Condomania or Condophobia?

by Richard J. Roddewig

It was only a matter of time before the advocates of rent control found natural allies in the proponents of strict controls on conversion of apartment buildings to condominium ownership. That time has come. A barrage of rent control proposals hit voters and city council members in many jurisdictions from California to Connecticut.[1] In California alone, at least 53 communities considered or enacted rent control ordinances since the end of 1978. Frequently these new initiatives are combined with a call for tough controls on conversions.[2]

Rent control advocates argue that the relatively low vacancy rates in rental housing make it difficult for tenants to find decent accommodations, and make it easy for landlords to pass on large increases at lease renewal time. In the early 1970s, the vacancy rate in most metropolitan areas was between 5 and 10%. In 1979, few metropolitan areas had a vacancy rate above 5% and in many desirable neighborhoods it has dropped to 2% or less.

Tenants' groups readily admit that the primary reason for the decline in vacancy rates is the decline in new rental housing construction during the decade of the 1970s. Only 500,000 units were started in 1979 compared to the 1972 high of almost 1,000,000. Of those 500,000 new units, more than 300,000 had one form or another of government subsidy.[3]

The decline in production poses a difficult dilemma for tenants' groups. They advocate increased government subsidy programs to stimulate production, but fail to draw the conclusion that rental housing needs a subsidy to be built. Little new non-subsidized rental housing is being built because income is too low and construction and operating costs are too high. The logical implication that rents are generally too low in most metropolitan areas is unpalatable to tenants' groups.

In their need for someone to blame for the sorry state of non-subsidized rental housing construction in the United States, tenants' groups have now turned their ire on the condominium converter. If the government subsidized programs cannot produce enough new rental housing to meet the

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need, and the notion that rents must be higher in order to produce substantially greater numbers of non-subsidized units is philosophically unacceptable, then the converter can be made the lightning rod for the anger of tenants' groups frustrated in their search for other easy solutions to a perceived crisis.

RENT CONTROL AND THE CONDO CONNECTION

The logic is simple. The vacancy rate is low, which allows landlords to raise rents to artificially high levels. Rent control is therefore needed and must be imposed; but if it's threatened or imposed, landlords will convert units to condominiums. Therefore, restrictions on conversions are also necessary as a corollary to rent control. And in order to convince hesitant politicians that a conversion moratorium is necessary, it must be shown that substantial numbers of rental units are being lost through conversions.

To convince the public that condominium conversions have created a rental housing emergency, tenant groups have coined the word "condomania."[4] But is the number of conversions nationwide and in any given city enough to be evidence of "condomania"? Even if the number is quite large and the rental housing stock is being depleted, do the benefits of condominium conversions outweigh the effect? And if the number nationwide and in any given city is less than the critics claim, are there better solutions to the social problems created by condominium conversions than the costly remedies advocated by many tenants' groups?

These are the significant questions behind the rhetoric concerning conversions. Unfortunately, they are questions few communities have taken the time to carefully analyze before imposing lengthy (and costly) moratoriums or tough (and costly) "third generation" condominium ordinances requiring such measures as majority tenant approval or unit purchase prior to conversion, and tenants' right of first refusal upon sale of an apartment building to a converter.

THE RENTAL HOUSING INVESTMENT CRISIS: ONE UNDERLYING CAUSE OF CONDOMINIUM CONVERSIONS

There is an emerging national awareness that condominium conversions are really a symptom of a rental housing investment crisis. The profit in construction and operation of non-subsidized housing is not sufficient to attract real estate investors or developers. Rents have not kept pace with the costs of constructing, maintaining and operating an apartment building.[5] As Table 1 shows, the Consumer Price Index since 1967 has increased much more rapidly than rents. The CPI in July of 1979 was 57% higher than the rental price index as measured from the same base date.

The elements of the CPI that most affect landlords have increased even more rapidly than the CPI as a whole. Cost of home ownership has increased by 163% since 1967. The home ownership cost component of the CPI includes the expense items that affect landlords in the acquisition and

operation of apartment buildings such as the cost of purchase, mortgage interest, taxes, insurance, maintenance and repairs. The cost of operating an apartment building has increased more than twice as fast as the rental income.

