



CITY OF SOMERVILLE, MASSACHUSETTS

CLERK OF COMMITTEES

January 31, 2019

REPORT OF THE LEGISLATIVE MATTERS COMMITTEE

Attendee Name	Title	Status	Arrived
Mark Niedergang	Chair	Present	
Lance L. Davis	Vice Chair	Absent	
Matthew McLaughlin	Ward One City Councilor	Present	
Jesse Clingan	Ward Four City Councilor	Present	
Katjana Ballantyne	Ward Seven City Councilor	Present	
William A. White Jr.	City Councilor At Large	Present	
Jefferson Thomas ("J.T.") Scott	Ward Two City Councilor	Present	
Ben Ewen-Campen	Ward Three City Councilor	Present	
Mary Jo Rossetti	City Councilor at Large	Present	
Wilfred N. Mbah	City Councilor at Large	Present	
Stephanie Hirsch	City Councilor At Large	Present	

Others present: Hannah Carrillo - OSPCD; Ellen Shachter - OSPCD; Sarah White - OSPCD; George Proakis - OSPCD; Annie Connor - Mayor's Office; Kimberly Wells - Assistant Clerk of Committees

The meeting took place in the Council Chambers and was called to order at 6:00 PM by Chair Niedergang and adjourned at 8:58 PM.

Approval of the January 17, 2019 Minutes

RESULT:	ACCEPTED
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Public Hearing on proposed revised Condominium Conversion Ordinance

More than two dozen members of the public testified.

Greg Santos, 7 Maxwell's Green, commented that he empathizes with "mom and pop homeowners" who want to capture the value of their investment, but irresponsible owners want to take advantage. The current ordinance provides little help to families and we need stronger tenant protections. Ultimate beneficial owners should be revealed through the process; payments should be per tenant rather than per unit; inclusionary percentages should be increased if they were lower when initially purchased.

Patrick Keefe, Melrose, stated that to include 4 units or less is a problem for hard working people who are counting on the value of their homes.

Alan Bingham, 30 Day Street, has seen long-term residents evicted and is also concerned on behalf of people in nursing homes who are afraid they will lose their homes while ill.

Alex Pirie, 7 St. James Ave shared a New York Times that includes a Somerville condo priced at \$1.4M and noted that at a recent Youth Empowerment meeting, many young people shared concerns that they would not be able to remain here. Proposed updates are a step in the right direction.

Kevin Gatlin, Maynard, works at Winter Hill Bank and chairs Chamber of Commerce and shared that there are other reasons for vacancies. Sometimes owners cannot afford repairs, are reserving homes for their children, or have a family member sharing the home pass away. If it can be confirmed that the unit has not been occupied, the one-year notice should be waived. There should be a grandfather clause for condos currently underway.

Penelope Taylor, 8 Quincy St, supports the ordinance and spoke to support tenants as they are worthy community members and should have rights and dignity.

Alex Bob, 16 Eustus St Cambridge, served as a liaison to the Condo Review Board and confirmed that most units that came before the Board were vacant, while the vacancy rate in the City was less than 2%. Additionally, there wasn't much that could be done for tenants regardless of whether they came before the Board. He shared support for the ordinance and added that about 50% of the housing stock is 2 and 3 families, and those tenants also need rights to stability.

Larry Mahoney, 2700 Las Vegas Blvd., Las Vegas, NV owns 42 Belmont St and argued that Somerville has never been affordable, but we shouldn't legislate affordability. The condo market is the entry to ownership and the ordinance is exclusionary.

Juliet Eldred, 7 Sartwell Ave, also supported the ordinance and encouraged adoption.

Michael Devlin, 100 Pacific St Cambridge, formerly lived at 9 Medford St in Somerville, which is being converted. He received this email two weeks after moving in. Tenants have no rights unless they fight for them, and not managing the gentrification and conversion will lead to a vastly different neighborhood.

Aaron Weber, 32 Summit Ave, believes it is possible to develop tenant protection rules that are counterproductive, but this is not it. He represents the YIMBY Steering Committee in supporting this ordinance.

Don Hughes, 180 North St, has managed housing for people with mental illness and supports tenants' rights but opposes the updates to this ordinance because they support tenants' rights at the expense of property owners and will negatively impact homeowners.

