



## **CONDOMINIUM REVIEW BOARD**

Somerville City Hall Annex  
50 Evergreen Ave., Somerville, MA 02145  
(617) 625-6600 x 2575

### **Updated Condominium Conversion Ordinance- Effective August 23, 2019** **FREQUENTLY ASKED QUESTIONS FOR OWNERS AND TENANTS**

#### **Purpose**

**Question #1: What does the updated Condominium Conversion Ordinance do?**

**Answer:** The updated Condominium Conversion Ordinance primarily provides protection to tenants facing displacement as a result of conversion to condominium units.

**Question #2: Is this the first time Somerville has had a Condominium Conversion Ordinance?**

**Answer:** No, there is an existing Condominium Conversion Ordinance that went into effect in 1985. The Condominium Conversion Ordinance (hereafter called "Ordinance") that was passed in March, 2019 is an update to the existing Condominium Conversion Ordinance.

**Question #3: Can I still convert my property to condominium units?**

**Answer:** Yes. There is no moratorium on Condo Conversion. Those who wish to convert their property to condominium units must provide any tenants with proper notice of the conversion, submit an application to Condo Review Board Staff and go before the Condominium Review Board (hereafter called 'Board') for approval, as is the case under the current Ordinance.

#### **Occupied Properties**

**Question #1: Who is entitled to tenant protections under the updated Condominium Conversion Ordinance?**

**Answer:** Any tenant who is living in a unit at the time an owner forms the intent to convert that rental unit to a condominium unit is entitled to the tenant protections granted by the Ordinance.

**Do some tenants get enhanced protections?**

Yes. Households with a tenant older than the age of 65, a tenant with a mental or physical impairment, as defined in the Ordinance, and/or households with a combined household income at or below 80% of the Area Median Income for the 12 months immediately preceding service of the

conversion notice (hereafter called “low/moderate income”) are entitled to receive enhanced tenant protections. The Office of Housing Stability (OHS) can assist tenants with questions about enhanced protections and can provide assistance with documentation issues. Call OHS at 617-625-6600 Ext 2581 for assistance.

**Question #2: If I have tenants, when do they need to be notified that I am seeking to convert their unit to a condominium unit?**

**Answer:** An owner is obligated to notify all tenants of the owner’s intent to convert from rental to condominium units as soon as the owner has developed an intent to convert as defined by the Ordinance. Tenants should be notified of the owner’s intent to convert prior to submission of an application for a Conversion Permit to the Board.

**Question #3: What notification do I need to send to my tenants? Do I also need to send the Tenant Notification Form to the Board?**

**Answer:** The Tenant Notification Form, to be found in the application for condominium conversion once revised, needs to be provided to all tenants upon forming the intent to convert. Owners may provide their own notice in addition to the required form if they so choose. A copy of the Tenant Notification Form must be served on the Board at the same time that it is served on the Tenant.

**Question #4: What is the tenant notice period and how long is it?**

**Answer:** The tenant notice period is the amount of time a tenant is entitled to remain in the unit following an application to convert to condominium units, regardless of whether the tenant has a lease or is a month-to-month tenant. A tenant cannot be evicted during this time unless the eviction is due to a substantial violation of the lease, and not to facilitate the sale of a condominium unit.

Currently, there is a one year notice period for all tenants who are not elderly, disabled or low-/moderate-income. **This remains the same in the updated ordinance.**

For tenants who are elderly, low-/moderate-income and/or disabled, the notice period has increased from two years to five years to better allow for suitable relocation within Somerville to an apartment that is affordable to the tenant.

**Question #5: As a tenant, do I have to stay in the unit for the entire notice period?**

**Answer:** No. As a tenant, you have the right to stay for the full notice period, but you also have the right to vacate the unit at any point after having provided 30 days’ notice to your property owner. You should make sure that you understand all of your rights before making a decision about whether you should vacate your unit before the end of the notice period.

**Question #6: Are tenants entitled to a relocation payment?**

**Answer:** Yes, all tenants are entitled to a relocation payment. Tenants who are elderly, disabled and/or low/moderate income are entitled to a relocation payment of \$10,000, and all other tenants are entitled to a relocation payment of \$6,000. This payment is per unit, not per tenant.