TABLE 1

EFFECT OF INFLATION ON URBAN RENTAL HOUSING

Item	July 1979 Consumer Price Index	% Increase Since 1967	% Increase 7/78 to 7/79
All Items	218.9	118.9	11.3
Rental Income			
Residential Rent	175.9	75.9	7.1
Rental Expenses			
Homeownership	263.0	163.0	15.2
Financing, Taxes, Insurance	308.6	208.6	19.0
Maint. & Repairs	257.9	157.9	10.0
Fuel & Other Utilities	243.5	143.5	11.7
Fuels Alone	293.8	193.8	17.2
Other Utilities	159.4	59.4	0.6

Source: Department of Commerce and Shlaes & Co.

This dramatic rise of operating costs in recent years affects all rental buildings regardless of their age. Table 2 shows that increasing costs have created a greater strain on the profitability of older buildings, especially older elevator buildings. But even the owners of the newest and largest apartment buildings are suffering. Non-mortgage expenses now consume more than 50% of rental revenues generated by the newest buildings compared to less than 46% in 1971.

Why haven't rents kept pace with the increasing operating costs? One important reason is rent control or its threat. Between 1973 and April of 1979, more than 250 communities across the country had imposed some form of it.[6] Since then, rent control has been established in an even greater number of cities and towns.

The going market rent for a particular type of unit in any city is usually established by the largest landlords. Because they have the most to lose if rent control is enacted, large landlords have been cautious about passing on too large an increase to their tenants in any given year; they have increased their rent levels much more slowly than their increasing operating costs require. Smaller landlords have had to follow the lead of the larger market makers or risk scaling their rents beyond the market limits.

TABLE 2

NON-MORTGAGE EXPENSES AS A PERCENT OF RENTAL REVENUES

Building Type	Year	Buildings Constructed				
		1968 to Date	1961-1967	1946-1960	1931-1945	1921-1930
Elevator	1976	51.2	55.9	58.6	62.5	69.8
	1975	51.2	56.8	59.4	60.5	68.6
	1974	51.7	54.6	58.5	60.4	65.5
	1973	49.2	52.4	57.4	58.0	58.9
	1972	49.0	50.7	55.6	58.1	62.5
	1971	45.8	49.4	53.7	54.9	60.4
Low Rise 12-24 Units	1976	46.5	47.9	54.3	59.6	55.0
	1975	45.9	49.0	53.6	54.1	66.6
	1974	43.0	49.8	47.7	60.9	64.6
	1973	46.5	49.0	49.6	55.4	61.6
	1972	44.2	47.3	49.8	54.4	63.2
	1971	40.3	45.1	52.7	58.4	63.9
Low Rise 25 Units and over	1976	49.3	51.7	55.2	63.0	67.8
	1975	52.8	40.4	54.9	60.1	66.7
	1974	48.4	49.1	50.6	57.4	66.1
	1973	44.9	47.2	52.3	52.5	61.8
	1972	45.1	48.2	49.9	58.0	65.8
	1971	45.1	51.3	52.3	55.7	66.1
Garden	1976	51.0	52.4	62.2	61.8	63.9
	1975	50.8	53.2	56.5	61.5	65.4
	1974	50.0	50.5	57.4	58.1	59.3
	1973	48.4	48.5	54.3	54.3	54.9
	1972	47.7	48.7	53.8	55.1	61.4
	1971	50.0	48.3	52.1	59.0	55.0

Source: Institute of Real Estate Management as cited in *AREUEA Journal*, Vol. 7, No. 1, Spring 1979, p. 59.

The poor performance of rental housing as an investment and the constant threat of rent control makes the conversion of rental apartment buildings — or the sale of a rental building to a condominium converter — very attractive to more and more landlords each year. Rent control and its threat is, therefore, one direct cause of the condominium conversion phenomenon in the United States.

CONDOMINIUMS AND THE HOMEOWNERSHIP DREAM

An even more significant cause — and one generally ignored by advocates of tough controls on condominium conversions — is that unquenchable American desire for home ownership. From a nation of tenants in 1940, we have become a nation of homeowners today. As Table 3 indicates, almost 65% of all Americans in 1975 were homeowners compared to less than 44% in 1940. One of the most persistent American dreams is a brand new

single-family home in a quiet suburban subdivision. Once merely a reflection of the conviction that the best place to raise a family was in a nice single-family home in the suburbs, the American dream has been given new urgency by the high inflation rates of the 1970s. Americans have become convinced that home ownership is the ordinary person's best defense against the declining purchasing power of the dollar. They also understand quite well the income tax benefits of owning rather than renting: the opportunity to shelter some income by deducting mortgage interest and real property taxes.

