

City and County of San Francisco Mayor's Office of Housing  
Condominium Conversion BMR Program

**Implementation of Ordinance #320-08 Overview**

**I. Background**

Between 1979 and 1988, building owners who converted their properties from apartments to condominiums were required by the City to set aside certain condominiums as below market rate units (BMR Units). These BMR Units are price-restricted under San Francisco Subdivision Code Sections 1341 and 1385 and continue to be made available at below market rates to households of low or moderate income, depending on how the property was originally designated. Condo Conversion Program BMR units are located in buildings citywide.

In December 2008, the Board of Supervisors adopted Ordinance No. 320-08 (the Ordinance) amending the San Francisco Subdivision Code related to the Condominium Conversion BMR Program (the Program). The Ordinance was intended to clarify the rules applicable to existing BMR Units and to provide updated standards for BMR units purchased on or after the effective date of the Ordinance. The Ordinance addressed standards in such areas as occupancy, marketing requirements, buyer and inheritance qualifications and monitoring the use of BMR units. The Board of Supervisors adopted the Ordinance on December 16, 2008 and the Mayor signed it on December 19, 2008. The effective date of the Ordinance is January 18, 2009 (30 days after being signed by the Mayor).

The Ordinance provides that current owners of individual BMR Units may elect to stay in the current Program under the rules for pre-legislation owners or may select one of the alternatives listed in the Ordinance. Owners must select and complete the transaction for options available under the Ordinance **by January 18, 2011**. Original Subdividers also have two options under the Ordinance. Please see Section IV below under "Available Options under the Ordinance" for information about each option.

**II. Process for Developing Final Procedures and Application Deadline**

The Ordinance allows 90 days after the effective date to develop and publish procedures for selecting one of the available options. The Mayor's Office of Housing (MOH) published procedures according to the following schedule.

MOH posted draft documents on Friday, March 20, 2009. Members of the public were asked to comment on the drafts by March 30, 2009. All public comments were reviewed and incorporated to the extent possible in the final documents.

Beginning April 20, 2009, MOH will begin accepting and processing owner applications to be included in one of the available options. The Ordinance states that all agreements must be fully executed (signed

by the City and the owner) and all relevant documents must be recorded against the property **by January 18, 2011.**

**Application Deadline:** In order to ensure that your submission can be processed in time, MOH must receive your complete application by December 1, 2010.

### **III. Owner Categories**

The Ordinance divides owners into four categories: pre-affidavit owners, pre-legislation owners, post-legislation owners and original subdividers. Please note that if you inherited the BMR unit or it was otherwise transferred to you, you will be in the owner category that matches the date title was transferred to you. The definitions of each owner category can be found in the Ordinance and are summarized below.

#### **Pre-Affidavit Owners:**

Owners who purchased or acquired their BMR unit before December 1, 1992 are called "Pre-Affidavit Owners." Owners in this category have three choices under the Ordinance, as follows. Additional information and documents related to each option are provided in section IV(A) below under "Available Options under the Ordinance."

**Option 1: Continue to be Governed as a Pre-Legislation Owner (Stay on the Current Program)**

**Option 2: Agree to be Governed as a Post-Legislation Owner (Opt Into the Updated Program)**

**Option 3: Pay a Fee and be Released from the Program**

#### **Pre-Legislation Owners:**

Owners who purchased or acquired their BMR unit before January 18, 2009 (the effective date of the Ordinance) are called "Pre-Legislation Owners." Owners in this category have two choices under the Ordinance, as follows. Additional information and documents related to each option are provided in section IV(A) below under "Available Options under the Ordinance."

**Option 1: Continue to be Governed as a Pre-Legislation Owner (Stay on the Current Program)**

**Option 2: Agree to be Governed as a Post-Legislation Owner (Opt Into the Updated Program)**

#### **Post-Legislation Owners:**

Owners who purchased or acquired their BMR unit on or after January 18, 2009 (the effective date of the Ordinance) are called "Post-Legislation Owners." Owners in this category are subject to the provisions of the Ordinance for post-legislation owners.

