URBAN**DISPLACEMENT** Project

Condominium Conversion Policy Brief

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February 2016

Berkeley
UNIVERSITY OF CALIFORNIA

Policy Brief:
Condominium Conversion in the Bay Area

The conversion of multifamily rental housing to condominiums may result in a decrease in the supply of units affordable to low-income renter households. For this reason, many cities in California and across the country have implemented controls on such conversions. This brief draws from related literature and primary survey and interview data to provide an overview of these policies.

Background on Condominium Conversions

The conversion of multifamily rental housing into condominiums is not a new phenomenon, but a well-established trend that typically moves in waves, peaking in the 1970s and 1980s.[1] Historically, the most dramatic increases in conversions have occurred just before peaks in the real estate market.[2] For example, between 1970 and 1979, there were 366,000 conversions nationwide, and 135,000 of those occurred in 1979 alone.[3] In California, the conversion of apartments to condominiums doubled every year between 1976 and 1980.[4] More recently, the number of apartments sold to condominium redevelopers nationwide rose nearly tenfold from 7,800 per year in 2002 to 70,800 in 2004, according to Real Capital Analytics, a Manhattan-based research consulting firm.[5] The condominium conversions occured most rapidly in Southern California, Northern Virginia and the Miami and Las Vegas regions.[6] In the Bay Area, stakeholders report the condominium surge has cooled in recent years.

Conversions have resulted in the decrease of available rental units in many urban areas. They also create numerous tenant-related problems:[7] tenants on fixed incomes (such as the elderly, young families, and couples and individuals without operating capital) are unable to purchase the units they live in or struggle to find replacement rental housing when their units are converted.

Regulations on Condominium Conversions

Condominium conversions are controlled primarily by local government regulations. In the state of California, landowners must follow the Subdivision Map Act to convert rental property to condominiums, which includes applying for a tract map, attending a public hearing, and securing a public report from the State Department of Real Estate.[8] Tenants must be given sufficient notice if they are to be evicted (180 days), as well as the first right to buy their unit.[9] While these provisions provide some modicum of protection to tenants, they do not impose substantive restrictions on the ability of developers to convert,[10] and there are a number of ambiguities in the law. Therefore, many cities have enacted additional condominium conversion ordinances that impose further restrictions on the ability to convert. These include both procedural and substantiate ordinances.

Procedural ordinances do not impose direct limits on conversions, but instead require such things as a statement of tenant rights in the initial notice of intent to convert, a restriction on increasing rent during pendency of conversion process, or a requirement that the converter enters into extended leases with seniors, the disabled, and low-income tenants that will survive after conversion.[11]

Many local ordinances include provisions that require landlords to offer financial assistance to "elderly, disabled, or low-income tenants, and to families with minor children" as well as lifetime leases for elderly tenants.[12] Policies may also include specific notification requirements for tenants beyond those required by state guidelines (such as 90 days or a year) or relocation assistance.[13]

Meanwhile, substantive ordinances typically limit the number of units that may be converted each year through various mechanisms, detailed in the next section.
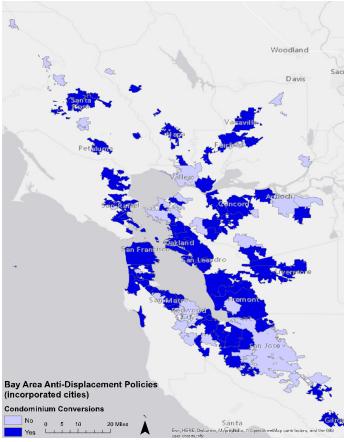
Conversion Regulations in Bay Area Cities

Seventy-three cities in the nine-county Bay Area have condominium conversion policies in place (67% of all cities, as of 2014), making this policy one of the most widespread of the 14 policies we studied (Figure 1). These policies were passed between 1974 and 2013, with the majority passed in the early 1980s and since 2000.

The policies vary considerably:
- Most policies prohibit conversion unless the **vacancy rate** in the city is above a certain level, usually around 3-5%.
- Other policies limit conversions based on the **proportion of the housing stock that is rental:** in Alameda and Santa Clara counties for example, conversion cannot occur if the percentage of the city's units that are rented will drop below 40% due to conversion; in San Anselmo, the figure is 25%; in Mountain View and San Bruno, there is a floor of rental units as opposed to a percentage.
- Other policies set an **annual limit** on the number of units that may convert to condominiums: in San Francisco the limit is 200, in Fremont and Berkeley it is 100. In Sausalito, the limit is 5%, and in Dublin, a maximum of 7% of units may be converted. In Piedmont, apartments converted to condominiums must be replaced by an equal number of rental units priced as they were before, with rents restricted for 55 years.
- A few policies prohibit conversion of **small buildings** (such as Burlingame, which prohibits conversion in buildings with fewer than 21 units).

