

**RESOLUTION 04-07-06**

**DIGEST**

Condominium Conversions: Notices to Tenants

Repeals Government Code sections 66452.9 and 66459 and amends Government Code sections 66427.1, 66541.3, 66452.5 and 66452.8 to provide sequential notices to tenants.

**RESOLUTIONS COMMITTEE RECOMMENDATION**

APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution repeals Government Code sections 66452.9 and 66459 and amends Government Code sections 66427.1, 66541.3, 66452.5 and 66452.8 to provide sequential notices to tenants. This resolution should be approved in principle because it provides a clearer series of notices to tenants during the process of condominium conversions.

These notices would be at prescribed times, rather than allowing all notices to be given at one time in advance. The resolution also sets forth tenants’ rights whose apartments are the subject of a condominium conversion. The proposed changes would eliminate tenants’ confusion and misunderstanding of their rights. The proposed changes also require compliance with these notice provisions as a prerequisite to conversion approval, thereby ensuring that the notices were in fact given in the manner provided in the statutes.

Some drafting suggestions to make the proposed text of the statute stronger are: (a) certain notice provisions which would say “at least x days prior” should be modified to preclude telescoping those notices, (b) certain of the longer sections could be broken up, and (c) discrepancies in the numbering of the subdivisions in proposed amended section 66427.1 should be reconciled.

**TEXT OF RESOLUTION**

RESOLVED, that the Conference of Delegates of California Bar Associations recommends that legislation be sponsored to repeal California Government Code sections 66452.9 and 66459, and amend sections 66427.1, 66451.3, 66452.3, 66452.5 and 66452.8 as follows:

- 1 § 66427.1:
- 2 A series of notices must be served on tenants by the subdivider or the local agency,
- 3 as described herein, during each stage of the processing of an application for the approval a
- 4 final map for a subdivision to be created from the conversion of residential real property into
- 5 a condominium project, a community apartment project, or a stock cooperative project. The
- 6 legislative body shall not approve a final map for the creation of an aforementioned a
- 7 ~~subdivision to be created from the conversion of residential real property into a~~

8 condominium project, a community apartment project, or a stock cooperative project unless  
9 it finds all of the following:

10 (a) The local agency has provided each subdivider and on each tenant of the subject  
11 property with the following:

12 (a) ~~Each of the tenants of the proposed condominium, community apartment project~~  
13 ~~or stock cooperative project has received, pursuant to Section 66452.9, written notification~~  
14 ~~of intention to convert at least 60 days prior to the filing of a tentative map pursuant to~~  
15 ~~Section 66452. There shall be a further finding that each such tenant, and each person~~  
16 ~~applying for the rental of a unit in such residential real property, has, or will have, received~~  
17 ~~all applicable notices and rights now or hereafter required by this chapter or Chapter 3~~  
18 ~~(commencing with Section 66451). In addition, a finding shall be made that each tenant has~~  
19 ~~received 10 days' written notification that an application for a public report will be, or has~~  
20 ~~been, submitted to the Department of Real Estate, and that such report will be available on~~  
21 ~~request. The written notices to tenants required by this subdivision shall be deemed satisfied~~  
22 ~~if such notices comply with the legal requirements for service by mail.~~

23 (1) Notice of Public Hearings/Meetings Regarding Conversion. At least ten days  
24 prior to a public hearing or meeting on a tentative map for a subdivision to be created from  
25 the conversion of residential real property into a condominium project, a community  
26 apartment project, or a stock cooperative project, each subdivider and each tenant of the  
27 subject property must receive a written notice that specifies the hearing/meeting date and  
28 location and informs the subdivider and each tenant of the subject property of his, her or its  
29 right to appear and speak at the hearing/meeting. This notice must be sent by mail and must  
30 comply with the legal requirements for service by mail and a notice of the hearing/meeting  
31 must be published and posted at the hearing/meeting site, in accordance with sections  
32 66451.3.

33 (A) For the purpose of this Section, public hearings/meetings include the meetings of  
34 the planning commission and any meetings of other bodies which are not necessarily  
35 considered legislative bodies and therefore do not fall under the normal requirements of a  
36 “public hearing,” so long as those bodies contribute to the contemplation of the conversion  
37 process, if either tenants or subdividers’ are allowed to attend.

