ORDINANCE NO. 2177

AN ORDINANCE of the City of Kent, Washington, regulating the conversion of residential rental units to condominiums or cooperatives, providing protection for tenants and purchasers in converted buildings, adopting measures to mitigate the adverse effects of conversion displacement and providing penalties for violations.

WHEREAS the vacancy rate for rental units in the City is between one and two percent with no signs of increasing, and

WHEREAS an increased percentage of residential rental units may be converted into condominiums, and

WHEREAS condominium conversions may further reduce the number of rental units in the City thereby worsening an already critical rental housing shortage, and

WHEREAS tenants displaced by condominium conversions frequently on short notice, are unable to find comparable housing and are increasingly unable to find any decent, safe and sanitary rental housing, and

WHEREAS conversions are imposing severe hardships upon all displaced tenants but especially the elderly and those of low and moderate income, and

WHEREAS condominium sellers frequently do not provide prospective purchasers sufficient information about the nature of condominium ownership generally, or about specific building conditions and operation costs to enable purchasers to make informed decisions,

NOW, THEREFORE, it is the policy of the City of Kent to regulate condominium conversions to protect the health, safety and welfare of its citizens.

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DO HEREBY ORDAIN AS FOLLOWS:
SECTION I

Section 1.1. Title. This Ordinance may be cited as the "Condominium Conversion Ordinance".

Section 1.2. Scope. This Ordinance shall apply to the regulation of conversions of residential rental units to condominiums or co-operatives within the limits of the City of Kent.

Section 1.3. Definitions. The following words and phrases used in this Ordinance shall have the meanings set forth below:

1) Acceptance of Offer of Sale: A written commitment for the purchase of a condominium unit or interest in a cooperative at a specific price on specific terms.

2) Agent: Any person, firm, partnership, association, joint venture, corporation or any other entity or combination of entities who represents or acts for or on behalf of a developer in selling or offering to sell any condominium or cooperative unit or interest in a cooperative.

3) Building: Any existing structure containing one or more dwelling units and any grouping of such structures which as rental units were operated under a single name and as converted buildings are the subject of a single declaration or simultaneous declarations filed pursuant to the Horizontal Property Regimes Act (RCW Chapter 64.32).

4) Condominium: Any existing structure as defined in Kent City Building Code containing one or more dwelling units: a) which is the subject of a declaration filed pursuant to the Horizontal Regimes Act (RCW 64.32); or b) in which there is private ownership of individual units and common ownership of common areas.

5) Condominium unit: Any dwelling unit in a condominium.

6) Cooperative: Any existing structure, including surrounding land and improvements, which contains one or more dwelling units and which: a) is owned by an association organized pursuant to the Cooperative Association Act (RCW Chapter 23.86); or b) is owned
by an association with resident shareholders who are granted renewable leasehold interests in dwelling units in the building.

7) Cooperative Unit: Any dwelling unit in a cooperative.

8) Conversion of condominiums: The filing of a declaration pursuant to the Horizontal Property Regimes Act or the sale by a developer of condominium units that were previously rental units.

9) Conversions of cooperatives: The execution of a lease agreement by a member of a cooperative association.

10) Converted building: Any condominium or cooperative which formerly contained rental dwelling units.

11) Developer: Any person, firm, partnership, association, joint venture or corporation or any other entity or combination of entities or successors thereto who, a) undertake to convert, sell or offer for sale condominium units; or b) undertake to convert rental units to cooperative units or sell cooperative shares in an existing building which contains dwelling units or lease units to a cooperative association's shareholders. The term developer shall include the developer's agent and any other person acting on behalf of the developer.

12) Eviction: Any effort by a developer to remove a tenant from the premises or terminate a tenancy by lawful or unlawful means.


14) Offer of Sale to Tenant: A written offer to sell a condominium or cooperative unit to the tenant in possession of that unit at a specific price and on specific terms.

15) Offer for Sale to Public: Any advertisement, inducement, solicitation, or attempt by a developer to encourage any person other than a tenant to purchase a condominium or cooperative unit.

16) Owners' Association: The association formed by owners of units in a condominium or cooperative for the purpose of managing the condominium or coopera-
tive.

17) Person: Any individual, corporation, partnership, association, trustee or other legal entity.

18) Rental Unit: Any dwelling unit, other than a single family dwelling or units in a single family dwelling, which is occupied pursuant to a lawful rental agreement, oral or written, express or implied, which was not owned as a condominium unit or cooperative unit on the effective date of this Ordinance. A dwelling unit in a converted building for which there has been no acceptance of sale on the effective date of this Ordinance shall be considered a rental unit.

19) Tenant: Any person who occupies or has a leasehold interest in a rental unit under a lawful rental agreement whether oral or written, express or implied.

Section 1.4. Administering Authority. The Building Department shall have primary responsibility for enforcement of condominium conversion regulations established by this Ordinance.

