

SEP 16 1980

AN ORDINANCE AMENDING SECTION 28 OF THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SACRAMENTO, ORDINANCE NO. 2550, FOURTH SERIES, RELATING TO TENANT PROTECTION 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) A detailed report describing the methods by which the applicant shall comply with the provisions of subsection C-5-(a), Sales and Lease Program for Qualified Low and Moderate Income Tenants. The description shall include, where applicable, the appraised apartment market value of the project, and each unit. This description shall be supported by an affidavit or declaration under penalty of perjury as to its truth and accuracy.

SECTION 2.

Section 28-C-5-(a) of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby repealed.

SECTION 3.

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

(a) Sales and Lease Program for Qualified Low and Moderate Income Tenants.

(i) The primary purpose of the sales and lease program is to mitigate the special impact a conversion project has on the low and moderate income tenants living in the project before conversion. This special impact is the result of the conversion project displacing these tenants while at the same time reducing the number of rental housing units in the market. The displaced low and moderate income tenants are more severely affected than other tenants and other individuals because of their inability, in most cases, to purchase the converted unit, their resulting immediate need to find replacement housing, and their lesser financial ability to compete for the

remaining available rental units in the market. The proposed sales and lease program addresses the problem by providing ownership opportunities for low and moderate income tenants, thereby taking those tenants out of the rental market along with the converted unit, and by providing renewable leases for those tenants who cannot purchase, thereby retaining those units in the rental market for as long as the tenant is in need of it. Any alternative program approved by the City Council under subsection C-5-(a)(viii) must specifically address the special impacts identified in this paragraph.

A secondary purpose of the sales and lease program is to use condominium conversion projects as a source of low and moderate income ownership housing. Any alternative program approved by the City Council under subsection C-5-a(viii) should provide ownership opportunities to qualified low and moderate income tenants where feasible and consistent with the housing policies of the City of Sacramento.

(ii) The applicant shall offer for sale to all qualified low and moderate income tenants the unit in which each tenant resides at the time the special permit for the conversion project is approved, or a comparable unit within the project, at a price which is affordable to the tenant. A "comparable unit" shall be a unit with the same floor plan, same amount of floor area (as measured in square feet) and the same amenities as the unit in which the tenant resides at the time the special permit is approved. The offer shall be made before or concurrent with the grant of the exclusive right to contract for the purchase of the unit provided for in Section 66427.1(b) of the Government Code and shall remain open for 90 days.

(iii) A qualified low or moderate income tenant shall be a tenant who meets all of the following requirements:

- a. The tenant is an eligible tenant.
- b. The tenant has an income of 110% 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 in which the proposed conversion project is located, adjusted for the number of members in the tenant's household.
- c. The tenant does not, at the time notice of intent to convert is given by the applicant and at the time the offer is made, own any residential real property.

d. The tenant has not previously received assistance under this subsection C-5-(a).

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e. The monthly payments of principal, interest, loan insurance fees, property taxes and assessments, fire and casualty insurance, property maintenance and repairs, utilities (excluding telephone service), and homeowner association fees and assessments associated with the unit if it were to be sold without restrictions would exceed thirty-five (35) percent of the tenant's monthly income.

f. The tenant's assets are not greater than the total of the amount necessary to pay the estimated closing costs and down payment on the unit, the amount necessary to pay six months of the monthly payments identified in (e) immediately preceding, and \$5,000.

g. The tenant has provided the City with the information requested under Subsection C-5-(a)(vii) within the specified time, and has supported the information provided with an affidavit or declaration to its truth and accuracy.

h. "Assets" shall mean the value of the tenant's savings and any equity in stocks, bonds, real property, or other forms of capital investment. "Assets" does not include items reasonably necessary for the personal use of the tenant, such as personal effects, furniture, appliances, and automobiles.

i. References to the qualified tenant's assets and income shall include the assets and income of those persons eighteen (18) years of age and older who are living with the tenant as a single housekeeping unit.

