



Condo Moratorium

Portland City Council Slows Development

[by Jack Carr, P.E., RS, LEED-AP]

It's official. Portland City Council passed a moratorium prohibiting new condominium site plan applications for 65 days and building demolition permits for 180 days. After considerable political and public debate, the six-month moratorium passed on December 19, 2017, is to be retroactive back to December 4.

This action was taken in response to the recent explosion of condo development in the East End section of the city's peninsula neighborhoods of Munjoy Hill and Bayside. Of course,

condo development has been the stimulus for prior building moratoriums in Portland, the most famous and still active being the "Working Waterfront" moratorium of the mid-1980s, sparked by the building of condos such as Chandlers Wharf off Commercial Street.

REGULATION LOOPHOLE

Portland is Maine's primary city with the largest inventory of rental units in the state and has become the model for many renter protection ordinances

enacted by other municipalities. Therefore, Portland's actions receive considerable attention throughout Maine and Northern New England. In this case, the pressure on the City Council was due to developers taking advantage of a loophole in the current ordinance regulations.

This 36-year-old ordinance has remained unchanged since it was enacted to protect tenants being forced out of their apartment units due to the building owner's plans to convert the rental property into condominiums.

In addition to protecting the affected tenants, the ordinance was designed to ensure a diversified housing stock. Landlords were required to give tenants notice of 120 days to one year of the conversion of a rental unit to a condo. This notice period was dependent on how long the tenant lived in the unit. In addition, the tenant was to be compensated in part for relocation costs. The city also received a condo conversion fee of \$150 per unit converted.

This ordinance applied only to existing buildings being converted to a new residential use. It did not apply to an apartment building being demolished and replaced with a new condominium building and is the loophole being exploited by developers. This issue came to the public's attention over the last two years since the city relaxed the required parking and other building zoning regulations on Munjoy Hill (Zone R-1). These new zoning rules allowed current lots with single-family or small multi-family structures to be razed to permit the construction of much larger condominium buildings. As a result, more than 20 small buildings were demolished, and new, larger buildings suddenly sprung up that many considered out of character with the neighborhood's scale and historical architecture. These taller buildings also blocked the beautiful sight lines of Casco Bay and the distant mountains which are considered by many as a public amenity.

PROTECTING ALL PARTIES

The rationale for the moratorium is to provide some breathing room for city officials and code enforcement departments to form new design standards and regulations to continue to protect working families. It is also clearly recognized that protection is needed for property owners who could experience serious financial burdens with an extended moratorium. Projects currently underway will not be halted. The moratorium only applies to demolition projects affecting more than half the building or the front façade.

Providing fairness to all parties when economic development and

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public policy is being created is always difficult. Many consider converting from a residential rental apartment to a condominium as a change of use and should meet similar rules governed by the 2010 Housing Preservation and Replacement Ordinance in which a developer incurs a fee of \$65,000 per apartment unit converted to non-residential use. These funds are then put in trust for low-income housing development. Other interested groups, such as the Greater Portland Landmarks,

wish to see this moratorium period used for creating a new conservation district on Munjoy Hill for historic preservation reasons.

Whatever comes from this policy debate, one thing is assured: change is always hard and rarely fair to all.



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