

**City of Salem, Massachusetts**



**"Know Your Rights Under the Open Meeting Law, M.G.L. c. 30A ss. 18-25 and  
City Ordinance Sections 2-2028 through 2-2033."**

**The City Council Committee on The Committee of the Whole**

**met in the Council Chamber on November 3, 2022 at 6:12 P.M.**

**for the purpose of discussing the matters(s) listed below. Notice of this meeting was posted on**

**October 26, 2022 at 3:02 P.M.**

**(This meeting is being recorded)**

**ATTENDANCE**

**ABSENT WERE: Councilor Prosniewski; Councilor Merkl attended remotely.**

**Also in attendance: Amanda Chiancola, Planning Department; Dominick Pangalo, Mayor's Chief of Staff**

**SUBJECT(S)**

**Tenant Protection Ordinance Re: Condo Conversions**

Amanda Chiancola began with a presentation. The Committee of the Whole (COW) does not have an ordinance amendment in front of them. The purpose of the meeting is to understand the possible changes being discussed in the Affordable Housing Trust Fund (AHTF) Board, which has been working on tenant protections for about two years. This is a discussion to enable the COW to ask any questions they may have.

Amanda began by stating that the AHTF Board voted to have Ms Chiancola present the information to the COW and return with feedback on the proposed framework.

In Massachusetts, in 1983, a condo conversion law was passed. It was meant to provide displacement by establishing some protections, and allowed communities to establish greater or different protections. The law was amended in 1989 and 2005 to allow certain waivers. Local legislative action must be accompanied by a declaration in the form of findings where local conditions constitute an acute rental housing emergency requiring local action. This would be part of an ordinance.

The challenges with the State Law are that there are no regulations on how to implement the law; The law only applies to buildings with 4 or more units and local action cannot lower the threshold; And, meaningful enforcement is not possible without devoting local staff and resources; therefore it is not really enforceable by communities that have adopted local condo conversion ordinances/bylaws.

The State condo conversion law is not being enforced in Salem and in most other communities because of the lack of staff and lack of regulations. The pace of conversions have steadily increased over the past 6 years, while housing costs continue to rise. Salem is quickly losing its stock of 2- and 3-family housing due to condo conversion. Displacement due to conversion disproportionately affects people of color, since 1 in 4 renter households identify as non-white.

394 rental units converted to condos from 2015 to August 2021. The majority of these conversions are 2- and 3-family buildings, which are not covered by the State's condo conversion protection law.

52% of households in Salem own their home, and the median income of owners is \$100,548. This is a housing cost burden of 32.1%. Homeowners are 7.5% non-white. Renters make up 48% of households, with a median income of \$40,515. The housing cost burden of renters is 51.6%. Renters are 25.2% non-white.

Local legislation through a Home Rule Petition is required. Salem approved an HRP which was sent to the legislature. The City Council can't adopt an ordinance which will affect 2- and 3-family houses until this HRP is approved.

A survey was sent out to 8000 households, both renters and owners in buildings of 8 or fewer units. Over 200 survey responses were received, and more than half were from renters, which is a response not seen before from the rental community.

The **ordinance framework** begins with the purpose:

1. Decelerate the rate of naturally affordable housing stock into condos and cooperatives, especially in multifamily residential buildings.
2. Minimize residential displacement of renter households by strengthening tenant's rights during a condo conversion.
3. Preserve the supply of housing and diversity of housing options, in response to demographic changes such as smaller and older households.
4. Provide a permitting pathway for the owner of an existing multifamily building to convert rental housing into condominium or cooperatives.

The **permitting process** includes a Notice of Intent, Conditional Conversion Application (CCA), Conditional Conversion Permit (CCP), Waiting Period, Final Conversion Application, Final Conversion Permit.

The landlord must submit a notice of intent to all tenants who rented within the past year, notifying them that the unit will be converted. There is a right to purchase in the ordinance, and a relocation payment.

During the **waiting period**, the tenant is looking for another home. When the tenant moves, the conversion can proceed.

A new position of **Neighborhood Stability Coordinator**, who will administer the policy, and a Condo Conversion Board is created.

If the unit is vacant, there is a 1-year notice. If the unit is occupied, there is a 2-year notice.

The **Condo Conversion Board** is made up of 5 members: they must all be Salem residents; 2 homeowners, 2 renters; at least 1 must be in a protected class, at least 1 must be from the Affordable Housing Trust Fund Board (but not an elected official).

The **current state law** includes a 1-year waiting period for occupied units, 2 years for protected classes with an extension of 2 more years if unable to find housing in the community. This is proposing a 2-year waiting period. For protected classes, this is two years and up to a 2-year extension if they can't find housing in Salem. This proposal is only different in a 2-year waiting period for occupied units.

State law includes a \$750 payment per tenant, and \$1000 for protected classes to help with relocation. This proposal includes a \$5000 payment per tenant, paid within 10 days of vacating. This increase is to help with first, last, and security, which is so much higher than the State allows.