Recent analysis by the Department of Housing and Urban Development indicates that a homeowner with a family income of $39,000 per year can expect a 20-22% annual return on his home as an investment. Stocks, bonds, savings accounts and even six-month certificates of deposit and money market funds yield a skimpy return by comparison.

TABLE 3

OCCUPIED HOUSING UNITS BY TENURE
U.S. TOTAL, 1975
(Units in thousands)

Year	Total Occupied Units	Owner Occupied		Renter Occupied	
		Number	Percent	Number	Percent
1940	34,855	15,196	43.6	19,659	56.0
1950	42,826	23,560	55.0	19,266	45.0
1960	53,024	32,797	61.9	20,227	38.1
1970	63,450	39,885	62.9	23,565	37.1
1973	69,337	44,653	64.4	24,684	35.6
1974	70,830	45,784	64.6	25,046	35.4
1975	72,523	46,867	64.6	25,656	35.4

Source: U.S. Department of Housing and Urban Development, *HUD Statistical Yearbook, 1976* (Washington, D.C. Government Printing Office, 1977), p. 261.

For more and more Americans the dream may have a new scenario. Like a thirsty wanderer drawn toward the mirage of a desert lake, the home-buying public, especially young, first-time home buyers, find their dream home always just beyond their reach as new home prices increase faster than their incomes. As Table 4 shows, median family income increased by 39% between 1970 and 1975 while costs for first-time buyers of existing homes increased by 63% and for first-time buyers of new homes, by 82.4%. The increase in housing costs compared to the increase in median family income since 1975 has been just as dramatic. Table 5 and Table 6 detail the increase in new home prices and used home prices between 1976 and 1979 in selected American cities. Note that in two of those cities (San Francisco and San Diego) the median new home price for the three-month period June through August of 1979 was over $100,000. And in San Francisco the median price of a used home was also more than $100,000.

TABLE 4

PERCENT CHANGES IN HOUSING COSTS, INCOME, AND GENERAL CONSUMER PRICES 1970-1975

Housing Costs For:	
First-Time Buyers of Existing Homes	63.0
First-Time Buyers of New Homes	82.4
Owners Repurchasing	27.3
Owners Not Moving	22.8
Median Family Income	39.0
Consumer Price Index	38.6

Source: Congressional Budget Office, Budget Issue Paper, "Homeownership: The Changing Relationship of Costs and Incomes, and Possible Federal Roles."

TABLE 5

SELECTED AMERICAN CITIES:* NEW HOME PRICES AND PERCENTAGE INCREASES

	June-Aug. 1976	June-Aug. 1979	% Increase
Houston, TX	$ 54,600	$ 73,300	34.2
Miami, FL	49,600	55,900	12.7
San Francisco, CA	68,400	105,700	54.5
New York, NY	61,900	96,600	56.1
Los Angeles, CA	70,800	97,600	37.9
Chicago, IL	49,900	76,000	52.3
San Diego, CA	N.A.	100,600	N.A.
Atlanta, GA	56,900	75,300	32.3
Anaheim, CA**	70,800	97,600	37.9
Denver, CO	51,600	70,400	36.4
Washington, DC	61,600	96,300	56.3
Philadelphia, PA	51,500	68,300	32.6
Minneapolis, MN	53,900	84,100	56.0
Dallas-Ft. Worth, TX	53,800	80,800	50.2
Phoenix, AZ	N.A.	83,300	N.A.
Boston, MA	46,500	80,600	73.3
Salt Lake City, UT	N.A.	65,100	N.A.
Ft. Lauderdale, FL***	49,600	55,900	12.7
Riverside, CA**	70,800	97,600	37.9
Portland, OR	N.A.	76,400	N.A.
Baltimore, MD	59,100	82,900	40.3
Cleveland, OH	53,000	88,300	66.6
Detroit, MI	49,200	75,500	53.5

*In some cases, figures are for Standard Consolidated Statistical Areas which include geographic areas larger than Standard Metropolitan Statistical Areas

**Included in Los Angeles Standard Consolidated Statistical Area

***Included in Miami Standard Consolidated Statistical Area

Source: Federal Home Loan Bank Board, *Monthly News*, and Shlaes & Co.