38 (2) Copy of all Reports/Recommendations Regarding Conversion. Any report or  
39 recommendation on a tentative map by the staff of the local agency to the advisory agency  
40 or legislative body shall be in writing and a copy thereof served on the subdivider and on  
41 each tenant of the subject property, in the case of a proposed conversion of residential real  
42 property to a condominium project, community apartment project, or stock cooperative  
43 project, at least three days prior to any hearing, meeting or action on such map by such  
44 advisory agency or legislative body, in accordance with section 66427.1(a)(1)(A), as  
45 provided by Section 66452.3. Pursuant to Section 66451.2, fees may be collected from the  
46 subdivider for expenses incurred under this section.

47 (3) Notice of Appeal Hearings/Meetings Regarding Conversions. Each subdivider  
48 and each tenant of the subject property will be given at least three days’ prior written notice of  
49 the date, time and place of a hearing or meeting held to consider an appeal from an action of any  
50 advisory agency, planning commission, legislative body or decision maker regarding the  
51 tentative map of a proposed conversion of residential real property to a condominium project,  
52 community apartment project, or stock cooperative project, as provided in Section 66452.5(e).

53 Such notice shall also advise tenants and subdividers of their right to appear and be heard. This  
54 notice must be sent in accordance with Section 66451.3.

55 (4) Notice of Any Action Taken Regarding Conversions. Each subdivider and each  
56 tenant of the subject property will be notified in writing of any action taken on the  
57 conversion of the subject property, by any advisory agency, planning commission,  
58 legislative body or decision maker regarding the conversion process, within three days of  
59 such action being taken. This notice must be sent by mail and must comply with the legal  
60 requirements for service by mail.

61 ~~-(b) Each of the tenants of the proposed condominium, community apartment project,~~  
62 ~~or stock cooperative project has been, or will be, given written notification within 10 days of~~  
63 ~~approval of a final map for the proposed conversion.~~

64 (b) The subdivider has provided all tenants with the following:

65 (1) Notice of Intent to Convert And Tenants' Rights in Conversion Process. At least  
66 sixty (60) days prior to the filing of the tentative map for the conversion of residential real  
67 property into a condominium project, a community apartment project, or a stock cooperative  
68 project, the subdividers must give written notification of such intent to all tenants. Written  
69 information must accompany the notice, describing what steps and actions the subdivider and  
70 others, including municipal agencies, will or must take in order for the building/parcel to be  
71 converted. The notice must outline how tenants will be involved and informed at each step in  
72 the process and what rights the tenant has, whether mandated by state or local government or  
73 whether provided voluntarily by the subdivider. The notice must include the date on which the  
74 subdivider will most likely file for the tentative map or tentative parcel map with the local  
75 agency as well as the approximate date on which the subdivider expects the final subdivision  
76 public report, if any, to be issued. This notice must be printed in at least 14-point bold print,  
77 sent by mail and must comply with the legal requirements for service by mail. This notice shall  
78 be provided in the following form:

79  
80 TO THE OCCUPANT(S) OF

81  
82 (ADDRESS)

83  
84 THE OWNER(S) OF THIS BUILDING, AT (ADDRESS), PLAN(S) TO FILE AN  
85 APPLICATION FOR A (TENTATIVE MAP OR TENTATIVE PARCEL MAP) WITH  
86 THE (CITY OR COUNTY) TO CONVERT THIS BUILDING TO A (CONDOMINIUM,  
87 COMMUNITY APARTMENT OR STOCK COOPERATIVE PROJECT). YOU SHALL  
88 BE GIVEN NOTICE OF EACH MEETING AND HEARING REGARDING THE  
89 PROSPECTIVE CONVERSION AND YOU HAVE THE RIGHT TO APPEAR AND BE  
90 HEARD AT ANY SUCH MEETING OR HEARING. IN ADDITION, THE OWNER OF  
91 THIS BUILDING WILL MOST LIKELY FILE THE TENTATIVE MAP OR TENTATIVE  
92 PARCEL MAP BY (DATE) AND THE APPROXIMATE DATE ON WHICH THE  
93 OWNER EXPECTS THE FINAL SUBDIVISION PUBLIC REPORT TO BE ISSUED IS  
94 (DATE) BY THE CALIFORNIA DEPARTMENT OF REAL ESTATE. THIS DATE IS  
95 IMPORTANT BECAUSE AS A TENANT YOU HAVE THE EXCLUSIVE RIGHT TO  
96 PURCHASE YOUR UNIT FOR NINETY (90) DAYS FROM THE ISSUANCE OF THIS  
97 REPORT. AS TENANT YOUR TENANCY SHALL NOT BE TERMINATED FOR AT