The **Notice of Intent for occupied units** must include: the explanation of intent to convert; the notice of a 2-year notice to vacate; contact information for the Neighborhood Stability Coordinator, the tenant's right to purchase at market rate; if the tenant does not purchase, the property owner will provide a relocation fee to the tenant. No change will be made to the rental agreement except for rent increases, which can't exceed the percent increase by the CPT or 10%, whichever is less.

The **Notice of Intent for vacant units**: the owner must provide a notice of intent to the Neighborhood Stability Coordinator 1 year in advance. The 1-year notice does not apply where the unit was previously owner occupied during the previous 12 month period; where the City or Designee purchases the vacant unit for the purpose of deed-restricting it for affordability; where the owner is selling the unit to a family member.

The **Permitting Process** includes:

1. The permit shall be approved if all documentation has been submitted and staff has determined that the notice has been provided.
2. The permit shall be denied if the documentation is incomplete; the owner has taken action to circumvent the State or local law.
3. The permit can be denied if any document or statement is false.

All comments from this discussion will be brought back to the AHTF board for further discussion and refinement. Eventually, the ordinance will be submitted to the Council. Nothing will be submitted until the enabling legislation is adopted.

Discussion:

Councilor Morsillo begins by stating that this is a tricky ordinance because protecting tenants living in Salem is very important, as we hear so often. Condos also provide a pathway to homeownership, which is becoming more difficult due to higher prices.

Councilor McCarthy asks where the new position falls in the City structure. Ms Chiancola replies that the position of Neighborhood Stability Coordinator will report to the Mayor.

Councilor McCarthy asks how this information will be disseminated to property owners. Is there an effective date proposed for the new ordinance? He wonders about how many owners will jump to convert before the ordinance is approved or in effect. Ms Chiancola responds that this is very challenging. The AHTF discussed that there needs to be a robust information period. The process and timeline need more discussion by the AHTF Board.

Councilor Cohen states that he is an owner occupier of a 4-unit building and that all of his tenants are of the protected class. He is supportive of this ordinance. He explains that several multifamily buildings on his street were sold recently and are being converted to condos. One multi-family building was bought, and the rents were increased up to \$1200/month. All of the renters moved. He thinks the relocation fee is on the low side if the intent is to cover first, last, and security payments, and that the building owners can more than afford the required relocation fee.

Councilor Watson-Felt asks to review the 12-month waiting period for those who vacated within a year. Ms Chiancola states that tracking down previous tenants takes time. The reason for notification is to find out whether the tenant was displaced by a large rent increase (which can be used to force tenants to vacate). This makes the tenants aware of the conversion and the support that may be available. Councilor Watson-Felt asks about the enforceability of this notice period, and thinks this may be confusing to some.

Councilor McCarthy asks about tenants who find out about the sale of the building who move voluntarily. Who pays for the relocation fee after the fact? The new owner or the previous owner? Ms Chiancola suggests that there are good questions here. There needs to be a cut-off date. The intent is to make sure the tenant has safe and adequate housing, ultimately.

Councilor Morsillo asks if condo conversion is happening by new owners or owners who have lived there for a while, but are converting in order to stay in their unit as they age. Are homeowners converting and then selling all units and moving themselves? If there is data, it would be informative of the process of conversion that we are seeing.

Councilor Merkl asks about the Home Rule Petition process and when we expect to see a final vote. She also asks about first time homeowner assistance that may be available to tenants who may want to purchase their unit. Ms Chiancola isn't clear on the time period for the HRP. She states that the resources for the tenant will be communicated by the Neighborhood Stability Coordinator, who has information about all state, federal, and local homeowner assistance programs.

Councilor Hapworth appreciates the work done to create this framework for an ordinance. We have many laws to protect homeowners, but fewer to protect tenants. He asks if there are other communities that have been able to enforce the state law and asks about the right to purchase. Ms Chiancola states that we looked at Somerville to model our ordinance. Other communities have laws about rent increases, but don't really enforce the laws. The right to purchase is simply that the tenant has the first right to purchase the unit at the market rate. If they refuse, the City or the AHTF board then have the right to purchase, but with a deed restriction for affordability. This could include a designee that is a nonprofit organization. The Neighborhood Stability Coordinator will work with the owner to make sure the asking price is within a reasonable ask.

Councilor Riccardi asks about the right to purchase and the 2-year timeline waiting period. Ms Chiancola states that if the tenant decides not to purchase, the 2-year period gives the tenant time to relocate. Councilor Riccardi comments about the market variability, which may allow the tenant to then afford the unit. Ms Chiancola states that the tenant can then bid on the property with everyone else, at the market rate.

Councilor Watson-Felt comments that if the tenant needs 10, 12 weeks to go through a purchase application for funding, the ordinance covers this period. She also appreciates Councilor Madore's leadership on this ordinance over the past 2 years.

