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CONDO CONVERSION vs. TIC DEVELOPMENT

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August 2006

There is a major imbalance in Berkeley these days between the rental market and the market for ownership housing.

Rentals are in surplus. Construction of hundreds of new rental units, the rental of hundreds of newly built condominiums during the 10-year period of construction liability, and the construction by the University of hundreds of dormitory units have increased the supply of rental units. Meanwhile, the dot com crash led to the departure of thousands of East Bay residents, causing demand to fall. Rentals are therefore in surplus, vacancy rates are high, and rents are lower than they were several years ago.

Ownership housing, meanwhile, is in short supply. Prices are high. Few ownership units are being built these days, and newly constructed condominiums are being rented, not sold, because of the liability problem.

The natural solution to this imbalance would be condominium conversion, which would allow surplus rental housing to be retrofitted for the ownership market. But the City's 100-unit limit on conversions, combined with the cost and uncertainty of the conversion process, means that the problem will not be solved by this route any time soon. There is an initiative on the November ballot which would solve these problems by raising the limit from 100 to 500 and by lowering the fees significantly, but we won't know until then whether the initiative will be successful. The City is doing everything in its power to prevent the initiative from passing, and no doubt will do more as the election approaches.

Meanwhile, there is another solution – one that property owners should consider favorably, whether or not the initiative passes. TIC (tenants in common) sales are now legal, feasible, cost-effective, and beyond the reach of City government.

The TIC process would begin with an offer that tenants may buy their unit with a discount or move elsewhere with a golden handshake. Tenants who don't choose either of these options would be subject to an Ellis eviction. Once the building was vacant or occupied by cooperating tenants, TIC sales could begin. The outcome would be a building owned by its occupants under a structure that is time-tested here in Berkeley and in San Francisco, and that has recently been

confirmed by the courts as lawful and securely beyond the reach of local government's control.

The TIC option has received a major boost by the introduction of fractional share lending. Previously, banks would only lend to the owners collectively, with the building as the collateral. Now, with fractional share lending, banks lend to owners individually, using the TIC share as collateral. This makes an enormous difference, both to the developer and to the owner-occupants. Typically, the financing arrangements are made in advance. Buyers must qualify, but don't have to shop for a loan.

There is some regulation of TIC sales. The California Department of Real Estate (DRE) must review projects involving five units or more. That takes some time, and is costly, but DRE approval lowers liability significantly, and is far more certain than review by the City of Berkeley for condominium conversion. For four or fewer units, there is no requirement for DRE review.

TIC conversion makes excellent sense financially in many cases. Units that are subject to rent control can, by this method, be converted to owner-occupied units, making rent control irrelevant. Property value, by this method, can be doubled in many cases. Owners of property with owner-occupant appeal should be thinking seriously about TIC conversion as a development effort that could add significantly to property value.

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