(iv) a. A price which is "affordable to the tenant" shall be the maximum price at which the tenant can qualify for financing for the unit for a minimum of thirty (30) years and for which the total monthly housing costs described in subsection C-5-(a)(iii)e. would not exceed 35% of the tenant's monthly income; provided, that in no event shall the applicant be required to sell the unit under this sales program at a price below the apartment market value of the unit at the time the application for a special permit under this Section is filed.

b. "Apartment market value" shall be determined by an appraiser selected randomly by the Planning Director from a pool of names of no less than five (5) qualified appraisers. A "qualified appraiser" shall be an appraiser experienced in appraising multiple family residential property and who is an active MAI member in good standing of the American Institute of Real Estate Appraisers, an active SREA or SRPA member in good standing of the Society of Real Estate Appraisers, an active ASA (urban real estate) member in good standing of the American Society of Appraisers, or a similarly qualified appraiser in good standing in a nationally recognized real estate

appraisal institute or society. The names of qualified appraisers for the pool shall be selected by the City Manager or his/her designee. The appraisal shall be binding on the City and the applicant. The applicant shall pay the appraiser's fee.

c. If, at the time the offer for sale at an affordable price is made under this subsection C-5-(a), the assets of the qualified tenant, as defined in subsection C-5-(a)(iii)h., are not sufficient to cover the down payment and closing costs on the unit required by the financing institution to qualify for financing on the unit, the applicant shall pay all or a portion of the down payment and closing costs, as necessary, in an amount not to exceed \$2,000. The amount paid by the applicant under this subsection shall be added to the amount secured by the second deed of trust on the unit under subsection C-5-(a)(vi).

(v) The qualified tenant shall have 90 days from the date the offer is made to accept the offer of sale under this subsection C-5-(a). If the tenant does not accept the offer within that time period or fails to secure the necessary financing the applicant may offer the unit for sale without restriction under this subsection C-5-(a). The tenant shall be entitled to the renewable lease provisions set forth in subsection C-5-(d) and to all other protections provided in this Section.

(vi) Whenever a unit is sold to a qualified tenant under the provisions of this subsection C-5-(a), the unit shall be encumbered by a second deed of trust securing an obligation in an amount equal to the difference between the sales price paid by the qualified tenant and the price at which the unit would have sold without the requirements imposed by this subsection C-5-(a). The beneficiary under the second deed of trust shall be the applicant. The second deed of trust shall provide for the following:

a. Simple interest on the amount secured shall accrue at a rate not exceeding 5% per annum.

b. Neither principal nor interest shall be payable until the obligation secured by the second deed of trust has matured. The obligation shall mature when the unit is conveyed, transferred, leased, rented or otherwise alienated by the tenant; provided, that "conveyed, transferred, leased, rented or otherwise alienated" shall not include changes of ownership described in Sections 62 and 63 of the Revenue and Taxation Code.

(vii) a. To determine which tenants qualify for assistance under this subsection C-5-(a), the City, using the names and addresses of all the tenants in the proposed conversion project provided by the applicant in the completed application, shall notify the tenants of the provisions of this subsection C-5-(a) by mailing a notice to each on a form approved by the City Council. The notice shall request all information necessary to determine which tenants qualify for assistance. The notice shall instruct the tenants to return to the City Planning Department within 15 days the information requested, supported by affidavit or declaration under penalty of perjury as to its truth and accuracy. Based on the information received the Planning Director shall determine which tenants qualify for assistance, shall notify those tenants, and shall submit their names to the applicant.

b. Notwithstanding the provisions of Section 18 of this Ordinance, the decision of the Planning Director shall be appealable directly to the City Council and shall be governed by the provisions of Article XIX of Chapter 2 of the Sacramento City Code.

c. Unless an appeal of the decision of the Planning Director is filed, and except for name and address, the information supplied by a tenant to the City under this subsection C-5-(a)(vii) shall be held in confidence and shall not be disclosed to the public without the express written consent of the tenant. In the event an appeal is filed, the information shall be disclosed to the extent necessary to fully apprise all parties to the appeal of the facts supporting the Planning Director's decision.

d. Failure of any tenant to receive the notice advising of the sales program under this subsection shall not invalidate any proceedings conducted hereunder.