SECTION II
APPLICATION OF ORDINANCE

Section 2.1. Application to conversion of condominiums and cooperatives. This Ordinance shall apply only to the conversion and sale of rental units that have not yet been converted to condominium or cooperative units and to those units in converted buildings that are not subject to binding purchase commitment or have not been sold on the effective date of this Ordinance. This Ordinance shall not apply to condominium or cooperative units that are vacant on August 29, 1979 and which have been offered for sale prior to that date; Provided, that any tenant takes possession of the unit after August 29, 1979 shall be provided the disclosures required by Section 2.2 of this Ordinance and shall be entitled to the benefits of that section if the required disclosures are not given.

Section 2.2. Application to Tenants. This Ordinance shall apply only to those tenants and subtenants who occupy rental units in converted buildings at the time the notices, offers, and
disclosures provided by this Ordinance are required to be delivered. This Ordinance shall not apply to tenants who take possession of any unit vacated by a tenant who has received the notices and other benefits provided by this Ordinance: Provided, that developers shall disclose in writing to all tenants who take possession after service of the notice required by Section 3.2 of this Ordinance, that the unit has been sold or will be offered for sale as a condominium or cooperative. This disclosure shall be made prior to the execution of any written rental agreement or prior to the tenant's taking possession whichever occurs earlier. A developer's failure to disclose, within the time specified above, that the unit has been sold, or offered for sale shall entitle the tenant to all the protections and benefits of this Ordinance.

SECTION III

TENANT PROTECTIONS

Section 3.1. Notice to tenants of filing of conversion declaration. Within five (5) days of the filing of a condominium conversion declaration as provided by the Horizontal Property Regimes Act, RCW Chapter 64.32, the developer shall send to each tenant in the converted building, by registered or certified mail, written notice of the filing. A tenant's refusal to accept delivery shall be deemed adequate service.

Section 3.2. Notice to all tenants prior to offering any unit for sale to the public as a condominium or cooperative unit. At least 120 days prior to offering any rental unit or units for sale to the public as a condominium unit or cooperative unit, the developer shall deliver to each tenant in the building written notice of his intention to sell the unit or units. The notice shall specify the individual units to be sold and the sale price of each unit. This notice shall be in addition to and not in lieu of the notices required for eviction by RCW 59.12 and 59.18 and shall be delivered as provided in Section 4.5. With the notice the developer shall also deliver to the tenant a statement in a format to be provided by the Building Department, of the tenant's rights.

Section 3.3. Purchase rights of tenant in possession. With the notice provided in Section 3.2 above, the developer shall deliver to each tenant whose unit is to be offered for sale, a
firm offer of sale of the unit that the tenant occupies. In the event that more than one tenant occupies a single unit, the developer shall deliver the offer to all tenants jointly or separately. For 60 days from the date of delivery of the offer the tenant shall have the exclusive right to purchase his or her unit. For a period of one year following the rejection of an offer by the tenant in possession, the developer shall not offer the unit for sale to any other person on terms in any respect more favorable than those offered the tenant.

Section 3.4. Purchase rights of tenants whose units are offered for sale prior to effective date of Ordinance. Tenants of rental units which were offered for sale as condominium or cooperative units prior to the effective date of this Ordinance but for which offers there have been no acceptances, shall be entitled to the rights and benefits of this Ordinance except that those rights provided by Section 3.6 of this Ordinance shall terminate 60 days from the offer of sale of the unit to the tenant.

Section 3.5. Sub-tenants' purchase rights. Should a tenant reject an offer of sale, the sub-tenant in possession at the time the notice provided in Section 3.2 is delivered, shall be offered the unit on the same terms as those offered the tenant. For 30 days following the offer or until the expiration of the tenants' 60 day purchase period as provided in Section 3.3, whichever occurs later, the sub-tenant shall have the exclusive right to purchase the unit.

Section 3.6. Rights of tenants in converted buildings to purchase other units in the building. Should both the tenant and sub-tenant reject the offer of sale or vacate, the unit shall be made available to other tenants and sub-tenants in the building. The tenants' and sub-tenants' right to purchase another unit in the building shall extend to the end of the 120 day notice period provided the tenant in possession of that unit: Provided, that tenants and sub-tenants shall not have the right to purchase more than one unit in the building. Whenever all tenants and sub-tenants in a building have indicated in writing their intention not to purchase a unit and that unit is or becomes vacant then the developer may offer for sale and sell the unit to the public.

Section 3.7. Tenants' right to rescind. A tenant may rescind an earnest money agreement or any other acceptance of an offer of sale by delivering to the developer or his agent, by
registered or certified mail, written notice of revocation within 15 days of acceptance of the offer. Upon receipt of a timely re-
vocation the developer shall immediately refund any deposit,
earnest money, or other funds and the parties shall have no fur-
ther rights or liabilities under the purchase agreement. Devel-
opers shall include in their sales contracts a clause informing
purchasers of their rights under this section of the Ordinance.
This clause shall be located either immediately above the pur-
chaser's signature or under a separate conspicuous caption enti-
tled "Purchasers Right to Cancel". In addition each binding sale
agreement shall provide that the prevailing party in any action
to enforce rights under the agreement shall be entitled to reason-
able attorney's fees.