Alison Bland, 21 Indiana Ave, supports the proposed ordinance and thinks even more protections can be considered for tenants, including proximity to public transit. It would also be good to have more data available on condo evictions for potential buyers.

Katie Gradowski, 202 Pearl St, can no longer afford to live in the city. This legislation is critical because it values renters at what they are worth.

Fred Berman, 45 Cherry St, thinks the right to purchase is so important to building stability in the community. He encouraged increasing the length of time that right to purchase applies.

Michael Grunko, 51 Berkeley St, commented on how the data on conversions is astonishing and this ordinance has his full support.

Hariotte Ranvig, 5 Lester Terr, came into the city as a tenant and always wanted to live cooperatively. She was able to purchase her property and supports updating this ordinance to allow others to do the same.

Jodie Siegel, 21 Alpine St Cambridge owns a three-family on Vinal Ave, where she formerly lived. She is considering whether to convert that building to separate her interests with a shared owner and struggles with being lumped in with developers.

Stephen Mackey, 2 Alpine St and CEO of the Somerville Chamber of Commerce, noted that Somerville is on the edge of a global, regional, and local housing challenge. The marketplace must change, we can't tax and regulate our way to affordable housing.

Lucas Schaber, 25 Florence St, agrees that profiteering and displacement are prevalent, even after Boston's updated ordinance. This update simply gives our friends and neighbors a chance to stay in the city they love.

Judy Jacobs, 42 Claremont St, struggles to stay in her home and has always kept rents low. She is seeing a different type of tenant, breaking their leases. This seems unfair to certain homeowners.

Bill Cavellini shared that tenants want predictability and choice, which is the same as what developers want. Thirty days is insufficient to find a new place. These changes are reasonable and treat tenants like humans, so let's do this.

Michelle Hanson, 26 Warren Ave, has been both a tenant and a homeowner. More money to move seems to be a no-brainer. There's nothing in the ordinance that outlaws creating condos.

Laura Beretsky, 64 Hooker Ave, is in favor of the ordinance. We need every tool in the book to keep housing affordable.

Dick Bauer, 58 Berkeley St, added support for the ordinance.

Emily Cohen, 187 Broadway, has been displaced after several lease years. It is dangerous not to support tenants that would like to stay here. Faith in tenants and giving them rights will make them want to stay.

David Tisel, 5 Lester Terr and a Somerville Community Corporation project manager, shared that we need this updated ordinance. We should also pass a moratorium on conversions until the housing market changes, but since we don't have the legal authority to do that, this ordinance is a good step and he urged for passage as written.

205420: Assistant City Solicitor submitting an updated Condominium/Cooperative Conversion Ordinance.

Chair Niedergang stated that a copy of the current revised proposed draft is available on the City website, along with other supporting documents at www.somervillema.gov/condo-conversion. He said that the official public comment period would remain open until February 12th, but Councilors would read emails received after that date as long as this issue remained on the Council's agenda. The Legislative Matters Committee will continue to work on this proposed ordinance and will consider all public input.

Director of the Office of Housing Stability Ellen Shachter made a short presentation. She said that the current ordinance does not meet the City's needs. The housing crisis presents a significant issue, with tenants not able to successfully relocate into affordable housing. Between 2010-2018, the City lost over

1,000 rental units to condominium conversions. There is a mismatch between the number of vacant units being converted to condos and the overall vacancy rates in the City. This would seem to indicate that tenants have not been made aware of their rights. The ordinance is being updated to prevent displacement, to allow tenants to purchase their units, or to successfully relocate. It is a 34-year-old ordinance that has not been updated. Relocation resources and purchase prices are vastly different than they were in 1985. Many housing waitlists are closed, and the average wait time for an affordable unit is often 5-10 years.

The proposed updates would change the notice period for vulnerable tenants from two to five years. This would allow sufficient time for vulnerable populations to actually find the housing they need. The period would remain at one year for those with greater resources. The landlord would have the obligation to find comparable rental housing, and if unable to do so, the period would be extended. This is consistent with state law. There is an exemption for landlords already renting below market rates.

Ms. Shachter stated that when vacant units are converted to condominiums now, there is no way to know whether the ordinance was complied with. In the revised ordinance, owners of vacant units would be subject to a one-year waiting period, which would remove some incentive to have a vacant building at the time of application. Another problem is that tenants are unaware of when applications are before the Condominium Review Board or of their right to participate in the hearing. This would be rectified by requiring the owner to provide contact information for any tenants who lived in the unit over the previous 12 months to allow them to be contacted about the hearing.