(viii) a. Upon the request of the applicant, and in lieu of the requirements of this subsection C-5-(a), the City Council may approve or approve with conditions, an alternative program for providing housing opportunities to the low and moderate income tenants in the proposed conversion project upon a finding that the alternative program is the substantial equivalent of the program provided by this subsection. Alternative programs may include, but need not be limited to, use of FHA single family purchase programs and the Homeownership Assistance Program administered by the State Department of Housing and Community Development (25 Cal. Adm. Code. Sec. 7900 et seq.).

b. Upon request of the applicant the City Council may waive, or waive with conditions, in whole or in part, the requirements of this subsection C-5-(a) upon a finding that compliance would be inconsistent with or not in furtherance of the purposes set forth in subsection A and C-5-a(i) of this Section or the goals and policies of the Housing Element of the City General Plan.

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c. A request by the applicant pursuant to paragraph a. or b. immediately preceding shall be made within fifteen (15) days after the determination of the Planning Director made pursuant to subsection C-5-(a)(vii) a. has been forwarded to the applicant. The City shall give notice of the request in the same manner as it gives notice of the hearing on the special permit, and a hearing shall be conducted on the request concurrently with the hearing on the special permit.

d. The applicant shall, within 10 days from the date of submitting the request to City, notify in writing all the eligible tenants in the project that a request for approval of an alternative program or a waiver under this Subsection C-5-(a)(viii) has been made and shall describe in detail the elements of the alternative program or the reasons for the waiver.

#### SECTION 4.

Section 28-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, Qualified Low and Moderate Income Tenants.

The applicant shall unconditionally offer each eligible tenant who is elderly or handicapped and each qualified low and moderate income tenant who does not purchase a unit under the sales program provided in subsection C-5-(a) a written lease for a term of three (3) years on the unit in which the tenant resides at the time the special permit is approved or a comparable unit within the project. A "comparable unit" shall be a unit with the same floor plan, same amount of floor area (as measured in square feet) and the same amenities as the unit in which the tenant resides at the time the special permit is approved. Each such lease shall provide that the tenant shall have four (4) successive options to renew the lease upon the 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 annual percentage increase in rent shall not exceed 7%.

Each such lease shall further provide that the tenant shall have no power or right to assign the lease, or to rent or 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 5.

Section 28-C-7 is hereby added to the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, to read as follows:

7. No eligible or qualified tenant shall, by virtue of the provisions of this Section, have a vested right from the City to any of the benefits, protections, or other interests provided for herein. Notwithstanding the provisions of Section 13-A-8 and 9 of this ordinance, the City Council may amend or repeal by the adoption of an ordinance, the provisions of this Section from time to time as it determines.

SECTION 6.

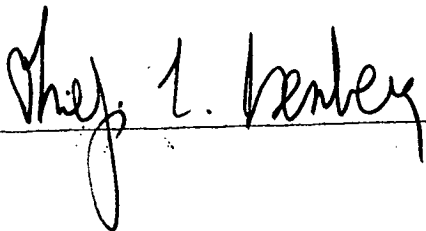
Section 28-H of the Comprehensive Zoning Ordinance of the City of Sacramento is hereby repealed.

SECTION 7. EMERGENCY

This ordinance is hereby declared to be an emergency measure to take effect immediately. The facts constituting the emergency are the provisions of Section 28-H of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, which repeal Section 28 of said Ordinance effective August 15, 1980 unless extended and the need to enact provisions for home-ownership opportunities for low and moderate income tenants in time to be applicable to now pending applications for condominium conversion special permits.

ENACTED: **SEP 16 1980**

EFFECTIVE: **OCT 16 1980**

  
\_\_\_\_\_  
MAYOR

ATTEST:

  
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CITY CLERK