98 LEAST 180 DAYS FROM THE ISSUANCE OF THE FINAL SUBDIVISION PUBLIC  
99 REPORT OR, IF ONE IS NOT ISSUED, FROM THE START OF SUBDIVIDER'S SALES  
100 PROGRAM. ENCLOSED PLEASE FIND SOME GENERAL INFORMATION ABOUT  
101 THE CONVERSION PROCESS, INFORMATION ABOUT FINANCING OPTIONS FOR  
102 YOU TO CONSIDER REGARDING THE PURCHASE OF YOUR UNIT,  
103 INFORMATION OUTLINING THE RIGHTS AFFORDED TO YOU UNDER STATE  
104 LAW AND LOCAL ORDINANCE AND INFORMATION ABOUT HOW THE  
105 SUBDIVIDER INTENDS ON ASSISTING ALL TENANTS WITH RELOCATION, IF  
106 RELOCATION IS REASONABLY NECESSARY AND MANDATED BY STATE LAW  
107 OR LOCAL ORDINANCE.

108  
109  
110 \_\_\_\_\_  
(SIGNATURE OF OWNER OR OWNER'S AGENT)

111  
112 \_\_\_\_\_  
113 (DATE)

114  
115 I RECEIVED THIS NOTICE ON \_\_\_\_\_ (DATE).

116 \_\_\_\_\_  
117 (SIGNATURE OF TENANT)

118  
119 (A) Accompanying this notice shall be a notice of the tenant rights and the Subdivider's  
120 Preliminary Tenant Assistance Program.

121 (i) Notice of Tenant's Rights. This notice shall include the following  
122 information/notifications:

123 a) Right to Terminate Lease Without Penalty. After receipt of this notice, each tenant  
124 will be entitled to terminate his or her lease or rental agreement without any penalty upon  
125 notifying the subdivider in writing, thirty (30) days in advance of such termination; provided,  
126 however, this requirement shall cease upon notice to the tenant of the abandonment of  
127 subdivider's efforts to convert the building, assuming the tenant has not already provided said  
128 notice.

129 b) Rent Protection. No tenant's rent will be increased from the date of issuance of this  
130 notice until at least twelve (12) months after the date the subdivider files the tentative map or  
131 tentative parcel map with the local agency; provided, however, this requirement shall cease  
132 upon abandonment of subdivider's efforts to convert the building.

133 c) Interior Construction Waiting Period. No remodeling of the interior of tenant-  
134 occupied units shall begin until at least thirty (30) days after issuance of the final subdivision  
135 public report or, if one is not issued, at least thirty (30) days after the start of subdivider's sales  
136 program.

137 d) Notification of the Public Report or Subdivider's Sales Program. All tenants will be  
138 notified of the California Department of Real Estate's issuance of the final subdivision public  
139 report, or if one is not issued, of the start of the subdivider's sales program, within ten (10) days  
140 of the issuance of the public report, or if one is not issued, from the start of the subdivider's  
141 sales program, and if a report is issued, the report shall be made available to any tenant whom  
142 requests a copy, within three (3) days of such written request.

143 e) Tenant's Right of First Refusal. Each tenant shall have an exclusive right to contract  
144 for the purchase of his or her unit, or, at the tenant's option, any other available unit in the  
145 building, upon the same or more favorable terms and conditions that such units will be initially  
146 offered to the general public. Such right shall run for at least ninety (90) days from the  
147 notification of the California Department of Real Estate's issuance of the final subdivision  
148 public report, or if one is not issued, from the notification of the start of the subdivider's sales  
149 program.

150 f) 180 Day Right of Occupancy. Each tenant shall have a right of occupancy of at  
151 least one-hundred and eighty (180) days from the notification of the issuance of the  
152 California Department of Real Estate's final subdivision public report or, if one is not  
153 issued, from the notification of the start of subdivider's sales program.

154 (ii) Subdivider's Preliminary Tenant Assistance Program. This shall include the  
155 following information/notifications:

156 a) Efforts to Minimize Tenant Displacement. Subdivider shall describe those  
157 incentives and inducements that would increase the potential for, and ability of, tenants to  
158 become owners of right to contract for the purchase of his or her unit, or, at the tenant's  
159 option, any other available unit in the building, upon the same or more favorable terms and  
160 conditions that such units will be initially offered to the general public. Subdivider shall  
161 also include actions and procedures to enable hard-to-relocate tenants, should they choose  
162 not to purchase a unit in the subject property, to remain as tenants.

