



Office of the City Manager

PUBLIC HEARING
May 23, 2023

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Lisa Warhuus, Director, Health, Housing, and Community Services
 Subject: Fee Increase: Condominium Conversion Program Subordination Fee

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt a Resolution to increase the \$364 Condominium Conversion Program subordination fee by \$35 to \$399.

FISCAL IMPACTS OF RECOMMENDATION

The fee for processing subordination requests was established by the City of Berkeley’s Department of Health, Housing, and Community Services (HHCS) in 2017 at the current level of \$364 per subordination request. There has been no fee update since this time.

Staff recommend increasing the fee to reflect the new costs of service to \$399 per subordination request (a 9.6% increase) for FY 2024 to cover the current actual cost of delivering this service. The proposed fee equates to the costs necessary to cover staff time to complete the process.

Condominium Conversion program management was previously assigned to an Associate Planner classification in HHCS’s Housing and Community Services Division (HHCS/HCS). This work has been assigned to the Community Development Project Coordinator (CDPC) classification, as part of the changes in the division to ensure more depth of staffing and consistency of program delivery.

The fee is calculated using the same number of hours per tasks as in 2017 and an updated inclusive hourly rate of \$88.70. The current and proposed fee and the basis for their calculation are presented in the following table.

Staff time per Application	Total Program Costs*	FY 23 Fee (current)	Percent Change
4.5 hours	\$399 per application	\$364 per application	9.6%

*calculation based on 4.5 hours x CDPC Step C salary + benefits

City staff estimate five or fewer Condominium Conversion subordination requests per year, costing the City of Berkeley an estimated \$1,995 annually. The current fee of \$364 generates \$1,820 annually (based on the projected estimate of five projects) creating a deficit to cover the costs to provide the service. The proposed new fee structure of \$399 per application will not exceed the costs of service.

The proposed fee was calculated by applying the hourly staff time rate to the hours needed to complete each task, outlined in Table 1. Fees will be deposited into Fund 123-Condo Conversion Program. A comparison of the current rate schedule and the new rate schedule is included as Exhibit A.

CURRENT SITUATION AND ITS EFFECTS

In 2017, the City Council adopted Resolution 67,981-N.S. to fund HHCS staff time for Condominium Conversion subordination requests. A subordination agreement is a legal document that prioritizes debts for repayment. These are common agreements banks require when refinancing mortgages. HHCS routinely receives subordination requests for deferred condominium conversion fees and must evaluate them to ensure the City's debt remains secure if the subordination is approved. The FY 2024 proposed fee increases account for increased staffing costs and the reallocation of the position managing Condominium Conversion subordination requests from an Associate Planner to a Community Development Project Coordinator.

Various neighboring cities charge homeowners for the preparation of subordination agreements. Examples include San Francisco (\$668), San Jose (\$353), and Oakland (\$830).

BACKGROUND

The City's Condominium Conversion ordinance allows owners to convert their properties into condominiums subject to certain conditions, including paying a mitigation fee for removing housing from the rental market (Berkeley Municipal Code 21.28). The ordinance includes protections for existing tenants and allows owners to pay a discounted mitigation fee at the time they subdivide the property or defer payment until they sell the property at a later date.

Tenant-occupied condominiums and condominiums for which the owner has chosen to defer payment of the fee have regulatory agreements recorded on the title for the property. Property owners request subordination agreements from the City when refinancing to protect the bank loan's position.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no immediate environmental effects associated with the adoption of this fee.

RATIONALE FOR RECOMMENDATION

The proposed fee update reflects the actual changes in the cost of providing this service.

ALTERNATIVE ACTIONS CONSIDERED

The City could continue to perform the tasks and charge the current fee at a deficit for costs of services. The gap will need to be covered by the General Fund.

CONTACT PERSON

Mariela Herrick, Community Development Project Coordinator, HHCS, (510) 981-5224

Attachments:

1: Resolution

Exhibit A: Condominium Conversion Subordination Fee Proposed Rates
Schedule Comparison

2: Public Hearing Notice

RESOLUTION NO. ##,###-N.S.

ADOPTING AN INCREASE FEE SCHEDULE FOR THE CONDOMINIUM CONVERSION PROGRAM SUBORDINATION REQUESTS FOR SERVICES PROVIDED BY THE DEPARTMENT OF HEALTH, HOUSING, AND COMMUNITY SERVICES

WHEREAS, Berkeley Municipal Code section 21.28, the Condominium Conversion Ordinance, allows property owners to subdivide rental properties under certain conditions; and

WHEREAS, the Department of Health, Housing, and Community Services provides staffing to implement the requirements of the Condominium Conversion Ordinance; and

WHEREAS, Berkeley Municipal Code section 21.28.120 allows the City Council to set fees for the administration and implementation of the ordinance; and

WHEREAS, Berkeley Resolution no. 67,981-N.S. allows City Council to set fees for the adoption of condominium conversion subordination fee schedule for services provided by the Department of Health, Housing, and Community Services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City adopts the Department of Health, Housing, and Community Services updated condominium conversion subordination fee schedule attached as Exhibit A, effective July 1, 2023.

BE IT FURTHER RESOLVED that the fee schedule will remain valid for a Department of Health, Housing, and Community Services successor agency, if any.

Exhibits

A: Condominium Conversion Subordination Proposed Rates Schedule Comparison

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Exhibit A: Condominium Conversion Subordination Proposed Rates Schedule Comparison

Comparison of Costs and Fees	
Current cost of subordination request (FY 2023)	\$399 per subordination request
Current Fee	\$364 per subordination request
Proposed FY 2024 fees	\$399 per subordination request
Percent Change of fee	9.8%

May 23, 2023

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL
INCREASE SUBORDINATION FEE FOR CONDOMINIUM
CONVERSION PROGRAM**

The public may participate in this hearing by remote video or in-person.

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Health, Housing, and Community Services is proposing to increase the condominium conversion subordination application rates.

<u>Current Fees</u>	<u>Proposed Fees</u>
\$364	\$399

The hearing will be held on, MAY 23, 2023 at 6:00 p.m. in the School District Board Room, 1231 Addison Street, Berkeley CA 94702.

For further information, please contact Mariela Herrick at 510-981-5224.

A copy of the agenda material for this hearing will be available on the City’s website at <https://berkeleyca.gov/> as of May 11, 2023. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to council@cityofberkeley.info in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 12 days prior to the public hearing.

May 23, 2023

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on May 11, 2023.

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Mark Numainville, City Clerk