Councilor Riccardi asks about when the process starts. Can the owner start the process before selling in order to make it more appealing to potential buyers? Ms Chiancola states that nothing precludes this from happening, but the Trust Board should discuss this further.

Councilor McCarthy agrees that this is an important point. A homeowner who knows they will be selling in the next few years may want to do just this. It makes the property more valuable to a purchaser. He asks if the purchase of the condo by the tenant as-is? What is required by the seller as part of the conversion? Also, he asks about the process of notification to the City about available unit purchase. Ms Chiancola states that when the clock begins is an important policy discussion that needs to happen with the AHTF Board. Also, the owner can make improvements and repairs to the unit that are reasonable while the tenant is living there. But this needs more discussion. The landlord is responsible for notifying the City of available units, through the new coordinator. The City currently has the right of first refusal for some properties, and there is a process in place. The Condo Review Board would discuss the purchase of these properties.

Councilor Cohen states that he supports the right to purchase by tenants, he doesn't think many will be able to afford the units. Too many are already overburdened by rents. In his opinion, the waiting period allowed for relocation are the most important aspect of the ordinance.

Councilor McClain asks about the rights of a tenant right now, in the absence of the ordinance. Ms Chiancola needs to get more information. If the building has 4 or more units they are protected by the State law, but this is not being enforced. He then asks about what kind of assistance is available right now to residents in Salem. He also wonders if this will incentivize landlords to clear out units, wait 13 months, then convert with no protections for the tenants. Ms Chiancola states that the Neighborhood Stability Coordinator will be covering all sorts of tenant assistance. The City has started a Housing Stability office in partnership with the Essex County Bar Association, with drop-in hours at the Community Life Center and at Espacio. There is also a hotline: 978-500-0973 for any issues or questions. Leave a message and an attorney will contact you. There are also public services: housing assistance, fuel assistance, disability resources, etc. The Neighborhood Stability Coordinator will help to link residents up to these resources.

Councilor McClain asks about including a hard number of \$5000, instead of making it future proof. Ms Chiancola states that there will be a percent increase each year, with a cost-of-living adjustment. He asks about the waiting period for occupied units. Is the tenant required to prove a good faith effort to find housing? Ms Chiancola states that the opposite is proposed. The owner needs to show a good faith effort to help the tenant find housing, some of which is connecting with social services to help with the search.

Councilor McCarthy asks to amend the Condo Board to be a homeowner of a 2- or 3-family building due to their perspective.

Public Comment:

Former Councilor Christine Madore, 20 Federal St, Unit 8. She states she wanted to be here to see the process through. The questions and feedback so far are very helpful. She asks that everyone refer back to the 4 purposes, the first of which is to decelerate condo conversions, not stop them altogether. Preserving housing options includes condos, which are very important in the market. Striking a balance is important. This ordinance is to strike a balance between tenant rights which are not being enforced in Salem and owner rights. Only Somerville hired staff to enforce the law. Other communities adopted local laws but did not hire anyone to enforce the law, so it is worthless. The imbalance is that homeowners have more rights than tenants right now. This does not preclude homeowners from selling their property. A property owner can advertise their home as a possible building for condo conversion, which could be considered a notice of intent. It could be verbal notice from the owner to the tenant. The ordinance is only applicable to whoever wants to convert. It would not preclude the owner from

selling the property. There should be explicit language that the tenant cannot be evicted during the waiting period? Need to keep this in mind when the final ordinance is submitted.

Councilor Dominguez states that the intent notice is good, and asks about education of tenants, especially in the Latino community, so in different languages. Councilor Madore states that protected classes include sex, religion, place of origin, disability, age, race. The Council could add language isolation, and could lower the age to 55, but Ms Chiancola can provide more detailed information.

Lori Stewart, 7 Barnes Road asks the Council to remember that this does not remove the right to convert to condos, but provides protection for displacement. Displacement has financial costs to society, including foster care of children, homelessness. Tenant protections should be thought of as consumer protections: tenants have provided income to the owner. She urges the Council to keep tenant protection very strong.

Ms Chiancola reads an email from David Haley, a homeowner. He has provided 2 rental units at affordable rates, but is not happy with this proposed ordinance. He will go ahead with convert now so that there is no waiting period.

Geoff Millar, 29 Boardman Street. As a tenant who has been a homeowner and condo owner, he thinks we need to move carefully. This feels like a broad-brush approach. He agrees that tenants are the most at-risk in Salem, as they have no control over rent increases. He also knows that many are looking for condos to purchase. He urges that this moves forward in a thoughtful way.

Councilor Cohen moves to keep this in committee, seconded by Councilor Varela. The motion passes 10-0.

On the motion of C. McCarthy the meeting adjourned at 7:54 P.M.

A handwritten signature in cursive script, reading "Patricia Masileo", written over a horizontal line.

(Chairperson)