may legislate to supplement state law to solve problems not addressed by the Subdivided Lands Act, such as the impacts of condominium conversions on tenants and the City's rental housing stock. Santa Clara County Contractors etc. Assn. v. City of Santa Clara, supra (1965) 232 Cal.App.2d 564 and Hirsch v. City of Mountain View (1976) 64 Cal.App.3d 425.

3. Discrimination Against Families with Children

The authority of the City to prohibit a condominium converter from discriminating against families with children depends on two issues which as of yet are unresolved in California: (a) does either the Unruh Civil Rights Act (Civ. Code §51) or the Fair Housing Act (Health and Safety Code §35700 et seq.) prohibit this type of discrimination; and (b) to what extent, if any, do these laws preempt the field of housing discrimination?

A. The Unruh Civil Rights Act and the Fair Housing Act

The Unruh Civil Rights Act provides in pertinent part as follows:

All persons within the jurisdiction of this State are free and equal, and no matter what their race, color, religion, ancestry, or national origin are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

Based on its legislative history, the courts have held that the Act prohibits all arbitrary discrimination; the scope of the Act is not limited to discrimination based on the specific categories listed. In re Cox (1970) 3 Cal.3d 205. "Business establishments," as used in the statute, has been broadly construed. "The word 'business' embraces everything about which one can be employed, and it is often synonymous with calling, occupation, or trade, engaged in for the purpose of making a livelihood or gain." Burks v. Poppy

Constr. Co. (1962) 57 Cal.2d 463. It includes the operation of apartment buildings (Flowers v. John Burnham & Co. (1971) 21 Cal. App.3d 700) and the business of developing, building, and selling housing accommodations (Burks v. Poppy Constr. Co., supra, (1962) 57 Cal.2d 463.

The Fair Housing Law applies to housing accommodations in particular and states that discrimination on the basis of race, color, religion, sex, marital status, national origin, or ancestry in housing accommodations is against public policy (Health and Safety Code §35700). The law defines "discrimination" as refusing to sell, rent, or lease housing accommodations on the basis of one or more of the listed categories (Health and Safety Code §35710(d)). The scope of this law is much more limited than that of the Unruh Civil Rights Act, for Section 35742 states:

Nothing contained in this part shall be construed to prohibit selection based upon factors other than race, color, religion, sex, marital status, national origin, or ancestry.

It is clear, therefore, that the legislature intended the Fair Housing Law to be limited to prohibiting discrimination on the basis of the categories listed.

In addition the legislature expressed its intent to occupy the entire field of law of discrimination in housing in Section 35743 of the Law:

As it is the intention of the Legislature to occupy the whole field of regulation encompassed by the provisions of this part, the regulation by law of discrimination in housing contained in this part shall be exclusive of all other laws banning discrimination in housing by any city, city and county, county, or other political subdivision of the State. Nothing contained in this part shall be construed to, in any manner or way, limit or restrict the application of Section 51 of the Civil Code.

As noted above, where the legislature has fully occupied a field with the general laws, no local regulation is permitted.

March 4, 1980

B. Application to Discrimination Against Families with Children

The question of whether or not these statutes apply to prohibit discrimination against families with children was addressed in the context of the rental of an apartment in Marina Point Ltd. v. Wolfson (1979) 98 Cal.App.3d 140. The court held that neither the Unruh Act nor the Fair Housing Law prohibited such discrimination. With respect to the Unruh Act the court held selections in the rental of an apartment on the basis of age, at least with respect to children, reasonable and not arbitrary. With respect to the Fair Housing Law, the court held the category of marital status did not extend to protect families with children.

This case, however, has been granted a hearing before the California Supreme Court.

C. Implications of Marina Pt. Ltd. v. Wolfson on City's Authority to Legislate with Respect to Discrimination Against Families with Children

The outcome of the Marina Point Ltd. case will determine to a great extent the ability of the City to legislate with respect to discrimination against families with children. If the court finds such discrimination to be within the scope of the Fair Housing Law, the City would not be able to legislate in this area at all, for the Legislature has clearly indicated its intent to fully occupy this field. Any local ordinance, therefore, would be in conflict with the general law in violation of Article XI §7 of the Constitution.

If, on the other hand, the court were to hold such discrimination is not within the scope of the Fair Housing Act but is prohibited by the Unruh Civil Rights Act with respect to business establishments, a number of difficult issues would have to be further examined: does the Unruh Civil Rights Act fully occupy the field of discrimination thereby prohibiting all local regulation; and if not, would a city be able to legislate to apply the Unruh Civil Rights Act even though such legislation would conflict with the Fair Housing Act?

In view of the fact the State Supreme Court has agreed to decide Marina Point Ltd. v. Wolfson, supra, 98 Cal.App.3d 140, it is recommended that the City not speculate on its outcome, but defer any action in this area until the case is decided so that it may utilize what guidance the court may give.

Very truly yours,

JAMES P. JACKSON
City Attorney

Sabina Gilbert
SABINA GILBERT
Deputy City Attorney

OBER 7 5 AM



CITY OF SACRAMENTO

DIVISION OF BUILDING INSPECTIONS
927-10TH STREET SACRAMENTO, CALIFORNIA 95814
ROOM 100

March 6, 1980

Honorable City Council
Sacramento, CA

Members In Session:

Summary

The Council has asked for a report clarifying the issue of sound attenuation between converted condominium units. The information contained herein is obtained through the experience in the Building Division and by consultations with an accoustical expert. This report makes no recommendation except that field tests should be obtained prior to approving conversions.

Background

The Council has asked for a report clarifying the matter of sound transmission through common walls and floors-ceilings of buildings being converted to condominiums. Sound transmission is measured by two methods, by a Sound Transmission Class (STC) and by an Impact Insulation Classification (IIC). The STC is the ability of a wall or ceiling to dampen sounds that travel through the air; ie., sounds that travel through cracks in walls, space around electrical outlets in walls or ceilings, or space between the bottom, top, or end of the wall. The higher the STC rating, the more sound proof the wall or ceiling.

IIC is the ability of a floor-ceiling to dampen sounds that originate from an impact such as a footstep on flooring material or a dropped object on the floor. The higher the IIC, the more sound proof the wall or ceiling. These noises travel through the building materials such as flooring, floor joists, and ceiling material.

Minimum permissible state STC and IIC ratings are 50 for laboratory tested systems and 45 for field tested systems. For example, a wall system that passes a laboratory test may be duplicated in the field without any field testing. A system that has no laboratory test may be tested after installation and must achieve on IIC or STC of 45.

In an effort to explain how effective walls or floors of various sound ratings are, the following table is provided:

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MAR 25 1980

STC Rating

Sound Transmission One Could Expect to Experience

50

- a) Normal conversations could not be heard.
- b) TV or stereo noises in the very low base category would be a humming sensation rather than a sound.

45

- a) Conversations could be heard but not distinguished as to content.
- b) Shouts could be heard and distinguished as to content.
- c) Normal TV and stereo could also be heard but not distinguished unless at unreasonably loud volume.

42

- a) Normal conversations could be heard and understood if listeners environment were completely quiet.
- b) TV and stereo could be heard.
- c) Sounds through this wall system would often be annoying.

IIC Rating

Sound Transmission One Could Expect to Experience

50

- a) Sounds of footsteps in overhead living unit would go on virtually un-noticed.

45

- a) Sounds of footsteps in overhead living unit could be heard but would not be objectionable by most people.

42

- a) Sounds of footsteps in overhead living unit would be objectionable to most people.

The sound transmission classifications mentioned here are field tested experiences.

The main issue with regard to sound transmission in converted apartments to condominiums is what STC or IIC would be an acceptable minimum and how much should a converter be expected to spend to achieve that classification. Buildings constructed since July 1, 1978, are required to have sound classifications of 50 and would present no sound transmission problems if converted. Buildings constructed prior to July, 1978, have sound barriers that range from as low as 30 and as high as 55.

Honorable City Council
March 6, 1980
Page 3

Physical changes must be made to upgrade a sound barrier. Soft carpeting added to a floor above a living unit will bring the IIC up to a rating of 47 in most cases which is a tolerable range. If carpeting in kitchens and baths is objectionable, a cushion vinyl linoleum may be used but the lower ceiling would need to be firred with resilient channels to achieve at least an IIC of 45.

There exists a method whereby an existing wall cavity can be filled with a cellulose material applied under pressure and achieve a rating of probably 45. This method would be relatively economical and provide a sound barrier acceptable to most people.

This report relates information and comments, by an accoustical expert, regarding what one might expect to experience with various types of sound barriers between adjacent living units.

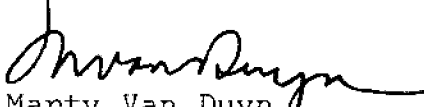


Tim Sullivan
Director, Building Inspections Div.

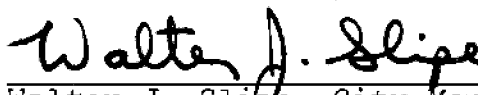
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this report are scheduled for hearing and Council action on March 25, 1980. The report and attachments are provided for Council and public review.

Respectfully submitted,


Marty Van Duyn
Planning Director

RECOMMENDATION APPROVED:


Walter J. Slife, City Manager

MVD:jm
Attachments
M-394

March 11, 1980
All Districts

0308 2 S RAN

City of ...
March 11, 1980



CITY OF SACRAMENTO

(ATTACHMENT "A")

JAMES P. JACKSON
CITY ATTORNEY

THEODORE H. KOBEY, JR.
ASSISTANT CITY ATTORNEY

LELIAND J. SAVAGE
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SUITE 201

TELEPHONE (916) 449-5346

March 4, 1980

Honorable City Council
Council Chamber
City Hall
Sacramento, CA 95814

Members in Session:

QUESTIONS PRESENTED

1. Can the City, in its condominium ordinance, require that only owner-occupants of a condominium project be voting members of the ownership association?

2. Can the City, in its condominium ordinance or otherwise, prohibit housing discrimination against families with children?

BRIEF ANSWER

1. No. The State Subdivided Lands Act, Bus. and Prof. Code §11000 et seq., establishes a comprehensive, statewide procedure designed to prevent fraud in subdivision transactions. The law governs the creation of condominium subdivisions and the transfer of ownership and control over the condominium subdivision to those purchasing interests. Specifically, the law requires that each member of the ownership association have one vote for each subdivision interest owned. The City cannot adopt an ordinance in conflict with this provision.

2. The answer to this question depends on the extent to which the Unruh Civil Rights Act (Civil Code §51) and the Fair Housing Law (Health & Safety Code §35700 et seq.) apply and preempt the field of housing discrimination. A case addressing the issue of whether discrimination against families with children is prohibited by either law is now pending before the California Supreme Court. As such it is recommended that the City defer action in this area until the case is decided, so that the City may take advantage of whatever guidance the court may give.

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By the City Council
Office of the City Clerk

MAR 25 1980

Attachment "A"

22-7



CITY OF SACRAMENTO

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FILED

By the City Council
Office of the City Clerk

March 18, 1980

CONT. TO
3-25-80

MAR 18 1980

Honorable City Council
City of Sacramento
City Hall
Sacramento, California

In re: Condominium Conversion Ordinance Revisions

Members in Session:

SUMMARY

This report discusses relocation assistance, purchase incentives, enforcement problems, and a number of technical revisions to the condominium conversion ordinance. Relocation assistance and purchase incentives are discussed as a unit, and it is recommended that the purchase incentive provisions of the ordinance be deleted while the relocation assistance provisions be clarified and strengthened somewhat. Attachments A and B are the proposed amendment ordinances dealing with purchase incentives and relocation.

The enforcement problems of the conversion ordinance are discussed herein, with various alternatives set forth and analyzed and certain alternatives recommended for adoption. Attachment C is the proposed amendment ordinance dealing with enforcement.

Finally, a group of largely technical amendments to the condominium ordinance are proposed. These amendments primarily clarify and update the ordinance. The amendments are discussed herein, and Attachments D and E set the proposed amendments out in ordinance form.

BACKGROUND

A. Tenant Protection: Relocation Assistance and Purchase Incentives

1. Purchase Incentives

(a) Provisions of Present Ordinance

The purchase incentives in the present ordinance are found primarily in subsection C-5-(a). They provide that eligible low and

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BY THE CITY COUNCIL

MAR 25 1980

OFFICE OF THE
CITY CLERK

FILED PURCHASE INCENTIVES
ADD 22-7-B THRU E

moderate income tenants be offered their unit at an "affordable" price, the price being a function of the tenant's income. Resale controls are provided to restrict the sale of the units on the open market by the low or moderate income person at an unfair profit. Incidental purchase incentive provisions are found at subsections C-1-(j), C-2-(a), C-5-(c), and C-6-(b).

One of the basic purposes of the conversion ordinance is to avoid, or prevent economic losses to tenants, especially those who have special needs or unusual difficulty in securing adequate housing (i.e., special category tenants). The purchase incentives were included to assist in minimizing displacement of the low and moderate income persons who rent in the project by giving them an opportunity to purchase a project unit at an "affordable" price, a price most likely substantially below the market value of the project units after conversion. Since the adoption of the ordinance, further extensive study and research have been undertaken into the entire area of "inclusionary housing" of which the purchase incentive program is necessarily a part. Certain facts and conclusions which were not previously known have come to light which render the purchase incentive program doubtful in legal validity and unworkable in practical effect. The following is a summary of these facts and conclusions.

(b) Legal and Practical Concerns

1. There is no factual data or evidence of an unusual or an unmet housing need among persons of moderate income (defined as 80-120 percent of median income) to justify a program under which they would be offered units at an artificial price below market rate. This fact was discovered in connection with the preparation of the General Plan amendments for the Housing Element. While the relative number of moderate-income households is known, there are no facts or statistics to show how many, if any, of those households have unmet housing needs. In Birkenfeld v. City of Berkeley, 17 Cal.3d 129, at p. 160 (1976), the court faced this issue, and held that "Although the existence of 'constitutional facts' upon which the validity of an enactment depends is presumed in the absence of any showing to the contrary, their nonexistence can properly be established by proof." The court then held that the rent control measures in question were valid only insofar as there was actually a housing shortage, with concomitant ill effects, of sufficient seriousness to make rent control a rational curative measure.

Under similar analysis, the purchase incentive program for moderate-income persons could not withstand scrutiny and legal attack due to the total lack of supporting factual data of housing need among these people.

2. According to figures gathered by the planning staff in connection with study of inclusionary housing programs, low and moderate income persons comprise seventy-seven percent (77%) of the households in Sacramento. This means that a very large percentage of conversion units may have to be sold at a below-market-rate price, depending upon the actual number of such persons within the project itself. If the right factual pattern were presented, this consequence would likely result in a finding of invalidity of the ordinance as arbitrary and a taking. In effect, it would prevent conversion as economically infeasible even though adequate replacement housing may exist.

3. The purchase incentives apply without regard to vacancy rates or the availability of comparable rentals. Without such factual underpinnings, these provisions appear arbitrary with no foundational "constitutional facts" to support the ordinance. As an analogy, consider the provisions of state law under which tenants are given certain first refusal rights for a period of sixty (60) days following issuance by the Department of Real Estate of the public report. Under these provisions, if comparable rental housing is available, the tenants may not wish to purchase; but if none or very little is available, the tenants have the option to exercise the right of first refusal and buy the unit. Thus, the state law takes vacancy factors into consideration by implicit recognition of the market forces involved. Insofar as a program of this nature does not recognize vacancy factors and the existence of comparable housing, its validity would be questionable as unrelated to any definable need.

4. The relocation provisions of the ordinance, commencing at C-5-(b) and as discussed in detail, infra, give substantial benefits to eligible tenants including moderate-income persons. These benefits include a survey of comparable housing and a list thereof, a relocation stipend or actual moving costs, at the tenants' option; transportation expenses; and protection from eviction except for non-payment of rent or other substantive lease violations. Additionally, certain special category persons (including low income, but not moderate income persons) are entitled to payment of last-month's rent in the new complex; transfer or refunds of deposits; payment of any deposit increases caused by the move; a one-year rent subsidy paid by the developer if rent in the new location is increased; and the right to stay in the premises until actually relocated. It is felt that these provisions, especially in the case of low-income persons, are substantial, and render the purchase incentive program unnecessary to the accomplishment of the basic purpose of the ordinance which is to prevent economic loss to low-income and other persons displaced by a conversion.

5. With respect to the actual workability of the program as proposed, investigation has disclosed that it would be necessary to price a unit at \$20,000 for the average low-income purchaser, based upon the affordability standards of 2.5 times annual income and twenty-five percent (25%) monthly income going to payments

for principal, interest, etc. It should be noted that this \$20,000 figure will continue to go down as mortgage interest rates increase. Assuming a theoretical fair market value price of \$40,000 per unit (which is a conservative estimate), the developer is being required to privately subsidize the program to a very substantial degree, especially where there are a number of low-income persons in the project.

Furthermore, there are no public subsidy monies attached to this program and purchasers would have to obtain private financing. In today's money market, with its high interest rates, qualification of low income purchasers is dubious.

The combined effect of the high private subsidy plus the practical ineffectiveness of the program renders it vulnerable to a due process attack as being confiscatory and not reasonably functionally related to the purpose sought to be achieved by the ordinance. This is especially true where, as set forth above, substantial relocation benefits are provided in the ordinance for low-income persons and vacancy rates and the availability of comparable housing are standards for reviewing and approving proposed conversions. A court, in examining the ordinance, as part of the "balancing" process, would evaluate less burdensome alternatives, even though this is an economic issue. Such a process was employed in the Birkenfeld case, supra.

