



CITY OF SOMERVILLE, MASSACHUSETTS CLERK OF COMMITTEES

March 7, 2019

REPORT OF THE LEGISLATIVE MATTERS COMMITTEE MEETING AS A COMMITTEE OF THE WHOLE

Attendee Name	Title	Status	Arrived
Mark Niedergang	Chair	Present	
Lance L. Davis	Vice Chair	Present	
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	
Ben Ewen-Campen	Ward Three City Councilor	Present	
Jefferson Thomas ("J.T.") Scott	Ward Two 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: Eileen McGettigan - Law, Ellen Schachter - OSPCD, Hanna Carrillo - OSPCD, Annie Connor - Legislative Liaison, Kimberly Wells - Assistant Clerk of Committees.

The meeting took place in the Council Chamber and was called to order at 6:05 PM by Chairman Niedergang and adjourned at 9:07 PM.

Approval of the February 21, 2019 Minutes

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

Ms. Shachter sent to all Councilors a detailed response to the concerns raised at the January 31st public hearing and the associated written comments received. That memo as well as a Summary of Major Changes to the Ordinance will be posted on the City website at www.somervillema.gov/cco <<http://www.somervillema.gov/cco>>.

Chair Niedergang suggested adopting the updated draft ordinance as the current working ordinance and having Ms. Shachter walk the Council through the major changes.

Councilor Rossetti noted that, as was previously discussed, there should be another opportunity for a public hearing before this item is voted on. Chair Niedergang said that there was never a vote or commitment to hold a second public hearing and it may not be necessary. President Ballantyne commented that she does not feel another public hearing is needed, but suggested that the city communicate to the public about the updates and the revised draft before any vote is taken.

Councilor Davis moved to adopt the March 6, 2019 draft of the Condominium/Cooperative Conversion Ordinance as the Council's current working draft version of the proposed revised ordinance.

The motion passed unanimously on a voice vote.

Councilor Ewen-Campen requested confirmation that the definition of disability/disabled is based not on the name, but on the extent to which the disability impairs a tenant's ability to function. Ms. Shachter noted that the language comes from a state law, and a tenant would be required to provide documentation of the impairment if called into question. There is a fairly high burden required to meet this definition of functional impairment. President Ballantyne asked whether the Condominium Review Board would be responsible for making the determination of disability. Ms. Shachter noted that the Review Board would be the decision-maker upon initial request. Councilor Davis added that the ordinance should be explicit about the definition of disabled persons, rather than linking the definition to the state law referring to handicapped persons.

Ms. Shachter went through, one-by-one, the changes detailed in the Summary of Major Changes to the proposed Condo Conversion Ordinance. Councilor Ewen-Campen asked about the fourth change, the definition of low/moderate income tenants, and wanted clarification on how assets are included in the calculation. Ms. Shachter noted that other programs do not have asset criteria, as individuals with assets may still need protections and it is also much more complicated to verify. Councilor Davis also asked about the intent of this definition, and Ms. Shachter responded that all tenants' incomes within one unit would count. Councilor Scott asked for further clarification about how dependent children or other family not on the lease would be included, and Ms. Shachter noted that there can be clarification included about how this will be counted and added that children have whatever rights the parents do as a matter of law.

Councilor Mbah asked for clarification on the sixth change -- which languages the notice would be translated into. Ms. Shachter said that OHS would translate it into the three most commonly spoken languages based on census data, and the owner would be responsible for having the document translated into any language outside of the three most common.

Councilor McLaughlin asked about the seventh point, what happens the vast majority of the time when the property is already empty. Ms. Shachter noted that the 12-month vacancy period should help address this concern. Councilor McLaughlin also asked for clarification about what happens if the permit is denied. Ms. Shachter commented that this is something that the Condo Review Board will address in the rules and regulations. The intent of the preliminary hearing is to ensure that all tenants are entering into any agreement they might sign with the landlord knowingly and voluntarily and to ensure they are aware of their rights.

President Ballantyne asked for additional clarification on the eleventh change, whether the owners could sell the property to their children. Ms. Shachter noted that the tenants and City/designee would still have the right of first refusal. Councilor Ballantyne shared that she would like an exemption for selling to family. Councilor Ewen-Campen and Councilor Hirsch expressed support for this type of exemption as well, as it helps keep families together and in Somerville. Relocation expenses would

still need to be paid, but the family member would get the first right to purchase the unit, rather than the tenants or the City.

Councilor Scott noted that there are other mechanisms for generational wealth transfer that don't involve condo-ization or tenant displacement. Ms. Shachter clarified that the ordinance includes a provision that a condo unit can be sold to someone else, provided that they take on the obligations of the original owner, such that the tenants retain their protections. Councilor Davis commented that the goal of this ordinance is to protect tenants, and that priority needs to remain.

