

ASSEMBLY BILL

No. 763

Introduced by Assembly Member Saldana

February 22, 2007

An act to amend Sections 66452.5, 66452.8, 66452.9, 66459, and 66499.37 of, to add Sections 66452.11 and 66452.12 to, and to repeal and add Section 66427.1 of, the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 763, as introduced, Saldana. Condominium conversion: tenant notification.

The Subdivision Map Act prohibits a legislative body from approving a final map for a subdivision to be created from the conversion of residential real property into a condominium project, a community apartment project, or a stock cooperative project, unless the legislative body finds that there has been compliance with certain tenant notice requirements

This bill would recast the specified prohibition and would make other, technical changes to related provisions of existing law.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 66427.1 of the Government Code is
- 2 repealed.
- 3 ~~66427.1. The legislative body shall not approve a final map~~
- 4 ~~for a subdivision to be created from the conversion of residential~~
- 5 ~~real property into a condominium project, a community apartment~~

1 project, or a stock cooperative project unless it finds all of the
2 following:

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

19 (b) Each of the tenants of the proposed condominium,
20 community apartment project, or stock cooperative project has
21 been, or will be, given written notification within 10 days of
22 approval of a final map for the proposed conversion.

23 (c) Each of the tenants of the proposed condominium,
24 community apartment project, or stock cooperative project has
25 been, or will be, given 180 days' written notice of intention to
26 convert prior to termination of tenancy due to the conversion or
27 proposed conversion. The provisions of this subdivision shall not
28 alter or abridge the rights or obligations of the parties in
29 performance of their covenants, including, but not limited to, the
30 provision of services, payment of rent or the obligations imposed
31 by Sections 1941, 1941.1, and 1941.2 of the Civil Code.

32 (d) Each of the tenants of the proposed condominium,
33 community apartment project, or stock cooperative project has
34 been, or will be, given notice of an exclusive right to contract for
35 the purchase of his or her respective unit upon the same terms and
36 conditions that such unit will be initially offered to the general
37 public or terms more favorable to the tenant. The right shall run
38 for a period of not less than 90 days from the date of issuance of
39 the subdivision public report pursuant to Section 11018.2 of the

1 ~~Business and Professions Code, unless the tenant gives prior written~~
2 ~~notice of his or her intention not to exercise the right.~~

3 ~~(e) This section shall not diminish, limit or expand, other than~~
4 ~~as provided herein, the authority of any city, county, or city and~~
5 ~~county to approve or disapprove condominium projects.~~

6 SEC. 2. Section 66427.1 is added to the Government Code, to
7 read:

8 66427.1. (a) The legislative body shall not approve a final
9 map for a subdivision to be created from the conversion of
10 residential real property into a condominium project, a community
11 apartment project, or a stock cooperative project, unless it finds
12 as follows:

13 (1) Each tenant of the proposed condominium, community
14 apartment project, or stock cooperative project, and each person
15 applying for the rental of a unit in the residential real property, has
16 received or will have received all applicable notices and rights
17 now or hereafter required by this chapter or Chapter 3
18 (commencing with Section 66451).

19 (2) Each of the tenants of the proposed condominium,
20 community apartment project, or stock cooperative project has
21 received or will receive each of the following notices:

22 (A) Written notification, pursuant to Section 66452.9, of
23 intention to convert, provided at least 60 days prior to the filing
24 of a tentative map pursuant to Section 66452.

25 (B) Ten days' written notification that an application for a public
26 report will be, or has been, submitted to the Department of Real
27 Estate, that the period for each tenant's right to purchase begins
28 with the issuance of the final public report, and that the report will
29 be available on request.

30 (C) Written notification that the subdivider has received the
31 public report from the Department of Real Estate. This notice shall
32 be provided within five days after the date that the subdivider
33 receives the public report from the Department of Real Estate.

34 (D) Written notification within 10 days after approval of a final
35 map for the proposed conversion.

36 (E) One hundred eighty days' written notice of intention to
37 convert, provided prior to termination of tenancy due to the
38 conversion or proposed conversion pursuant to Section 66452.11,
39 but not before the local authority has approved a tentative map for
40 the conversion. The notice given pursuant to this paragraph shall

1 not alter or abridge the rights or obligations of the parties in
2 performance of their covenants, including, but not limited to, the
3 provision of services, payment of rent, or the obligations imposed
4 by Sections 1941, 1941.1, and 1941.2 of the Civil Code.

5 (F) Notice of an exclusive right to contract for the purchase of
6 his or her respective unit upon the same terms and conditions that
7 the unit will be initially offered to the general public or terms more
8 favorable to the tenant. The exclusive right to purchase shall
9 commence on the date the subdivision public report is issued, as
10 provided in Section 11018.2 of the Business and Professions Code,
11 and shall run for a period of not less than 90 days, unless the tenant
12 gives prior written notice of his or her intention not to exercise the
13 right.

