1   [Subdivision Code - Below Market Rate Condominium Conversion Program Alternatives]

2

3   **Ordinance amending the Subdivision Code to reauthorize an alternative to compliance**

4   **with the Below Market Rate Condominium Conversion Program for certain qualifying**

5   **projects subject to the Program.**

6   NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
                     Additions to Codes are in _single-underline italics Times New Roman font_.
7   **Deletions to Codes** are in _strikethrough italics Times New Roman font_.
                     Board amendment additions are in double-underlined Arial font.
8   **Board amendment deletions** are in strikethrough Arial font.
                     Asterisks (*   *   *   *) indicate the omission of unchanged Code
9   subsections or parts of tables.

10

11   Be it ordained by the People of the City and County of San Francisco:

12

13   Section 1. Findings and Purpose.

14   (a)   The Board originally adopted the BMR Condo Program in 1979, and suspended

15   the Program in 1988. The Department of Real Estate and Department of Public Works

16   originally administered the Program, and in 1988 the Board designated the Mayor's Office of

17   Housing as the City department responsible for monitoring the Program. In 2008 in

18   Ordinance No. 320-08, the Board of Supervisors adopted clarifications to the Below Market

19   Rate Condominium Conversion Program, codified in Subdivision Code Section 1344 (the

20   "BMR Condo Program"). Subsection (i) of Section 1344 permitted certain owners of Below

21   Market Rate Condominium Conversion units ("BMR Units") to take advantage of two options.

22   Option 1 allowed Pre-Affidavit Owners, as defined in Section 1344, to be released from the

23   Program if they met certain conditions and paid a fee. Option 2 allowed Pre-legislation

24   Owners, as defined in Section 1344, to receive a one-time increase in the base resale price of

25

1   their respective units. By its terms, subsection (i) expired on January 18, 2011, 24 months

2   from the effective date of the ordinance.

3   (b)   At the time the Board considered Ordinance No. 320-08, the Mayor's Office of

4   Housing and Community Development ("MOHCD") conducted extensive outreach and direct

5   noticing to owners of BMR Units subject to the BMR Condo Program. In conducting the

6   outreach, MOHCD used its database of BMR Units entitled "Condo Conversion MASTER." It

7   has since come to the MOHCD's attention that a limited number of units inadvertently may not

8   have been included in the database of BMR Units and thus owners of some or all of those

9   units may not have received direct notice or outreach relating to adoption of Ordinance No.

10   320-08. BMR Unit owners who did not receive notice of the ordinance would not have been in

11   a position to take advantage of the Alternatives to Compliance with the Program.

12   (c) The purpose of this ordinance is to rectify this notice problem by re-opening access

13   to Option 1 (for Pre-Affidavit Owners) for a limited time so that qualified Pre-Affidavit Owners

14   who were not in MOHCD's database and who confirm that they did not receive notice of

15   Ordinance No. 320-08 may take advantage of Option 1.

16

17   Section 2. The Subdivision Code is hereby amended by revising Section 1344, to read

18   as follows:

19   **SEC. 1344. BELOW MARKET RATE CONDOMINIUM CONVERSION PROGRAM.**

20   As described below, this Section is intended to supersede, to the extent described in

21   subsection (a) below, the provisions of Sections 1341, 1341B, and 1385 relating to the

22   regulation of units subject to those provisions ("Condominium Conversion BMR Units" or

23   "BMR Units").

24   *   *   *   *

25   (i)   ~~*[Expired.]*~~*Alternative To Compliance With This Section.*

1   _____(1)   *Time period for application. This subsection (i) shall be effective for 12 months*

2   *from the effective date of the ordinance adding this subsection, at which time the subsection will expire*

3   *by operation of law, and the City Attorney's Office shall arrange for its removal from the Subdivision*

4   *Code.*

5   _____(2)   *Eligibility. This subsection applies only to Owners who meet all of the following*

6   *criteria:*

7   _____(A) *The Owner had no notice of the alternatives to compliance with this Section*

8   *provided by Ordinance No. 320-08 as demonstrated by: (i) certification by MOHCD that the BMR*

9   *Unit was not listed on the Mayor's Office of Housing's BMR Condominium Conversion database*

10   *known as "Condo Conversion MASTER" as of April 15, 2008; and (ii) submission to MOHCD of an*

11   *affidavit, signed by the Owner under penalty of perjury, that he or she had no actual notice of the*

12   *availability of the alternatives to compliance during the effective period of Section 1344(i) as adopted*

13   *in Ordinance No. 320-08 and,*

14   _____(B) *The Owner qualifies as a Pre-Affidavit Owner, as defined in Section*