6. Finally, the broader question of providing low income housing through inclusionary programs is being addressed in the Housing Element of the General Plan. The purchase incentive plan for conversions is but one aspect of this broader issue and should be included in the analysis and discussion to be conducted in connection with the decision on whether or not to adopt an inclusionary program. If the purchase incentive program is allowed to remain in place, it may result in vastly different treatment for developers of conversions, as opposed to developers of other projects. The conversion developer, for example, would have no public subsidy or density bonus available so as to reduce the private subsidy, whereas the developer of other projects would have available such incentives if the inclusionary program, as presently envisioned, is adopted. Another example of unequal treatment would be the quantitative inclusionary requirement. In the proposed inclusionary program, a flat percentage of units in each project would be inclusionary, while there is an indeterminate factor in the conversion incentive program.

Such unequal treatment, and divergent, piecemeal approaches to the same problem, are not justifiable. Logic suggests a single approach which would include conversions and which would not arbitrarily discriminate between different types of developers. Similar ordinances of the cities of Los Angeles and San Francisco have been examined. Each of those cities address the inclusionary problem involved in conversions through their separate inclusionary program.

Lastly, there has been developed, in connection with the inclusionary program, a detailed resale control program. The conversion purchase incentives contain a form of resale control, but the form adopted differs from that developed for the inclusionary program. Having such conflicting resale control program would present difficult administration problems.

2. Relocation Assistance

(a) Provisions in Present Ordinance

Under the present ordinance relocation assistance is mentioned in three places. Section 28-C-1-(i) requires a conversion applicant to submit with the application a report describing the relocation assistance to be given to each tenant. Section 28-C-5-(b) sets forth the minimum requirements of relocation assistance as follows:

(1) All eligible tenants are entitled to assistance in finding comparable housing, transportation where necessary, and a moving fee;

(2) Eligible tenants who are elderly, handicapped, low income, or single heads of household with minor children are also given assistance to cover the last month's rent if required upon moving in to the new unit and any required fees or deposits in an amount greater than that which is refunded to the tenant upon moving out of the unit being converted;

(3) The eligible tenants mentioned in (2) above plus moderate income tenants are also given a rent subsidy to cover the difference between the rent being paid and the rent in the new unit, without a limit on the amount of the subsidy, and may not be unjustly evicted until successfully relocated.

Finally, Section 28-C-6-(a)(iii) requires the City Council to make a finding, before approving a conversion project, that an applicant has offered an adequate "plan" for relocation to comparable housing to each tenant. Section 28-C-6-a(iii) also defines "comparable housing."

(b) Concerns

The concerns staff has with respect to the relocation assistance provisions of the ordinance is clarity and enforcement. The ordinance speaks of a "plan" for relocation, but does not discuss sufficiently the need for and availability of comparable replacement housing. In addition, there is no mention at all of how these provisions are to be enforced effectively.

3. Proposed Amendments

To deal with the problems discussed above involving purchase incentives and relocation assistance, amendments are recommended to delete the purchase incentive requirement and to clarify and strengthen somewhat the relocation assistance provisions. Staff recommends the following amendments be adopted (see Attachments A and B).

(a) The provisions in the ordinance relating to purchase incentives be repealed, and the subject be considered in connection with the study and discussion of housing programs and the Housing Element.

(b) The finding requirement contained in Section 28-C-6-(a)(ii) be strengthened. This section requires a vacancy rate of greater than five percent (5%) for approval, or a vacancy rate of between four percent (4%) and five percent (5%) if mitigation measures are proposed which the Council finds would effectively mitigate tenant displacement and adverse effects on the housing stock. The amendment proposed would add to this section a statement that such mitigation measures should include, but need not be limited to, renewable leases and offers for sale of the units to tenants at terms more favorable than the terms to be offered to the general public.

(c) The relocation assistance provisions be revised to emphasize the availability of replacement housing for tenants. The proposed amendment would require a comparable housing availability report be submitted to the City with the application packet and to all eligible tenants as part of the required relocation assistance. In addition the finding requirement relating to relocation found in Section 28-C-6-a(iii) would be revised to emphasize the requirement, as a precondition of approval, that the Council find that adequate replacement housing exists for each eligible tenant.

(d) A provision be added to Section 28-C-5(b) to protect certain special category tenants not only from unjust eviction until actually relocated but from unreasonable rent increases as well.

(e) A provision be added to allow the relocation assistance provisions to be enforced primarily in unlawful detainer actions. (This provision is discussed in detail, infra, and is contained in Attachment C.)

(f) A relatively minor amendment is recommended for Section 28-C-5-(b) to delete moderate income tenants from the category of tenants entitled to a rent subsidy and special unjust eviction protection. There seems to be no rational basis for extending certain special relocation assistance to all special category tenants except moderate income tenants, on the grounds that moderate income tenants were not financially in need of such extra assistance, but then extending the rent subsidy to moderate income tenants. In

addition, the rent subsidy provision has been modified to add a \$100 per month limit on the amount the applicant would have to pay.

In practice, the ordinance with the proposed revisions would operate as follows:

With an application for a condominium conversion permit, an applicant would have to submit, among other things, a report on the types of tenants in the building and a survey of available comparable housing for the tenants the applicant expects to displace. At the hearing on the special permit, the Council would have to consider both the vacancy rate and the availability of comparable housing before approving the special permit. The ordinance would require the vacancy rate in the affected community plan areas to be greater than five percent (5%)¹ to minimize the "trickle effect" of displacing tenants and would require a showing that among those vacant units that are available, there are "comparable" units for the tenants being displaced. The project would be approved only if the Council were able to make both of these findings.

Once approval is granted, the City's involvement ends, but the ordinance would continue to protect the tenant. Under Section 28-C-5-(f), all eligible tenants are protected from rent increases beyond increases in fair market rent and from unjust eviction during the conversion process up to two years. Under Section 28-C-5-(b), certain special category tenants are given further protection against unjust evictions until actually relocated. In this manner, the applicant is given the burden to insure the report on the availability of comparable housing is accurate.

The enforcement of the relocation assistance provisions would be by defense in an unlawful detainer action as well as by the new enforcement provisions recommended, infra.

B. Enforcement

Certain provisions of the ordinance present enforcement problems. As to items required as part of the special permit application and approval process, the ordinance is self-enforcing; the same applies to the notice provisions, and development standards. The provisions of subsection C-5, "Tenant and Buyer Protection Provisions," do present difficult enforcement problems, inasmuch as such provisions deal with events occurring after the issuance of the special permit.

1. or between four percent (4%) and five percent (5%) if effective mitigation measures are offered.

1. Available Alternatives

There are various possible approaches to the enforcement problem. They are:

- (a) Say nothing about enforcement;
- (b) Provide that the aggrieved person is entitled to exercise whatever rights and remedies (damages, injunctive relief) are available at law or in equity;
- (c) Provide that an aggrieved tenant shall have the ability to use ordinance violations as a defense in an unlawful detainer action by the owner, landlord or applicant; and/or,
- (d) Provide for an affirmative, new civil remedy which may be sued upon by an aggrieved person, calling for specified damages and civil penalties in the form of liquidated damages.

2. Silence on Enforcement

The first alternative, that of silence on the enforcement issue, accomplishes nothing. On the contrary, it creates ambiguities, and hinders usage of the benefits provided by the ordinance by persons uncertain as to what can be done in case of violations. In view of such uncertainties, applicants will be less motivated to comply with the provisions of the ordinance.

3. Damages at Law or Relief in Equity

The second alternative, that of stating in the ordinance that persons aggrieved by violations of its provisions are entitled to enforce their rights in the civil courts, through an action at law for actual damages and/or in equity for other appropriate relief, presents a middle-ground approach.

The advantages of this approach are that it makes it clear that aggrieved persons indeed have civil enforcement rights, and applicants are unable to capitalize on ambiguity and/or uncertainty of the persons intended to be protected. Thus, there is increased motivation to comply with the provisions of the ordinance.

The disadvantage of this approach is that it does not actually increase the remedies available to aggrieved persons, i.e., it simply clarifies the fact that such remedies are available to aggrieved persons. Furthermore, the burden of proof of damages caused by the violation is upon the aggrieved person, which burden would prove quite difficult in most cases.

4. Defense in Unlawful Detainer

The third alternative is to specifically provide that a tenant aggrieved by violations of the ordinance is entitled to utilize the violation as a defense in an action for possession by the applicant or his successor in interest. This alternative is probably included within the meaning of the second alternative specified above; however, it should be specifically set forth because:

(a) It is available only to tenants, and prospective purchasers who are not tenants are unable to benefit from this remedy; and,

(b) Courts are reluctant to accept further defenses to unlawful detainer actions unless clearly specified, inasmuch as such actions are traditionally (and by statute) designed as summary proceedings, with the only issue being the right to possession.

The advantage of this alternative is that it specifically sets forth the ability to use the violation defensively, in addition to using it affirmatively under the second alternative. Thus, it can effectively be combined with the second alternative to provide a substantial group of remedies. Additionally, other related remedies can be added; thus, the ordinance can provide that the tenant who is charged excessive rent under the ordinance can withhold the excess, or apply paid excesses to the next month's rent.

5. Establishing New Civil Remedies

Under this final approach, new civil remedies would be created in favor of aggrieved persons, in the form of injunctive relief, specific performance remedies, and/or civil penalties (liquidated damages).

Although this approach would have the advantage of insuring compliance, there are some disadvantages which appear to outweigh the benefits. These are as follows:

(a) The trial courts would look upon this approach with disfavor. If each city had such new remedies in its ordinances, the already overcrowded condition of the courts would be worsened. Ordinances would differ as between cities, necessitating a multiplicity of judicial interpretations and definitional problems.

(b) The legal validity of municipally-created remedies has not been established. In Birkenfeld v. City of Berkeley, 17 Cal.3d 129 (1976), the court recognized the issue, and expressly refused to rule upon it: "We need not consider the existence or extent of the city's power to create remedies for the violation of rent ceilings." Since the Birkenfeld

case, there has been no decision on that issue. There have, however, been decisions allowing use of city ordinances in a defensive manner in unlawful detainer litigation (Gruzen v. Henry, 84 CA2d 515 (1978)).

6. Methods Employed in These Amendments

In view of the ineffectiveness of the first alternative, and the doubtful legal validity of the last method, it was felt that a combination of the second and third alternatives would provide a sound enforcement program. The problem areas, and the specific solutions utilized, are as follows:

(a) Subsection C-5-(d), dealing with leases to elderly and handicapped persons has been modified to provide a shorter (3 year) term, with four successive three-year renewal options. This provides a total of fifteen years. This gives the tenant the right to move if the tenant so desires at the end of the lease or renewal term. Under the previous (59 year) long term lease, the tenant was bound for 59 years, and could not terminate liability until the lease expired. During the term of the original lease and any extension or renewal period, rent is controlled through the mechanism of linking increases to HUD fair market rentals for comparable assisted units. Increases are allowed only annually on the anniversary date of the lease.

Additionally, provision is made for refund of overpayments, or deduction of overpayments against future rent; and, any lease provision which is contrary to the ordinance is void, with the remainder of the lease left intact. Finally, the amendment provides that any required provision which is omitted from the lease is deemed automatically incorporated into the lease.

(b) Subsection C-5-(e) (i), dealing with discrimination against buyers on the ground of their opposition to the project, has been strengthened by a provision that a tenant who has been so discriminated against may not be "unjustly evicted" within the meaning of the ordinance. This would effectively prevent the sale of the unit until the discrimination is remedied, if the one discriminated against was a tenant.

As to non-tenants, protection and enforcement is provided by the addition of subsection C-5-(l), which is hereafter discussed.

(c) Subsection C-5-(f), dealing with preconversion protection, has been amended so as to specifically give an aggrieved tenant the right to a refund of overpayment, with the alternative of deduction of the overpayment against future rentals. This, too, is supplemented by the provision of the new subsection C-5-(l).

(d) Subsection C-5-(k) has been made self-enforcing. This section deals with notices which must be given to those who become tenants after the initial notice of intent to convert is given and the application is filed and pending. If the required notice is not given, these persons become eligible for relocation benefits when they would not otherwise be so entitled. This provides incentive to give the required notice. This, too, is supplemented by the new subsection C-5-(l).

(e) Subsection C-5-(l) has been added as a general remedies section. This section makes it clear that aggrieved persons, whether tenants or buyers, will have the right to seek traditional remedies at law or in equity in civil court to enforce their rights under the ordinance.

It is further specifically stated that aggrieved tenants shall have the right to use the ordinance provisions as a defense in an unlawful detainer action.

Furthermore, it is made explicit that the City has the right to revoke the special permit for violations of its conditions; that the City is entitled to sue for injunctive relief to abate violation of the ordinance; that violations may also be criminal offenses.

C. Miscellaneous Amendments

Since the time the Council adopted the conversion ordinance staff has reviewed its language and provisions and has discovered a few minor problems. The following amendments are recommended.

1. The definition of condominium should be amended to include limited equity housing cooperatives.

State law was amended, effective January 1, 1980, to take out of the definition of "stock cooperative" and treat separately this special type of cooperative which is utilized primarily as a source of low and moderate income housing. Staff felt that, despite the use of these cooperatives for low and moderate income housing, conversions of existing rental buildings to limited equity housing cooperatives would have the same impact on rental vacancy rates as other projects and should, therefore, be covered.

2. The term "building of similar size" should be deleted. Presently this term is used as a qualifier of the vacancy rate standard; that is, the vacancy rate is broken down per community plan area and per "type" of building - buildings with four or fewer units and buildings with five or more units. Upon further consideration staff feels this qualifier on the vacancy rate is not necessary. The purpose of this term as a qualifier was to measure vacancy rates

in "comparable" units. Its use for such a purpose is of questionable validity, and in light of the separate required finding on the availability of comparable housing it appears to be unnecessary.

3. An amendment to Section 28-A is recommended to clarify the intent that the ordinance is to apply to residential condominium conversions only. A definition of residential condominium is added and would include the new construction of a condominium project intended for residential occupancy, the conversion of a building used for multiple family rental housing to condominium ownership intended for residential or nonresidential occupancy, and the conversion of a nonresidential building to condominium ownership intended for residential occupancy.

4. An element of the definition of unjust eviction relating to subleases would be revised to include assignments and to clarify its applicability only where the landlord has the right to approve subleases and assignments.

5. An amendment to the section establishing a \$600 fee is recommended to replace the fee with a reference to the Council's resolution establishing all fees.

6. An amendment is recommended to add the condominium conversion ordinance number to Section 28-C-3(i).

7. Various sections are amended to add a reference to either the City Council or City Planning Commission where either one or the other was inadvertently left out (see Sections 5, 8 and 9 of Attachment D).

8. Amendments are proposed to the City's Subdivision Ordinance and the General Plan to clarify the relationship between tentative maps for conversion projects and applications for special permits for conversions. These amendments would:

(i) require the tentative map to be filed concurrently with the application for the special permit; and,

(ii) require the hearing on each application to be held concurrently.

9. An amendment to the Housing Element of the General Plan is recommended to establish a policy of holding one hearing per year or other designated period.

RECOMMENDATION

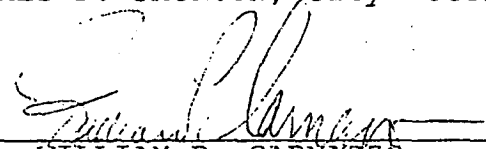
It is recommended that the City Council adopt the amendments to the Condominium Ordinance, the City's Subdivision Ordinance, and

the General Plan as contained in Attachments A through E.

Respectfully submitted,

JAMES P. JACKSON, City Attorney

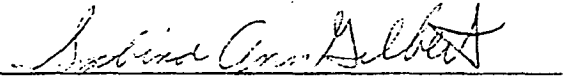
By



WILLIAM P. CARNIZZO
Deputy City Attorney

and

By



SABINA ANN GILBERT
Deputy City Attorney

kn

22-6-8

RESOLUTION NO.

Adopted by The Sacramento City Council on date of

**RESOLUTION AMENDING THE HOUSING ELEMENT OF
THE GENERAL PLAN RELATING TO CONDOMINIUM
CONVERSIONS**

WHEREAS, the City Council enacted and established requirements and procedures for the control and approval of the conversion of existing multiple family rental housing and non-residential structures to residential condominiums; and

WHEREAS, the City Council finds it necessary to amend said requirements and procedures with respect to the use of the vacancy rate as a criterion for approving condominium conversion projects; and

WHEREAS, the General Plan of the City of Sacramento is the comprehensive policy statement concerning the planning and zoning controls exercised by the City over private development; and

WHEREAS, the Subdivision Map Act, Government Code Section 66410 et seq., requires the General Plan of the City to contain definite objectives and policies specifically directed to the conversion of existing buildings into condominium ownership in order for certain provisions of the Map Act to apply;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

That the Housing Element of the General Plan of the City of Sacramento is hereby amended by revising that section entitled Policies 1-j to read as follows:

1-j Prohibiting the conversion of existing multiple family dwellings into condominium projects where the average annual vacancy rate in the affected community plan areas is less than or equal to 5%, unless the applicable vacancy rate is greater than or equal to 4% and the applicant has proposed measures which would effectively mitigate the displacement of tenants and any adverse effects upon the housing stock in the affected community plan areas which would be caused by the proposed conversion.

MAYOR

ATTEST:

CITY CLERK

FILED
By the City Council
Office of the City Clerk

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Attachment "C"

ORDINANCE NO. FOURTH SERIES

22-6-1

AN ORDINANCE AMENDING SECTIONS 28-B, 28-C-1, AND 28-C-6(a)(ii) OF THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SACRAMENTO, ORDINANCE NO. 2550, FOURTH SERIES, RELATING TO CONDOMINIUM CONVERSIONS AND USE OF THE VACANCY RATE, AND DECLARING SAID ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 28-B of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby amended by revising the title thereof to read as follows:

- B. General Requirements; Special Permit Required; Hearing; Determination of Vacancy Rate

SECTION 2.