14 (b) The written notices to tenants required by subparagraphs
15 (A) and (B) of paragraph (2) of subdivision (a) shall be deemed
16 satisfied if those notices comply with the legal requirements for
17 service by mail.

18 (c) This section shall not diminish, limit or expand, other than
19 as provided herein, the authority of any city, county, or city and
20 county to approve or disapprove condominium projects.

21 (d) If a rental agreement was negotiated in Spanish, Chinese,
22 Tagalog, Vietnamese, or Korean, all required written notices
23 regarding the conversion of residential real property into a
24 condominium project, a community apartment project, or a stock
25 cooperative project shall be issued in the tenant's primary language.

26 SEC. 3. Section 66452.5 of the Government Code is amended
27 to read:

28 66452.5. (a) (1) The subdivider, or any tenant of the subject
29 property, in the case of a proposed conversion of residential real
30 property to a condominium project, community apartment project,
31 or stock cooperative project, may appeal from any action of the
32 advisory agency with respect to a tentative map to the appeal board
33 established by local ordinance or, if none, to the legislative body.

34 (2) The appeal shall be filed with the clerk of the appeal board,
35 or if there is none, with the clerk of the legislative body within 10
36 days after the action of the advisory agency from which the appeal
37 is being taken.

38 (3) Upon the filing of an appeal, the appeal board or legislative
39 body shall set the matter for hearing. The hearing shall be held set
40 within 30 days after the date of a request filed by the subdivider

1 or the appellant. If there is no regular meeting of the legislative
2 body within the next 30 days for which notice can be given
3 pursuant to Section 66451.3, the appeal may be heard at the next
4 regular meeting for which notice can be given, or within 60 days
5 from the date of the receipt of the request, whichever period is
6 shorter. Within 10 days following the conclusion of the hearing,
7 the appeal board or legislative body shall render its decision on
8 the appeal.

9 (b) (1) The subdivider, any tenant of the subject property, in
10 the case of a conversion of residential real property to a
11 condominium project, community apartment project, or stock
12 cooperative project, or the advisory agency may appeal from the
13 action of the appeal board to the legislative body. The appeal shall
14 be filed in writing with the clerk of the legislative body within 10
15 days after the action of the appeal board from which the appeal is
16 being taken.

17 (2) After the filing of an appeal, the legislative body shall set
18 the matter for hearing. The hearing shall be ~~held~~ set within 30 days
19 after the date of the request filed by the subdivider or the appellant.
20 If there is no regular meeting of the legislative body within the
21 next 30 days for which notice can be given pursuant to Section
22 66451.3, the appeal may be heard at the next regular meeting for
23 which notice can be given, or within 60 days from the date of the
24 receipt of the request, whichever period is shorter. Within 10 days
25 following the conclusion of the hearing, the legislative body shall
26 render its decision on the appeal.

27 (c) (1) If there is an appeal board and it fails to act upon an
28 appeal within the time limit specified in this chapter, the decision
29 from which the appeal was taken shall be deemed affirmed and an
30 appeal therefrom may thereupon be taken to the legislative body
31 as provided in subdivision (b) of this section. If no further appeal
32 is taken, the tentative map, insofar as it complies with applicable
33 requirements of this division and any local ordinance, shall be
34 deemed approved or conditionally approved as last approved or
35 conditionally approved by the advisory agency, and it shall be the
36 duty of the clerk of the legislative body to certify or state that
37 approval, or if the advisory agency is one which is not authorized
38 by local ordinance to approve, conditionally approve, or disapprove
39 the tentative map, the advisory agency shall submit its report to
40 the legislative body as if no appeal had been taken.

(2) If the legislative body fails to act upon an appeal within the time limit specified in this chapter, the tentative map, insofar as it complies with applicable requirements of this division and any local ordinance, shall be deemed to be approved or conditionally approved as last approved or conditionally approved, and it shall be the duty of the clerk of the legislative body to certify or state that approval.

(d) (1) Any interested person adversely affected by a decision of the advisory agency or appeal board may file an appeal with the legislative body concerning any decision of the advisory agency or appeal board. The appeal shall be filed with the clerk of the legislative body within 10 days after the action of the advisory agency or appeal board that is the subject of the appeal. Upon the filing of the appeal, the legislative body shall set the matter for hearing. The hearing shall be held set within 30 days after the date of a request filed by the subdivider or the appellant. If there is no regular meeting of the legislative body within the next 30 days for which notice can be given pursuant to Section 66451.3, the appeal may be heard at the next regular meeting for which notice can be given, or within 60 days from the date of the receipt of the request, whichever period is shorter. The hearing may be a public hearing for which notice shall be given in the time and manner provided.