Councilor Davis suggested that the twelfth change should be clarified to read that the required changes included in an "as-is" price be specified to be anything required by law.

Regarding the fifteenth change, Councilor White asked if a tenant who chooses to vacate is still granted the right of first refusal and other benefits and Ms. Shachter clarified that they would still receive the relocation expenses, though if they choose to vacate, that would likely be considered refusal to purchase, but if desired it could be clarified that the right to purchase remains for a designated period of time.

Councilor Rossetti moved to amend Section 7-64 (1) (a)(i) to read "where the unit had been previously owner-occupied for a minimum of the immediate preceding 12 months."

Councilor Davis asked for clarification about the intent of this and Councilor Rossetti responded that without specifying the immediate preceding months, the vacancy period is confusing.

Councilor Rossetti withdrew the previous amendment and moved to amend Section 7-64 (1)(a)(i) to read "where the unit had been previously owner-occupied for the 12 months immediately preceding the vacancy".

The motion passed unanimously on a voice vote.

Councilor White expressed concern about the effective date. Councilor Scott moved to amend Section 7-68 by deleting "six months from the date it is approved by the City Council" and replacing it with "July 31, 2019".

President Ballantyne asked Ms. Shachter for a date that is reasonable for the Administration to implement. Ms. Shachter said she would like to defer to the Housing Division, as new applications and notices will need to be created and approved by the CRB. Ms. Connor added that more time would be beneficial. Councilor Scott noted that the goal of getting the ordinance to take effect earlier is not to burden the Administration but to help ensure that people who are displaced will be covered by the protections. Councilor McLaughlin asked how long the average conversion takes and whether an application now would grandfather the owner into the old ordinance. Ms. Carrillo noted that the process can be short, and depends largely on the property and what the owner needs to do to it. Chair Niedergang asked whether the CRB is required to respond within a certain period of time and Ms. Shachter replied that she does not believe so.

The motion passed unanimously on a voice vote.

Councilor Hirsch suggested making the benefits for the protected and not protected groups the same; specifically, the benefits of time and compensation. Ms. Shachter noted that it is generally worth the trade-off to give the largest protections to the most vulnerable people. She has not seen any reports documenting a discriminatory impact from the disparate rules. Councilor Scott added that a per-tenant rather than per-unit compensation structure could be considered. Councilor Hirsch reinforced that she does not see a downside to increasing the obligations for everyone, if it helps slow displacement. Councilor McLaughlin added that if we increase the protections for everyone so that

they are too high, we will effectively be banning conversions and displacement will happen via other means.

Councilor Hirsch moved to amend Section 7-64 (1)(b)(ii) to change "one year from the date the notice is given" to "four years from the date the notice is given" and to also change "five years from the date the notice is given" to "to four years from the date the notice is given".

The motion was not approved on a voice vote, with only Councilor Hirsch voting in favor.

Ms. McGettigan noted that the Law Department has reviewed the ordinance and believes they can make a case to defend it, but it is subject to legal challenge.

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.

See 205420

RESULT:	KEPT IN COMMITTEE
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207561: 9 residents submitting comments re: #205420, the proposed condominium review ordinance.

See 205420

RESULT:	KEPT IN COMMITTEE
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207619: 2 residents submitting comments re: #205420, the proposed condominium review ordinance.

See 205420

RESULT:	KEPT IN COMMITTEE
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205918: That the Administration submit a Home Rule Petition similar to Boston's "Jim Brooks Act," but with less rigid language, to encourage passage by the State.

Councilor McLaughlin expressed a desire to send a Home Rule Petition up to the State Legislature in support of the Jim Brooks Community Stabilization Act for tenant protections quickly to stand in solidarity with Boston. He said he doesn't want the Council to spend an excess of time discussing and changing it. Ms. Shachter noted that Boston's act was significantly diminished from what they started with. The Administration is looking into whether there is any way to accomplish this without a home rule petition. Councilor Ewen-Campen shared that there was a list of concerns with the act published by Senate Judiciary Committee Chair Brownsberger and wanted to be sure that the Administration is familiar with those issues so they can be addressed in a Somerville HRP. Councilor Davis noted that the Administration could pursue a parallel effort to a home rule petition, but he would support continuing to move forward on the HRP in tandem.

RESULT:	KEPT IN COMMITTEE
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Handouts:

- Condo conversion draft 3.6 (with 205420)
- Condo conversion public hrg memo 3.4.19 (with 205420)
- Summary of Major Changes 3 6 19 Final (with 205420)
- 3.7.19 GBREB Comments on Condo Conversion Proposal (with 205420)