#### **Original Subdividers:**

Owners, or their successors in interest, who owned an apartment building at the time of conversion and have continued to rent their units under Subdivision Code Section 1341 are called "Original Subdividers." Original Subdividers have two options under the Ordinance. There is no time restriction

for selecting one of these options. Additional information and documents related to each option are provided in section IV(B) below under “Available Options under the Ordinance.”

**Option 1: Demonstrate a 20-year Affordable Rental History and be Released from the Program**

**Option 2: Pay a Fee and be Released from the Program**

#### **IV. Available Options under the Ordinance**

##### **A. Pre-Affidavit, Pre-Legislation and Post-Legislation Owners**

###### **Option 1: Continue to be Governed as a Pre-Legislation Owner (Stay on the Current Program)**

ONLY Pre-Legislation Owners are eligible for this option. If you choose to stay on the current Condo Conversion BMR Program, your unit will continue to be regulated by the provisions in the Ordinance that relate to units acquired prior to the effective date of the Ordinance.

###### *Action Required:*

You do not need to do anything to remain on the current Condo Conversion BMR Program. Any unit for which the City and owner have not finalized an agreement under one of the other options **by January 18, 2011** will automatically remain part of the current Condo Conversion BMR Program and subject to the provisions in the Ordinance for pre-legislation owners.

###### *Documents Related to the Current Program:*

- Ordinance #320-08
- Implementation of Ordinance #320-08 Overview & Options Chart
- Condo Conversion BMR Program Resale Procedures
- 1993 Capital Improvements Policy

You may download copies of these documents on the Condo Conversion BMR Program page of MOH’s website: [www.sfgov.org/moh](http://www.sfgov.org/moh) or pick up copies at the Mayor’s Office of Housing (1 South Van Ness Ave., 5<sup>th</sup> Floor, San Francisco, 94103) from 8am-5pm, Monday-Friday.

###### **Option 2: Agree to be Governed as a Post-Legislation Owner (Opt Into the Updated Program)**

ONLY Pre-Legislation Owners are eligible for this option. Post-Legislation Owners will be automatically enrolled in the updated Condo Conversion BMR Program and are subject to the requirements for post-legislation owners. If you choose to opt into the updated Condo Conversion BMR Program, your unit will be subject to all of the requirements applicable to post-legislation owners. It is important that you read the procedures and legal documents (see documents below) that govern post-legislation owners, as many aspects of the Program differ from the rules that govern pre-legislation owners. **In entering into any legal agreement with the City, the City recommends that an owner retain his or her own legal counsel. MOH cannot offer legal advice.** If you agree to opt into the updated Condo Conversion BMR Program, your base price will be increased one time to the value printed in the Ordinance and re-printed below.

Unit Size	Moderate Income Designation (120% AMI)	Low Income Designation (80% AMI)
Junior Studio (Goldmine Hill Only)	\$216,150	\$142,100
Studio	\$240,200	\$157,900
1-Bedroom	\$282,350	\$189,050
2-Bedroom	\$324,150	\$220,250
3-Bedroom	\$366,300	\$251,400
4-Bedroom	\$399,900	\$276,350

*Action Required:*

You must make a request to MOH to sign into the updated Condo Conversion BMR Program. To get the process started, you must submit the attached Checklist with paper copies of all necessary attachments (not electronic copies). MOH will process requests in the order received and contact you when complete. MOH will not process incomplete submissions. MOH will begin accepting owner requests on Monday, April 20, 2009. Owners must complete the transaction for this option **by January 18, 2011**. **In order to ensure that your submission can be processed in time, MOH must receive your complete application by December 1, 2010.**

*Documents Related to the Updated Program:*

- Ordinance #320-08
- Implementation of Ordinance #320-08 Overview & Options Chart
- 2007 Inclusionary Procedures Manual
- 2008 Condo Conversion BMR Addendum
- MOH Subordination Policy
- Opt into Updated Program - Checklist
- Opt into Updated Program - Declaration of Restrictions
- Opt into Updated Program - Promissory Note and Deed of Trust
- Opt into Updated Program - Acknowledgement

You may download copies of these documents on the Condo Conversion BMR Program page of MOH's website: [www.sfgov.org/moh](http://www.sfgov.org/moh) or pick up copies at the Mayor's Office of Housing (1 South Van Ness Ave., 5<sup>th</sup> Floor, San Francisco, 94103) from 8am-5pm, Monday-Friday.