Section 28-B-4 is added to the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, to read as follows:

4. Whenever a vacancy rate percentage is used in this Section or any other law or regulation of the City in connection with an application for a condominium conversion project, the percentage shall be that determined by the City in accordance with the method for determining vacancy rates established by the City Council by resolution; provided, that whenever said percentage is within one percentage point of a vacancy rate percentage standard or requirement set forth in this Section or any other law or regulation of the City, an applicant may proceed with an application for a condominium conversion project as if the percentage met the standard or requirement if the applicant submits evidence based on a survey of vacancies prepared by an independent consultant that the percentage determined by the City is inaccurate and that the percentage does in fact meet the standard or requirement; and provided further, that the City Planning Commission and City Council may consider but shall not be bound by said evidence when considering an application for a condominium conversion special permit or tentative map.

MAR 2 5 1980

FILED
By the City Council
Office of the City Clerk

MAR 2 5 1980

SECTION 3.

Section 28-C-1 of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby amended by revising the first paragraph of said Section to read as follows:

Recognizing that the conversion to condominium ownership of rental units in existing buildings presents unique problems to present tenants and future buyers, the application for a special permit for a condominium conversion project shall include the information set forth below in (a) through (m), in addition to that required by Section 15 of this ordinance, and shall meet the requirements set forth in (n) below:

SECTION 4.

Section 28-C-1(n) is hereby added to the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, to read as follows:

(n) An application for a special permit for a condominium conversion project shall not be accepted for filing nor processed if the vacancy rate for the affected community plan areas during the preceding twelve months is less than or equal to 5%; provided, that if the applicable vacancy rate is equal to or less than 5% but greater than or equal to 4%, an application for a special permit for a condominium conversion project may be accepted for filing and processed if the applicant includes in the proposed project measures which would effectively mitigate the displacement of tenants and any adverse effects upon the housing stock of the affected community plan areas which would be caused by the proposed conversion. No application for a special permit for a condominium conversion project shall be accepted for filing if the applicable vacancy rate is less than 4%.

SECTION 5.

Section 28-C-6(a)(ii) of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby amended to read as follows:

(ii) That the average rental vacancy rate in the affected community plan areas during the 12 months preceding the filing of the application is greater than 5%; provided, that a special permit may be approved where the said vacancy rate is equal to or less than 5% but greater than or equal to 4% if the applicant has proposed measures which the Council finds would effectively mitigate the displacement of tenants and any adverse effects upon the housing stock in the affected community plan areas which would be caused by the proposed conversion.

In evaluating the average rental vacancy rate in the affected community plan areas and in the building proposed for conversion, the City Planning Commission and the City Council shall consider the rental history of the building, including the number of evictions and increases in rent over the preceding three (3) years. Notwithstanding any other provision of this subsection, the City Council may deny a special permit under this Section if it finds that vacancies in the building have been created by unjust evictions and unreasonable rent increases in order to qualify a project for conversion under this subsection.

The requirements of this subsection (ii) shall not apply to condominium conversion projects comprised of the conversion of a nonresidential building into condominium ownership intended for residential occupancy.

SECTION 6. Emergency.

This ordinance is hereby declared to be an emergency measure to take effect immediately. The facts constituting the emergency are the expiration on March 26, 1980, of the existing moratorium on the conversion of residential structures to condominium ownership, the existence of numerous residential structures in the City of Sacramento which have been proposed for conversion to condominium ownership, and the need to insure, in the interests of the public health, safety and welfare, that the regulations contained in this ordinance take effect before the expiration of the moratorium and are made applicable to all proposed residential condominium conversion projects.

ENACTED:

EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

RESOLUTION NO. 80-177

Adopted by The Sacramento City Council on date of

MARCH 11, 1980

A RESOLUTION ADOPTING REGULATIONS REGARDING THE CALCULATION OF VACANCY RATES AND THE SCHEDULING OF HEARING DATES FOR CONDOMINIUM CONVERSION APPLICATIONS

WHEREAS, the City Council has adopted an ordinance regulating residential condominium conversions; and

WHEREAS, said ordinance provides for the adoption by resolution of the City Council of special application and procedure regulations and of a method of determining vacancy rates;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

That the City Council of the City of Sacramento hereby adopts the following regulations establishing the method to be used by City staff in determining vacancy rates in each community plan area of the City and establishing procedures for accepting, processing, and reviewing special permit and tentative map applications for residential condominium conversions:

A. Vacancy Rate Determination

(1) City Vacancy rate information shall be provided for each community plan area, on an annual basis on or about October 31st of each year.

(2) The following method will be used by the City in compiling the annual vacancy rate: City Planning Department staff will establish its annual vacancy rate by using the Federal Housing Administration, (FHA) Housing and Urban Development (HUD) Annual Rental Occupancy Survey. City staff will use the information supplied by the FHA/HUD survey to extrapolate the data applicable to each Community Plan area in the City. The vacancy rate shall then be calculated on the basis of total multiple family rental units and total vacant multiple family rental units located within each of the designated eleven (11) City Community Plan areas.

(3) The following procedure will be used for determining the rental vacancy rate of a proposed conversion in proximity to an adjacent Community Plan boundary.

a) If a project is substantially within a given community, only the vacancy rate of that community shall be used in evaluating the project. Substantially within shall be defined as inside a quarter mile (1320 feet) of the community's boundary as defined and set by the City of Sacramento. Where a community does not have an adjoining community because of its peripheral location, the quarter mile distance standard shall not apply and only the

APPROVED BY THE CITY COUNCIL

AS AMENDED

MAR 25 1980

OFFICE OF THE CITY CLERK

immediate community's vacancy rate will be used.

(b) Where a project, or any part thereof, is within a quarter mile (1320 feet) of an adjoining community as established by the City of Sacramento, the rental vacancy rate of both the immediate community and the adjoining community shall be used to determine a new vacancy rate. Where more than one adjoining community is within the quarter mile distance, it or they shall also be included in the determination.

The new rental vacancy rate shall be determined by dividing the sum of the vacant units of the immediate and adjoining communities by the sum of the total units of the immediate and adjoining communities. These quantities, or base data, shall be established annually by the City pursuant to the procedures set forth above in paragraphs A(1) and (2). The resulting vacancy rate will reflect the relative quantity and market availability of rental units within the general area around the project.

B. Filing and Hearing Special Permit Applications

(1) Application for special permits for condominium conversions shall be heard by the City Planning Commission and City Council one time a year. The initial application filing deadlines for conversion projects in accordance with Ordinance Number 4305 shall be ~~May 25, 1980~~. Thereafter the annual application deadline for condominium conversions shall be January 30 of each year beginning with January 30, 1981.

JUNE 25, 1980

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. 4305 FOURTH SERIES

AN ORDINANCE ADDING SECTION 22-A-60 AND SECTION 28 TO, AND REPEALING SECTION 2-H-11 OF THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SACRAMENTO, ORDINANCE NO. 2550, FOURTH SERIES, REPEALING SECTION 9.05(g) AND 9.37 OF THE SACRAMENTO BUILDING CODE, CHAPTER 9 OF THE SACRAMENTO CITY CODE, AND ADDING SECTION 40.109 TO CHAPTER 40 OF THE SACRAMENTO CITY CODE, RELATING TO CONDOMINIUMS AND CONDOMINIUM CONVERSIONS AND DECLARING SAID ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IN SIXTY (60) DAYS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 22-A-60 is added to the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, to read as follows:

60. The following definitions apply to Section 28 of this ordinance.

(a) Affected Community Plan Area. Affected community plan area shall mean the community plan area within which a building proposed for conversion is located and any other community plan area the boundary of which is located within a quarter mile of the building proposed for conversion.

(b) Association. Association is the organization created to own, lease, manage, maintain, preserve and control the lots, parcels or areas of a project, or any portions thereof or interests therein owned in common by the owners of the separately owned condominium units.

(c) Applicant. Applicant is the owner(s) or subdivider(s) with a controlling interest in the proposed project, and any successors in interest.

(d) Building of Similar Size. All residential buildings with two (2), three (3), or four (4) dwelling units shall be deemed to be of similar size. All residential buildings with five (5) or more dwelling units shall be deemed to be of similar size.

(e) Comparable Housing. See Section 28-C-6-a-iii.

(f) Condominium. Condominium shall mean and include:

(1) "Condominium" as defined by Section 783 of the Civil Code;

(2) "Community Apartment Project" as defined by Section 11004 of the Business and Professions Code;

(3) "Stock Cooperative" as defined by Section 11003.2 of the business and Professions Code; and,

(4) "Planned Development" as defined by Section 11003 of the Business and Professions Code.

The term "condominium" specifically includes, but is not limited to, the conversion of any existing structure for sale pursuant to a method described in subsection (1)-(4) of this subsection.

(g) Condominium Conversion or Conversion. Condominium conversion or conversion shall mean a change in the ownership of a parcel or parcels of property, together with structures thereon, whereby the parcel or parcels and structures previously used as rental units are changed to condominium ownership.

(h) Condominium Project or Project. Condominium project or project shall include the real property and any structures thereon, or any structures to be constructed thereon, which are to be divided into condominium ownership.

(i) Condominium Unit or Unit. Condominium unit or unit shall mean the individual spaces within a condominium project owned as individual estates.

(j) Common Area. Common area is an entire condominium project excepting all units therein.

(k) Eligible Tenant. Eligible tenant shall mean any tenant who was a resident of the project proposed for conversion on the date notice of intent to convert is given, pursuant to Section 28-C-2-a and on the date of approval of the special permit and tentative map for the condominium conversion.

(l) Low Income. Low income, when used by itself or as a modifier of person or household or other term shall mean 80% or less of the median income as established annually by the U. S. Department of Housing and Urban Development for the Standard Metropolitan Statistical Area within which the proposed conversion project is located as adjusted for the number of members of the household.

(m) Moderate Income. Moderate income, when used by itself or as a modifier of person or household or other term shall mean 81% - 120% of the median income as established annually by the U. S. Department of Housing and Urban Development for the Standard Metropolitan Statistical Area within which the proposed conversion project is located as adjusted for the number of members of the household.

(n) Organizational Documents. Organizational Documents are the Declaration of Covenants, Conditions and Restrictions, Articles of Incorporation, by-laws, and any contracts for the maintenance, management, or operation of all or any part of a project.

(o) Special Category. Special category refers to persons or tenants who fall within one or more of the following categories:

(1) Elderly. defined as individuals 62 years of age or older;

(2) handicapped or disabled, as defined in Section 50072 of the California Health and Safety Code or Section 223 of the United States Social Security Act, 42 USC 423;

(3) low income, as defined in subsection (1) above;

(4) moderate income, as defined in subsection (m) above;

(5) single heads of households residing with one or more minor children.

(p) Unjust Eviction. An unjust eviction is an eviction for other than one or more of the following reasons:

(1) The tenant has failed to pay the rent to which the landlord is entitled;

(2) the tenant has violated an obligation or covenant of the tenancy other than the obligation to surrender possession upon proper notice and has failed to cure such violation after receiving written notice thereof from the landlord.

(3) the tenant is committing or permitting to exist a nuisance in or is causing damage to, the rental unit or to the appurtenance thereof, or to the common areas of the property containing the rental unit, or is creating an unreasonable interference with the comfort, safety, or enjoyment of any of the other residents of the same or any adjacent building.

(4) the tenant is using or permitting a rental unit to be used for any illegal purpose.

(5) the tenant who had a written lease or rental agreement which terminated on or after the effective date of this provision, has refused, after written request or demand by the landlord, to execute a written extension or renewal thereof for a further term of like duration with similar provisions and in such terms as are not inconsistent with or violative of any provision of this subsection.

(6) the tenant has refused the landlord reasonable access to the unit for the purpose of making repairs or improvements, or for the purpose of inspection as permitted or required by the lease or by law, or for the purpose of showing the rental unit to any prospective purchaser or mortgagee.

(7) the person in possession of the rental unit at the end of a lease term is a subtenant not approved by the landlord.

(q) Unreasonable Economic Hardship. Unreasonable economic hardship shall mean a hardship which renders the project economically infeasible and incapable of being accomplished in a successful manner within a reasonable period of time.

(r) Unreasonable Rent Increase. Unreasonable rent increases refer to increases in rent that substantially exceed the housing component of the Consumer Price Index on an annualized basis and which cannot otherwise be justified by costs of physical improvements to the building or site, repairs for damage, taxes, or other expenses attributable to the operation of the building, or by changes in the market demand for rental housing.

SECTION 2.

Section 28 of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby added as follows:

Section 28. Condominiums.

A. Purpose and Objectives.

The City Council finds it necessary to establish requirements and procedures for the control and approval of residential condominium new construction and the conversion of existing multiple family rental housing and non-residential structures to residential condominiums. By their unique character and requirements, condominium and condominium conversion projects differ specifically from other subdivisions and apartments. The unique status of such projects tends to magnify the effects associated with higher urban densities to the point where they may lead to conditions of mismanagement, neglect, and blight that impact upon the public health, safety, welfare and economic prosperity of the City of Sacramento. Such projects may conflict with the policies of the City of Sacramento to provide a reasonable balance of rental and ownership housing within the City and within the city's neighborhoods, to provide a variety of individual choice of tenure, type, price and location of housing, and to insure an adequate supply of rental housing for low and moderate income persons and families. It is also recognized, however, that such projects may benefit the City by providing a source of low and moderate income ownership housing. To insure that the problems are avoided in both the short and long term, while maximizing the benefits of such projects, it is the express intent of the City of Sacramento to treat such projects differently from the multiple-family dwellings or other structures which are not condominium new construction and condominium

conversion projects in the City of Sacramento. This section is intended to insure that proposed new construction of residential condominiums and residential condominium conversions are approved consistent with policies and objectives of the City of Sacramento, particularly the following:

1. to make adequate provision for the housing needs of all economic segments of the community;

2. to facilitate inhabitant ownership of residential units, while recognizing the need and providing for a reasonable balance of rental and ownership housing;

3. to help mitigate the impact of eviction for residents of rental units as a result of their units being converted to condominiums;

4. to inform existing tenants and prospective condominium purchasers of the construction or conversion application, its overall impacts, and the physical conditions of the structure offered for purchase;

5. to insure that new units being constructed and rental units being converted to condominiums meet the reasonable physical standards as required by this section and all other Sacramento City Code provisions.

B. Special Permit Required.

1. No condominium conversion and no new condominium construction shall be permitted in any zoning district unless the same is permitted in such district pursuant to the provisions of Section 2 of this ordinance and until a special permit therefor has been applied for and issued in accordance with the provisions of this Section and Section 15 of this ordinance.

2. The provisions of Section 15 of this ordinance shall apply to applications for special permits for condominium conversions and new condominium construction, and the provisions set forth in this section, including, without limitation, those relating to notice requirements, applications, development standards, and findings, shall apply in addition to the provisions of Section 15; provided, that if a provision of this Section directly conflicts with a provision of Section 15 of this ordinance, the provision of this Section shall prevail.

3. Notwithstanding the provisions of Section 15-C-3-a of this ordinance, at least one public hearing shall be held on an application for a special permit for a condominium conversion under subsection C of this Section by each the Planning Commission and the City Council. The hearing by the City Council shall be noticed and held in accordance with all applicable requirements of this Section

and Section 15 of this Ordinance which govern the Planning Commission's consideration of the special permit.

The City Council shall adopt by resolution special application and procedure regulations to govern the processing of special permit applications under subsection C of this Section to provide for one hearing date per year, or per other designated period, at which to consider all then pending applications.

C. Condominium Conversions.

1. Special Permit Application.

Recognizing that the conversion of existing structures which have been previously occupied and constructed as rental units presents unique problems to present tenants and future buyers, the application for a special permit for a condominium conversion project shall include the following information in addition to that required by Section 15 of this ordinance:

(a) A boundary map drawn to scale showing the location of all existing easements, structures, existing trees and other improvements on the property;

(b) The proposed organizational documents, including the Covenants, Conditions and Restrictions to be recorded pursuant to Section 1350 et seq. of the Civil Code. The organizational documents shall provide for the following:

(i) Transfer of title to each unit;

(ii) Assignment of parking for each owner;

(iii) The management of common areas within the projects;

(iv) A proposed annual operating budget, including a report disclosing the amount of deposit to be provided by the developer and the manner in which it was calculated, to defray expenses of the association in replacing and maintaining major mechanical and electrical equipment;

(v) The FHA Regulatory Agreement, if any;

(vi) The antidiscrimination provisions set forth in subsection C-5-e of this Section.

(c) A property report. The property report shall describe the condition and estimate the remaining useful life of each of the following elements of each structure situated within the project proposed for conversion: roofs, foundations, exterior paint, paved surfaces, mechanical systems, electrical systems, plumbing systems, sewage systems, sprinkler systems for landscaping, utility delivery systems, central or community heating and air conditioning systems,

fire protection systems including any automatic sprinkler systems, alarm systems, or standpipe systems, and structural elements. The property report shall include a structural pest control report.

The property report shall state what the Sound Transmission Class and Sound Impact Class of the existing floor-to-ceiling and wall-to-wall assemblies of each unit are. The report shall also explain, in lay terms, what the class ratings mean and state what measure, if any, the applicant will take to improve sound attenuation between units.

The property report shall list each fixed appliance to be contained in each or any unit offered for sale and shall state whether the appliance is or will be new or used when the unit is first offered for sale. The report shall also state the terms and nature of the warranty offered by the applicant on each such appliance.

Each portion of the property report shall be prepared by an appropriately licensed engineer, except that the structural pest control portion of the property report shall be prepared by a licensed structural pest control operator in compliance with Chapter 14 of Division 3 of the California Business and Professions Code.