TABLE 6

SELECTED AMERICAN CITIES:* USED HOME PRICES AND PERCENTAGE INCREASES

	June-Aug. 1976	June-Aug. 1979	% Increase
Houston, TX	$ 60,400	$ 69,900	15.7
Miami, FL	49,600	60,600	22.2
San Francisco, CA	60,400	103,000	70.5
New York, NY	58,300	79,900	37.0
Los Angeles, CA	62,600	92,600	47.9
Chicago, IL	52,500	67,500	28.6
San Diego, CA	N.A.	91,600	N.A.
Atlanta, GA	56,100	61,500	9.6
Anaheim, CA**	62,600	92,600	47.9
Denver, CO	46,700	74,800	60.2
Washington, DC	65,700	94,400	43.7
Philadelphia, PA	43,600	54,100	24.1
Minneapolis, MN	50,200	70,000	39.4
Dallas-Ft. Worth, TX	54,300	77,300	42.4
Phoenix, AZ	N.A.	67,700	N.A.
Boston, MA	50,800	63,200	24.4
Salt Lake City, UT	N.A.	76,400	N.A.
Ft. Lauderdale, FL***	49,600	60,600	22.2
Riverside, CA**	62,600	92,600	47.9
Portland, OR	N.A.	67,400	N.A.
Baltimore, MD	42,500	58,000	36.5
Cleveland, OH	43,800	60,700	38.6
Detroit, MI	41,800	57,000	36.4

*In some cases, figures are for Standard Consolidated Statistical Areas which include geographic areas larger than Standard Metropolitan Statistical Areas

**Included in Los Angeles Standard Consolidated Statistical Area

***Included in Miami Standard Consolidated Statistical Area

Source: Federal Home Loan Bank Board, *Monthly News*, and Shlaes & Co.

EFFECTS ON FIRST-TIME HOMEBUYERS

First-time home buyers have been particularly hard hit by the rapid increase in home values in recent years. A 1978 study by the United States League of Savings Associations found that the median purchase price for first-time buyers was $37,500 compared to $48,500 for repeat home buyers.[7] The percentage of first-time and repeat home buyers purchasing in various price ranges is shown in Table 7.

The strong buyer demand for condominiums is directly related to the rapidly increasing prices of new and existing homes in the United States. A large percentage of condominium buyers are either young, first-time home buyers or older "empty nesters" looking for smaller quarters. Condos are

attractive to both groups because their price is usually less than the average price of alternative homes on the market. A 1977 study by the National Association of Home Builders revealed that approximately 44% of condominium unit purchasers could not have afforded a single-family detached home.[8]

TABLE 7

PERCENTAGE DISTRIBUTION OF HOME PURCHASE PRICES, FIRST-TIME AND REPEAT BUYERS

Home Purchase Price	First-Time Buyers	Repeat Buyers	All Buyers
Less than $30,000	28.1%	13.3%	18.6%
$30,000 to $49,999	50.4	40.0	43.8
$50,000 to $69,999	15.3	27.1	22.7
$70,000 or more	6.2	19.6	14.9
Median	$37,500	$48,500	$44,000

Source: U. S. League of Savings Associations.

Buyer demand for condominium homes is also an outgrowth of the celebrated (but often exaggerated) "back to the city movement."[9] In some attractive inner-city neighborhoods, the only available opportunity for homeownership is through purchase of an apartment.

THE NUMBER OF CONVERSIONS: MYTH AND REALITY

The conversion market has been strong in recent years because of this conjunction of supply forces (cost pressures on apartment building owners to convert) and demand factors (unavailability of alternative inexpensive forms of home ownership). How many conversions have there been nationwide? Despite the strong supply and demand factors encouraging the conversion of rental units to condominium ownership, the number may be less than some estimates made in the last five years.