163 b) Tenant Relocation Assistance. Subdivider shall provide each tenant of the subject  
164 property with information regarding all steps the subdivider will take to ensure the  
165 successful relocation of each tenant in the event the conversion takes place and the tenant  
166 chooses not to or is unable to purchase a unit, or remain a tenant.

167 (2) Notice to Prospective Tenants of Tentative Map. During the sixty (60) day period  
168 preceding the filing of the tentative map for the conversion of residential real property into a  
169 condominium project, a community apartment project, or a stock cooperative project, all  
170 prospective tenants must receive written notification of the intention to convert the real property  
171 before the prospective tenant pays any deposit, as required by Section 66452.8. The form and  
172 contents of the notice shall be the same as described in Section 66452.8(b).

173 (3) Notice of Application for Department of Real Estate Public Report. Subdivider must  
174 provide each tenant with written notification that an application for a Public Report has been  
175 filed with the Department of Real Estate at least ten (10) days before the application is filed,  
176 and a copy of the Report must be made available to the tenant upon request. Such notice shall  
177 also state tenants shall be notified within ten (10) days of the issuance of and subdivider's  
178 receipt of the final subdivision public report and that copies will be available upon request; it  
179 shall also state the subdivider's estimate of when the California Department of Real Estate will  
180 issue the report.

181 (4) Notice of Final Department of Real Estate Public Report. Each tenant shall be given  
182 written notification within ten (10) days of subdivider's receipt of the final subdivision public  
183 report. If the conversion involves four or less units, in which case no public report is issued,  
184 each tenant shall be given ten (10) days' prior written notice of the start of subdivider's sales  
185 program. This notice shall explain the tenant's ninety (90) day exclusive right to purchase has  
186 begun, when it will end and clearly define the offer amount for the purchase of a unit within the  
187 subject property.

188 (5) 180 Day Right of Occupancy. Each tenant shall be given one-hundred and eighty  
189 (180) days' written notice of intention to convert prior to termination of tenancy due to the  
190 conversion or proposed conversion of residential real property into a condominium project, a  
191 community apartment project, or a stock cooperative project. No tenant shall have his or her  
192 tenancy terminated prior to the completion or waiver of the tenant's ninety (90) day right to  
193 purchase a unit in the subject property.

194 (6) Tenant's Right of First Refusal. Each tenant shall be given written notification of his  
195 or her exclusive right to contract for the purchase of his or her unit or, at the tenant's option, any  
196 other available unit in the building upon the same or more favorable terms and conditions that  
197 such units will be initially offered to the general public. Such right shall run for at least ninety  
198 (90) days from the notification of issuance the final subdivision public report or, if one is not  
199 issued, from the notification of the start of subdivider's sales program. All tenants shall be  
200 notified in writing of the issuance of said report and that his or her right to contract for the  
201 purchase of his or her unit has begun, within ten (10) days of subdivider's receipt of said report,  
202 and the report shall be made available to any tenant whom requests a copy.

203 (7) Notice of Approval of Final Map. Each tenant must receive written notice of the  
204 local agency's approval of the final map for the conversion of residential real property into a  
205 condominium project, a community apartment project, or a stock cooperative project, within  
206 ten (10) days of the approval by the local agency.

207 (8) Notice to Tenants & Municipal Agency of Final Tenant Assistance Program. If the  
208 tentative map or tentative parcel map is approved, subdivider shall prepare a Final Tenant  
209 Assistance Program that conforms with any conditions of approval relating to the tenant  
210 assistance program, which the local agency placed on the program. Within three (3) days of  
211 receiving such approval, subdivider shall distribute a copy of the Final Tenant Assistance  
212 Program to each tenant and the local agency. The Final Tenant Assistance Program shall be  
213 accompanied by a written notice advising tenants of the action of the local agency and  
214 informing tenants of his or her right to appeal the decision, within (fifteen) 15 days of the date  
215 of the decision.

216 (9) Notice to Prospective Tenants That Conversion Has Been Approved. If a final map  
217 has been approved for a condominium project, community apartment project, or stock  
218 cooperative project, and the subdivider or subsequent owner of the project rents a dwelling in  
219 that project, he or she or such entity shall, prior to offering the separate interest for sale to the  
220 general public, deliver the notice provided in Section 66459, prior to the execution of the rental  
221 agreement.

222 ~~-(c) Each of the tenants of the proposed condominium, community apartment project,~~  
223 ~~or stock cooperative project has been, or will be, given 180 days' written notice of intention~~  
224 ~~to convert prior to termination of tenancy due to the conversion or proposed conversion. The~~  
225 ~~provisions of this subdivision shall not alter or abridge the rights or obligations of the parties~~  
226 ~~in performance of their covenants, including, but not limited to, the provision of services,~~  
227 ~~payment of rent or the obligations imposed by Sections 1941, 1941.1, and 1941.2 of the~~  
228 ~~Civil Code.~~

229 (c) Penalties for Non-compliance With This Section.