(d) A building history report including the following:

(i) The date of construction of all elements of the project;

(ii) a statement of the major uses of said project since construction;

(iii) the date and description of each major repair of any element since the date of construction. A "major repair" is any repair requiring an expenditure of \$1,000 or more;

(iv) the date and description of each major renovation of any element since the date of construction. A "major renovation" is any renovation requiring an expenditure of \$1,000 or more;

(v) the name and address of the current owner(s) of all improvements and the underlying land;

(e) A report identifying all characteristics of the building not in compliance with this ordinance or applicable building or housing codes.

(f) A statement as to whether the applicant will provide any capital contribution to the Association for deferred maintenance of the common areas, the sum of the contribution, and date on which the Association will receive the sum.

(g) A rental history report detailing the size, in square footage, of the building or buildings and each unit; the current or last rental rate; the name and address of each present tenant; the monthly rental rate for the preceding three (3) years for each unit; the average monthly vacancy over the preceding three

(3) years; the number of evictions over the preceding three (3) years; and the number and type of special category tenants for each unit presently residing in the project and over the preceding 3 years.

(h) The information required by (c), (d), (e), (f), and (g), above, may be combined into and submitted as one report. Failure to provide any information required by (c), (d), (e), (f), and (g), above, shall be accompanied by an affidavit or declaration given under penalty of perjury, setting forth in detail all efforts undertaken to discover the information and all reasons why the information could not be obtained.

(i) A detailed report describing the relocation and moving assistance information to be given to each tenant, and the steps the applicant will take to ensure the successful relocation of each tenant, pursuant to subsection C-5-b of this Section. The report should state in detail what assistance will be provided special category tenants, including a discussion of long-term leases and provisions to allow such tenants to continue renting after conversion until comparable housing is located and the move can be completed.

(j) A detailed report describing the methods and procedure by which the applicant shall make units within the project available and affordable to eligible low and moderate income tenants, as required by subsection C-5-a of this Section.

(k) A survey of all the tenants in the conversion project indicating how long each tenant had been a resident of the project, why each tenant moved into the project, how long each tenant had planned to live in the project, whether or not each tenant would be interested in purchasing a unit within the price range estimated for the project, where each tenant would relocate if the conversion took place and the tenant did not purchase a unit, and the extent of tenant approval in principle of the conversion.

To comply with this provision the applicant shall provide a questionnaire, in a form approved by City, to each tenant with an envelope, postage prepaid, addressed to the City Planning Department. The questionnaire shall direct the tenant to return the completed form directly to the City Planning Department.

(l) In addition to the information required in (a) through (k) of this subsection, the Planning Commission or planning director may require additional information necessary to evaluate said conversion project in order to make proper findings in accordance with the purposes and objectives set forth in subsection A of this Section, and as required by Subsection C-6 of this Section, the adopted City General Plan, or any specific or community plan or element thereof in effect at the time of such application. Such

information may include, but shall not be limited to:

(i) An economic report comparing the units in the conversion project, as both rentals and ownership units, with housing available within the community plan areas affected by the project;

(ii) An economic report on proposed project unit costs, monthly association costs, and comparative rates City-wide;

(iii) An economic report on availability of comparable rental units at similar rental rates remaining within the affected community plan areas, including vacancy rate information;

(iv) A report outlining the available low and moderate income housing units (rental and sales housing) within the affected community plan areas;

(v) A report on the feasibility of providing all or a portion of the conversion units for sale to low and moderate income individuals or families;

(vi) A report on the feasibility of not converting a portion of the total units in order to retain them for rental occupancy;

(vii) A report on the amount of rental unit construction in the affected community plan areas over the preceding 2 years;

(viii) Any additional information considered reasonable in determining housing needs, housing availability, costs, and housing impacts of the proposed conversion;

(m) The application for a special permit made pursuant to this subsection C shall be accompanied by a fee of \$600.

2. Notices

(a) Notice of Intent to Convert.

At least 30 days prior to filing an application for a special permit for a condominium conversion pursuant to this Section or for a tentative subdivision map to convert airspace in an existing residential building into condominium ownership, the applicant shall notify all the tenants of the project, the City of Sacramento, and the local Project Area Committees, if any, of the proposed conversion. The notification shall include a general description of the proposed project, the anticipated schedule of approval and conversion, the name of the current owner and applicant and where such person or persons can be contacted, and a detailed description of the applicant's plans for relocation assistance and purchase incentives, limitations on rent increases, the tenants' right to purchase, the tenants' rights to receive notice of the conversion prior to termination of tenancy due to the conversion, and the tenants' rights to receive notice of hearings on the tentative map and special permit for conversion. The notice must be written in nontechnical

language comprehensible to all tenants of the building.

- (b) Notice of hearings on Special Permit; Planning Commission.

In addition to the notice provisions of Section 15 of this ordinance, the applicant shall provide notice of the time, date and place that the application for a conversion special permit pursuant to this Section is to be heard by the Planning Commission to the tenant of each unit proposed to be converted to condominium ownership. Notice shall be personally delivered to each tenant or shall be mailed, postage prepaid, by certified or registered mail, return receipt requested. The notice shall be provided at least fifteen (15) but no greater than thirty (30) days before the hearing date, and the notice shall include the following information:

- (i) The time, date and place of the hearing on the application;

- (ii) a general description of the proposed project in nontechnical language;

- (iii) the location and time at which tenants and other interested persons may review the Planning Department staff report on the application and the materials submitted with the application pursuant to subsection C-1 of this Section.

The applicant shall make available for public inspection the materials submitted with the application for the special permit pursuant to subsection C-1 of this Section and the tentative map at the Sacramento Central Library and branch library nearest to the project site and on the project site itself, in the project manager's office or the central office.

Evidence satisfactory to the planning director of compliance with the provisions of this subsection (b) shall be submitted prior to the special permit hearing before the Planning Commission. In the event the hearing before the Planning Commission for which the notice has been provided pursuant to this subsection is, for any reason, not held or is continued to another date, the applicant shall provide notice as required by this paragraph of the new hearing, unless specifically waived by the Commission.

- (c) Notice of Hearing On Special Permit; City Council.

The provisions of subsection C-2-b of this Section shall apply to hearings held by the City Council on conversion special permits pursuant to this Section.

3. Development Standards

The following development standards shall apply to all applications for a special permit for a condominium conversion:

- (a) Off Street Parking: Notwithstanding the provisions of Section 6 of this ordinance, off street parking shall be provided at a ratio of not less than one parking space per dwelling unit.

The dimensions, location and use of such parking shall be subject to provisions of Section 6 of this ordinance.

(b) Utilities:

(i) Sewer: Each condominium unit shall have a separate sewer service hookup; provided, that the City Council may permit the use of common sewer lines that are oversized by one size or more, or which are hydraulically designed with a 100% safety factor, where the Council with the concurrence of the City Engineer, finds the common sewer lines can adequately service the condominiums.

(ii) Water: Each condominium unit shall have a separate water service hookup or shutoff; provided, that the City Council may permit a single water system to service more than one condominium unit where shutoffs are provided wherever practical and where the Council, with the concurrence of the City Engineer, finds the single water system can adequately service the condominiums.

(iii) Gas: Each condominium unit shall have a separate gas service where gas is a necessary utility.

(iv) Electricity: Each condominium unit shall have a separate electrical service, with separate meters and disconnects, and ground fault interrupters where ground fault interrupters are required by present building codes.

(c) Sound Attenuation:

Floor-to-ceiling and wall-to-wall assemblies between each condominium unit must meet Sound Transmission and Sound Impact Classes of 50 lab test, or 45 field test, as prescribed in the Uniform Building Code for new construction.

(d) Fire Safety:

It is the purpose of this development standard to provide safety to occupants of condominium units and to protect the investment in real property represented by the ownership interest of each condominium owner. Each condominium unit shall have a smoke detection system and a two hour-fire separation on its floors and each wall common to itself and an adjacent unit. In lieu of the two-hour fire separation requirement, the City Council may permit with the concurrence of the Fire Chief, the use of a sprinkler system, alarm system, or smoke detection system, or a combination thereof, where it finds the proposed system is sufficient to protect the occupants of and the owner's investment in the condominium.

(e) Ownership Association:

All condominium conversion projects shall provide an ownership association responsible for the care and maintenance of all

common areas and common improvements and any other interest common to the condominium owners. Complete and true copies of all Covenants, Conditions and Restrictions, articles of incorporation, and by-laws shall be subject to review and approval by the City prior to occupancy as a condominium project. The City of Sacramento may be made a third party beneficiary to all or any portion of the Covenants, Conditions, and Restrictions, as deemed appropriate.

(f) Building Code Requirements:

A building proposed for conversion, and each unit within the building, shall comply at a minimum with all applicable building code standards in effect at the time of the last alteration, repair, relocation, or reconstruction of the building, necessitating compliance with the building code, or, if none, at the time of first construction; and shall comply with current provisions of the City Housing Code, Chapter 49 of the Sacramento City Code. Nothing herein shall be construed to prevent or prohibit the applicant or the City from providing or requiring building standards greater than those set forth in the building code where the greater standards are found to be necessary to carry out the purposes and objectives of this Section.

(g) Any other standards the Council may adopt by resolution.

(h) No building shall be permitted to be converted to condominium ownership unless the building was constructed and subject to a building permit issued under the provisions of the 1952 Uniform Building Code, or subsequently adopted Uniform Building Code.

(i) No building constructed after the effective date of Ordinance No. , Fourth Series, shall be permitted to be converted to condominium ownership unless the building was constructed in full compliance with all applicable building codes and the development standards contained in subsection D-2 of this Section, applicable to new condominium construction, in effect at the time of the last alteration, repair, relocation, or reconstruction of the building, or, if none, at the time of first construction.

4. Building Inspection

(a) After reviewing the property report required pursuant to subsection C-1-(c) of this Section and after inspecting the structures within the project when deemed necessary, the Director of the Building Inspections Division shall identify and make available to the Planning Commission and City Council all items evidenced by such reports or inspection to be in noncompliance with applicable building and housing codes or to be hazardous to the life, health or safety of an occupant of the units within the project or the general public. A special permit for a conversion shall require all such items to be corrected to the satisfaction of the Director of Building Inspections Division.

(b) If the proposed project does not comply with the provisions of subsections C-3-b, (c), (d), or (f) of this Section relating to utilities, sound attenuation, fire safety and building code compliance, or if the Director of the Building Inspections Division identifies items to be corrected as provided in (a) of this subsection, any special permit issued pursuant to this part shall require the developer to furnish a performance bond, in an amount to be determined by the Director of Building Inspections to be the reasonable estimated cost to bring the project into compliance with said codes and to make all necessary repairs. Said bond shall run in favor of individual purchasers and the Association. Said bond shall provide for reasonable attorney's fees in the event of default by the principal.

5. Tenant and Buyer Protection Provisions

In addition to the tenant protection provisions set out in Section 66421.1 of the Subdivision Map Act, Government Code Section 66410 et seq., the applicant shall comply with the following provisions as conditions of any special permit for a condominium conversion project approved pursuant to this Section.

(a) Purchase Incentives

The applicant shall make units within the project available and affordable to all eligible low and moderate income tenants, so that the ratio of low and moderate income owners to the total ownership of the project at the time the project is first sold out will be the same as the ratio of low and moderate income tenants to the total tenancy of the project at the time notice of intent to convert is given, provided, that these requirements shall not apply if the applicant can demonstrate that compliance would place an unreasonable economic hardship upon him or her.

The low and moderate income units shall be geographically dispersed throughout the project, and shall be consistent with the size and location of the low or moderate income units within the project before conversion.

A dwelling unit is affordable for purchase by a low or moderate income purchaser if the total price of the unit to be paid by the purchaser does not exceed 2.5 times the annual income of the low or moderate income purchaser for whom the unit is intended to provide a housing opportunity. In no event shall the payments for principal, interest, utilities, property insurance, association fees, and other necessary housing costs exceed 25% of the income of the low or moderate income purchaser.

If the applicant's good faith offer to sell a unit to a low or moderate income tenant pursuant to this subsection is not accepted within twelve months, and the transaction completed within 18 months of the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, the applicant may offer the unit to the general public without restriction.

Whenever units are to be made available and affordable to low and moderate income persons pursuant to this subsection, the applicant, as a condition of approval of the special permit and tentative map, shall enter into an agreement with the City, or with another governmental or private nonprofit organization designated by the City to assure that subsequent sales of units originally sold to low or moderate income persons will be at a price affordable to persons of substantially the same income as the person for whom the initial sales price was intended to provide a housing opportunity. This agreement shall be recorded and shall provide for the following:

(i) The City or its designee shall be given an option to purchase the designated units at the price and terms affordable to the low and/or moderate income tenant. The option to purchase shall run with the land and bind the successors in interest and assigns of the units.

(ii) The option to purchase shall be set forth in the agreement, shall be recorded, and shall be assignable to individual low or moderate income purchasers of substantially the same income as the tenant for whom the initial sales price was intended to provide a housing opportunity.

(iii) The option to purchase shall be at the lower of the market price or the original sales price increased by an amount to compensate for cost of living increases, increases in median income and the value of substantial improvements.

(iv) The applicant and his or her successors in interest shall insert in any deed or other conveyance of the units a prohibition on the sale, lease, rental, assignment, or other transfer of the property (excepting title encumbrances for purposes of financing), without the consent of the City of Sacramento or its designee, as long as the City or its designee holds an option to purchase the property; provided, that encumbrances for purposes of financing shall not exceed the property owner's equity in the unit which would result from the exercise of the option at the time the encumbrance is placed on the property.

(v) Any other provisions the City deems necessary or convenient to carry out the purposes of this Section.

(b) Relocation Assistance

The applicant shall unconditionally offer to each eligible tenant a plan for relocation to comparable housing, as approved by the City Planning Commission and City Council.

The relocation plan shall provide, at a minimum, for the following:

(i) Assistance to each eligible tenant in locating comparable housing, including but not limited to providing availability reports and transportation, where necessary.

(ii) Payment of a relocation fee to each eligible tenant. The relocation fee shall consist of payment of actual moving costs to relocate the tenant's personal property including the following specific costs: insurance, boxes, packing, transportation, and unpacking. In lieu of this requirement, the eligible tenant may, at his or her option, accept a cash payment of \$300.00 if the tenant is relocating from an unfurnished apartment or \$200.00 if the tenant is relocating from a furnished apartment. If the eligible tenant is relocating to an area outside the Sacramento Standard Metropolitan Statistical Area, the tenant shall be entitled only to the cash payment of \$300.00 or \$200.00 whichever, is applicable. An eligible tenant is not entitled to a relocation fee pursuant to this subsection if the tenant has been evicted for just cause.

(iii) In the case of eligible tenants who are elderly, handicapped, low-income, or single heads of households living with one or more minor children, the following additional provisions must be made:

a. Payment of the last month's rent in the new complex, if required upon moving in; and the transfer to the new complex of all key, utility, and pet deposits to which the tenant is entitled upon vacating the unit. Cleaning and security deposits, minus damages, shall be refunded to the tenant upon vacating the unit.

b. In lieu of the transfer of deposits to the new complex, the tenant may, at his or her option, elect to be refunded all deposits to which he or she is entitled.

c. If the amount of deposits and other fees required upon moving in to the new complex exceed the amounts refunded to the tenant and transferred to the new complex, plus damages, the applicant shall pay the difference.

(iv) In the case of eligible special category tenants, the following additional provisions must be made:

a. Where the rent for the comparable unit into which the tenant moves is higher than the rent for the unit

the tenant occupied in the conversion project the applicant shall pay the difference for a period of one year from the date of relocation.

b. Until each tenant is successfully relocated, the tenant shall not be unjustly evicted from the unit presently occupied in the conversion project.

(c) Reports

The applicant shall provide each tenant with a copy of the reports required by Sections C-1-(i) and (j) detailing all relocation and moving assistance information and purchase incentives to be provided by the applicant.

(d) Life-term Leases

The applicant shall unconditionally offer eligible tenants who are elderly or handicapped leases for a term of 59 years. The rent at the beginning of the term shall be the rent charged at the time the special permit for conversion is granted. The leases shall provide that annual rent increases shall not exceed annual increases in fair market rent as established by the Department of Housing and Urban Development for assisted units, that the lease may be terminated upon mutual consent of the parties or upon the death of the tenant, and that the lease shall not be assignable.

(e) Anti-Discrimination

(i) The applicant or owner of any condominium unit within a project shall not discriminate in the sale, or in the terms and conditions of sale, of any dwelling unit against any person who is or was a lessee or tenant of any such dwelling unit, because such person opposed, in any manner, the conversion of such building into a condominium.

(ii) The conditions, covenants, and restrictions for a project to be recorded pursuant to Section 1350 et seq. of the Civil Code shall contain the provisions set forth in this subsection and shall bind all successors in interest to the project.

(f) Preconversion Protection

From the date of giving notice of intent to convert pursuant to subsection C-2-a of this Section until relocation takes place or the application is denied or withdrawn, but in no event for more than two (2) years, no tenant shall be unjustly evicted and no tenant's rent shall be increased (1) more frequently than once every six months nor (2) in an amount greater than the increase in fair market rents as established by the Department of Housing and Urban Development for assisted units, on an annualized basis, for the same period. This limitation shall not apply if rent increases are expressly provided for in leases or contracts in existence prior to the filing date of the special permit.

(g) Prior to offering for sale to the public any unit within a condominium conversion project for which a special permit has been issued pursuant to this subsection C, the applicant shall submit to City a copy of each of the following documents relating to the proposed project: the completed application for issuance of a Final Public Report for the project proposed for conversion, including all attachments and exhibits thereto, the completed Statement of Compliance relating to operating and maintenance funds during start up, and the completed Supplemental Questionnaire for apartments converted to condominium projects, including all attachments and exhibits.

(h) Appliance Warranties.

The applicant shall provide free of charge to the first individual purchaser of each unit a one-year warranty on each fixed appliance contained in the unit, whether new or used.