We asked policy analysts, advocates, and government officials for their perspective on these policies. What did these stakeholders think? Many view them favorably: an individual in Sonoma noted that the city's policy "has been effective;" in South San Francisco, "no condominium conversions have occurred…to that extent, the current policy is very successful at preventing the loss of rental units."

On the other hand, a stakeholder in San Francisco writes, "existing tenants are pressured to accept buyouts to move." One way developers circumvent statewide condominium conversion policies is to evict tenants under the Ellis Act (which involves them making

Condominium Conversion Policies in Bay Area Cities
Source: UC-Berkeley Internal Analysis

a legally-binding statement that they intend to exit the rental housing business) and then sell the emptied building as condominiums. There are other examples of circumnavigation or avoidance of these restrictions. A key loophole in the law is the exclusion of 2-4 unit buildings (outside a certain zone in the city) from the policy; most of the "close to 1,000" condo conversions in the last 10-15 years were in buildings this size.

Further, In Oakland's condominium conversion policy, for example, the law's intent is to ensure that any developer who takes rental units off the market must replace each one with rental housing in another Oakland development. Developers can do this by building those units or buying "credits" from another developer for rental housing that another developer owns. However, developers can get around this provision by constructing a building as a condominium and renting out the units for seven years, which creates, through a provision in the law, conversion rights that can be sold to another developer. The original developer then sells the units and in the end, "there's no permanent replacement housing."

On the other hand, one stakeholder in Daly City believes "there is no need for [the city's] statute. Condominium conversions are not the trend in the housing market as they once were in the 1980's-1990's." Several other stakeholders around the Bay Area echoed a similar sentiment: while regulations were important at one time, conversions simply are not happening at a meaningful rate anymore.

Conclusion

Condominium conversion policies are ubiquitous; however, many stakeholders believe they are not as effective as they could be because of loopholes in the laws, or not as necessary as they used to be because so few conversions are happening now.

Cover Photo Source: http://www.highrises.com/thumbs/640x480/uploads/oakland-the-bond.jpg

[1] Pitarre, Alyson. "Conversion Craze Hits the West." Builder & Developer Magazine, February 2005. Referenced in Chambers, Robert. "Pushed Out: A Call for Inclusionary Housing Programs in Local Condominium Conversion Legislation." Cal. WL Rev. 42 (2005): 355. Page 359.

[2] LePage, Andrew. "'Condo Craze' Sows Seeds of Controversy: Entry-Level Homes Increase but Apartments Decline." Sacramento Bee, September 13, 2004, sec. D1. Referenced in Chambers, Robert. "Pushed Out: A Call for Inclusionary Housing Programs in Local Condominium Conversion Legislation." Cal. WL Rev. 42 (2005): 355.

[3] Casazza, John. Condominium Conversions. Urban Land Inst, 1982. Page 4.

[4] Vandeveer, Roger C. "Conversion of Apartments to Condominiums: Social and Economic Regulations Under the California Subdivision Map Act." Cal. WL Rev. 16 (1980): 466. Page 467

[5] Jones, Charisse.

[6] Ibid.

[7] Committee on Government Operations, Commerce, Consumer, and Monetary Affairs Subcommittee, and U.S. Congress. Condominium and Cooperative Conversion the Federal Response. Hearings before a Subcommittee of the Committee on Government Operations, House of Representatives, Ninety-Seventh Congress. First Session. Committee on Government Operations, 1981.

[8] Portman, Janet, and David W. Brown. California Tenants' Rights. Nolo, 2013.

[9] Ibid.

[10] Bakker, John. "Condominium Conversions: They're Back: A Brief Primer on Condominiums Conversions and Conversion Ordinances and Some Thoughts from One Suburban Battleground," 2005. http://www.cacities.org/UploadedFiles/LeagueInternet/c5/c5e504c3-e261-4986-b983-c964db35d7c0.pdf.

[11] Ibid.

[12] Portman, Janet, and David W. Brown. California Tenants' Rights. Nolo, 2013.

[13] ChangeLabSolutions, Allison Allbee, Rebecca Johnson, and Jeffrey Lubell. "Preserving, Protecting, and Expanding Affordable Housing: A Policy Toolkit for Public Health," 2015. http://changelabsolutions.org/publications/affordable_housing_toolkit.