230 (1) Effect of Failure to Give Any Notice Required by State Law or Local Ordinance to  
231 Current and/or Prospective Tenants. The local agency must deny approval of any conversion  
232 when the subdivider fails to give a notice to any current and/or prospective tenant. In addition,

233 the tenant who was entitled to the notice, and who does not purchase a unit, can recover  
234 damages from the subdivider in a sum equal to actual expenses incurred to move from the  
235 subject property (not to exceed \$2,000), the first month's rent actually paid on a new rental unit  
236 (not to exceed \$2,000), reasonable legal expenses and any other reasonable sums, imposed on  
237 the subdivider because of the termination of the tenancies in the conversion project as provided  
238 by local ordinance.

239 (2) Effect When Subdivider Misrepresents Tenant Approval. An application for a  
240 condominium conversion cannot be deemed approved by operation of law where the tenant  
241 approvals required by the local ordinance were obtained by misrepresentation and coercion.  
242 Where conversion results in approval because of such misrepresentation, if the tenant does not  
243 purchase a unit, they can recover damages from the subdivider in a sum equal to actual  
244 expenses incurred to move from the subject property (not to exceed \$2,000), the first month's  
245 rent actually paid on a new rental unit (not to exceed \$2,000), reasonable legal expenses and  
246 any other reasonable sums, imposed on the subdivider because of the termination of the  
247 tenancies in the conversion project as provided by local ordinance.

248 ~~(d) Each of the tenants of the proposed condominium, community apartment project,~~  
249 ~~or stock cooperative project has been, or will be, given notice of an exclusive right to~~  
250 ~~contract for the purchase of his or her respective unit upon the same terms and conditions~~  
251 ~~that such unit will be initially offered to the general public or terms more favorable to the~~  
252 ~~tenant. The right shall run for a period of not less than 90 days from the date of issuance of~~  
253 ~~the subdivision public report pursuant to Section 11018.2 of the Business and Professions~~  
254 ~~Code, unless the tenant gives prior written notice of his or her intention not to exercise the~~  
255 ~~right.~~

256 (e) (d) This section shall not diminish, limit or expand, other than as provided herein,  
257 the authority of any city, county, or city and county to approve or disapprove condominium  
258 projects.

259  
260 § 66451.3:

261 (a) Unless otherwise provided by this division, notice of a hearing held pursuant to  
262 this division shall be given pursuant to Sections 65090 and 65091.

263 (b) If the proposed subdivision is a conversion of residential real property to a  
264 condominium project, community apartment project, or stock cooperative project, the notice  
265 shall also be given by the local agency by United States mail to each subdivider and on each  
266 tenant of the subject property of the subject property, and shall also include notification of  
267 the tenant's and subdivider's rights to appear and be heard. The requirements of this  
268 subdivision may be satisfied by service of the notice in compliance with the requirements  
269 for service of legal process by mail. Said notice must be published and posted at the site  
270 where the proposed subdivision will be heard by the local agency and comply with Sections  
271 65090 and 65091.

272 (c) Pursuant to Section 66451.2, fees may be collected from the subdivider for  
273 expenses incurred under this section.

274 (d) Any interested person may appear at the hearing and shall be heard.

275  
276 § 66452.3:

277 Any report or recommendation on a tentative map by the staff of the local agency to

278 the advisory agency or legislative body shall be in writing and a copy thereof served on the  
279 subdivider and on each tenant of the subject property, in the case of a proposed conversion  
280 of residential real property to a condominium project, community apartment project, or  
281 stock cooperative project, at least three days prior to any hearing, meeting by an advisory  
282 agency or action on such map by such advisory agency or legislative body. Pursuant to  
283 Section 66451.2, fees may be collected from the subdivider for expenses incurred under this  
284 section.

285  
286 § 66452.5:

287 (a) The subdivider, or any tenant of the subject property, in the case of a proposed  
288 conversion of residential real property to a condominium project, community apartment  
289 project, or stock cooperative project, may appeal from any action of the advisory agency  
290 with respect to a tentative map to the appeal board established by local ordinance or, if none,  
291 to the legislative body.

292 The appeal shall be filed with the clerk of the appeal board, or if there is none, with  
293 the clerk of the legislative body within 10 days after the action of the advisory agency from  
294 which the appeal is being taken.