### Option 3: Pay a Fee and be Released from the Program

ONLY Pre-Affidavit Owners are eligible for this option. If you choose to pay the fee, your unit will be permanently released from the Program. It is important that you read the procedures and legal documents (see documents below) regarding this option. **In entering into any legal agreement with the City, the City recommends that an owner retain his or her own legal counsel. MOH cannot offer legal advice.**

The fee is determined as the lesser of: 1) the fee printed in the Ordinance and re-printed below, or 2) 50% of the difference between the fair market value and the BMR price at the time of repayment.

Unit Size	Moderate Income Designation (120% AMI)	Low Income Designation (80% AMI)
1-Bedroom or Smaller	\$150,000	\$200,000
2-Bedroom	\$250,000	\$300,000
3-Bedroom	\$350,000	\$400,000
4-Bedroom	\$450,000	\$500,000

If you are unable to pay the fee immediately, you may take out a loan with the City in the form of a City Lien. The City Lien will only be allowed if the combined loan to value of your home does not exceed 80% of the fair market value (all loans, including the City Lien).

If your combined loan to value exceeds 80%, you may execute an agreement with the City that you will pay the fee or pay down your other debt to meet the 80% loan to value requirement within 10 years. In this case, the City will not release the unit from the Program until the terms of the lien agreement are met and a City Lien is recorded. If you do not meet the terms of the lien agreement within the 10-year period, your property will remain part of the current Program (see above section "Option 1: Continue to be Governed as a Pre-Legislation Owner [Stay on the Current Program]").

All liens will accrue interest at the rate of 3% simple interest annually. No partial payments of the lien are allowed. If choosing to pay the fee by City Lien, you will be required to close the transaction through a title company. MOH will pay ½ of the closing costs related to recording the City Lien up to a maximum of \$650. MOH will not pay for closing costs if the lien is being recorded in conjunction with another transaction, such as a refinance. You will be responsible for the fair market appraisal and closing costs associated with all future transactions related to the property, including the repayment of the City Lien, refinance or sale.

MOH will follow the procedures for determining the fair market value of the property as published in Subdivision Code Section 1344(b) (see page 6 of the Ordinance). The agreed upon fair market value will be used to calculate the fee amount and the combined loan to value.

*Action Required:*

You must request enrollment in the Fee and Release Option through MOH. To get the process started, you must submit the attached Checklist with paper copies of all necessary attachments (not electronic copies). MOH will process requests in the order received and contact you when complete. MOH will not process incomplete submissions. MOH will begin accepting owner requests on Monday, April 20, 2009. Owners must complete the transaction for this option **by January 18, 2011. In order to ensure that your submission can be processed in time, MOH must receive your complete application by December 1, 2010.**

*Documents Related to the Fee and Release Option:*

- Ordinance #320-08
- Implementation of Ordinance #320-08 Overview & Options Chart
- Fee and Release Option - Checklist
- Fee and Release Option - Agreement between Owner and City
- Fee and Release Option - Promissory Note and Deed of Trust (if paid by City lien)

You may download copies of these documents on the Condo Conversion BMR Program page of MOH's website: [www.sfgov.org/moh](http://www.sfgov.org/moh) or pick up copies at the Mayor's Office of Housing (1 South Van Ness Ave., 5<sup>th</sup> Floor, San Francisco, 94103) from 8am-5pm, Monday-Friday.

## **B. Original Subdividers**

### **Option 1: Demonstrate a 20-year Affordable Rental History and be Released from the Program**

ONLY Original Subdividers are eligible for this option. If you choose to demonstrate that any or all of your BMR units have been rented within the Program's guidelines for 20 years, those units will be permanently released from the Program. Please follow the attached procedures to demonstrate that you have complied with the affordable rental requirements. A rental history must be compiled for each BMR unit.

*Action Required:*

You may notify the City when you are ready to demonstrate your 20-year rental history for each BMR unit at any time. You are not bound by the 24 month option period applicable to pre-legislation owners in the Ordinance.