(i) The applicant shall provide each condominium unit purchaser with a copy of the reports required by subsections C-1-(b), (c), (d), (e), and (f) of this Section.

(j) The Covenants, Conditions and Restrictions (C C & R's), or equivalent document, shall contain, or shall be amended to contain, on the first page thereof, in type as large as any type used in the C C & R's, a notification in substantially the following terms:

"NOTICE"

"THE TERMS OF THIS DOCUMENT ARE LEGALLY BINDING. READ IT CAREFULLY. A REAL ESTATE BROKER IS QUALIFIED TO ADVISE YOU ON REAL ESTATE MATTERS. IF YOU DESIRE LEGAL ADVICE, CONSULT AN ATTORNEY."

(k) After notice of intent to convert is given pursuant to subsection C-2-a of this Section, any prospective tenants shall be notified in writing of the intent to convert prior to leasing or renting any unit and shall not be subject to the provision of (f), above.

6. Criteria For Review

(a) The City Council shall not approve a special permit under this Section unless it finds:

(i) That the proposed conversion is consistent with the General Plan and applicable community and specific plans in effect at the time of the special permit application, especially with the objectives, policies, and programs of the Housing Element of the General Plan designed to provide affordable housing to all economic segments of the population.

(ii) That the average rental vacancy rate in buildings of similar size in the community plan areas affected by the proposed conversion during the 12 months preceding the filing of the application is greater than 5%; provided, that a special permit may be approved where the said vacancy rate is equal to or less than 5% if the applicant has proposed measures which the Council finds would effectively mitigate the displacement of tenants and any adverse effects upon the housing stock in the affected community plan areas which would be caused by the proposed conversion.

In evaluating the average rental vacancy rate in the affected community plan areas and in the building proposed for conversion, the City Council shall consider the rental history of the building, including the number of evictions and increases in rent over the preceding three (3) years. Notwithstanding any other provision of this subsection, the City Council may deny a special permit under this Section if it finds that vacancies in the building have been created by unjust evictions and unreasonable rent increases in order to qualify a project for conversion under this subsection.

(iii) That the applicant has unconditionally offered to each eligible tenant an adequate plan for relocation to comparable housing, in compliance with subsection C-5-(b) of this Section. In determining whether the housing to which the applicant proposes relocation is "comparable" the Council must find that the housing is decent, safe, and sanitary, and in compliance with all local and state housing codes; and, that the housing is open to all persons regardless of race, creed, national origin, ancestry, religion, marital status, or gender. In addition, the Council shall consider the following factors in determining whether the relocation housing is comparable:

a. Whether the housing is provided with facilities equivalent to that provided by the landlord in the dwelling unit in which the tenant then resides in regard to each of the following: a) apartment size including number of rooms; b) rent range; c) major kitchen and bathroom facilities; d) special facilities for the handicapped, infirmed or senior citizens; e) willingness to accept families with children;

b. Whether the housing is located in an area not less desirable than the area in which the tenant then resides in regard to a) accessibility to the tenant's place of employment; b) accessibility to community and commercial facilities; c) accessibility to schools; d) accessibility to transportation; and e) environmental quality and related conditions.

A unit is not comparable if it is located in a building for which a notice of intent to convert has been given, pursuant to subsection C-2-a of this Section, except where the rental units of the building will not be offered for sale as condominium units within two (2) years.

(iv) That the applicant has complied with all of the provisions of this Section relating to the application procedure and submittal of required information (subsection C-1); payment of the application fee (subsection C-1-m); required notices to tenants and other interested persons (subsection C-2); building inspection (subsection C-4); and tenant and buyer protection (subsection C-5).

(v) That the proposed conversion complies with all development standards set forth in subsection C-3 of this Section.

(b) The Council shall not approve a special permit pursuant to this Section where it finds the apartment building or residential complex proposed for conversion represents a unique and needed rental housing resource in the City or in the neighborhood, taking into consideration such factors as the need for a balanced rental-owner housing supply, current rental rates, the unavailability of comparable housing, and extraordinary tenant displacement problems which would result from the conversion, in spite of the relocation assistance and purchase incentive programs offered by the applicant. In evaluating a project for purposes of this subsection, the City Council shall consider the rental history of the building, including the number and types of special category tenants over the preceding three (3) years, the number of unjust evictions, and the number of unreasonable rent increases.

(c) In evaluating an application for a special permit pursuant to this subsection C, the City Council shall consider the results of the tenant survey required by subsection C-1-k. If the City Council finds that less than a significant number of the tenants have indicated their approval in principle to the proposed conversion, the Council shall consider the nature and extent of tenant disapproval and shall reexamine the application with respect to the criteria for review and all other provisions of this Section to insure the proposed project complies.

D. Condominium New Construction.

1. Applications.

A special permit shall be required for all new condominium construction as provided in subsections A and B of this Section. The application procedure for a special permit for condominium new construction shall be governed by the provisions of Section 7 and Section 15 of this ordinance.

2. Development Standards.

The following development standards shall apply to all applications for a special permit for new condominium construction:

(a) Off-Street Parking

Notwithstanding the provisions of Section 6 of this ordinance, off-street parking shall be provided at a ratio of not less than one parking space per dwelling unit. The dimensions,

location and use of such parking shall be subject to the provisions of Section 6 of this ordinance.

(b) Utilities

(i) Sewer: Each condominium unit shall have a separate sewer service hookup; provided, that the Planning Commission may permit the use of common sewer lines that are oversized by one size or more, or which are hydraulically designed with a 100% safety factor, where the Planning Commission, with the concurrence of the City Engineer, finds the common sewer lines can adequately service the condominiums and that separate service hookups would not be feasible.

(ii) Water: Each condominium unit shall have a separate water service hookup or shutoff; provided, that the Planning Commission may permit a single water system to service more than one condominium unit where shutoffs are provided wherever practicable and where the Planning Commission, with the concurrence of the City Engineer, finds that the single water system can adequately service the condominiums and separate service hookups or shutoffs are not feasible.

(iii) Gas: Each condominium unit shall have a separate gas service where gas is a necessary utility.

(iv) Electricity: Each condominium unit shall have a separate electrical service, with separate meters and disconnects and ground fault interrupters where and as required by the Building Code.

(c) Sound Attenuation

Each condominium unit shall comply with the State of California's Noise Insulation Standards (Cal. Adm. Code Section 1092).

(d) Fire Safety

It is the purpose of this development standard to provide safety to the occupants of condominium units and to protect the investment in real property represented by the ownership interest of each condominium owner.

Each condominium unit shall have a smoke detection system and a two-hour fire separation on its floors and each wall common to itself and an adjacent unit.

(e) Ownership Organization

All condominium projects shall provide an ownership association responsible for the care and maintenance of all common areas and common improvements and any other interest common to the

condominium owners. Complete and true copies of all Covenants, Conditions and Restrictions, articles of incorporation and by-laws shall be subject to review and approval by the City prior to occupancy as a condominium unit. The City of Sacramento may be made a third party beneficiary to all or any portion of the Covenants, Conditions and Restrictions, as deemed appropriate.

(f) Building Code Requirements

Each unit of a condominium project, and all commonly owned portions of a condominium building shall comply with all applicable building code standards. Nothing herein shall be construed to prevent or prohibit the applicant or the City from providing or requiring building standards greater than those set forth in the Building Code where the greater standards are found to be necessary to carry out the purposes and objectives of this Section and Section 7 of this ordinance.

(g) New Condominium construction shall be subject to the development standards and other provisions of Section 7 of this ordinance.

E. Expiration For Failure To Establish Use.

1. Notwithstanding the provisions of Section 15-D-4, a condominium project for which a special permit is issued under this Section must be established within one (1) year after such permit is issued. If the condominium project is not so established, the special permit shall be deemed to have expired and shall be null and void.

2. A condominium new construction project shall be deemed established when a building permit has been secured for the project and construction thereunder physically commenced.

3. A condominium conversion project shall be deemed established when one unit in the project has been sold to an individual purchaser other than the owner or applicant

F. City Council To Adopt Regulations.

Regulations governing the implementation of any provision of this Section may be adopted from time to time by the City Council, with a recommendation from the Planning Commission.

G. Variances.

1. Variances Relating to Condominium Conversions.

Notwithstanding the provisions of Section 14 of this ordinance, variances from the provisions of subsection C of this Section relating

to condominium conversions shall be governed by the following provisions:

(a) At least one public hearing shall be held on a request for a variance from the provisions of this Section relating to condominium conversions by each the Planning Commission and the City Council.

(b) Notice of the hearings on said variances by both the Planning Commission and the City Council shall be given as provided in Section 14 of this ordinance and to the tenants of the building proposed for conversion to whom notices are sent pursuant to subsection C-2 of this Section.

(c) All other provisions of Section 14 of this ordinance which do not directly conflict with the provisions set forth herein shall apply to the hearing and review of variance requests, except as provided below.

(d) For purposes of granting variances to the development standards for condominium conversions set forth in subsection C-3 of this Section, the provisions of this paragraph relating to the circumstances for which a variance shall be granted, and the findings on which the grant of a variance must be based, shall govern to the exclusion of the provisions of Section 14 of this ordinance.

The City Council may grant a variance and approve a special permit for a condominium conversion project which does not comply with all of the development standards contained in subsection C-3, if the City Council finds that:

(i) Because of circumstances applicable to the subject property, or to the structures situated thereon, including but not limited to the size, shape, location or surroundings of the subject property or the buildings thereon, the strict application of the development standards would create an unreasonable economic hardship; and,

(ii) The project, as conditioned, will be in substantial compliance with such development standards; and, will incorporate mitigating features into the project which tend to further the purpose of this Section

2. Variances Relating to Condominium New Construction and Other Provisions.

Except as provided in subsection G-1 above, the provisions of Section 14 of this ordinance shall apply to the provisions of this Section.

SECTION 3.

Section 2-H-11 of the Comprehensive Zoning Ordinance is repealed.

SECTION 4.

Sections 9.05(g) and 9.37 of the Sacramento City Building Code, Chapter 9 of the Sacramento City Code, are repealed.

SECTION 5.

Section 40.109 is added to Chapter 40 of the Sacramento City Code, to read as follows:

Sec. 40.109 Tentative Maps for Residential Condominium Conversions; Tenant Notice.

The tenant noticing provisions set forth in Section 28-C-2 of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, shall apply to all hearings on tentative maps for residential condominium conversions, in addition to the hearings on special permits for condominium conversions. Failure to comply with the noticing provisions set forth therein shall be grounds to deny the tentative map.

SECTION 6.

Should any Section or part of a Section, clause, or provision of this ordinance be declared by the court to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared invalid.

SECTION 7. Emergency.

This ordinance is hereby declared to be an emergency measure to take effect in sixty (60) days. The facts constituting the emergency are the need to give additional notice of the enactment of this ordinance and the need to further study and obtain additional information on this subject before this ordinance takes effect.

PASSED FOR PUBLICATION:

ENACTED:

EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

RESOLUTION NO. 80-041

Adopted by The Sacramento City Council on date of

JANUARY 15, 1980

WHEREAS, the City Council finds it necessary to enact and to establish requirements and procedures for the control and approval of residential condominium new construction and the conversion of existing multiple family rental housing and non-residential structures to residential condominiums; and

WHEREAS, the General Plan of the City of Sacramento is the comprehensive policy statement concerning the planning and zoning controls exercised by the City over private development; and

WHEREAS, the Subdivision Map Act, Government Code Section 66410 et seq., requires the General Plan of the City to contain definite objectives and policies specifically directed to the conversion of existing buildings into condominium projects in order for certain provisions of the Map Act to apply;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO

SECTION 1.

That the Housing Element of the General Plan of the City of Sacramento is hereby amended by adding to that section entitled Background the following statement:

Condominiums and Condominium Conversions.

By their unique character and requirements, condominiums and condominium conversion projects differ specifically from other subdivisions and apartment projects. The unique status of such projects tends to magnify the effects associated with higher urban densities to the point where they may lead to conditions of mismanagement, neglect, and blight that impact upon the public health, safety, welfare and economic prosperity of the City of Sacramento. Condominium conversion projects in particular may conflict with the policies of the City of Sacramento to provide a reasonable balance of rental and ownership housing within the City and within the City's neighborhoods, to provide a variety of individual choice of tenure, type, price and location of housing, and to insure an adequate supply of rental housing for low and moderate income persons and families. It is also recognized, however, that such projects may benefit the City by providing a source of low and moderate income ownership housing. It is the express intent of the City to insure that the problems are avoided while the benefits are maximized in both the short and long term by establishing requirements and procedures specifically designed for the control and approval of residential condominium new construction and the conversion of existing multiple family rental housing and non-residential buildings to residential condominiums.

1-k - Requiring condominium conversion applicants to provide adequate relocation plans and purchase incentives for tenants in multiple family residential buildings proposed for conversion to condominiums.

1-l - Requiring all condominium conversion projects to make condominium units available and affordable to eligible tenants of low or moderate income unless it can be demonstrated that such requirement would create an unreasonable economic hardship.

2-c - Requiring condominium new construction and existing structures proposed for conversion to residential condominiums to meet all applicable development and building standards contained in the Comprehensive Zoning Ordinance and the City Building Code.

MAYOR

ATTEST:

CITY CLERK

Condominium conversion projects, however, are specifically addressed in Section 66427.2 of the Subdivision Map Act, Government Code Section 66410 et seq. This Section provides that certain provisions of the Map Act relating to General Plan and Specific Plan consistency and the requirement of making certain findings upon approving a tentative subdivision map do not apply to condominium conversion projects, where no new units are to be constructed or added, unless the applicable General or Specific Plans contain definite objectives and policies specifically directed to the conversion of existing buildings into condominium projects.

In order to establish requirements and procedures specifically designed for the control and approval of residential condominium new construction and condominium conversions and to utilize the Subdivision Map Act as part of the procedure, the goals and policies set forth below relating to condominiums are hereby adopted.

SECTION 2.

That the Housing Element of the General Plan of the City of Sacramento is hereby amended by adding to that Section entitled Goals the following goals:

12 - To insure a reasonable balance of rental and ownership housing while facilitating inhabitant ownership of residential units by all economic segments of the community, especially in reviewing applications for residential condominium conversions and condominium new construction;

13 - To mitigate the impact of dislocation and eviction for residents of rental units as a result of units being converted to condominiums;

14 - To insure that new condominium units being constructed and residential rental units being converted to condominiums meet adequate physical construction standards;

15 - To insure that as rental units are converted to condominium ownership, low and moderate income ownership housing is provided to the tenants of the converted rental units.

SECTION 3.

That the Housing Element of the General Plan of the City of Sacramento is hereby amended by adding to that section entitled Policies the following policies:

1-j - Prohibiting the conversion of existing multiple family dwellings into condominium projects where the average annual vacancy rate in the affected community plan areas is less than or equal to 5% unless the applicant has proposed measures which would effectively mitigate the displacement of tenants and any adverse effects upon the housing stock in the affected areas which would be caused by the proposed conversion.

ORDINANCE NO. FOURTH SERIES

AN ORDINANCE AMENDING ORDINANCE NO. 4264
FOURTH SERIES, AND REPEALING ORDINANCE
NO. 4306 FOURTH SERIES, EXTENDING THE
MORATORIUM ON CONDOMINIUM CONVERSIONS AND
DECLARING SAID ORDINANCE TO BE AN EMERGENCY
MEASURE TO TAKE EFFECT IMMEDIATELY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Findings.

The City Council hereby finds and determines that it is necessary to extend the moratorium on condominium conversions established by Ordinance No. 4264, Fourth Series, to enable the City to further study and prepare regulations and land use and zoning measures pertaining to such conversions, particularly, but not limited to, measures pertaining to the provision of low and moderate income housing in conversion projects, to certain building and construction standards and to methods of determining the 5% vacancy rate standard.

SECTION 2. Extension of Moratorium.

Section 4 of Ordinance No. 4264, Fourth Series, is hereby amended to extend the term of the moratorium to March 26, 1980.

SECTION 3.

Ordinance No. 4306, Fourth Series, is hereby repealed.

SECTION 4. Emergency.

This ordinance is hereby declared to be an emergency measure to take effect immediately. The reason for the emergency is the need to further delay the conversion of existing residential rental structures in the City of Sacramento into condominium ownership to enable the City to study and implement measures which it finds necessary for the public health, safety and welfare to regulate residential condominium conversion.

ENACTED:

EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

Attachment "G"



CITY OF SACRAMENTO

ATTACHMENT "H"

DEPARTMENT OF LAW

812 TENTH ST
SUITE 201

SACRAMENTO, CALIF. 95814
TELEPHONE (916) 449-3346

March 4, 1980

JAMES P. JACKSON
CITY ATTORNEY

THEODORE H. KOBAY, JR.
ASSISTANT CITY ATTORNEY

LELIAND J. SAVAGE
DAVID BENJAMIN

SAM JACKSON
WILLIAM P. CARNAZZO
SABINA ANN GILBERT
STEPHEN B. NOCITA
DEPUTY CITY ATTORNEYS

Daniel Thompson
City Council
City Hall
Sacramento, California 95814

RE: CONDOMINIUM CONVERSION ORDINANCE

Dear Councilman Thompson:

QUESTION

This is in reply to your request for an opinion as to whether the City Council may add an inclusionary housing requirement to the condominium conversion ordinance at any time prior to the first hearing on the condominium conversion permit.

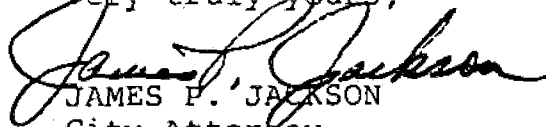
ANSWER

In my opinion, the Council can amend the condominium conversion ordinance to add such requirements prior to the hearing on the condominium conversion permit.