295 Upon the filing of an appeal, the appeal board or legislative body shall set the matter  
296 for hearing. The hearing shall be held within 30 days after the date of filing the appeal.  
297 Within 10 days following the conclusion of the hearing, the appeal board or legislative body  
298 shall render its decision on the appeal.

299 (b) The subdivider, any tenant of the subject property, in the case of a conversion of  
300 residential real property to a condominium project, community apartment project, or stock  
301 cooperative project, or the advisory agency may appeal from the action of the appeal board  
302 to the legislative body. The appeal shall be filed in writing with the clerk of the legislative  
303 body within 10 days after the action of the appeal board from which the appeal is being  
304 taken.

305 After the filing of an appeal, the legislative body shall set the matter for hearing. The  
306 hearing shall be held within 30 days after the date of a request therefor filed by the  
307 subdivider or the appellant. Within 10 days following the conclusion of the hearing, the  
308 legislative body shall render its decision on the appeal. The decision shall comply with the  
309 provisions of Sections 66473, 66473.5, and 66474, and shall include any findings required  
310 by those sections.

311 (c) If there is an appeal board and it fails to act upon an appeal within the time limit  
312 specified in this chapter, the decision from which the appeal was taken shall be deemed  
313 affirmed and an appeal therefrom may thereupon be taken to the legislative body as  
314 provided in subdivision (b) of this section. If no further appeal is taken, the tentative map,  
315 insofar as it complies with applicable requirements of this division and local ordinance, shall  
316 be deemed approved or conditionally approved as last approved or conditionally approved  
317 by the advisory agency, and it shall be the duty of the clerk of the legislative body to certify  
318 or state that approval, or if the advisory agency is one which is not authorized by local  
319 ordinance to approve, conditionally approve, or disapprove the tentative map, the advisory  
320 agency shall submit its report to the legislative body as if no appeal had been taken.

321 If the legislative body fails to act upon an appeal within the time limit specified in  
322 this chapter, the tentative map, insofar as it complies with applicable requirements of this

323 division and local ordinance, shall be deemed to be approved or conditionally approved as  
324 last approved or conditionally approved, and it shall be the duty of the clerk of the  
325 legislative body to certify or state that approval.

326 (d) Any interested person adversely affected by a decision of the advisory agency or  
327 appeal board may file an appeal with the governing body concerning any decision of the  
328 advisory agency or appeal board. The appeal shall be filed with the clerk of the governing  
329 body within 10 days after the action of the advisory agency or appeal board which is the  
330 subject of the appeal. Upon the filing of the appeal, the governing body shall set the matter  
331 for hearing. The hearing shall be held within 30 days after the filing of the appeal. The  
332 hearing may be a public hearing for which notice shall be given in the time and manner  
333 provided.

334 Upon conclusion of the hearing, the governing body shall, within 10 days, declare its  
335 findings based upon the testimony and documents produced before it or before the advisory  
336 board or the appeal board. It may sustain, modify, reject, or overrule any recommendations  
337 or rulings of the advisory board or the appeal board and may make any findings which are  
338 not inconsistent with the provisions of this chapter or local ordinance adopted pursuant to  
339 this chapter.

340 (e) Notices ~~of each hearing~~ provided for in this section shall be sent by United States  
341 mail to the subdivider and each tenant of the subject property, in the case of a conversion of  
342 residential real property to a condominium project, community apartment project, or stock  
343 cooperative project, at least three days prior to ~~the~~any hearing, meeting or action pertaining  
344 to conversion of the subject property. The notice requirement of this subdivision shall be  
345 deemed satisfied if the notice complies with the legal requirements for service by mail.  
346 Pursuant to Section 66451.2, fees may be collected from the subdivider or from persons  
347 appealing or filing an appeal for expenses incurred under this section.

348  
349 § 66452.8:

350 (a) Commencing at a date not less than 60 days prior to the filing of a tentative map  
351 pursuant to Section 66452, the subdivider or his or her agent shall give notice of such filing,  
352 in the form outlined in subdivision (b), to each person applying after such date for rental of a  
353 unit of the subject property immediately prior to the acceptance of any rent or deposit from  
354 the prospective tenant by the subdivider.