The only comprehensive effort to estimate the number of condominium units nationwide was undertaken by the Department of Housing and Urban Development in 1975.[10] The HUD Condominium Cooperative Study claims there were 1.69 million condominium and cooperative units in the United States as of April 1, 1975. That was approximately 2.4% of all occupied housing units in the nation. It was impossible for HUD to determine the precise number but it estimated that there were approximately 125,000 condominium units in buildings that had been converted from rental ownership. Of those units, approximately 100,000 were converted between 1970 and 1975.

The Department of Housing and Urban Development made no attempt to estimate the number of condominium units in every metropolitan area. It

performed an in-depth market analysis of only six Standard Metropolitan Statistical Areas (Boston, Columbus, Fort Lauderdale-Hollywood, Lake Tahoe, San Jose and Washington, D.C.).

HUD is presently in the process of completing a follow-up study of the phenomenon. Included in that report will be a more detailed estimate of the number of condominium conversions in a wider sample of metropolitan areas across the country. The results of the new study will not be available until mid-1980, however. No other nationwide study has been undertaken since 1975.

NEED FOR ACCURATE DATA

In the face of mounting criticism from tenants' groups, a few states and cities have begun to keep more accurate records of the number of new and converted units created each year. Some states, such as Michigan and California, require every building converted to condominium ownership to file a report with a designated state agency which must contain information on the number of units proposed for conversion. Many cities have similar requirements. But local condominium ordinances are a recent phenomenon, and accurate information on the number of condominiums in a particular city goes back no further than the adoption of the ordinance by the local city council. For example, the Chicago Department of Consumer Sales has accurate information on the number of condominiums created in the City of Chicago since January 1, 1978, but has no data prior to that date.

Because the total accumulating number of units or the distinction between units in new or converted buildings was not considered important when state legislation enabling condominium ownership was enacted, few state agencies have maintained good records. In many jurisdictions, the best source of information is the local real property tax assessor's office. An apartment building has a single legal owner and a single real property tax number. In many jurisdictions, when a building is converted every unit owner becomes a real property tax payer and his particular unit must be given a separate real property tax index number. Especially in those larger jurisdictions where the assessor's information is computerized, an accurate count of the number (and location) of units in the community may be available from the assessor's office. But because it makes no difference to the assessor whether a unit is new or converted, there may be nothing in the assessor's information to distinguish between a unit originally constructed as a condominium and a converted apartment.

LESSONS FROM CHICAGO

As a result of the lack of reliable information on the number of new and converted condominium units in most communities, political discussion on the need for tough restrictions usually degenerates into unverifiable arguments. Tenants' groups inflate the estimated number of converted units

to justify their claim that there is a housing emergency. Real estate interests will often minimize the number.

In such a debate it is essential that someone make an attempt to accurately count the number of units in the community. In the Chicago debate concerning the proposed new regulations on condominium conversions proposed by the Byrne administration in the summer of 1979, tenant groups claimed there were between 75,000 and 100,000 condominium units — mostly conversions — in the City of Chicago. The proponents of tough restrictions claimed there had been as many as 20,000 units converted in Chicago in 1978 alone and 4,000 units in Chicago's suburbs, figures drawn from estimates made by Advance Mortgage Corp. and Citicorp Real Estate, Inc. in their joint publication *U.S. Housing Markets*. Advance Mortgage Corp. estimated there were 50,000 converted units in total in the City of Chicago and an additional 15,000 in suburban Chicago as of the end of 1978.[11] The Chicago Real Estate Board, in arguing against the proposed new restrictions and a 45-day moratorium imposed by the Chicago City Council, estimated that there were 48,000 units (new and converted) in Chicago as of the end of 1978.

The Corporation Counsel for the City of Chicago was asked by the federal district judge hearing the Chicago Real Estate Board lawsuit[12] challenging the moratorium to present some evidence justifying the city's claim that the condominium conversion phenomenon had created a rental housing crisis. The city was forced to admit that it had no accurate count of the number of units. When pressed, however, the Chicago Department of Planning, City and Community Development claimed it had a study verifying that there were 66,000 new and converted units in the city, but no such report was ever produced.