(2) Upon conclusion of the hearing, the legislative body shall, within 10 days, declare its findings based upon the testimony and documents produced before it or before the advisory board or the appeal board. The legislative body may sustain, modify, reject, or overrule any recommendations or rulings of the advisory board or the appeal board and may make any findings that are not inconsistent with the provisions of this chapter or any local ordinance adopted pursuant to this chapter.

(e) Each decision made pursuant to this section shall be supported by findings that are consistent with the provisions of this division and any local ordinance adopted pursuant to this division.

(f) Notice of each hearing provided for in this section shall be sent by United States mail to each tenant of the subject property, in the case of a conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, at least three days prior to the hearing. The notice requirement of this subdivision shall be deemed satisfied if

the notice complies with the legal requirements for service by mail. Pursuant to Section 66451.2, fees may be collected from the subdivider or from persons appealing or filing an appeal for expenses incurred pursuant to under this section.

SEC. 4. Section 66452.8 of the Government Code is amended to read:

66452.8. (a) Commencing at a date not less than 60 days prior to the filing of a tentative map pursuant to Section 66452, the subdivider or his or her agent shall give notice of the filing, in the form outlined in subdivision (b), to each person applying after that date for rental of a unit of the subject property immediately prior to the acceptance of any rent or deposit from the prospective tenant by the subdivider.

(b) The notice shall be as follows:

“To the prospective occupant(s) of

(address)

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

(signature of owner or owner's agent)

(dated)

I have received this notice on _____.

(date)

(prospective tenant's signature)”

(c) Failure by a subdivider or his or her agent to give the notice required in subdivision (a) shall not be grounds to deny the conversion. However, if the subdivider or his or her agent fails to give notice pursuant to this section, he or she shall pay to each prospective tenant who becomes a tenant and who was entitled to the notice, and who does not purchase his or her unit pursuant to subdivision (d) subparagraph (F) of paragraph (2) of subdivision (a) of Section 66427.1, an amount equal to the sum of the following:

(1) Actual moving expenses incurred when moving from the subject property, but not to exceed one thousand one hundred dollars (\$1,100).

(2) The first month's rent on the tenant's new rental unit, if any, immediately after moving from the subject property, but not to exceed one thousand one hundred dollars (\$1,100).

The

(d) The requirements of this subdivision (c) constitute a minimum state standard. However, nothing in this that subdivision shall be construed to prohibit any city, county, or city and county from requiring, by ordinance or charter provision, a subdivider to compensate any tenant, whose tenancy is terminated as the result of a condominium, community apartment project, or stock cooperative conversion, in amounts or by services which exceed those set forth in paragraphs (1) and (2) of this that subdivision. In the case of such a If that requirement is imposed by any city, county, or city and county, a subdivider who meets the compensation requirements of the local ordinance or charter provision shall be deemed to satisfy the requirements of this subdivision (c).

SEC. 5. Section 66452.9 of the Government Code is amended to read:

66452.9. (a) Pursuant to the provisions of subparagraph (A) of paragraph (2) of subdivision (a) of Section 66427.1, the subdivider shall give notice 60 days prior to the filing of a tentative map pursuant to Section 66452 in the form outlined in subdivision (b), to each tenant of the subject property.

(b) The notice shall be as follows:

"To the occupant(s) of

_____:

(address)

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

(signature of owner or owner's agent)

(date)”

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

SEC. 6. Section 66452.11 is added to the Government Code, to read:

66452.11. (a) Pursuant to the provisions of subparagraph (E) of paragraph (2) of subdivision (a) of Section 66427.1, the subdivider shall give written notice of the intent to convert 180 days prior to the termination of tenancy in the form outlined in subdivision (b), to each tenant of the subject property.

(b) The notice shall be as follows:

“To the occupant(s) of

(address)

The owner(s) of this building, at (address), plans to convert this building to a (condominium, community apartment, or stock cooperative project). This is a notice of the owner’s intention to convert the building to a (condominium, community apartment, or stock cooperative project).

A tentative map to convert the building to a (condominium, community apartment, or stock cooperative project) was approved by the City on _____. If the City approves a final map, you may be required to vacate the premises, but that cannot happen

1 for at least 180 days from the date this notice was served upon
2 you.

3 Any future notice given to you to terminate your tenancy because
4 of the conversion cannot be effective for at least 180 days from
5 the date this notice was served upon you. This present notice is
6 not a notice to terminate your tenancy; it is not a notice that you
7 must now vacate the premises.

