Amendment of the Whole
7/14/08

FILE NO. 080407

ORDINANCE NO. 185-08

[Subdivision Code – definition of conversion.]

Ordinance amending the San Francisco Subdivision Code Section 1308 to modify the definition of conversion to include specified air space subdivisions of existing residential structures; and making environmental findings.

Note: Additions are single-underline italics Times New Roman; Deletions are strikethrough italics Times New Roman. Board amendment additions are double underlined. Board amendment deletions are strikethrough normal.

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

Section 1. The San Francisco Subdivision Code is hereby amended by amending Section 1308, to read as follows:

SEC. 1308. SUBDIVISIONS.

(a) "Common areas" shall mean an entire project excepting all units therein granted or reserved.

(b) "Community Apartments" shall mean an estate in real property consisting of an undivided interest in common in a parcel of real property and the improvements thereon coupled with the right of exclusive occupancy of any apartment located therein.

(c) "Condominium" shall mean an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential, industrial, or commercial building on such real property, such as an apartment, office, or store. A Condominium may include in addition a separate interest in other portions of such real property. Such estate may, with respect to the duration of its enjoyment, be either (1) an estate of inheritance or perpetual estate, (2) an estate for life, or (3) and estate for years, such as a leasehold or subleasehold. This definition is intended to conform to Section 783 of the California Civil Code and any other section of California law.
(d) "Conversion" shall mean a subdivision which changes the type of ownership of real property to that defined as a Condominium project, Community Apartment project or Stock Cooperative and in which two or more condominiums, community apartments or units in a stock cooperative are newly created wholly or in substantial part within an existing residential structure or structures, regardless of the present or prior use of such structures and of whether substantial improvements have been made to such structures. A conversion also shall include a subdivision that: (1) is created wholly or in substantial part within an existing residential structure or structures, regardless of the present or prior use of such structures and of whether substantial improvements have been made to such structures and (2) divides one or more of the existing residential dwelling units into separate lots, or parcels, or units.

(e) "Project" shall mean the entire parcel or real property divided or to be divided in any of the methods defined as a subdivision.

(f) "Stock Cooperative" shall mean a corporation formed or availed of primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, if all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the share or shares of stock in the corporation held by the person having such right of occupancy.

(g) "Subdivider" shall mean a person, firm, corporation, partnership or association who proposes to divide, divides or causes to be divided real property into a subdivision for himself or for others. City agencies, including the San Francisco Redevelopment Agency, are exempted from this definition.

(h) "Subdivision" shall mean the division of any improved or unimproved land, shown on the latest equalized County assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing, whether immediate or future. Property shall be considered
as contiguous units even if it is separated by roads, streets, utility easements or railroad
rights-of-way. This definition shall specifically but not exclusively include Condominiums,
Community Apartments, Stock Cooperatives and Conversions.

(i) "Unit" shall mean the elements of a project which are to be owned individually and
not in common with the owners of other elements of the project.

(j) "Tenant" shall mean a person or persons entitled under a lease, rental agreement
or other agreement with the owner of record of the property or his or her agent to occupy a
dwelling unit. A "tenant" can be an owner or a shareholder of the owner of record who resides
in the property. For purposes of this definition, "Tenant" shall mean "Subtenant" as defined in
Section 1308(k) where the subtenant occupies and resides in the unit in agreement with and
to the exclusion of the tenant and with the consent of the owner.

(k) "Subtenant" shall mean a person or persons whose rights to occupy a dwelling are
derived from the tenant rather than from the property owner or his or her agent.

(l) "Low-Income Housing Stock" shall mean those rental dwelling units in buildings
being proposed for conversion for which the rent, at the time the application for conversion is
filed, does not exceed 25 percent of the gross monthly income of a low-income household as
defined in Section 1309(e). For purposes of applying this Section and Section 1309(e), a
studio apartment shall be deemed to be a one-person household, a one-bedroom apartment
shall be deemed to be a two-person household, a two-bedroom apartment shall be deemed to
be a three-person household, and a three-bedroom apartment shall be deemed to be a four-
person household.

(m) "Moderate-Income Housing Stock" shall mean those rental dwelling units in
buildings being proposed for condominium conversion, the rental for which at the time of filing
the application for conversion exceeds the amount which would cause the unit to be defined
as low-income housing stock pursuant to Section 1308(l), but does not exceed 25 percent of
the gross monthly income of a moderate-income household as defined in Section 1309(f). In
relating the size of the unit to household size, the same relationships set forth for low-income
housing shall apply.

(n) "Gross Income" shall mean all income from whatever source derived as provided
in the Internal Revenue Code (26 U.S.C. Section 61) whether or not exempt from federal
income tax.

(o) "Household" shall mean any person or persons who reside or intend to reside in
the same housing unit.

(p) "Household of median income" shall mean a household whose combined annual
gross income for all members does not exceed one hundred (100) percent of the median
income for the San Francisco Metropolitan Statistical Area, as calculated by the United States
Department of Housing and Urban Development (HUD) and adjusted for household size.
Ordinance amending the San Francisco Subdivision Code Section 1308 to modify the definition of conversion to include specified air space subdivisions of existing residential structures; and making environmental findings.

July 22, 2008  Board of Supervisors — PASSED ON FIRST READING
  Ayes: 11 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell,
          McGoldrick, Mirkarimi, Peskin, Sandoval

July 29, 2008  Board of Supervisors — FINALLY PASSED
  Ayes: 11 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell,
          McGoldrick, Mirkarimi, Peskin, Sandoval
I hereby certify that the foregoing Ordinance was FINALLY PASSED on July 29, 2008 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor Gavin Newsom