Not one of the parties involved in the public debate in Chicago had taken the time to actually count the number of condominium units in the city. Yet that was a relatively simple thing to do; one needed only to go to the set of plat maps published by a private firm under agreement with the Cook County Recorder of Deeds Office. The plat maps published in early 1978 listed the name and address of every condominium building in the City of Chicago and also showed the unit number for each unit in the building.

COUNTING CHICAGO CONDOS: SURPRISE RESULTS

Our real estate counseling firm undertook counting the condominiums in the City of Chicago in an effort to settle the debate,[13] and the results of the study surprised even the researchers themselves. As of the end of 1977 there were only 30,055 new and converted condominium units in the City of Chicago as recorded on the plat maps. Those 30,000 units were in 916 buildings, and based on the consultants' knowledge of the history of development in the City of Chicago, they were able to conclude that there were at least 5,137 units in buildings originally developed as condominiums. That left only 24,918 units in converted buildings. To determine the numbers for 1978, the consultants went to the Cook County

Assessor and asked for assistance in documenting the number of units receiving new permanent tax index numbers in 1978. The assessor's office estimated that when its work on the 1978 tax division was completed, there would be approximately 6,000 additional condominium units in the City of Chicago. Most of the units created in 1978 (at least 5,000) were conversions. The total number of units in converted buildings through the end of 1978 was thus approximately 30,000, and the total number of new and converted units approximately 36,000.

That precise count of the number and location of conversion units in the City of Chicago showed not only that the critics of the conversion process had exaggerated the number by 200 to 300%, but even that the real estate industry itself had grossly overestimated the number in the city. The City Council subcommittee charged with holding hearings on the proposed new set of condominium restrictions was grateful to receive a report that established a factual basis for the debate on the need for tougher restrictions.

The report not only counted the number of units and determined their location, but also counted the number of units converted annually since condominiums first became legal in Illinois in 1963 and analyzed changes in the location and size of converted buildings. Approximately 70% of all the conversions in the City of Chicago were occurring in just two neighborhoods, and those neighborhoods happened to be two of the wealthiest in the city. That documentation made it difficult for critics to justify their argument that condominium conversions were having a disproportionate impact on low- and moderate-income families, especially elderly households. Almost 54% of all the condominium units in the city were located in only 53 large, high-rise buildings located within two blocks of Chicago's lakefront in a narrow band stretching from the Loop north to the city limits.

CONVERSIONS AFFECT FEW NEIGHBORHOODS

The conclusion drawn by the consultants was that the condominium conversion phenomenon was a much less serious problem than had generally been believed. The numbers of units counted were relatively small, the phenomenon affected very few neighborhoods, and those neighborhoods affected were some of the wealthiest in the city. By analyzing Bureau of the Census data on the number of elderly households in the neighborhoods experiencing heavy conversion, and by analyzing turnover rates in the type of Chicago apartment building typically converted and the average percentage of tenants in Chicago who buy their units, the consultants attempted to estimate the effect on non-purchasing elderly households. The study found that on average between 1963 and the end of 1977, no more than 276 non-purchasing elderly households per year were affected by condominium conversion. The study concluded that there were other more precise and more effective ways to solve the problems than those that had been proposed by the Byrne administration.

ACCURATE DATA AND THE REGULATORY PROCESS

Other localities across the country have not benefitted from the same depth of discussion as had Chicago before enacting tough restrictions. Many cities — and even states — with only a handful of conversions have enacted long moratoria and burdensome regulations in the hysteria generated by tenants' groups' claims that rental housing would be eliminated completely. Perhaps none was more ill considered than the recent "emergency measure" enacted by the Connecticut General Assembly requiring installation of a separate heating plant for any rental unit proposed for conversion. The statute was a thinly disguised effort to impose a statewide moratorium during a session of the General Assembly that could only deal with energy legislation. The reason for the statewide ban in Connecticut was the perceived problem created by the conversion of an estimated 1,500 apartment units in Hartford in the previous year. Although Governor Ella Grasso signed that legislation, she refused to sign an executive order which would have imposed a statewide moratorium until May of 1980.[14]

The Philadelphia City Council in late September of 1979 enacted an eighteen month moratorium. Because that ordinance also amended the Philadelphia condominium regulations to require a one-year notice of conversion to all tenants, the effective length of the moratorium is thirty months. The Philadelphia moratorium was enacted despite evidence that there had been only 200 units converted in 1978 and less than 2,000 units in 1979 out of a total rental housing stock of more than 450,000 units.[15]