**Question #7: What is considered a prohibited Condominium Conversion Eviction?**

**Answer:** A prohibited condominium conversion eviction occurs when a property owner (1) seeks to evict a tenant for the purpose of enabling their own sale of the unit prior to expiration of the notice period; (2) seeks to evict to render a unit vacant to facilitate the sale of the building to a prospective purchaser they know or should have known intends to sell the unit as a condominium; or (3) creates conditions that materially impair the tenants' quiet use and enjoyment of their unit and/or engages in activity intended to compel the tenant to vacate the property.

**Question #8: Can a tenant's rent be increased during the notice period?**

**Answer:** Yes, but rent increases are limited. There is a formula set forth in the ordinance which states that a tenant's rent can be increased by no more than 10% or their current rent multiplied by the Consumer Price Index increase which is set by the US Department of Labor- whichever amount is less, on an annual basis. This formula applies to buildings with four or more units. However, for units in two or three family buildings *only*, due to Massachusetts state law which prohibits rent control, if the application of this formula produces below market rent, the tenant's rent may still be increased to market rate. The Condominium Review Board reviews to verify that rent increases do not exceed the market rent (where applicable) or are otherwise not in compliance with the ordinance. The owner must submit any rent changes during the notice period to the Condo Review Board at least 60 days prior to the rental increase taking effect.

**Question #9: Can my property owner renovate my unit during the notice period?**

**Answer:** Owners may only make specific repairs required by State Sanitary/Building Codes to tenanted units. Renovations outside that scope require the tenant's express consent. If an owner wishes to renovate common areas or vacant units in a property, they must comply with the Rules of the Ordinance which set out parameters for performing such work in tenanted buildings. Tenants are entitled to freedom from unreasonable disruption during the entire notice period.

**Question #10: Who is entitled to housing search assistance from the property owner?**

**Answer:** Any tenant who is elderly, disabled or low/moderate income is entitled to housing search assistance from their property owner. If this assistance is not provided, tenants may be entitled to an additional two years' notice.

Any property owner who has both kept rent levels at or below Somerville Housing Authority Section 8 payment standards in place at the time the notice is served for a minimum of 3 consecutive years and has limited rent increases to no more than 5% annually for 3 consecutive years shall be exempt from (a) being required to locate comparable rental housing and (b) from providing an additional 2-year notice period in the event that after 5 years, the elderly, disabled or low or moderate-income tenant has not yet located alternative housing.

**Question #11: Can any other terms of the tenancy be changed during the notice period?**

**Answer:** No terms of a tenancy can be changed during the notice period other than the amount of the rent.

## **Right to Purchase**

### **Question #1: What is the tenant's right to purchase?**

**Answer:** A tenant residing in a unit undergoing conversion has the right to purchase their unit at fair market value for the unit in "as is" condition.

### **Question #2: Who has the right to purchase?**

**Answer:** Any tenant who is currently residing in a unit at the time the owner forms an intent to sell the unit as a condominium is entitled to the right to purchase. If a tenant waives the right to purchase, the City/designee then has the opportunity to exercise its right to purchase if it will maintain the property as affordable housing in perpetuity. There is no additional time provided for the City/designee to exercise this right; they must operate on the same timeline provided to the tenant(s).

A tenant who is elderly, disabled or low/moderate-income has 180 days to exercise their right to purchase from the date the owner provides them with a purchase and sale agreement. All other tenants have 120 days to exercise this right.

If an owner intends to transfer the unit to a family member within the fourth degree of kindred, neither the tenant nor the City/designee will be offered a right to purchase. The fourth degree of kindred includes most relatives. A chart showing who is included can be found here:

<https://www.mass.gov/files/documents/2016/08/wk/mpc960-massachusetts-degrees-of-kinship-chart.pdf>

### **Question #3: What happens if both the tenant and an affordable housing developer wish to purchase?**

**Answer:** Within the time periods prescribed, the tenant has priority over any other entity also wishing to purchase the unit.

### **Question #4: How are sale prices set?**

**Answer:** The owner of the property sets the price. This price however, must be based on the fair market "as-is" value of the property. This means that the purchase price cannot be set in anticipation of extensive renovations. In addition, the owner cannot sell the unit for less than the price that was offered to the tenant for 180 days from the date the tenant was provided with the owner's sale terms.

