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SAN FRANCISCO SUPERVISORS HALT, THEN ALLOW CONDOMINIUM CONVERSION

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On May 17, 2005, the San Francisco Board of Supervisors took the unprecedented step of withholding approval for the recording of a condominium map for a 6-unit apartment building which had filed for conversion after winning the 2003 condominium lottery, notwithstanding the fact that the conversion had been previously approved by the Dept. of Building Inspection, Dept. of Public Works and the City Planning Dept. The decision was based on the belief by the Supervisors that the building's owners had used the Ellis Act to evict the former tenants and had failed to disclose this in their conversion application, and appears to be the first time that the Supervisors have ever referred to San Francisco Subdivision Code Section 1386, which authorizes the Planning Commission to reject condominium conversions "if evictions have occurred for the purpose of preparing the building for conversion." Subdivision Code Section 1386 has never been subjected to judicial review, and the extent to which it may be superseded by the state Ellis Act, which specifically allows landlords to exit the residential rental business, is unknown.

The building's owners had been represented by Goldstein, Gellman, Melbostad, Gibson & Harris, LLP (G3MH) throughout the conversion process, and the firm took immediate action in response to this surprise vote by the Supervisors. Working with the City Attorney's office, G3MH quickly established that the Supervisors had been shown an incomplete and erroneous record of the 6-unit conversion application. The Board of Supervisors reversed course on May 24, 2005, and the City Attorney has advised the owners of the 6-unit project that recording of their condominium subdivision map for this project can now take place.

Trumpeted as a successful "sneak attack" against landlords, the San Francisco Tenant's Union announced that the Supervisors' initial decision would deny condominium conversion to all Tenancies-In-Common (TICs) created through evictions. While this conclusion was clearly premature, the Tenants Union has announced a campaign to challenge all condominium conversions where there have been evictions. The immediate impact of such efforts, if successful, will concern mainly 5-6 unit conversions, as these are currently the *only* conversions on which the City Planning Commission and the Board of Supervisors actually vote.