*Documents Related to the 20-year Rental History:*

- Standards for Determining 20-year Affordable Rental History
- Historical Rent Limits 1979-Present (LOW INCOME UNITS)
- Historical Rent Limits 1979-Present (MODERATE INCOME UNITS)

You may download copies of these documents on the Condo Conversion BMR Program page of MOH’s website: [www.sfgov.org/moh](http://www.sfgov.org/moh) or pick up copies at the Mayor’s Office of Housing (1 South Van Ness Ave., 5<sup>th</sup> Floor, San Francisco, 94103) from 8am-5pm, Monday-Friday.

**Option 2: Pay a Fee and be Released from the Program**

ONLY Original Subdividers are eligible for this option. If you choose to pay the fee for any or all of your units, those units will be permanently released from the Program. It is important that you read the procedures and legal documents (see documents below) regarding this option. **In entering into any legal agreement with the City, the City recommends that an owner retain his or her own legal counsel. MOH cannot offer legal advice.**

The per unit fee is determined as the lesser of: 1) the fee printed in the Ordinance and re-printed below, or 2) 50% of the difference between the fair market value and the BMR price at the time of repayment.

Unit Size	Moderate Income Designation (120% AMI)	Low Income Designation (80% AMI)
1-Bedroom or Smaller	\$150,000	\$200,000
2-Bedroom	\$250,000	\$300,000
3-Bedroom	\$350,000	\$400,000
4-Bedroom	\$450,000	\$500,000

If you are unable to pay the fee immediately for a particular unit, you may take out a loan for such unit with the City in the form of a City Lien. The City Lien will only be allowed if the combined loan to value of the BMR Unit does not exceed 80% of the fair market value (all loans, including the City Lien).

If the combined loan to value exceeds 80%, you may execute an agreement with the City that you will pay the fee or pay down your other debt to meet the 80% loan to value requirement within 10 years. In this case, the City will not release the unit until the terms of the lien agreement are met and a City Lien is recorded. If you do not meet the terms of the lien agreement within the 10-year period, your property will remain part of the current Program.

All liens will accrue interest at the rate of 3% simple interest annually. No partial payments of the lien are allowed. If choosing to pay the fee by City Lien, you will be required to close the transaction through a title company. MOH will pay ½ of the closing costs related to recording the City Lien up to a maximum of \$650. MOH will not pay for closing costs if the lien is being recorded in conjunction with another transaction, such as a refinance. You will be responsible for the fair market appraisal and closing costs

associated with all future transactions related to the property, including the repayment of the City Lien, refinance or sale. The City Lien is due in full 20 years after the effective date of the Ordinance.

MOH will follow the procedures for determining the fair market value of the property as published in Subdivision Code Section 1344(b) (see page 6 of the Ordinance). The agreed upon fair market value will be used to calculate the fee amount and the combined loan to value.

Please note that if you select the Fee and Release Option for a unit, you cannot subsequently request a release of such unit under Option 1, above (Demonstrate a 20-year Affordable Rental History and be Released from the Program).

*Action Required:*

You must request enrollment in the Fee and Release Option through MOH. To get the process started, please submit the attached Checklist with paper copies of all necessary attachments (not electronic copies). MOH will process requests in the order received and contact you when complete. MOH will not process incomplete submissions. You are not bound by the 24 month option period applicable to pre-legislation owners in the Ordinance.

Please note that there will be one Fee and Release Option Agreement to cover all of your BMR units. If you select the lien option for some or all of your units, you will be required to record a separate Promissory Note and Deed of Trust for each unit.

*Documents Related to the Fee and Release Option:*

- Ordinance #320-08
- Fee and Release Option - Checklist for Original Subdivider
- Fee and Release Option - Agreement between Original Subdivider and City
- Fee and Release Option - Promissory Note and Deed of Trust for Original Subdivider (if paid by City lien)

You may download copies of these documents on the Condo Conversion BMR Program page of MOH's website: [www.sfgov.org/moh](http://www.sfgov.org/moh) or pick up copies at the Mayor's Office of Housing (1 South Van Ness Ave., 5<sup>th</sup> Floor, San Francisco, 94103) from 8am-5pm, Monday-Friday.