DISCUSSION

It is important to note that we are not, by this letter, giving an opinion on the validity of any inclusionary housing proposal. The sole purpose of this letter is to state whether an inclusionary housing provision, assuming it is valid, could be added as a condition to approval of a condominium conversion permit after the condominium conversion ordinance becomes effective, but prior to the first public hearing on the condominium conversion permit. The issue arises because the condominium conversion ordinance is scheduled to become effective on about March 11, 1980. You wish to have all condominium conversions subject to an inclusionary housing requirement and have asked whether, in order to accomplish this result, an inclusionary housing provision must be included prior to March 11th, or whether it could be added at a later date prior to the first condominium conversion hearings. I think the inclusionary housing provision, assuming it is valid, can be added to the condominium conversion ordinance prior to the first hearing on the condominium conversion ordinance.

Very truly yours,


JAMES P. JACKSON
City Attorney

Attachment "H"

JPJ:KMF

ORDINANCE NO. FOURTH SERIES

AN ORDINANCE AMENDING SECTIONS 28-C-1(j),
28-C-2(a), 28-C-5(a), 28-C-5(c), 28-C-6-a(ii)
OF THE COMPREHENSIVE ZONING ORDINANCE OF THE
CITY OF SACRAMENTO, ORDINANCE NO. 2550,
FOURTH SERIES, RELATING TO PURCHASE INCENTIVES
IN CONDOMINIUM CONVERSION PROJECTS AND DECLARING
SAID ORDINANCE TO BE AN EMERGENCY MEASURE TO
TAKE EFFECT IMMEDIATELY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 28-C-1(j) of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby amended to read as follows:

- (j) Reserved.

SECTION 2.

Section 28-C-2(a) of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby amended to read as follows:

- (a) Notice of Intent to Convert.

At least 30 days prior to filing an application for a special permit for a condominium conversion pursuant to this Section or for a tentative subdivision map to convert airspace in an existing residential building into condominium ownership, the applicant shall notify all the tenants of the project, the City of Sacramento, and the local Project Area Committees, if any, of the proposed conversion. The notification shall include a general description of the proposed project, the anticipated schedule of approval and conversion, the name of the current owner and applicant and where such person or persons can be contacted, and a detailed description of the applicant's plans for relocation assistance, limitations on rent increases, the tenants' rights to purchase, the tenants' rights to receive notice of the conversion prior to termination of tenancy due to the conversion, and the tenants' rights to receive notice of hearings on the tentative map and special permit for conversion. The notice must be written in nontechnical language comprehensible to all tenants of the building.

FILED
By the City Council
Office of the City Clerk

MAR 25 1980

SECTION 3.

Section 28-C-5-(a) of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby amended to read as follows:

(a) Reserved.

SECTION 4.

Section 28-C-5(c) of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby amended to read as follows:

(c) Reports

The applicant shall provide each tenant with a copy of the reports required by Section C-1-(i) detailing all relocation assistance to be provided by the applicant.

SECTION 5.

Section 28-C-6-a(ii) of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby amended to read as follows:

(ii) That the average rental vacancy rate in the affected community plan areas during the 12 months preceding the filing of the application is greater than 5%; provided, that a special permit may be approved where the said vacancy rate is equal to or less than 5% but greater than or equal to 4% if the applicant has proposed measures which the Council finds would effectively mitigate the displacement of tenants and any adverse effects upon the housing stock in the affected community plan areas which would be caused by the proposed conversion. Said mitigation measures should include but need not be limited to providing eligible tenants with renewable leases such as those described in Section 28-C-5-(d) and offering units to eligible tenants at terms more favorable than those offered to the general public.

In evaluating the average rental vacancy rate in the affected community plan areas and in the building proposed for conversion, the City Planning Commission and City Council shall consider the rental history of the building, including the number of evictions and increases in rent over the preceding three (3) years. Notwithstanding any other provisions of this subsection, the City Council may deny a special permit under this Section if it finds that a substantial number of vacancies in the building have been created by unjust evictions and unreasonable rent increases in order to qualify a project for conversion under this subsection.

The requirements of this subsection (ii) shall not apply to condominium conversion projects comprised of the conversion of a nonresidential building into condominium ownership intended for residential occupancy.

SECTION 6 Emergency.

This ordinance is hereby declared to be an emergency measure to take effect immediately. The facts constituting the emergency are the expiration on March 26, 1980, of the existing moratorium on the conversion of residential structures to condominium ownership, the existence of numerous residential structures in the City of Sacramento which have been proposed for conversion to condominium ownership, and the need to insure, in the interests of the public health, safety and welfare, that the regulations contained in this ordinance take effect before the expiration of the moratorium and are made applicable to all proposed residential condominium conversion projects.

ENACTED:

EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

22-7-E

RESOLUTION NO. 80-178

Adopted by The Sacramento City Council on date of

MARCH 25, 1980

A RESOLUTION AMENDING THE HOUSING ELEMENT
OF THE GENERAL PLAN OF THE CITY OF
SACRAMENTO RELATING TO CONDOMINIUM
CONVERSION HEARING AND TENTATIVE MAPS

WHEREAS, the City Council has enacted an ordinance establishing requirements and procedures for the control and approval of residential condominium conversions; and

WHEREAS, under provision of said ordinance the City Council has adopted the policy of hearing applications for condominium conversions one time a year; and

WHEREAS, it is necessary to the implementation of the goals and policies of the City of Sacramento with respect to condominium conversion projects to consider tentative maps for residential condominium conversion projects at the same time as the special permit applications for each said project; and

WHEREAS, the General Plan of the City of Sacramento is the comprehensive policy statement concerning the planning and zoning controls exercised by the City over private development; and

WHEREAS, the Subdivision Map Act, Government Code Section 66410 et. seq., requires the General Plan of the City to contain definite objectives and policies specifically directed to the conversion of existing buildings into condominium ownership in order for certain provisions of the Map Act to apply;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

That the Housing Element of the General Plan of the City of Sacramento is hereby amended by adding to that Section entitled Policies the following policies:

1-m Conducting one hearing per year or per other period designated by the City Council at which to consider all then pending applications for condominium conversion projects to facilitate implementation of the goals and policies of the City of Sacramento with respect to condominium conversion projects as stated herein.

1-n Requiring tentative map applications for condominium conversion projects to be heard concurrently with the application for all other entitlements necessary for the conversion project to facilitate the implementation of the goals and policies of the City of Sacramento with respect to condominium conversion projects as stated herein.

MAYOR

ATTEST:

APPROVED
BY THE CITY COUNCIL

MAR 25 1980

OFFICE OF THE
CITY CLERK

CITY CLERK

ORDINANCE NO. 4329 FOURTH SERIES

AN ORDINANCE AMENDING SECTION 22-A-60(d), (f), (o), (p), (q), (r) and (s), 28-A, 28-C-1(1) and (m), 28-C-3(i), AND 28-C-6(b) AND (c) OF THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SACRAMENTO, ORDINANCE NO. 2550, FOURTH SERIES, AND ADDING SECTION 40.404(h) TO CHAPTER 40 OF THE SACRAMENTO CITY CODE, RELATING TO CONDOMINIUM CONVERSIONS, AND DECLARING SAID ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

APPROVED BY THE CITY COUNCIL

MAR 25 1980

OFFICE OF THE CITY CLERK

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 22-A-60(d) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

- (d) Reserved.

SECTION 2.

Section 22-A-60(f) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(f) Condominium. Condominium shall mean and include:

- (1) "Condominium" as defined by Section 783 of the Civil Code;
- (2) "Community Apartment Project" as defined by Section 11004 of the Business and Professions Code;
- (3) "Stock Cooperative" as defined by Section 11003.2 of the Business and Professions Code; and,
- (4) "Planned Development" as defined by Section 11003 of the Business and Professions Code.
- (5) "Limited Equity Housing Cooperative" as defined by Section 11003.4 of the Business and Professions Code.

The term "condominium" specifically includes, but is not limited to the conversion of any existing structure for sale pursuant to a method described in subsections (1)-(5) of this subsection.

SECTION 3.

Sections 22-A-60-(o), (p), (q), and (r) of the Comprehensive Zoning Ordinance of the City of Sacramento are hereby amended to read as follows:

(o) Residential Condominium Project. Residential condominium project shall mean the new construction of a condominium project intended for residential occupancy, the conversion of a building used for multiple family rental housing to condominium ownership intended for residential or nonresidential occupancy, and the conversion of a nonresidential building to condominium ownership intended for residential occupancy.

(p) Special Category. Special category refers to persons or tenants who fall within one or more of the following categories:

- (1) Elderly, defined as individuals 62 years of age or older;
- (2) handicapped or disabled, as defined in Section 50072 of the California Health and Safety Code or Section 223 of the United States Social Security Act, 42 USC 423;
- (3) low income, as defined in subsection (l) above;
- (4) moderate income, as defined in subsection (m) above;
- (5) single heads of household residing with one or more minor children.

(q) Unjust Eviction. An unjust eviction is an eviction for other than one or more of the following reasons:

- (1) The tenant has failed to pay the rent to which the landlord is entitled;
- (2) the tenant has violated an obligation or covenant of the tenancy other than the obligation to surrender possession upon proper notice and has failed to cure such violation after receiving written notice thereof from the landlord.
- (3) the tenant is committing or permitting to exist a nuisance in, or is causing damage to, the rental unit or to the appurtenance thereof, or to the common areas of the property containing the rental unit, or is creating an unreasonable interference with comfort, safety, or enjoyment of any of the other residents of the same or any adjacent building.
- (4) the tenant is using or permitting a rental unit to be used for any illegal purpose.

(5) the tenant who had a written lease or rental agreement which terminated on or after the effective date of this provision, has refused, after written request or demand by the landlord, to execute a written extension or renewal thereof for a further term of like duration with similar provisions and in such terms as are not inconsistent with or violative of any provisions of this subsection.

(6) the tenant has refused the landlord reasonable access to the unit for the purpose of making repairs or improvements, or for the purpose of inspection as permitted or required by the lease or by law, or for the purpose of showing the rental unit to any prospective purchaser or mortgagee.

(7) the person in possession of the rental unit at the end of the lease or rental term is a subtenant or assignee not approved by the landlord, where the lease or rental agreement requires approval by the landlord of any assignment or subtenancy.

(r) Unreasonable Economic Hardship. Unreasonable economic hardship shall mean a hardship which renders the project economically infeasible and incapable of being accomplished in a successful manner within a reasonable period of time.

(s) Unreasonable Rent Increase. Unreasonable rent increases refer to increases in rent that substantially exceed the housing component of the Consumer Price Index on an annualized basis and which cannot otherwise be justified by costs of physical improvements to the building or site, repairs for damages, taxes, or other expenses attributable to the operation of the building, or by changes in the market demand for rental housing.

SECTION 4.

Section 28-A of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

A. Purpose and Objectives.

The City Council finds it necessary to establish requirements and procedures for the control and approval of residential condominium new construction and residential condominium conversions. By their unique character and requirements, condominium and condominium conversion projects differ specifically from other subdivisions and apartments. The unique status of such projects tends to magnify the effects associated with higher urban densities to the point where they may lead to conditions of mismanagement, neglect, and blight that impact upon the public health, safety, welfare and economic prosperity of the City of Sacramento. Such projects may conflict with the policies of the City of Sacramento to provide a reasonable balance of rental and ownership housing within the City and within the City's neighborhoods, to provide a variety of individual choice of tenure, type, price and location of housing, and to insure an adequate supply of rental housing for low and moderate income persons and families.

It is also recognized, however, that such projects may benefit the City by providing a source of low and moderate income ownership housing. To insure that the problems are avoided in both the short and long term, while maximizing the benefits of such projects, it is the express intent of the City of Sacramento to treat such projects differently from the multiple-family dwellings or other structures which are not condominium new construction and condominium conversion projects in the City of Sacramento. This section is intended to apply only to residential condominium projects, both new construction and conversions, and to insure such projects are approved consistent with policies and objectives of the City of Sacramento, particularly the following:

1. to make adequate provision for the housing needs of all economic segments of the community;

2. to facilitate inhabitant ownership of residential units, while recognizing the need and providing for a reasonable balance of rental and ownership housing;

3. to help mitigate the impact of eviction for residents of rental units as a result of their units being converted to condominiums;

4. to inform existing tenants and prospective condominium purchasers of the construction or conversion applications, its overall impacts, and the physical conditions of the structure offered for purchase;

5. to insure that new units being constructed and rental units being converted to condominiums meet the reasonable physical standards as required by this section and all other Sacramento City Code provisions.

SECTION 5.

Section 28-C-1(1) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(1) In addition to the information required in (a) through (k) of this subsection, the City Council, City Planning Commission, or planning director may require additional information necessary to evaluate said conversion project in order to make proper findings in accordance with the purposes and objectives set forth in this subsection A of this Section, and as required by Subsection C-6 of this Section, the adopted City General Plan, or any specific or community plan or element thereof in effect at the time of such application. Such information may include, but shall not be limited to:

(i) An economic report comparing the units in the conversion project, as both rentals and ownership units, with housing available within the community plan areas affected by the project;

(ii) An economic report on proposed project unit costs, monthly association costs, and comparative rates City-wide;

(iii) An economic report on availability of comparable rental units at similar rental rates remaining within the affected community plan areas, including vacancy rate information;

(iv) A report outlining the available low and moderate income housing units (rental and sales housing) within the affected community plan areas;

(v) A report on the feasibility of providing all or a portion of the conversion units for sale to low and moderate income individuals or families;

(vi) A report on the feasibility of not converting a portion of the total units in order to retain them for rental occupancy;

(vii) Any additional information considered reasonable in determining housing needs, housing availability, costs, and housing impacts of the proposed conversion.

AMEND TO DUE

SECTION 6.

Section 28-C-1(m) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(m) The application for a special permit made pursuant to this subsection C shall be accompanied by a fee in an amount established by resolution of the City Council.

SECTION 7.

Section 28-C-3(i) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(i) No building constructed after the effective date of Ordinance No. 4305, Fourth Series, shall be permitted to be converted to condominium ownership unless the building was constructed in full compliance with all applicable building codes and the development standards contained in subsection D-2 of this Section, applicable to new condominium construction, in effect at the time of the last alteration, repair, relocation, or reconstruction of the building, or, if none, at the time of first construction.

SECTION 8.

Section 28-C-6(b) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(b) The Council shall not approve a special permit pursuant to this Section where it finds the apartment building or residential complex proposed for conversion represents a unique and needed rental

housing resource in the City or in the neighborhood, taking into consideration such factors as the need for a balanced rental-owner housing supply, current rental rates, the unavailability of comparable housing, and extraordinary tenant displacement problems which would result from conversion, in spite of the relocation assistance and mitigation measures offered by the applicant. In evaluating a project for purposes of this subsection, the City Planning Commission and City Council shall consider the rental history of the building, including the number and types of special category tenants over the preceding three (3) years, the number of unjust evictions, and the number of unreasonable rent increases.

SECTION 9.

Section 28-C-b(c) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(c) In evaluating an application for a special permit pursuant to this subsection C, the City Planning Commission and City Council shall consider the results of the tenant survey required by subsection C-1-k. If the Planning Commission or Council finds that less than a significant number of tenants have indicated their approval in principle to the proposed conversion, the Planning Commission or Council shall consider the nature and extent of tenant disapproval and shall reexamine the application with respect to the criteria for review and all other provisions of this Section to insure the proposed project complies.

SECTION 10.

Section 40.404(h) is hereby added to Chapter 40 of the Sacramento City Code to read as follows:

(h) With respect to tenantive maps for residential condominium conversion projects, the completed application for a special permit for such conversion project required by Section 28-C of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series.

SECTION 11. Emergency.

This ordinance is hereby declared to be an emergency measure to take effect immediately. The facts constituting the emergency are the expiration on March 26, 1980, of the existing moratorium on the conversion of residential structures to condominium ownership, the existence of numerous residential structures in the City of Sacramento which have been proposed for conversion to condominium ownership, and the need to insure, in the interests of the public health, safety and welfare, that the regulations contained in this ordinance take effect before the expiration of the moratorium and

are made applicable to all proposed residential condominium conversion projects.

ENACTED:

EFFECTIVE: :

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO.

FOURTH SERIES

AN ORDINANCE AMENDING SECTIONS 22-A-60(d), (f), (o), (p), (q), (r), and (s), 28-A, 28-C-1(l) and (m), 28-C-3(i), AND 28-C-6(b) AND (c) OF THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SACRAMENTO, ORDINANCE NO. 2550, FOURTH SERIES, AND ADDING SECTION 40.404(h) TO CHAPTER 40 OF THE SACRAMENTO CITY CODE, RELATING TO CONDOMINIUM CONVERSIONS, AND DECLARING SAID ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 22-A-60(d) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

~~(d) Building-of-Similar-Size All-residential-buildings with-two-(2)-three-(3)-or-four-(4)-dwelling-units-shall-be-deemed to-be-of-similar-size--All-residential-buildings-with-five-(5)-or more-dwelling-units-shall-be-deemed-to-be-of-similar-size~~
Reserved.

SECTION 2.

Section 22-A-60(f) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(f) Condominium. Condominium shall mean and include:

(1) "Condominium" as defined by Section 783 of the Civil Code;

(2) "Community Apartment Project" as defined by Section 11004 of the Business and Professions Code;

(3) "Stock Cooperative" as defined by Section 11003.2 of the Business and Professions Code; and,

(4) "Planned Development" as defined by Section 11003 of the Business and Professions Code.

(5) "Limited Equity Housing Cooperative" as defined by Section 11003.4 of the Business and Professions Code.

The term "condominium" specifically includes, but is not limited to the conversion of any existing structure for sale pursuant to a method described in subsections (1)-~~(4)~~ (5) of this subsection.

SECTION 3.

