



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: Condominium Conversion Application Fee

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt a Resolution setting a Department of Health, Housing & Community Services (HHCS) condominium conversion application fee schedule of \$280 per project, \$380 per unit, plus \$565 per unit if the unit is currently rented out and/or the owner defers mitigation fee payment.

FISCAL IMPACTS OF RECOMMENDATION

Although the City has historically charged fees for Planning Department work on condominium conversions (BMC 21.28) and the Rent Stabilization Board has charged fees for its work to administer the ordinance, there has been no charge for Department of Health, Housing & Community Services work on applications. Tasks associated with condominium conversions are performed by an Associate Planner, which currently costs \$81 per hour for salary and fringe.

The proposed fee was calculated using Associate Planner time at a rate of \$81 per hour for the time required for each application and unit. No supervision time or indirect costs were included in the rate. The time for each application varies according to whether a unit is tenant-occupied and whether the owner chooses to pay the fee for each unit at the time of subdivision or defer it until later sale.

Combined, these fees are \$280 per project plus \$380 or \$945 (paid in two installments, \$380 and \$565) per unit. Whether regulatory documents are required depends on whether there are tenants and which payment option the owner selects. As an illustration, a 3 unit project would pay between \$1,420 and \$3,115 total.

The following table presents the time to complete associated tasks, the cost to complete the tasks, and the proposed fees, organized by the types of unit options. This table will allow owners to evaluate the total fees that apply to each option in order to inform their decisions:

Condo conversion options and associated HHCS tasks	Hours to complete tasks	Cost to provide service	Proposed fee
Tasks associated with whole project	3.5	\$283	\$280
Tasks associated with each unit, per owner selection (<i>only 1 of these 3 will apply</i>)			
(1) to pay the mitigation fee before recording the subdivision for vacant or owner-occupied unit	4.75	\$384	\$380
(2) to pay the mitigation fee before recording the subdivision for tenant-occupied unit	11.8	\$950	\$945 total To be paid in two installments: \$380 at application + \$565 at subdivision
(3) to defer payment of the mitigation fee until selling the units at a later date	12.8	\$1,031	\$945 total To be paid in two installments: \$380 at application + \$565 at subdivision

The following table organizes the same proposed fees by timing of the payment:

Applicable Fee	Fee Amount
Fees due at application:	
HHCS Project Application Fee	\$280 per project
HHCS per unit fee	\$380 per unit
Fees due at the time of subdivision:	
Fee per unit for tenant-occupied units for which the owner pays the mitigation fee before recording the subdivision	\$565 per unit
Fee per unit deferring mitigation fee payment, regardless of occupancy (vacant, tenant- or owner-occupied)	\$565 per unit

Staff anticipate fewer than 5 new condominium conversion applications per year. In calendar year 2016, HHCS received 3 applications. The amount of fee revenue would vary depending on how many applications were received. Fees will be collected in account 258-8151-341-9905 and program costs will be expensed to account 258-8005-463-various.

Proposed new fees are shown in the schedule attached as Exhibit A.

CURRENT SITUATION AND ITS EFFECTS

The Planning Department and the Rent Board have fees to cover their administration of this ordinance while HHCS does not currently charge any fees. The current application fee schedule published by the Planning Department is:

<i>Condominium Conversions</i>	
Condominium Conversion (1 to 4 units)	\$6,798
Condominium Conversion (5 or more units)	\$10,171
Notice of Local Law Compliance	\$3,028
Rent Board review	\$120 per unit
Appeal by project applicant	\$842
Appeal by person other than project applicant	\$102

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. In addition to

the mitigation fee, owners are charged fees for the Planning and Rent Board work on applications.

Under the condo conversion program, HHCS staff

- review the application materials submitted,
- work with the applicant to explain the options for paying the fee,
- draft regulatory agreements and work with applicants to finalize them,
- draft escrow instructions and coordinate with escrow,
- analyze project details to calculate the mitigation fee,
- draft payoff letters,
- collect and track payments, and
- manage the execution of the required agreements.

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.

ENVIRONMENTAL SUSTAINABILITY

There are no environmental effects associated directly with the subject of this report.

RATIONALE FOR RECOMMENDATION

The City already charges fees to support Planning Department and Rent Stabilization Board work on administering the condominium conversion ordinance. 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, resulting in delays in processing applications.

CONTACT PERSON

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

Attachments:

1: Resolution

Exhibit A: Condominium Conversion Application Fee Schedule

2: Public Hearing Notice

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

ADOPTING A CONDOMINIUM CONVERSION APPLICATION FEE SCHEDULE FOR SERVICES PROVIDED BY THE DEPARTMENT OF HEALTH, HOUSING & COMMUNITY SERVICES

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 Application Fee Schedule

May 16, 2017

Exhibit A: Condominium Conversion Application Fee Schedule

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Fee per unit deferring mitigation fee payment, regardless of occupancy (vacant, tenant- or owner-occupied)	\$565 per unit

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

**ADOPTING A NEW CONDOMINIUM CONVERSION APPLICATION FEE
FOR SERVICES PROVIDED BY DEPARTMENT OF HEALTH, HOUSING
& COMMUNITY SERVICES STAFF**

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 (HHCS) is proposing the adoption of a new application fee for Condominium Conversion program applications to pay for HHCS staff time associated with operating the program.

Current Fees
\$0

Proposed Fees
see table below

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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 and May 12, 2017 – The Berkeley Voice

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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.

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Mark Numainville, City Clerk