355 (b) The notice shall be as follows:

356 “To the prospective occupant(s) of

357 \_\_\_\_\_:  
358 (address)

359 The owner(s) of this building, at (address), has filed or plans to file a tentative map with the  
360 (city, county, or city and county) to convert this building to a (condominium, community  
361 apartment, or stock cooperative project). No units may be sold in this building unless the  
362 conversion is approved by the (city, county, or city and county) and until after a public report is  
363 issued by the Department of Real Estate. If you become a tenant of this building, you shall be  
364 given notice of each hearing for which notice is required pursuant to Sections 66427.1, 66451.3  
365 and 66452.5 of the Government Code, and you have the right to appear and the right to be heard  
366 at any such hearing or meeting.

368 \_\_\_\_\_ (signature of owner or owner's agent)

369

370 \_\_\_\_\_ (dated)I have received this notice on

371 \_\_\_\_\_ . (date)

372 \_\_\_\_\_ (prospective tenant's signature)"

373

374 (c) Failure by a subdivider or his or her agent to give the notice required in subdivision

375 (a) shall ~~not~~ be grounds to deny the conversion. However, if the subdivider or his or her agent

376 fails to give notice pursuant to this section, he or she shall be entitled to re-apply with the local

377 agency within thirty (30) days of such denial, unless a longer period proscribed by local

378 ordinance. Additionally, failure to give the notice required in subdivision (a) shall result in the

379 responsibility of subdivider to pay to each prospective tenant who becomes a tenant and who

380 was entitled to such notice, and who does not purchase his or her unit pursuant to subdivision

381 (b) of Section 66427.1, an amount equal to the sum of the following:

382 (1) Actual moving expenses incurred when moving from the subject property, but not to  
383 exceed ~~five hundred~~ two-thousand dollars (\$~~500~~2,000).

384 (2) The first month's rent on the tenant's new rental unit, if any, immediately after  
385 moving from the subject property, but not to exceed ~~five hundred~~ two-thousand dollars  
386 (\$~~500~~2,000).

387

388 § 66452.9:

389 ~~(a) Pursuant to the provisions of subdivision (a) of Section 66427.1, the subdivider~~  
390 ~~shall give notice 60 days prior to the filing of a tentative map pursuant to Section 66452 in~~  
391 ~~the form outlined in subdivision (b), to each tenant of the subject property.~~

392 ~~(b) The notice shall be as follows:~~

393 ~~"To the occupant(s) of~~

394 \_\_\_\_\_:

395 ~~(address)~~

396 ~~The owner(s) of this building, at (address), plans to file a tentative map with the (city,~~  
397 ~~county, or city and county) to convert this building to a (condominium, community~~  
398 ~~apartment, or stock cooperative project). You shall be given notice of each hearing for~~  
399 ~~which notice is required pursuant to Sections 66451.3 and 66452.5 of the Government Code,~~  
400 ~~and you have the right to appear and the right to be heard at any such hearing.~~

401 \_\_\_\_\_ (signature of owner or owner's agent)

402 \_\_\_\_\_ (date)"

403 ~~The written notices to tenants required by this section shall be deemed satisfied if such~~  
404 ~~notices comply with the legal requirements for service by mail.~~

405

406 § 66459:

407 ~~(a) If a final map has been approved for a condominium project, community~~  
408 ~~apartment project, or stock cooperative project, and the subdivider or subsequent owner of~~  
409 ~~the project, on or after January 1, 1993, rents a dwelling in that project, he or she shall, prior~~  
410 ~~to offering the separate interest for sale to the general public, deliver the following notice,~~  
411 ~~printed in at least 14 point bold print, prior to the execution of the rental agreement:~~

412

413 TO THE PROSPECTIVE TENANTS OF

414

415 \_\_\_\_\_  
(address)

416 ~~THE UNIT YOU MAY RENT HAS BEEN APPROVED FOR SALE TO THE PUBLIC AS~~  
417 ~~A CONDOMINIUM PROJECT, COMMUNITY APARTMENT PROJECT, OR STOCK~~  
418 ~~COOPERATIVE PROJECT (WHICHEVER APPLIES). THE RENTAL UNIT MAY BE~~  
419 ~~SOLD TO THE PUBLIC, AND, IF IT IS OFFERED FOR SALE, YOUR LEASE MAY BE~~  
420 ~~TERMINATED. YOU WILL BE NOTIFIED AT LEAST 90 DAYS PRIOR TO ANY~~  
421 ~~OFFERING TO SELL. IF YOU STILL LAWFULLY RESIDE IN THE UNIT, YOU WILL~~  
422 ~~BE GIVEN A RIGHT OF FIRST REFUSAL TO PURCHASE THE UNIT.~~

423

424

425 \_\_\_\_\_  
(signature of owner or owner's agent)