CONDOPHOBIA IN CALIFORNIA

Many California communities have been very innovative in restricting or halting the conversion of rental apartments. "Condophobia" is so strong in California that communities seem to vie with one another for the honor of having the most restrictive local ordinance. California ordinances fall into four groupings. First, some communities require that conversions be reviewed for consistency with the community's "comprehensive plan" which may include a housing component requiring protection of low- and moderate-income housing. Second, some communities in California require conversions to apply for a special use permit under the zoning ordinance and are allowed as a special use only if there is no significant effect on the community's general welfare. Third, some communities through their subdivision ordinances, building codes and zoning ordinances require buildings converted to condominiums to comply with code provisions for new construction. Fourth, a number of California communities are beginning to prohibit conversions when the rental vacancy rate is below a specified percentage, or to limit conversions to some percentage of new rental construction activity.

Marin County's regulation combines compliance with the county's comprehensive plan and a vacancy rate linkage. The county plan commission

must review all applications, and may deny approval if it determines that the effect would be detrimental to the supply of rental housing in the county. The Marin County Planning Director has discretion to disapprove a conversion whenever the vacancy rate falls below 5%. If there is evidence that non-purchasing tenants in a building being converted cannot find comparable housing at a comparable rent, the county may require that a "reasonable percentage" of units to be converted be reserved for sales or rental to persons of low- or moderate-income. The percentage is based upon the similar percentages required of developers of new rental or for sale housing in Marin County.

La Mesa in San Diego County requires that condominium conversions meet current zoning standards and also current building standards. The City of La Mesa has also set a maximum limit on the annual number of conversions that it will permit. The number in any year is limited to 50% of the average number of new rental units constructed annually in the previous two years.

In Anaheim, California, the number has been limited by the requirement that converted buildings comply with new construction parking space requirements. Although most of the desirable buildings for conversion in Anaheim were constructed under zoning or building codes requiring only 1.5 garage spaces per apartment unit, conversions are not allowed unless there are two garage spaces per apartment unit in the building.

Some California cities, such as Sacramento, believing that conversions may be desirable in some neighborhoods but not others, are considering adoption of more complicated ordinances. A proposed new ordinance for Sacramento may prohibit conversions in only those areas of the city (especially downtown Sacramento) where rental vacancy drops below a specified figure and the impact of conversions on low- and moderate-income housing stock will be high.

All of this innovative — if not enlightened — local regulation in California is occurring without accurate local knowledge of the number of conversions and the causes. In California, every conversion project must be registered with the California Department of Real Estate, and a new or converted unit cannot be offered for sale until it has reviewed the disclosure information provided by the developer and issued a public report that must be available to each unit purchaser. Securing the review and consent of the California Department of Real Estate is usually the last step prior to marketing and sale.

Because local ordinances adopted in California are usually more restrictive and problematical than the California Department of Real Estate requirements, an application for the public report required by the California Department of Real Estate is submitted only after securing local government review and approval of a conversion project. Table 8 compares the number of conversions approved by the California Department of Real Estate and by selected California local governments in 1978. In each case a much greater number of units were given local approval than state ap-

proval in 1978. In some cases (particularly Los Angeles, San Diego and Walnut Creek) the discrepancy is remarkable. Because developers proceed to obtain local approval before state approval, some of the discrepancy may mean that units given local approval in 1978 will become units applying for state approval in 1979.

TABLE 8

APPLICATIONS FOR CONVERSIONS IN SELECTED CALIFORNIA CITIES

Jurisdiction	Units Approved by Department of Real Estate (1978)	Units with Local Approval (1978)	Total Rental Units
Culver City	778	1,508	6,489
Los Angeles	488	3,819	1,159,642
Oakland	229	665	80,198
San Diego	1,669	6,500	127,000
San Francisco	829	1,027	220,000
Santa Monica	446	1,685	36,000
Walnut Creek	150	1,150	6,150

Source: *Condos, Co-ops, and Conversions: A Guide on Rental Conversions for Local Officials*, State of California, Office of Planning and Research, 1979, p. 4.