## **Vacant Properties**

### **Question #1: Do I have to vacate my property in order to convert to condominium units?**

**Answer:** No. Vacating your property for the purposes of a condominium conversion constitutes a condominium conversion eviction and is not allowed.

If you do purchase a vacant property and wish to convert the units to condominium units, there is a one year waiting period. This waiting period only applies if the unit had been previously used as a rental unit. A unit that had been owner-occupied for the twelve months immediately preceding the

unit becoming vacant or a currently owner-occupied unit which has been owner occupied for at least the preceding twelve months is not subject to the 12 month waiting period.

Additionally, if the City/designee exercises their right to purchase and opts to purchase the vacant unit(s), there is no waiting period.

**Question #2: Does my property have to remain vacant for the 12 month waiting period?**

**Answer:** No. During the 12 month waiting period, owners are allowed to rent their units if they so choose. If the unit is rented however, owners are required to inform any prospective tenants in writing that they have already initiated the condominium conversion process and therefore the tenant is not entitled to the protections of the Ordinance. If a property owner does not properly inform the prospective tenants of the impending condominium conversion prior to them contracting to occupy the unit, the tenant(s) will then become eligible for the full tenant protections afforded by the Ordinance and the application for the permit will need to be resubmitted with a new notice to the new tenant who was not property informed.

**Question #3: What is the notification requirement if the property is vacant?**

**Answer:** If an applicant is submitting an application to convert a vacant property to condominium units that had been previously used as rental units, the property owner must provide notice to the Board of its intent to convert at least one year in advance of receiving a Conversion Permit. Whether or not the unit is vacant, the owner must provide the Board with a list of any tenants that resided in the property in the past 12 months, so that they can be notified of the conversion application. When a unit is vacant the City/Designee will still have a right to purchase the unit at the as is market price determined by the owner.

### **Owner-Occupants**

**Question #1: As an owner-occupant of a unit do I have to wait for 12 months before getting a permit to convert my unit to a condominium?**

**Answer:** No. There is no waiting period for an owner-occupied unit provided that you have been an owner-occupant of the unit for at least twelve months. Additionally, if you are the purchaser of a vacant property that had been fully owner-occupied prior to becoming vacant for at least 12 months preceding the vacancy, the waiting period does not apply. This is determined on a unit by unit basis, and only units that are or were owner-occupied are exempt from the waiting period.

**Question #2: Do I still need to provide notice to my tenants if I live in one unit and rent the other(s)?**

**Answer:** Yes. Condominium Conversion Permits are granted on a unit-by-unit basis. Any tenants of a unit in your property are entitled to notice and other tenant protections, even if you live in one of the units at the property.

### **Condominium Review Board**

**Question #1: What is the Condominium Review Board and what does it do?**

**Answer:** The Somerville Condominium Review Board consists of five Somerville residents; two renters, two homeowners and one person who is elderly/disabled and/or low/moderate income. The Board holds monthly hearings to review all applications for condominium conversion. The Board will provide notice to both the owner and the tenant(s) of the date and time of the hearing on the application at least two weeks in advance and tenants are encouraged to attend. Every application must go before the Board, and someone appearing for the owner must be present at the hearing to present the application and answer any question the Board might have. The hearings are always open to the public and held in an accessible building. The owner and any tenants appearing at the hearing will be allowed to testify. In addition, there will be an opportunity for public comment for each application that is before the Board.

**Question #2: What criteria will the Condominium Review Board use to decide whether to issue a permit?**

**Answer:** The appropriate permit shall be granted if all requested documents are provided and the applicant is found to have complied with all provisions of the condominium conversion ordinance and Board Rules.

**Question #3: Do permits issued by the Condominium Review Board ever expire?**

**Answer:** Yes. If a property owner does not sell the unit they have converted within two years of receiving a permit from the Board, the permit will lapse. In addition, if an applicant fails to file a master deed with the Registry of Deeds within one year from receiving a Conversion permit, the permit will lapse.

**The Ordinance and can be found here: <https://www.somervillema.gov/condo-conversion>**

**Please contact Board Staff, at 617-625-6600 ext 2575 or email at [condoboard@somervillema.gov](mailto:condoboard@somervillema.gov) with any questions or concerns.**

**Please be aware that this ordinance is currently the subject of a legal challenge in the case of Bremis, Stephen et al vs. City of Somerville. Currently, the Ordinance is in full effect. Any update will be provided as made available.**