Ms. Shachter added that there is insufficient amount of time now (30 days) for a tenant to determine if they will be able to get financing to purchase the property. This is being updated to 120 days for all tenants, and 180 days for more vulnerable populations. A third party right of purchase would be available to the City or its designee to purchase to maintain affordable housing if the existing tenant cannot or does not wish to purchase.

Relocation expenses are another outdated piece of the ordinance; it includes \$300 or one month's rent for elderly/disabled/low and moderate income tenants. The updates will increase this to \$10,000 and also allow for \$6,000 for all tenants. This is consistent with what is offered in Boston.

Currently there is no provision for a condo conversion permit to lapse, which causes tenants to be without protections. The new ordinance allows for two years for the unit to be sold, after which the conversion permit would lapse.

Councilor Rossetti asked Ms. Shachter about the figures for the different Section 8 payment standards. Ms. Shachter noted that they have just been raised, and will likely be again soon, and she will provide updates before the next deliberation. Councilor Scott asked for clarification on the difference between the fair market rate and the Section 8 voucher standards and whether someone from the administration can provide an update on this.

RESULT:	KEPT IN COMMITTEE
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202523: That the City Solicitor prepare a draft ordinance to amend or replace the current Condominium Conversion Ordinance, and incorporate the strongest parts of relevant state law.

RESULT:	KEPT IN COMMITTEE
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204278: Requesting the replacement of Ordinance 7-28 with a new Demolition Review Ordinance. with relevant updates to Ordinance 1-11 for violations.

Councilor Ewen-Campen is recused from all discussion and votes on this matter.

Chair Niedergang said that this ordinance has been in effect since 2013. There were two community meetings and a Public Hearing on revising it in 2017 and 2018. He said that in his opinion, all of the major issues in the revised ordinance have been resolved except one: the length of time of the demolition review period. He cited an email from OSPCD Executive Director in June 2018 that listed what Mr. Proakis saw as the major issues and said those have all been resolved also except the time period. The Chair encouraged discussion of the demo delay period issue but said that any other concerns that Councilors have should be articulated for discussion and debate.

Sarah White, Planning Department, shared a revised draft ordinance and a proposed ordinance timeline, which can also be found at www.somervillema.gov-dro along with many supporting documents. Ms. White introduced a flowchart of the proposed timeline, which includes an option for a waiver of determination on historical significance, which would speed up the process considerably. Only if the building is deemed historically significant is there an additional 45 days to determine if the building should be preferably preserved.

Councilor Scott asked for clarification on whether the applicant still needs to wait the additional 14 days for a certificate from the City Clerk, and the reply is that they do need to wait for the certificate to receive the demolition permit.

Councilor Rossetti shared that there is some concern about the length of time and we could consider combining the determination of historical significance and preferably preserved. Ms. White responded that proper notification to the public for that second determination would be necessary. George Proakis added that another logistical challenge is that the research for a preferably preserved determination is not done until a determination of historical significance is found. These time frames are based on two meetings, but decisions are typically made in one.

Councilor Scott asked if another way to shorten the process would be for any owner of a property over 75 years old to simply acknowledge that their property is historically significant. Ms. White responded that the Planning staff works closely with applicants to advise them and explains that conceding that their property is historically significant would speed up the process.

Councilor Ballantyne also expressed concern with the length of the timeline. She cited previous data that there is an average of 48 cases before the Commission each year, with only two requiring more time for deliberation. She would like more data on the specific cases to make an informed decision.

Mr. Proakis responded that they are compiling a list of cases from the last five years. He added that even if we don't change the time period, the ordinance is still better on the whole than what currently exists.

Councilor Rossetti cited previous testimony about what the implications are for financing, and she motioned for section 7.1a to read "The demolition review period shall be a maximum of 18 months for all buildings".

Councilor White noted a strong concern about legality and the need to establish why 9 months is not sufficient. Councilor Scott shared Councilor White's concern and also concerns that this be a data-driven decision. He also asked for more information about how long projects remain in this pipeline.

