

Condominium Conversion Ordinance



Berkeley City Council
Workshop Session
November 6, 2007

Summary

- Why Condominium Conversion?
- Goals of the current Condominium Conversion Ordinance (CCO)
- Staff experience administering the CCO
- Staff recommendations for revising the CCO

Why Condominium Conversion?

- Process for how ownership form may be converted to condominiums
- Bestows a right on property owners
- Strong economic incentive for conversion to ownership

Impacts of Condominium Conversion

- Conversion can displace tenant households
- Reduces the supply and affordability of remaining affordable rental housing stock

Benefits of Condominium Conversion vs TIC

- Tenants-in-Common (TICs) unregulated (*Tom* decision)
 - Easier to implement than condo conversion (especially pre-2005 law)
 - Riskier as an investment opportunity; lower value than condos
- Condominiums regulated, mitigation required
 - Require conversion fees
 - Tenant protections

Goals of Berkeley's Condominium Conversion Ordinance (CCO)

- Since 2005, the City's CCO seeks to balance three goals:
 - Encourage condominium conversion over TICs as preferable form of real estate investment in ownership housing
 - Protect sitting tenants from evictions for owner-occupancy
 - Mitigate loss of affordable rental housing by imposing fee on condominium conversions

Administering the CCO

- Grafted onto a CCO used to discourage condominium conversions.
- Slow start up
 - Forms, application procedures (now on web), fee estimating tool, guidelines for Local Law Compliance, legal document preparation, overall coordination
 - Interdepartmental working group to coordinate, interpret ordinance and streamline process

City Council Questions on Condominium Conversion

- Where are mitigation fee revenues?
- Is the 12.5 percent mitigation fee rate on conversions appropriate?
- Is the 100-unit annual quota on conversions appropriate?
- Reduce length and complexity of process?

Fee Status of Applications

- Of 15 applications for 64 units now in Housing Department
 - 6 units exempt from fee; 13 units eligible for sliding scale fee reduction
 - 5 investor-owned properties (27 units) to pay mitigation fees at sale (\$1.35 M to trust fund, assuming average of \$400,000 per unit)
 - Remainder undergoing processing (18 units for which status not yet determined)

Staff Recommendation: Mitigation Fee

- Retain the 12.5% mitigation fee rate
 - Few objections voiced from applicants to the fee rate
 - Sliding scale on fee rate for owner-occupants fees are reduced for long-term occupants
 - No further sensitivity analysis conducted

Staff Recommendation: Quota

- Retain the 100-unit per year quota on conversion application processing but eliminate selection step
 - Application volume below 100 this year
 - Process map applications on first-come, first-served basis
 - Require tenant information in map application to assess applicant eligibility and tenants' rights issues at the start

Staff Recommendation: Local Law Compliance

- Retain scope of Local Law Compliance (LLC), including work done without permits
 - Consistent with other cities
 - Protects all occupants
- Change *timing* for LLC: Allow applicant corrections prior to final map approval
 - Instead of prior to map application submittal

Staff Recommendation: Tenant Protections

- Limit 10-year prohibition on converting after owner-occupancy evictions to those occurring after October 27, 2005
- Prohibit applicants from opting out of Section 8 contracts except for cause for a specified number of years
- Allow owner-occupied buildings with tenants to convert, provided rents were not raised more than 10% in any of the five years preceding filing of conversion

Staff Recommendations: Other

- Modify application fees to cover Planning staff processing costs
- Facilitate affordable housing mitigation by providing program delivery and monitoring revenue from mitigation fee receipts
- Require posting of large yellow signs

Council Direction Requested

- Reorganized and “cleaner” ordinance, December
- Staff recommendations, December
- Analysis of and recommendation to enhance effectiveness of tenants’ right of first refusal to purchase their units, March 2008.
- Up-front mitigation fee payment options, March 2008