Sections 22-A-60-(o), (p), (q) and (r) of the Comprehensive Zoning Ordinance of the City of Sacramento are hereby amended to read as follows:

(o) Residential Condominium Project. Residential condominium project shall mean the new construction of a condominium project intended for residential occupancy, the conversion of a building used for multiple family rental housing to condominium ownership intended for residential or nonresidential occupancy, and the conversion of a nonresidential building to condominium ownership intended for residential occupancy.

~~(p)~~ (p) Special Category. Special category refers to persons or tenants who fall within one or more of the following categories:

- (1) Elderly, defined as individuals 62 years of age or older;
- (2) handicapped or disabled, as defined in Section 50072 of the California Health and Safety Code or Section 223 of the United States Social Security Act, 42 USC 423;
- (3) low income, as defined in subsection (l) above;
- (4) moderate income, as defined in subsection (m) above;
- (5) single heads of household residing with one or more minor children.

~~(q)~~ (q) Unjust Eviction. An unjust eviction is an eviction for other than one or more of the following reasons:

- (1) The tenant has failed to pay the rent to which the landlord is entitled;
- (2) the tenant has violated an obligation or covenant of the tenancy other than the obligation to surrender possession upon proper notice and has failed to cure such violation after receiving written notice thereof from the landlord.
- (3) the tenant is committing or permitting to exist a nuisance in, or is causing damage to, the rental unit or to the appurtenance thereof, or to the common areas of the property containing the rental unit, or is creating an unreasonable interference with the comfort, safety, or enjoyment of any of the other residents of the same or any adjacent building.
- (4) the tenant is using or permitting a rental unit to be used for any illegal purpose.

(5) the tenant who had a written lease or rental agreement which terminated on or after the effective date of this provision, has refused, after written request or demand by the landlord, to execute a written extension or renewal thereof for a further term of like duration with similar provisions and in such terms as are not inconsistent with or violative of any provisions of this subsection.

(6) the tenant has refused the landlord reasonable access to the unit for the purpose of making repairs or improvements, or for the purpose of inspection as permitted or required by the lease or by law, or for the purpose of showing the rental unit to any prospective purchaser or mortgagee.

(7) the person in possession of the rental unit at the end of a lease or rental term is a subtenant or assignee not approved by the landlord, where the lease or rental agreement requires approval by the landlord of any assignment or subtenancy.

~~¶~~ (r) Unreasonable Economic Hardship. Unreasonable economic hardship shall mean a hardship which renders the project economically infeasible and incapable of being accomplished in a successful manner within a reasonable period of time.

~~¶~~ (s) Unreasonable Rent Increase. Unreasonable rent increases refer to increases in rent that substantially exceed the housing component of the Consumer Price Index on an annualized basis and which cannot otherwise be justified by costs of physical improvements to the building or site, repairs for damages, taxes, or other expenses attributable to the operation of the building, or by changes in the market demand for rental housing.

SECTION 4.

Section 28-A of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

A. Purpose and Objectives.

The City Council finds it necessary to establish requirements and procedures for the control and approval of residential condominium new construction and ~~the residential condominium conversions of existing multiple-family rental housing and non-residential structures to residential condominiums.~~ By their unique character and requirements, condominium and condominium conversion projects differ specifically from other subdivisions and apartments. The unique status of such projects tends to magnify the effects associated with higher urban densities to the point where they may lead to conditions of mismanagement, neglect, and blight that impact upon the public health, safety, welfare and economic prosperity of the City of Sacramento. Such projects may conflict with the policies of the City of Sacramento to provide a reasonable balance of rental and ownership housing within the City and within the City's neighborhoods, to provide a variety of individual choice of tenure, type, price and location of housing, and to insure an adequate supply of rental housing for low and moderate income persons and families. It is also recognized, however, that such

projects may benefit the City by providing a source of low and moderate income ownership housing. To insure that the problems are avoided in both the short and long term, while maximizing the benefits of such projects, it is the express intent of the City of Sacramento to treat such projects differently from the multiple-family dwellings or other structures which are not condominium new construction and condominium conversion projects in the City of Sacramento. This section is intended to apply only to residential condominium projects, both new construction and conversions, and to insure that ~~proposed new construction of residential condominiums and residential condominium conversions~~ such projects are approved consistent with policies and objectives of the City of Sacramento, particularly the following:

1. to make adequate provision for the housing needs of all economic segments of the community;
2. to facilitate inhabitant ownership of residential units, while recognizing the need and providing for a reasonable balance of rental and ownership housing;
3. to help mitigate the impact of eviction for residents of rental units as a result of their units being converted to condominiums;
4. to inform existing tenants and prospective condominium purchasers of the construction or conversion applications, its overall impacts, and the physical conditions of the structure offered for purchase;
5. to insure that new units being constructed and rental units being converted to condominiums meet the reasonable physical standards as required by this section and all other Sacramento City Code provisions.

SECTION 5.

Section 28-C-1(1) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(1) In addition to the information required in (a) through (k) of this subsection, the City Council, City Planning Commission, or planning director may require additional information necessary to evaluate said conversion project in order to make proper findings in accordance with the purposes and objectives set forth in this subsection A of this Section, and as required by Subsection C-6 of this Section, the adopted City General Plan, or any specific or community plan or element thereof in effect at the time of such application. Such information may include, but shall not be limited to:

(i) An economic report comparing the units in the conversion project, as both rentals and ownership units, with housing available within the community plan areas affected by the project;

(ii) An economic report on proposed project unit costs, monthly association costs, and comparative rates City-wide;

(iii) An economic report on availability of comparable rental units at similar rental rates remaining within the affected community plan areas, including vacancy rate information;

(iv) A report outlining the available low and moderate income housing units (rental and sales housing) within the affected community plan areas;

(v) A report on the feasibility of providing all or a portion of the conversion units for sale to low and moderate income individuals or families;

(vi) A report on the feasibility of not converting a portion of the total units in order to retain them for rental occupancy;

(vii) A report on the amount of rental unit construction in the affected community plan areas over the preceding 2 years;

(viii) Any additional information considered reasonable in determining housing needs, housing availability, costs, and housing impacts of the proposed conversion.

SECTION 6

Section 28-C-1(m) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(m) The application for a special permit made pursuant to this subsection C shall be accompanied by a fee ~~of \$600~~ in an amount established by resolution of the City Council.

SECTION 7.

Section 28-C-3(i) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(i) No building constructed after the effective date of Ordinance No. 4305, Fourth Series, shall be permitted to be converted to condominium ownership unless the building was constructed in full compliance with all applicable building codes and the development standards contained in subsection D-2 of this Section, applicable to new condominium construction, in effect at the time of the last alteration, repair, relocation, or reconstruction of the building, or, if none, at the time of first construction.

SECTION 8.

Section 28-C-6(b) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(b) The Council shall not approve a special permit pursuant to this Section where it finds the apartment building or residential complex proposed for conversion represents a unique and needed rental housing resource in the City or in the neighborhood, taking into consideration such factors as the need for a balanced rental-owner housing supply, current rental rates, the unavailability of comparable housing, and extraordinary tenant displacement problems which would result from conversion, in spite of the relocation assistance and ~~purchase-incentive-programs~~ mitigation measures offered by the applicant. In evaluating a project for purposes of this subsection, the City Planning Commission and City Council shall consider the rental history of the building, including the number and types of special category tenants over the preceding three (3) years, the number of unjust evictions, and the number of unreasonable rent increases.

SECTION 9.

Section 28-C-b(c) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(c) In evaluating an application for a special permit pursuant to this subsection C, the City Planning Commission and City Council shall consider the results of the tenant survey required by subsection C-1-k. If the ~~City~~ Planning Commission or Council finds that less than a significant number of the tenants have indicated their approval in principle to the proposed conversion, the Planning Commission or Council shall consider the nature and extent of tenant disapproval and shall reexamine the application with respect to the criteria for review and all other provisions of this Section to insure the proposed project complies.

SECTION 10.

Section 40.404(h) is hereby added to Chapter 40 of the Sacramento City Code to read as follows:

(h) With respect to tentative maps for residential condominium conversion projects, the completed application for a special permit for such conversion project required by Section 28-C of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series.

SECTION 11. Emergency.

This ordinance is hereby declared to be an emergency measure to take effect immediately. The facts constituting the emergency are the expiration on March 26, 1980, of the existing moratorium on the conversion of residential structures to condominium ownership, the existence of numerous residential structures in the City of Sacramento which have been proposed for conversion to condominium

ownership, and the need to insure, in the interests of the public health, safety and welfare, that the regulations contained in this ordinance take effect before the expiration of the moratorium and are made applicable to all proposed residential condominium conversion projects.

ENACTED:

EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

22-7-C

ORDINANCE NO. 4328

FOURTH SERIES APPROVED BY THE CITY COUNCIL

AN ORDINANCE AMENDING SECTION 28 OF THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SACRAMENTO, ORDINANCE NO. 2550, FOURTH SERIES RELATING TO CONDOMINIUM CONVERSIONS AND ENFORCEMENT MECHANISMS AND DECLARING SAID ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

MAR 25 1980

OFFICE OF THE CITY CLERK

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO AS FOLLOWS:

SECTION 1.

Section 28, subsection C-5-(d) of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby amended to read as follows:

(d) Leases - Eligible Elderly or Handicapped Tenants

The applicant shall unconditionally offer each eligible tenant who is elderly or handicapped a written lease for a term of three (3) years. Each such lease shall provide that the tenant shall have four (4) successive options to renew the lease upon the same terms and conditions as each original lease required by this subsection. The rental for the first year of the original lease shall be the rental paid by the tenant on the date that the notice specified in subsection C-2-(a) is given; thereafter, the rental may be increased annually on the anniversary date of the lease, commencing with the first anniversary date; provided, however, that the increased rental shall not exceed the fair market rental established by the U. S. Department of Housing and Urban Development for comparable assisted units.

Each such lease shall further provide that the tenant shall have no power or right to assign the lease, or to sublease the premises or any portion thereof, and that upon the death of the tenant, the lease shall terminate. Any lease provision which violates the provisions of this subsection shall be void, and the balance of the lease shall be valid and enforceable. To the extent that such lease shall not expressly contain the provisions required by this subsection, said provisions shall be deemed to be incorporated in full therein. Any tenant who has paid rent in excess of the maximum rental specified by this subsection shall be entitled to a refund in the amount of the excess payment. Such tenants may elect to deduct the amount of the refund due them from future rent payments, provided notice is given in advance as to the intention to do so.

SECTION 2.

Section 28, subsection C-5-(e) (i) of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby amended to read as follows:

(e) Anti-discrimination

(i) The applicant or owner of any condominium unit within a project shall not directly or indirectly discriminate in the sale, or in the terms and conditions of sale, of any dwelling unit against any person who is or was a tenant or lessee of any such dwelling unit prior to the granting of the special permit, because such person opposed, in any manner, the conversion of the unit or building into a condominium. No tenant who has been so discriminated against may be unjustly evicted, and the provisions of C-5-(1) of this ordinance shall apply to such tenant.

SECTION 3.

Section 28, subsection C-5-(f) of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby amended to read as follows:

(f) Preconversion Protection

From the date of giving notice of intent to convert pursuant to subsection C-2-(a) of this section until relocation takes place or the application is denied or withdrawn, but in no event for more than two (2) years, no tenant shall be unjustly evicted and no tenant's rent shall be increased (1) more frequently than once every six months nor (2) in an amount greater than the increase in fair market rents as established by the Department of Housing and Urban Development for assisted units, on an annualized basis, for the same period. This limitation shall not apply if rent increases are expressly provided for in leases or contracts in existence prior to the filing date of the special permit. A tenant who has paid rent in excess of the maximum rental payment specified by this subsection shall be entitled to a refund in the amount of the excess payment. Such tenants may elect to deduct the amount of the refund due them from future rent payments, provided notice is given in advance to the landlord as to intention to do so.

SECTION 4.

Section 28, subsection C-5-(k) of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby amended to read as follows:

(k) After notice of intent to convert is given pursuant to subsection C-2-(a) of this section, any prospective tenants shall be notified in writing of the intent to convert prior

to leasing or renting any unit and place not to be subject to the provisions of (f) above. Any tenant who is not so notified shall be deemed to be an eligible tenant entitled to relocation benefits pursuant to (b) above.

SECTION 5.

Section 28-C-5(1) is hereby added to the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, to read as follows:

(1) Remedies

In addition to any other remedy specified in this section, and cumulative with any other remedy available to tenants at law or in equity, any tenant who is a defendant in an action to recover possession, and who is otherwise entitled to the benefits of this section, shall be entitled to defend such action upon the ground of a violation by the applicant or the owner or landlord of the provisions of C-5 of this section.

In addition to any other remedy specified in this section, and cumulative with any other remedy available at law or in equity, any person aggrieved by a violation of subsections C-5-(b), C-5-(c), C-5-(e), C-5-(h), C-5-(i), and C-5-(j) shall have a cause of action against the applicant for all actual damages suffered by such person as a direct consequence of any such violation.

In addition to any other remedy available to it in law or equity, the City shall have the remedies specified in Sections 15-F-2, 3 and 4 and Section 19-D of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series. Additionally, the provisions of Section 19-E shall be applicable.

SECTION 6. Emergency.

This ordinance is hereby declared to be an emergency measure to take effect immediately. The facts constituting the emergency are the expiration on March 26, 1980, of the existing moratorium on the conversion of residential structures to condominium ownership, the existence of numerous residential structures in the City of Sacramento which have been proposed for conversion to condominium ownership, and the need to insure, in the interests of the public health, safety and welfare, that the regulations contained in this ordinance take effect before the expiration of the moratorium and are made applicable to all proposed residential condominium conversion projects.

ENACTED:
EFFECTIVE:

MAYOR

ATTEST:

ORDINANCE NO.

FOURTH SERIES

AN ORDINANCE AMENDING SECTION 28 OF THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SACRAMENTO, ORDINANCE NO. 2550, FOURTH SERIES RELATING TO CONDOMINIUM CONVERSIONS AND ENFORCEMENT MECHANISMS AND DECLARING SAID ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO AS FOLLOWS:

SECTION 1.

Section 28, subsection C-5-(d) of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby amended to read as follows:

(d) Life-term Leases - Eligible Elderly or Handicapped Tenants

The applicant shall unconditionally offer each eligible tenants tenant who are is elderly or handicapped leases-fer-a-term-of 59-years.--The-rent-at-the-beginning-of-the-term-shall-be-the time-the-special-permit-fer-conversion-is-granted.--The-leases shall-provide-the-annual-rent-increases-shall-not-exceed-annual increases-in-fair-market-rent-as-established-by-the-Department for-assisted-units,-that-the-lease-may-be-terminated-upon-mutual consent-of-the-parties-or-upon-the-death-of-the-tenant,-and-that the-lease-shall-not-be-assignable. a written lease for a term of three (3) years. Each such lease shall provide that the tenant; shall have four (4) successive options to renew the lease upon the same terms and conditions as each original lease required by this subsection. The rental for the first year of the original lease shall be the rental paid by the tenant on the date that the notice specified in subsection C-2-(a) is given; thereafter, the rental may be increased annually on the anniversary date; provided, however, that the increased rental shall not exceed the fair market rental established by the U.S. Department of Housing and Urban Development for comparable assisted units. Each such lease shall further provide that the tenant shall have no power or right to assign the lease, or to sublease the premises or any portion thereof, and that upon the death of the tenant, the lease shall terminate. Any lease provision which violates the provisions of this subsection shall be void, and the balance of the lease shall be valid and enforceable. To the extent that such lease shall not expressly contain the provisions required by this subsection, said provisions shall be deemed to be incorporated in full therein. Any tenant who has paid rent in excess of the maximum rental specified by this subsection shall be entitled to a refund in the amount of the excess payment. Such tenants may elect to deduct the amount of the refund due them from future rent payments, provided notice is given in advance as to the

intention to do so.

SECTION 2.

Section 28, subsection C-5-(e) (i) of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby amended to read as follows:

(e) Anti-discrimination

(i) The applicant or owner of any condominium unit within a project shall not directly or indirectly discriminate in the sale, or in the terms and conditions of sale, of any dwelling unit against any person who is or was a lessee or tenant of any such dwelling unit prior to the granting of the special permit, because such person opposed, in any manner, the conversion of such building into a condominium. No tenant who has been so discriminated against may be unjustly evicted, and the provisions of C-5-(1) of this ordinance shall apply to such tenant.

SECTION 3.

Section 28, subsection C-5-(f) of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby amended to read as follows:

(f) Preconversion Protection

From the date of giving notice of intent to convert pursuant to subsection C-2-(a) of this Section until relocation takes place or the application is denied or withdrawn, but in no event for more than two (2) years, no tenant shall be unjustly evicted and no tenant's rent shall be increased (1) more frequently than once every six months nor (2) in an amount greater than the increase in fair market rents as established by the Department of Housing and Urban Development for assisted units, on an annualized basis, for the same period. This limitation shall not apply if rent increases are expressly provided for in leases or contracts in existence prior to the filing date of the special permit. A tenant who has paid rent in excess of the maximum rental payment specified by this subsection shall be entitled to a refund in the amount of the excess payment. Such tenants may elect to deduct the amount of the refund due them from future rent payments, provided notice is given in advance to the landlord as to intention to do so.

SECTION 4.

Section 28, subsection C-5-(k) of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby amended to read as follows:

(k) After notice of intent to convert is given pursuant to subsection C-2-(a) of this Section, any prospective tenants shall

be notified in writing of the intent to convert prior to leasing or renting any unit and shall not be subject to the provision of (f) above. Any tenant who is not so notified shall be deemed to be an eligible tenant entitled to relocation benefits pursuant to (b) above.

SECTION 5.

Section 28-C-5(1) is hereby added to the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, to read as follows:

(1) Remedies

In addition to any other remedy specified in this section, and cumulative with any other remedy available to tenants at law or in equity, any tenant who is a defendant in an action to recover possession, and who is otherwise entitled to the benefits of this section, shall be entitled to defend such action upon the ground of a violation by the applicant or the owner or landlord of the provisions of C-5 of this section.