15   *1344(b)(15a).*

16   _____(3)   *Contract. At the Owner's election and if the Owner qualifies under subsection*

17   *(i)(2) above, the Owner may choose to enter into a contract with the City, acting through the Mayor's*

18   *Office of Housing and Community Development, as further set forth in subsection (i)(4) below. To be*

19   *effective, such contract must be executed by all parties and approved as to form by the City Attorney's*

20   *Office on or before the date which is 12 months from the effective date of the ordinance adding this*

21   *subsection (i). Any documents deemed relevant for recordation by the City Attorney's Office must be*

22   *contemporaneously recorded against the property at the time of recordation of the contract. MOHCD*

23   *shall, within 90 days from the effective date of the ordinance adding this subsection (i), publish on its*

24   *website the last date for applying for this option, a form agreement, and any corresponding documents.*

25

1   *(4)   Alternative to Compliance: Pre-Affidavit Owners who qualify under subsection*

2 *(i)(2) may be released from the Program if they enter into an agreement with the City to pay a fee*

3 *adjusted for income level and number of bedrooms as provided in the table below, or 50% of the*

4 *difference between the BMR Resale Price and the Fair Market Value at the time of payment, as defined*

5 *herein, whichever is less. The fee may be paid immediately upon execution of the agreement or as a*

6 *City lien, provided that the lien option shall only be available if the total debt on the property*

7 *(including the City lien) is determined by MOHCD to be less than 80% of the Fair Market Value at the*

8 *time the agreement is executed. If the Pre-Affidavit Owner qualifies for, and elects to execute, the City*

9 *lien option, such lien shall be evidenced by a promissory note and deed of trust in favor of the City*

10 *recorded against the property. The promissory note will bear simple interest at 3%, which shall begin*

11 *to accrue on the date the Pre-Affidavit Owner executes the agreement. Fifty percent (50%) of the*

12 *difference between the BMR Resale Price and the Fair Market Value will be established at the time of*

13 *repayment. Upon payment of the fee or recordation of a lien in favor of the City, a release of the*

14 *restrictions under the Program will be recorded against the property. The fee shall be as follows:*

15 *TABLE INSET:*

Unit Size	*Moderate Income Designation (120% AMI)*	*Low Income Designation (80% AMI)*
1-Bedroom or Smaller	*$150,000*	*$200,000*
2-Bedroom	*$250,000*	*$300,000*
3-Bedroom	*$350,000*	*$400,000*
4-Bedroom	*$450,000*	*$500,000*

23 *If the Pre-Affidavit Owner qualifies for, and elects to execute, the City lien option, then upon request of*

24 *the Pre-Affidavit Owner, the City will subordinate its lien to a maximum of 80% loan to value of the*

25 *property at the time of subordination.*

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 1
 2          Section 3.  Effective Date.  This ordinance shall become effective 30 days after
 3    enactment.  Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
 4    ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
 5    of Supervisors overrides the Mayor's veto of the ordinance
 6
 7          Section 4.  Undertaking for the General Welfare.  In enacting and implementing this
 8    ordinance, the City is assuming an undertaking only to promote the general welfare.  It is not
 9    assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
10    is liable in money damages to any person who claims that such breach proximately caused
11    injury.
12
13          Section 5.  Scope of Ordinance.  In enacting this ordinance, the Board of Supervisors
14    intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15    numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16    Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17    additions, and Board amendment deletions in accordance with the "Note" that appears under
18    the official title of the ordinance.
19
20    APPROVED AS TO FORM:
      DENNIS J. HERRERA, City Attorney
21
22    By:     _____
              Susan Cleveland-Knowles
23            Deputy City Attorney
24    n:\legana\as2015\1500673\01016660.docx
25
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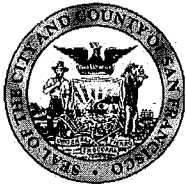
City and County of San Francisco

Tails

Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 150525   **Date Passed:**   June 23, 2015

Ordinance amending the Subdivision Code to reauthorize an alternative to compliance with the Below Market Rate Condominium Conversion Program for certain qualifying projects subject to the Program.

June 15, 2015 Land Use and Transportation Committee - RECOMMENDED AS COMMITTEE REPORT

June 16, 2015 Board of Supervisors - PASSED, ON FIRST READING
    Ayes: 11 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

June 23, 2015 Board of Supervisors - FINALLY PASSED
    Ayes: 11 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

File No. 150525

I hereby certify that the foregoing
Ordinance was FINALLY PASSED on
6/23/2015 by the Board of Supervisors of
the City and County of San Francisco.

_____
Angela Calvillo
Clerk of the Board

_____
Mayor

_____
Date Approved

7/2/2015