Condophobia is so strong in California that many owners of apartment buildings file for local approval without any concrete plans for immediate conversion. Owners and developers fear that local regulation will become more restrictive in the future so they apply for approval now rather than risk future moratoriums or even more serious restrictions. That is often a self-fulfilling prophecy in California because local officials, receiving a larger number of applications for approval of conversion plat maps, are then pushed by local tenant groups to adopt even more restrictive limitations.

DEBUNKING CONDOMANIA AND CURING CONDOPHOBIA: THE NEED FOR ACCURATE DATA AND MARKET UNDERSTANDING

The legal justification for tough restrictions on conversions usually boils down to two key arguments. First, there is a rental housing emergency in a particular city as evidenced by a very low (less than 5%) vacancy rate. Second, conversions make a significant contribution to this rental housing emergency by removing apartments from the market. Although the methodology and the quality of the data that determines the vacancy rate used by tenant groups to argue the existence of a housing emergency can often be effectively attacked, the more significant point to remember is that rent control and other local police power regulations to alleviate a perceived housing emergency are only justifiable if their purpose is to alleviate a hardship on low- and moderate-income renters. Very restrictive local

regulation or outright moratoriums may be unreasonable and therefore illegal if either of the following is true: first, there is no rental housing emergency; second, condominium conversions do not contribute to an existing rental housing emergency for low- and moderate-income families; third, even if there is some limited effect of conversions on the supply of low- and moderate-income housing, the benefits may so outweigh the marginal effects as to make overly restrictive regulation unreasonable.

A precise count of the number of past and present conversions in a particular market is absolutely critical to the establishment of the second and third legal arguments.

Condominium conversions do not contribute to a rental housing emergency (if one exists): the actual number of units may be substantially less than the city officials believed when they adopted a restrictive regulation. Even if a particular city had a firm knowledge of the number of units in its jurisdiction, their location may be in neighborhoods and buildings in which few low- and moderate-income or elderly tenants lived. That has been precisely the pattern in Chicago where the large majority of conversions occurred in the wealthiest census tracts of the city.

One of the most effective arguments against overly restrictive regulation is to prove that the benefits outweigh the effects, if any, on low- and moderate-income or elderly tenants. The statistical evidence that the increased instance of abandonment and tax delinquency on apartment buildings results from a rental housing investment and income crisis can be called upon to show that conversions may be the only way out for concerned landlords whose income has been eroded by the inflationary effects from expenses increasing more rapidly than income.

The soaring costs of single-family homes both new and used in the United States and in a particular market can be used as dramatic evidence that it is demand for home ownership, particularly among first-time home buyers, that is the real stimulus to the condominium conversion phenomenon. Fostering the ability of Americans to own their own home is as important a public purpose as protecting the ability of tenants to afford rental housing.

Condominiums may have a variety of other effects in a particular community. Conversions may prompt dislocated tenants to seek rental housing in another neighborhood, thereby improving the character and quality of another part of the city. There may be important property tax benefits to a city from the conversion process due to the difference between assessed valuation of a building as an apartment building and the combined assessed valuation of the individual units in that building after conversion.[16]

The need for accurate information has been made even more urgent by the introduction in Congress of legislation that proposes a three-year nationwide moratorium on condominium conversions, creation of a Presidential Commission on Problems Relating to Condominium Conversions, and a prohibition on federal community block grants to communities that do not either restrict conversions or develop some plan to guarantee "adequate rental housing" to displaced low- and moderate-income tenants.

CONCLUSION

The reason for the recent surge in local and national legislative efforts to severely restrict conversions is that the American public and its elected officials have become convinced that condominiums are a mania, a craze, a fad artificially created by landlord avarice and wealthy developers. Public opinion will be changed only if the facts about condominiums, rental housing investment, and the demand for home ownership are more effectively presented by the real estate industry. The statistics on the lack of investment in rental housing in the 1970s, the effect of inflation on the landlord's ability to obtain a fair return from his investment, the abandonment and tax delinquency that plagues the rental housing market in so many major cities, and the real number and location of condominium conversion units, as well as the fluctuations in the supply and demand for condominium units due to market factors, must be marshalled to convince the American public that tales of "condomania" are nothing more than evidence of "condophobia."

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