In addition to any other remedy specified in this section, and cumulative with any other remedy available at law or in equity, any person aggrieved by a violation of subsection C-5-(b), C-5-(c), C-5-(e), C-5-(h), C-5-(i) and C-5-(j) shall have a cause of action against the applicant for all actual damages suffered by such person as a direct consequence of any such violation.

In addition to any other remedy available to it in law or equity, the City shall have the remedies specified in Sections 15-F-2, 3, and 4 of Section 19-D of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series. Additionally, the provisions of Section 19-E shall be applicable.

SECTION 6. Emergency.

This ordinance is hereby declared to be an emergency measure to take effect immediately. The facts constituting the emergency are the expiration on March 26, 1980, of the existing moratorium on the conversion of residential structures to condominium ownership, the existence of numerous residential structures in the City of Sacramento which have been proposed for conversion to condominium ownership, and the need to insure, in the interests of the public health, safety and welfare, that the regulations contained in this ordinance take effect

before the expiration of the moratorium and are made applicable to all proposed residential condominium conversion projects.

ENACTED:

EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. 4327 FOURTH SERIES

AN ORDINANCE AMENDING SECTIONS 28-C-1(i), 28-C-(5)(b), and 28-C-6-a(iii) OF THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SACRAMENTO, ORDINANCE NO. 2550, FOURTH SERIES, RELATING TO RELOCATION ASSISTANCE IN CONDOMINIUM CONVERSION PROJECTS AND DECLARING SAID ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

APPROVED BY THE CITY COUNCIL

MAR 25 1980

OFFICE OF THE CITY CLERK

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO AS FOLLOWS:

SECTION 1.

Section 28-C-1(i) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(i) A detailed report describing the relocation assistance to be given to each eligible tenant and the availability of comparable replacement housing for each eligible tenant. Comparable replacement housing shall be as defined in Section 28-C-6-a(iii).

SECTION 2.

Section 28-C-5-(b) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(b) Relocation Assistance

The applicant shall provide the following relocation assistance to each eligible tenant:

(i) Assistance in locating comparable replacement housing, as defined in Section 28-C-6-a(iii), which shall include, but not be limited to, providing a report on the availability of comparable housing units and providing transportation for eligible tenants, where necessary, in connection with the relocation.

(ii) Payment of a relocation fee to each eligible tenant. The relocation fee shall consist of the payment of actual moving costs to relocate the tenant's personal property including the following specific costs: insurance, boxes, packing, transportation, and unpacking. In lieu of this requirement, the eligible tenant may, at his or her option, accept a cash payment of \$300.00 if the tenant is relocating from an unfurnished housing unit or \$200.00 if the tenant is relocating from a furnished housing unit. If the eligible tenant is relocating to an area outside the Sacramento Standard

Metropolitan Statistical Area, the tenant shall be entitled only to the cash payment of \$300.00 or \$200.00, whichever is applicable. An eligible tenant is not entitled to a relocation fee pursuant to this subsection if the tenant has been evicted for just cause.

(iii) In the case of eligible tenants who are elderly, handicapped, low-income, or single heads of households living with one or more minor children, relocation assistance shall include the following additional measures:

a. the payment of last month's rent for the new housing unit, if required upon moving in;

b. the transfer of all key, utility, pet, cleaning, and security deposits, minus damages, to the new housing unit or the refund of all or a part of said deposits, minus damages, to the eligible tenant, at the option of the tenant;

c. the payment of the difference, if any, between the amount of all deposits and fees required upon moving in to the new housing unit and the amounts transferred for or refunded to the eligible tenant pursuant to this subsection, plus damages;

d. the payment of a rent subsidy for a period of one year in the amount of the difference, if any, between the rent of the new housing unit and the rent for the unit occupied by the eligible tenant; provided, that the applicant shall not be required to pay more than \$100 per month for the rent subsidy;

e. the right of each tenant not to be unjustly evicted, as defined in Section 22-A-60(p), and not to have the rent for the unit unreasonably increased until the tenant is actually relocated to a comparable housing unit.

SECTION 3.

Section 28-C-6-a-(iii) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(iii) That there exists adequate comparable replacement housing for each eligible tenant in the building proposed for conversion. In determining whether the housing to which the applicant proposed for relocation is "comparable" the Council must find that the housing is decent, safe, and sanitary, and in compliance with all local and state housing codes; and, that the housing is open to all persons regardless of race, creed, national origin, ancestry, religion, marital status, or gender. In addition, the Planning Commission and Council shall consider the following factors in determining whether the relocation housing is comparable:

a. Whether the housing is provided with facilities equivalent to that provided by the landlord in the dwelling unit in

which the tenant then resides in regard to each of the following:
a) apartment size including number of rooms; b) rent range; c) major kitchen and bathroom facilities; d) special facilities for the handicapped, infirmed or senior citizens; 3) willingness to accept families with children;

b. Whether the housing is located in an area not less desirable than the area in which the tenant then resides in regard to a) accessibility to the tenant's place of employment; b) accessibility to community and commercial facilities; c) accessibility to schools; and d) accessibility to transportation.

A unit is not comparable if it is located in a building for which a notice of intent to convert has been given, pursuant to subsection C-2-a of this Section, except where the rental units of the building will not be offered for sale as condominium units within two (2) years.

SECTION 4.

This ordinance is hereby declared to be an emergency measure to take effect immediately. The facts constituting the emergency are the expiration on March 26, 1980, of the existing moratorium on the conversion of residential structures to condominium ownership, the existence of numerous residential structures in the City of Sacramento which have been proposed for conversion to condominium ownership, and the need to insure, in the interests of the public health, safety and welfare, that the regulations contained in this ordinance take effect before the expiration of the moratorium and are made applicable to all proposed residential condominium conversion projects.

ENACTED:

EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO.

FOURTH SERIES

AN ORDINANCE AMENDING SECTIONS 28-C-1(i), 28-C-(5)(b), AND 28-C-6-a(iii) OF THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SACRAMENTO, ORDINANCE NO. 2550, FOURTH SERIES, RELATING TO RELOCATION ASSISTANCE IN CONDOMINIUM CONVERSION PROJECTS AND DECLARING SAID ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 28-C-1(i) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(i) A detailed report describing the relocation and moving assistance information to be given to each eligible tenant and the steps the applicant will take to ensure the successful relocation of each tenant pursuant to subsection 6-5-b of this Section. The report should state in detail what assistance will be provided special category tenants, including a discussion of long-term leases and provisions to allow such tenants to continue renting after conversion until comparable housing is located and the move can be completed availability of comparable replacement housing for each eligible tenant. Comparable replacement housing shall be as defined in Section 28-C-6-a(iii).

SECTION 2.

Section 28-C-5-(b) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

(b) Relocation Assistance

The applicant shall unconditionally offer to each provide the following relocation assistance to each eligible tenant:

The relocation plan shall provide, at a minimum, for the following:

(i) Assistance to each eligible tenants in locating comparable replacement housing, including but not limited to providing availability reports and transportation, where necessary, as defined in Section 28-C-6-a(iii), which shall include, but not be limited to, providing a report on the availability of comparable housing units and providing transportation for eligible tenants, where necessary, in connection with the relocation.

(ii) Payment of a relocation fee to each eligible tenant. The relocation fee shall consist of the payment of actual moving costs to relocate the tenant's personal property including the following specific costs: insurance, boxes, packing, transportation, and unpacking. In lieu of this requirement, the eligible tenant may, at his or her option, accept a cash payment of \$300.00 if the tenant is relocating from an unfurnished apartment housing unit or \$200.00 if the tenant is relocating from a furnished apartment housing unit. If the eligible tenant is relocating to an area outside the Sacramento Standard Metropolitan Statistical Area, the tenant shall be entitled only to the cash payment of \$300.00 or \$200.00, whichever is applicable. An eligible tenant is not entitled to a relocation fee pursuant to this subsection if the tenant has been evicted for just cause.

(iii) In the case of eligible tenants who are elderly, handicapped, low-income, or single heads of households living with one or more minor children, ~~the following additional provisions must be made~~ relocation assistance shall include the following additional measures:

a. ~~the payment of last month's rent in for the new complex housing unit, if required upon moving in; and the transfer to the new complex of all key, utility, and pet deposits to which the tenant is entitled upon vacating the unit. Cleaning and security deposits, minus damages, shall be refunded to the tenant upon vacating the unit.~~

b. ~~In lieu of the transfer of deposits to the new complex, the tenant may, at his or her option, elect to be~~ the transfer of all key, utility, pet, cleaning, and security deposits, minus damages, to the new housing unit or they refunded of all deposits to which he or she is entitled, or a part of said deposits, minus damages, to the eligible tenant, at the option of the tenant;

c. ~~If the amount of deposits and other fees required upon moving in to the new complex exceed the amounts refunded to the tenant and transferred to the new complex, plus damages, the applicant shall pay the difference.~~ the payment of the difference, if any, between the amount of all deposits and fees required upon moving in to the new housing unit and the amounts transferred for or refunded to the eligible tenant pursuant to this subsection, plus damages;

~~(iv) In the case of eligible special category tenants, the following additional provisions must be made:~~

a. ~~Where the rent for the comparable unit into which the tenant moves is higher than the rent for the unit the tenant occupied in the conversion project the applicant shall pay the difference for a period of one year from the date of relocation.~~

d. the payment of a rent subsidy for a period of one year in the amount of the difference, if any, between the rent of the new housing unit and the rent for the unit occupied by the eligible tenant; provided, that the applicant shall not be required to pay more than \$100 per month for the rent subsidy;

~~b. Until each tenant is successfully relocated, the~~

e. the right of each tenant shall not to be unjustly evicted, as defined in Section 22-A-60(p), and not to have the rent for the unit unreasonably increased from the unit presently occupied in the conversion project, until the tenant is actually relocated to a comparable housing unit.

SECTION 3.

Section 28-C-6-a-(iii) of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby amended to read as follows:

~~(iii) That the application has unconditionally offered to each eligible tenant an adequate plan for relocation to comparable housing in compliance with subsection C-5-(b) of this Section.~~ there exists adequate comparable replacement housing for each eligible tenant in the building proposed for conversion. In determining whether the housing to which the applicant proposes for relocation is "comparable" the Council must find that the housing is decent, safe, and sanitary, and in compliance with all local and state housing codes; and, that the housing is open to all persons regardless of race, creed, national origin, ancestry, religion, marital status, or gender. In addition, the Planning Commission and Council shall consider the following factors in determining whether the relocation housing is comparable:

a. Whether the housing is provided with facilities equivalent to that provided by the landlord in the dwelling unit in which the tenant then resides in regard to each of the following:
a) apartment size including number of rooms; b) rent range;
c) major kitchen and bathroom facilities; d) special facilities for the handicapped, infirmed or senior citizens; e) willingness to accept families with children;

b. Whether the housing is located in an area not less desirable than the area in which the tenant then resides in regard to a) accessibility to the tenant's place of employment; b) accessibility to community and commercial facilities; c) accessibility to schools; and d) accessibility to transportation. ~~and e) environmental quality and related conditions.~~

A unit is not comparable if it is located in a building for which a notice of intent to convert has been given, pursuant to subsection C-2-a of this Section, except where the rental units of the building will not be offered for sale as condominium units within two (2) years.

SECTION 4. Emergency.

This ordinance is hereby declared to be an emergency measure to take effect immediately. The facts constituting the emergency are the expiration on March 26, 1980, of the existing moratorium on the conversion of residential structures to condominium ownership, the existence of numerous residential structures in the City of Sacramento which have been proposed for conversion to condominium ownership, and the need to insure, in the interests of the public health, safety and welfare, that the regulations contained in this ordinance take effect before the expiration of the moratorium and are made applicable to all proposed residential condominium conversion projects.

ENACTED:

EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

RESOLUTION NO.

Adopted by The Sacramento City Council on date of

MARCH 25, 1980

A RESOLUTION AMENDING THE HOUSING ELEMENT OF THE GENERAL PLAN RELATING TO CONDOMINIUM CONVERSIONS

WHEREAS, the City Council has enacted and established requirements and procedures for the control and approval of the conversion of existing multiple family rental housing and non-residential structures to residential condominiums; and

WHEREAS, the City Council finds it necessary to amend said requirements and procedures with respect to the purchase incentive provisions; and

WHEREAS, the General Plan of the City of Sacramento is the comprehensive policy statement concerning the planning and zoning controls exercised by the City over private development; and

WHEREAS, the Subdivision Map Act, Government Code Section 66410 et seq., requires the General Plan of the City to contain definite objectives and policies specifically directed to the conversion of existing buildings into condominium ownership in order for certain provisions of the Map Act to apply;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

That the Housing Element of the General Plan of the City of Sacramento is hereby amended by repealing that Section entitled Goals 15.

SECTION 2.

That the Housing Element of the General Plan of the City of Sacramento is hereby amended by revising that Section entitled Policies 1-k and 1-l to read as follows:

1-k - Requiring condominium conversion applicants to provide adequate relocation assistance to tenants in multiple family residential buildings proposed for conversion to condominiums.

1-l - Encouraging all condominium conversion projects located in areas with an applicable vacancy rate of 5% or less to make condominium units available and affordable to eligible tenants of low or moderate income.

FILED
By the City Council
Office of the City Clerk

MAYOR

ATTEST:

MAYOR

MAR 25 1980

S.T.A.

22

SACRAMENTO TENANTS ASSOCIATION

1107 - 9th Street, Suite 910 • Sacramento, California 95814 • (916) 448-2544

TO: Members, Sacramento City Council

RE: Draft Condominium Conversion Ordinance

DATE: March 25, 1980

On behalf of the tenants in the City of Sacramento, we respectfully urge the adoption of a protective ordinance and ask consideration of the following comments on inclusionary and ratio-retention requirement, vacancy rate standard, and just cause for eviction protection.

(1) WE URGE THE REINSTATEMENT OF THE PROVISION REQUIRING A 10% SET-ASIDE, IN ADDITION TO THE "RATIO-RETENTION" PROVISION.

A 10% set-aside would partially mitigate the double threat of conversions and the unique process of conversions justifies such a requirement. As the resolution and draft ordinance state, conversion projects differ specifically from other projects. Converters do not build any units but simply convert from one type of ownership to another. Proponents of conversion consistently maintain that the principal benefit of conversions is the opportunity for low and moderate income ownership opportunity. Hopefully this is true and in any conversion at least 10% of the units would be affordable to these households; an inclusionary requirement would only insure the City of this intended benefit.

Further, the housing needs in Sacramento far outweigh a 10% set-aside. Low-income persons comprise an astounding 57.4% of the City's population. When measured as the necessity to pay more than 25% of gross income for housing, 16,000 owner households and 36,400 renter households have a serious housing problem in the SMSA Sacramento area. This need is also reflected in the Housing Authority waiting list which was 3,471 in 1979.

At a minimum, the ratio-retention provision should be retained. Throughout the committee process and commission hearings, this provision was supported by developer and tenants alike. The dispute centered only around the additional requirement of a 10% set-aside. Since affordable rental housing was recognized as a unique resource and conversion was recognized as a unique process, the purchase incentive program was adopted, in addition to any relocation benefits provided. STA feels that if the program is not acceptable as is, staff should recommend workable alternatives to carry out the intent of the subcommittee, Housing Element committee, and the Planning Commission. The cities of Santa Monica, San Francisco, and Marin County address these concerns in their conversion ordinances which could be used

as models. Again, we emphasize the intent of this provision, which was to insure the maintenance of affordable housing, either rental or ownership.

(2) WE URGE THE COUNCIL TO RETAIN THE FIVE PERCENT STANDARD. IF A CHALLENGE IS ALLOWED, THE SAME STANDARD SHOULD APPLY. ADDITIONALLY, A TENANT AS WELL AS AN OWNER SHOULD BE ALLOWED TO CHALLENGE THE DETERMINED RATE.

At the January 8 meeting, Council directed staff to review the method of determination of vacancy rate. In its report, staff cites the HUD vacancy survey as the best available source. The HUD source should be viewed as an impartial one, favorable on its face to neither the tenant or owner. Yet in its report, the staff seems to back away from the five percent standard, by allowing an owner to challenge the rate and demonstrate that it is as low as 4%. In effect, 4% becomes the controlling vacancy standard.

STA feels that the provision allowing for "effective mitigation" already gives the owner a one percent variance not allowed to the tenants. If the Council feels that a challenge should also be allowed, we suggest the following: first, the controlling standard should remain at five percent and; second, the tenant should be allowed to challenge the City's rate. If the owner wishes to challenge, he must demonstrate that the rate is in fact above five, and not four percent. The tenant must demonstrate that the rate is in fact below five. This seems only fair.

In addition, we would like to see "effective mitigation" clearly defined in the law. If this five percent vacancy standard is to be meaningful, then clearly any mitigation proposed by the developer, if the rate is below five, must be above and beyond that which is already required in the ordinance. Perhaps, "adverse impact on housing stock" should be specified as "adverse impact on rental housing stock". Any proposed mitigation must address this concern to maintain the overall balance of rental/ownership housing.

(3) WE URGE RETAINING THE "JUST CAUSE" PROVISION FOR EVICTIONS FOR ALL TENANTS, AND NOT ONLY LOW-INCOME AND SPECIAL CATEGORY TENANTS.

The purpose of the just cause for eviction provision is to insure that every eligible tenant is not evicted before receiving any benefits. Of course, if the tenant does not meet his or her duties, then he or she is not entitled. Since all eligible tenants are provided some benefits, this protection must be afforded to them, and not only the low income and special category tenant. We disagree with the City Attorney that there is no "rational basis" for protecting all tenants from "unjust" evictions.