

## **The Massachusetts Condominium Conversion Statute, Chapter 527 of the Acts of 1983**

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In this article I want to cover three (3) topics. First, I will describe the Massachusetts Condominium Conversion Statute, Chapter 527 of the Acts of 1983; second, the by-laws or ordinances regulating Condominium Conversions by local Massachusetts cities or towns; and third, the regulation of condominium conversions by a city or town that does not have a special condominium ordinance or by-law but has been granted special enabling authority in a narrow context as to conversions.

There are a large number of rental apartment buildings under construction. Developers of these buildings should be aware of the Massachusetts Condominium Conversion Law (Chapter 527 of the Acts of 1983) as, at some point after the condominium market revives, many of these buildings will be converted to condominiums.

Here is a summary of the Massachusetts Condominium Conversion Law which applies to every city or town in Massachusetts unless a city or town has adopted its own ordinance or by-law covering condominium conversions (e.g., Boston).

1. A moratorium against evictions: The converter must notify tenants by delivery, certified or registered mail, of the filing of a Master Deed and of the owner's intent to terminate their tenancy and their rights under Chapter 527. Most tenants have one (1) year before they must leave. Three (3) categories have longer:

- a) Handicapped tenants;
- b) Elderly tenants (over 62); and
- c) Low or moderate income tenants.

These protected classes have two (2) years or longer (up to two (2) more years) if they cannot find comparable rental housing in the same City or Town.

A tenant is protected if there is merely an intent to convert. For example: a Master Deed is prepared, Purchase and Sale Agreements are prepared, there are inspections, measurements, surveys, showings, advertising, etc.

Buildings of less than four (4) residential units are exempt. In determining whether the four (4) units minimum is met, units in two (2) adjacent buildings with common ownership will be added together.

2. A limit on rent increases: CPI or ten percent (10%), whichever is greater.

3. Tenant's right to purchase: a tenant has a ninety (90) day period to purchase on the same terms as or more favorable terms as those which will be extended to the general public. I have had tenants execute a waiver of the tenant's right to purchase a rental unit. The tenant, in the waiver, acknowledges that he received a purchase and sale agreement executed by the owner of the apartment building and that he was notified that the terms and conditions of the agreement were

substantially the same as or more favorable than the terms and conditions which will be offered to the general public during the ninety (90) day purchase period.

4. Relocation payments: Seven hundred fifty dollars (\$750) for the tenant, unless tenant is a "protected tenant," in which case it is one thousand dollars (\$1,000). This is a mandatory payment.

5. Penalties: Fine of not less than one thousand dollars (\$1,000) or imprisonment of not less than sixty (60) days.

Chapter 527 prohibits evictions for the purpose of converting a building to condominiums. However, a tenant may be evicted for any violation of the lease, including non-payment of rent, provided that this is not merely a pretext for a condominium conversion eviction.

### Local Ordinances or By-Laws

Chapter 527 applies to every city or town in Massachusetts, unless a city or town has adopted its own ordinance or by-law covering condominium conversions, e.g. Boston. In addition to Boston, the following cities and towns have adopted by-laws or ordinances: Abington, Acton, Amherst, Brookline, Haverhill, Lexington, Malden, Marlborough, New Bedford, Newburyport and Somerville. Just to complicate things, a few of these municipalities have statements in the ordinances or by-laws that specifically state that Chapter 527 and the local ordinance or by-law both apply to condominium conversions. A city or town may adopt a law which is more stringent or less stringent than Chapter 527. An example is the Boston ordinance which gives tenants more protections.

The Boston ordinance gives elderly, handicapped and low income tenants five (5) years but says that the notice period may be extended by future legislation. This could mean that a tenant in a protected class in Boston could conceivably be protected indefinitely.

While there is certainly merit in giving people in a protected class more time, the Boston ordinance may lead owners to try not to rent to such people if the owner intends at some point in the future to convert the building.

### Municipalities May Regulate Conversions Even Without a Condominium Conversion Ordinance or By-Law

A municipality may not have a separate ordinance or by-law covering condominium conversions. However, such a municipality, under enabling legislation, may provide that, if a special permit has to be obtained from the special permit granting authority to build more than a certain minimum number of units, conversion to condominiums may not occur without obtaining an additional special permit from the special permit granting authority. Therefore, conversions in such a municipality clearly are governed by Chapter 527 and would also be governed by the requirement of an additional special permit!

### The Future

With the weak condominium market, some developers have deliberately reserved a part of a building to rentals while selling the balance of the building as condominiums. Chapter 527 will apply to this type of building when the market turns around and the developer wants to sell off the rental part of the building. It is important that developers be mindful of Chapter 527. Developers anticipating that they may want to start selling Units again may want to allow more vacancies in order to be able to sell Units free of tenant interference.

The main point of this article is to alert readers to the entire topic of condominium conversions and

the various regulations and complexities that are applicable to condominium conversions in Massachusetts.

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