Chair Niedergang shared a preference for the maximum to be 24 months, but a willingness to support 18 months. He also noted that most demolitions are undertaken by developers, who will not be unduly burdened by a few extra months. The threat of delay may also lead to more concessions and better preservation of our historical legacy. Councilor White added that the delay period is for a specific purpose, for alternatives to be actively pursued, including finding a buyer. The record has to show why 9 months is not enough time to engage alternatives.

Councilor Clingan inquired as to how the current time line of 9 months was determined. Ms. White answered that it is in place from the existing 2003 ordinance, and is a common time frame throughout the Commonwealth, but she is not certain of how that determination was arrived at. Councilor Clingan also asked if other municipalities have increased time and whether there have been legal challenges. Ms. White shared that she has heard of no legal challenges, but one community chose 24 months, which had to be supported by the Attorney General, and it was. Councilor Clingan asked what time line is most prevalent and Ms. White answered 12 months, with 9 months also very common. The City Solicitor has opined that both 24 or 18 months would be legally defensible. Councilor Scott asked for specifics on which communities have which demo delay periods and Mr. Proakis shared a document with information in response.

Councilor Hirsch noted a general concern that this could give a lot of power and latitude to one particular Commission, and further inquired whether the City Council should have an appointment to the Commission as a potential option to oversee its operation. Ms. White replied that the Council does not make the appointments to the Commission but does get to approve or reject the Mayor's nominations. Also, the HPC staff manages the process, so there are checks and balances for this Commission's power.

Councilor White moved to lay Councilor Rossetti's proposed amendment on the table until more information is received from staff.

The motion was approved on a Roll Call vote of 8 in favor (Councilors Clingan, White, Scott, Rossetti, Mbah, Hirsch, McLaughlin, Ballantyne), 1 against (Councilor Niedergang), and 2 absent (Councilors Ewen-Campen, Davis).

Councilor Scott introduced the idea that this ordinance only apply to structures in NR and UR districts moving forward and asked for input. Mr. Proakis commented that while they are Enhanced Districts in SomerVision, they have many buildings of historical value in them, and that not applying the demo review ordinance in those zoning districts would likely cause the loss of many historical buildings that he believes the City should preserve or commemorate in some way. Mr. Proakis cited section 7.3, which offers options outside of simply "demolish" or "save" and shared Councilor Scott's concerns that we don't want this to slow down development in areas where we want change to occur.

Councilor White asked if we could take a map of zoning districts and explore what might have been determined differently. Mr. Proakis added that he would highlight which cases of the last five years would have been in an MR District today. Councilor Ballantyne requested that this be represented on a map.

Chair Niedergang said that we need to weigh the value of preservation vs the value of development. Councilor White shared that it might be worth considering whether certain districts could have a longer period of time. Councilor Scott offered another observation that what is happening in his ward: renovations where the front of a building is being preserved, but an addition is being included that often obliterates all the green space and does not look like a natural extension of the building style. He would like to find a way to avoid that. Councilor Ballantyne said that the Design Review Committee would be the place for that piece to be explored. Ms. White said that the Zoning Board of Appeals has jurisdiction over those kinds of additions, the HPC does not control that. Mr. Proakis added that the definition of demolition itself is something that is evolving from the current ordinance to the proposed one, and this will impact what needs to be reviewed. The zoning overhaul will also help address many of these issues, he said.

RESULT:	KEPT IN COMMITTEE
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204422: Alan Bingham submitting comments re: #204278, the Demolition Review ordinance.

RESULT:	KEPT IN COMMITTEE
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205151: Alan Bingham submitting comments re: the draft Demolition Review Ordinance.

RESULT:	KEPT IN COMMITTEE
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205791: Chamber of Commerce submitting comments re: #204278, the proposed demolition review ordinance.

RESULT:	KEPT IN COMMITTEE
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206483: Somerville YIMBY Committee submitting comments re: #204278, the Demolition Review ordinance.

RESULT:	KEPT IN COMMITTEE
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206484: Justin Rank submitting comments re: #204278, the Demolition Review ordinance.

RESULT:	KEPT IN COMMITTEE
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Handouts:

- Public Comments (with 205420)
- Condo Conversion Update Info (with 205420)
- Condo Conversion Overview (with 205420)
- Condo Conversion (with 202523, 205420)
- Demo Review Info (with 204278)
- Timeline (with 204278)