



Office of the City Manager

PUBLIC HEARING
May 16, 2017

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Paul Buddenhagen, Director, Health, Housing & Community Services
 Subject: Application Fee for Requests to Subordinate City Condominium Conversion Requirements to Other Financing

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt a Resolution establishing a new application fee of \$364 for requests to subordinate City condominium conversion requirements to other financing.

FISCAL IMPACTS OF RECOMMENDATION

City staff anticipate five or fewer condominium conversion subordination requests per year going forward, meaning fee revenue of up to \$1,800. The amount of the fee is based on an estimate of four hours of labor by an Associate Planner. Historically the City has provided this service at no cost to the owner. Fees will be collected in account 258-8151-341-9905 and program costs will be expensed to account 258-8005-463-various.

Comparison of costs and fees

Current cost of handling condominium conversion subordinations	\$364 per subordination
Current fee revenue	\$0
Proposed FY 2018 fees	\$364 per subordination

The proposed fee schedule is included as Exhibit A.

CURRENT SITUATION AND ITS EFFECTS

From time to time, owners with condominium conversion documents recorded against their properties request that the City enter into a subordination agreement when they refinance their bank loan. In the past, City staff have provided this service at no charge.

To review subordination requests, staff must review the loan terms and current project information, review questions and unusual circumstances with the City Attorney's office, prepare the agreement using a City boilerplate or write a letter denying the request, coordinate with the buyer, and manage the City's execution of the agreement. Typically the requests are time-sensitive due to bank financing timing. The majority of owners

who do not refinance would avoid the fee. Owners who choose to refinance could evaluate the City's subordination fee along with other refinancing costs to determine whether refinancing is cost effective.

BACKGROUND

The City's condominium conversion ordinance allows owners to convert their properties into condominiums subject to certain conditions, including paying a mitigation fee for removing housing from the rental market (BMC 21.28). The ordinance includes protections for existing tenants and allows owners to pay a discounted mitigation fee at the time they subdivide the property or wait until they sell the property at a later date to pay. Mitigation fees collected are deposited into the Housing Trust Fund.

Tenant-occupied condominiums and condominiums for which the owner has chosen to defer payment of the fee have regulatory agreements recorded on the title for the property. If an owner chooses to refinance, their lender may ask that the City enter into a subordination agreement in order to protect the bank loan's position. It is possible that subordinations will taper off, since the Federal Reserve has indicated it will continue to raise interest rates. However, the City's portfolio of units with condo conversion agreements continues to grow.

At its March 2, 2017 meeting, the HAC made the following recommendations to Council on HHCS's proposed fees:

Action: M/S/C (Wolfe/Lord)

- to concur with staff's recommendation that fees be charged for BMR compliance, to express concern about the financial feasibility of new construction with a \$10,000 fee for new BMR projects to be imposed regardless of project size,
- to express concern about an annual fee of \$600 per unit per year for BMR monitoring,
- to recommend including hardship waiver language in the loan subordination fee,
- to recommend to staff to review options for streamlining compliance to increase the efficiency of the BMR program,
- to recommend that the Planning Department and Rent Stabilization Board be consulted with regard to Condominium Conversion program fees, and
- to recommend outreach to affected property owners.

Vote: Ayes: Crandall, Harrison, Johnson, Lord, Martinucci, Slaughter, Tregub, and Wolfe. Noes: None. Abstain: None. Absent: None.

While Berkeley's condo conversion program is unique, other cities routinely charge homeowners for the preparation of subordination agreements, typically related to city loans. Examples identified include San Jose (\$280), Oakland (\$440), and San Francisco (\$580).

ENVIRONMENTAL SUSTAINABILITY

There are no immediate environmental effects associated with the adoption of this fee.

RATIONALE FOR RECOMMENDATION

HHCS has provided its services for no cost. These services are currently paid for by General Funds in the Housing Services unit budget, which are also needed to support the below market rate housing program.

ALTERNATIVE ACTIONS CONSIDERED

The City could continue to perform the tasks without charging homeowners. This program would continue to compete with the Below Market Rate housing program for General Fund-paid staffing.

CONTACT PERSON

Amy Davidson, Senior Community Development Project Coordinator, Health, Housing & Community Services, (510) 981-5406

Attachments:

1: Resolution

Exhibit A: Condominium Conversion Subordination Fee Schedule

2: Public Hearing Notice

RESOLUTION NO. ##,###-N.S.

ADOPTING A CONDOMINIUM CONVERSION SUBORDINATION FEE SCHEDULE

WHEREAS, Berkeley Municipal Code section 21.28, the Condominium Conversion Ordinance, allows property owners to subdivide rental properties under certain conditions; and

WHEREAS, the Department of Health, Housing & Community Services provides staffing to implement the requirements of the Condominium Conversion Ordinance; and

WHEREAS, Berkeley Municipal Code section 21.28.120 allows the City Council to set fees for the administration and implementation of the ordinance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City adopts the Department of Health, Housing & Community Services (HHCS) condominium conversion application fee schedule attached as Exhibit A.

BE IT FURTHER RESOLVED that the fee schedule will remain valid for an HHCS successor agency, if any.

Exhibits

A: Condominium Conversion Subordination Application Fee Schedule

May 16, 2017

Exhibit A: Condominium Conversion Subordination Application Fee Schedule

Fee	Amount
Condominium Conversion Subordination Application Fee	\$364

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

**ADOPTING A NEW CONDOMINIUM CONVERSION SUBORDINATION
APPLICATION FEE**

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Health, Housing & Community Services is proposing the adoption of a new application fee for requests under the Condominium Conversion program to subordinate City requirements to other financing.

Current Fees

\$0

Proposed Fees

\$364

The hearing will be held on May 16, 2017, at 7:00 p.m. in the City Council Chambers, 2134 Martin Luther King, Jr. Way.

For further information, please contact Amy Davidson at (510) 981-5406.

A copy of the agenda material for this hearing will be available on the City’s website at www.CityofBerkeley.info as of **May 4, 2017**.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 12 days prior to the public hearing.

Published: May 5, 2017 and May 12, 2017 – Berkeley Voice



I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City's website, on May 4, 2017.

Mark Numainville, City Clerk