426

427 \_\_\_\_\_  
(dated)

428 (b) ~~The condominium project, community apartment project, or stock cooperative~~  
429 ~~project shall not be referred to in a lease or rental agreement as an "apartment" or~~  
430 ~~"apartments" on or after the date of the approval by the local agency of the final map for the~~  
431 ~~condominium project, community apartment project, or stock cooperative project in which~~  
432 ~~the final map was approved on or after January 1, 1993.~~

433 (c) ~~Any tenant of a condominium project, community apartment project, or stock~~  
434 ~~cooperative project pursuant to this section shall be given at least 90 days' written notice of~~  
435 ~~the intention to sell the rental unit to the general public. This subdivision shall not alter or~~  
436 ~~abridge the rights or obligations of the parties in performance of their covenants, including,~~  
437 ~~but not limited to, the provision of services, payment of rent, or other obligations imposed~~  
438 ~~by Sections 191, 1941.1, and 1941.2 of the Civil Code.~~

439 (d) ~~Any tenant who lawfully resides in a condominium project, community~~  
440 ~~apartment project, or stock cooperative project pursuant to this section shall be given a right~~  
441 ~~of first refusal by the subdivider or subsequent owner of the project for the purchase of his~~  
442 ~~or her rental unit upon the same terms and conditions that the unit will be initially offered to~~  
443 ~~the general public or terms and conditions more favorable to the tenant. This right to~~  
444 ~~purchase shall run for a period of 90 days from the date of the notice, unless the tenant gives~~  
445 ~~written notice within the 90-day period of his or her intention not to exercise that right.~~

446 (e) ~~Failure to comply with this section shall not invalidate the transfer of title to real~~  
447 ~~property.~~

448 (f) ~~This section shall not apply to any of the following:~~

449 (1) ~~An owner of four dwelling units or less.~~

450 (2) ~~Transfers pursuant to court order, including, but not limited to, transfers ordered~~  
451 ~~by a probate court in the administration of an estate, transfers by any foreclosure sale after~~  
452 ~~default, transfers by any foreclosure sale after default in an obligation secured by a~~  
453 ~~mortgage, or transfers by a sale under a power of sale after a default in an obligation secured~~  
454 ~~by a deed of trust or secured by any other instrument containing a power of sale, and any~~  
455 ~~subsequent transfer by a mortgagor or beneficiary of a deed of trust who accepts a deed in~~  
456 ~~lieu of foreclosure or purchases the property at a foreclosure sale.~~

457 (3) ~~Transfers by a fiduciary in the course of the administration of a decedent's estate,~~

458 ~~guardianship, conservatorship, or trust. For purposes of this paragraph, a "fiduciary" means~~  
459 ~~a state or federally chartered bank, trust company, savings association, savings bank, credit~~  
460 ~~union, or industrial loan company.~~

(Proposed new language underlined; language to be deleted stricken.)

PROPONENT: San Diego County Bar Association

#### STATEMENT OF REASONS

Existing Law: In California, many residential tenants experience displacement due to the conversions of their apartments to condominiums. Accordingly, state law mandates that tenants be given certain notifications when owners seek to convert and sell their property. State law was enacted to provide tenants with certain rights and notification of those rights, but poor drafting has left the law ambiguous. For example, the statute guarantees that tenants will be notified at various stages of the process (60 days before a developer applies, 180 days before termination of tenancy, etc.). The statute also guarantees tenants a 90-day exclusive right to purchase their converted unit and so forth. Although these guarantees sound great, they are problematic on many levels. In reality, there is no reference to the sequence for the various notices, which means that developers generally give all notices at once, possibly prior to the application process, which can be more than a year from the date of any actual construction or sales program. Second, although tenants have certain rights under the statute, such as the exclusive right to contract for the purchase of their unit for at least 90 days prior to it being offered to the public, many tenants never know when this right (or rights like it) begins or even that they have such a right.

The Resolution: Clarifying the law would assist tenants in understanding their rights, municipalities in following the law, and developers in minimizing their legal expenses and possibly in locating purchasers.

The Problem: The fact that tenants often do not know their rights under the statute hurts developers and municipalities alike. For example, if tenants understood their exclusive right to purchase coupled with various state and federal assistance programs for first time buyers, they might purchase their unit, which would alleviate their displacement and the developers need to locate buyers.

#### IMPACT STATEMENT

This resolution does not impact any other statute, law or rule.

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RESPONSIBLE FLOOR DELEGATE: James D. Snyder

04-07-12