8
9
10 _____
11 (signature of owner or owner's agent)

12 _____
13 (date)"

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

17 SEC. 7. Section 66452.12 is added to the Government Code,
18 to read:

19 66452.12. (a) Pursuant to subparagraph (F) of paragraph (2)
20 of subdivision (a) of Section 66427.1, the subdivider shall give
21 written notice on the date of issuance of the subdivision public
22 report to each tenant of his or her exclusive right for at least 90
23 days to contract for the purchase of his or her respective unit in
24 the form outlined in subdivision (b).

25 (b) The notice shall be as follows:

26
27 "To the occupant(s) of

28 _____:
29 (address)
30

31 The owner(s) of this building, at (address), have received the
32 final subdivision report on the proposed conversion of this building
33 to a (condominium, community apartment, or stock cooperative
34 project). Commencing on this date you have the exclusive right
35 for 90 days to contract for the purchase of your rental unit upon
36 the same or more favorable terms and conditions than the unit will
37 initially be offered to the general public.

38
39 _____
40 (signature of owner or owner's agent)

(date)”

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

SEC. 8. Section 66459 of the Government Code is amended to read:

66459. (a) If a final map has been approved for a condominium project, community apartment project, or stock cooperative project, and the subdivider or subsequent owner of the project, on or after January 1, 1993, rents a dwelling in that project, he or she shall, prior to offering the separate interest for sale to the general public, deliver the following notice, printed in at least 14-point bold print, prior to the execution of the rental agreement:

TO THE PROSPECTIVE TENANTS OF

(address)

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

(signature of owner or owner’s agent)

(dated)

(b) The condominium project, community apartment project, or stock cooperative project shall not be referred to in a lease or rental agreement as an “apartment” or “apartments” on or after the date of the approval by the local agency of the final map for the

1 condominium project, community apartment project, or stock
2 cooperative project in which the final map was approved on or
3 after January 1, 1993.

4 (c) Any tenant of a condominium project, community apartment
5 project, or stock cooperative project pursuant to this section shall
6 be given at least 90 days' written notice of the intention to sell the
7 rental unit to the general public. This subdivision shall not alter
8 or abridge the rights or obligations of the parties in performance
9 of their covenants, including, but not limited to, the provision of
10 services, payment of rent, or other obligations imposed by Sections
11 1941, 1941.1, and 1941.2 of the Civil Code.

12 (d) Any tenant who lawfully resides in a condominium project,
13 community apartment project, or stock cooperative project pursuant
14 to this section shall be given a right of first refusal by the
15 subdivider or subsequent owner of the project for the purchase of
16 his or her rental unit upon the same terms and conditions that the
17 unit will be initially offered to the general public or terms and
18 conditions more favorable to the tenant. This right to purchase
19 shall run for a period of 90 days from the date of the notice, unless
20 the tenant gives written notice within the 90-day period of his or
21 her intention not to exercise that right.

22 (e) Failure to comply with this section shall not invalidate the
23 transfer of title to real property.

24 (f) *Failure by a subdivider or his or her agent to give the notice
25 required in subdivision (a) shall not be grounds to deny the
26 conversion. However, if the subdivider or his or her agent fails to
27 give notice pursuant to this section, he or she shall pay to each
28 prospective tenant who becomes a tenant and who was entitled to
29 that notice, and who does not purchase his or her unit pursuant
30 to subparagraph (F) of paragraph (2) of subdivision (a) of Section
31 66427.1, an amount equal to the sum of the following:*

32 (1) *Actual moving expenses incurred when moving from the
33 subject property, but not to exceed one thousand one hundred
34 dollars (\$1,100).*

35 (2) *The first month's rent on the tenant's new rental unit, if any,
36 immediately after moving from the subject property, but not to
37 exceed one thousand one hundred dollars (\$1,100).*

38 (f)

39 (g) This section shall not apply to any of the following:

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

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

(3) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust. For purposes of this paragraph, a "fiduciary" means a state- or federally-chartered bank, trust company, savings association, savings bank, credit union, or industrial loan company.

SEC. 9. Section 66499.37 of the Government Code is amended to read:

66499.37. Any action or proceeding to attack, review, set aside, void, or annul the decision of an advisory agency, appeal board, or legislative body concerning a subdivision, or of any of the proceedings, acts, or determinations taken, done, or made prior to ~~such the~~ decision, or to determine the reasonableness, legality, or validity of any condition attached thereto, *including, but not limited to, the approval of a tentative map or final map*, shall not be maintained by any person unless ~~such the~~ action or proceeding is commenced and service of summons effected within 90 days after the date of ~~such the~~ decision. Thereafter all persons are barred from any ~~such~~ action or proceeding or any defense of invalidity or unreasonableness of ~~such the~~ decision or of ~~such the~~ proceedings, acts, or determinations. ~~Any such~~ The proceeding shall take precedence over all matters of the calendar of the court except criminal, probate, eminent domain ~~and~~, forcible entry, and unlawful detainer proceedings.