Section 3.8. Evictions only for good cause during no-
tice period. A developer shall not evict tenants or force ten-
ants to vacate their rental units for the purpose of avoiding ap-
plication of this Ordinance. No condominium or cooperative unit
shall be sold or offered for sale if, in the 150 day period im-
mediately preceding the sale or offer for sale, any tenant has
been evicted without good cause. For 120 days prior to offering
a rental unit for sale to the public, the tenant of the unit shall
be evicted only for good cause. For the purposes of this Ordi-
nance good cause shall mean: 1) failure to pay rent after service
of a three day notice to pay rent or vacate as provided in RCW
59.12.030(3); 2) failure to comply with a term or terms of the
tenancy after service of a ten day notice to comply or vacate as
provided in RCW 59.12.030(4); and 3) the commission or permission
of a waste or the maintenance of a nuisance on the premises and
failure to vacate after service of a three day notice as provided
in RCW 59.12.030(5).

Section 3.9. Relocation assistance. Relocation as-
sistance of $350.00 per unit shall be paid to tenants and sub-
tenants who vacate the building either voluntarily or involuntar-
ily after receiving the notice of intention to sell as provided
in Section 3.2 of this Ordinance. In unfurnished sublet units the
sub-tenant shall be entitled to the benefits of this provision.
Otherwise, the tenant shall be entitled to the benefit: Provided,
that the developer shall not be obligated to determine tenant from
sub-tenant and shall have fulfilled his obligation under this sec-
tion by delivering the relocation benefit to either the tenant
or sub-tenant. Relocation assistance shall be paid on or before
the date the tenant or sub-tenant vacates and shall be in addition to any damage deposit or other compensation or refund to which the tenant is otherwise entitled.

Section 3.10. Tenant's right to vacate. Tenants who receive 120 day notices of sale may terminate their tenancies at any time in the manner provided by RCW 59.18.200 and RCW 59.18.220.

SECTION IV
CONSUMER PROTECTIONS

Section 4.1. Mandatory Housing Code inspection and repair; notice to buyers and tenants. Prior to delivery of the 120 day notice described in paragraph 3.2 above, developers shall, at their expense, request a Housing Code inspection of the entire building by the Kent Building Department to insure compliance with all chapters of the City of Kent's Minimum Housing Code. The inspection shall be completed within 45 days of a developers request. The inspection for compliance shall be completed within 10 working days of a developer's request unless the developer fails to provide or refuses access to Building Department personnel. All violations of the Housing Code revealed by the inspection must be corrected at least seven days prior to the closing of the sale of the first unit or by the compliance date on the inspection report, whichever is sooner. A copy of the Building Department's inspection report and certification of repairs shall be provided by the developer to each prospective purchaser at least seven days before the signing of any earnest money agreement or other binding purchase commitment. Copies of the inspection report shall be delivered to tenants in converted building by the developer with the notice of sale as provided in Section 3.2.

Section 4.2. Building Department certification of repairs. For the protection of the general public, the Building Department shall inspect the repairs of defective conditions identified in the inspection report and certify that the violations have been corrected. The certification shall state that only those defects discovered by the Housing Code inspection and listed on the inspection report have been corrected and that the certification does not guarantee that all Housing Code violations have been corrected. Prior to closing any sale the developer shall deliver a copy of the certificate to the purchaser. No
developer, however, shall use the Building Department's certification in any advertising or indicate to anyone, in any fashion, for the purpose of inducing a person to purchase a condominium or cooperative unit, that the City of Kent or any of its departments has "approved" the building or any unit for sale because the city has certified the building or any unit to be in any particular condition.

Section 4.3. Disclosure requirements. In addition to the disclosures required by previous sections of this Ordinance, developers shall make available the following information to prospective purchasers at least seven days before any purchase commitment is signed, or, in the case of existing tenants, with the 120 day notice provided in paragraph 3.2 above: 1) copies of all documents filed with any governmental agency pursuant to the Horizontal Property Regimes Act, Chapter 64.32 RCW; 2) an itemization of the specific repairs and improvements made to the entire building during the six months immediately preceding the offer for sale; 3) an itemization of the repairs and improvements to be completed before close of sale; 4) a statement of the services and expenses which are being paid for by the developer but which will in the future be terminated, or transferred to the purchaser, or transferred to the owners' association; 5) an accurate estimate of the useful life of the building's major components and mechanical systems (foundation, exterior walls, exterior wall coverings other than paid or similar protective coating, exterior stairs, floors and floor supports, carpeting in common areas, roof cover, chimneys, plumbing system, heating system, water heating appliances, mechanical ventilation system, elevator equipment, private driveways and parking lots) and an estimate of the cost of repairing any component whose useful life will terminate in less than five years from the date of this disclosure. For each system and component whose expected life cannot be accurately estimated, the developer shall provide a detailed description of its present condition and an explanation of why no estimate is possible. In addition, the developer shall provide an itemized statement in budget form of the monthly costs of owning the unit that the purchaser intends to buy. The itemization shall include but shall not be limited to: a) payments on purchase loan; b) taxes; c) insurance; d) utilities (which shall be listed individually); e) homeowner's assessments; f) the projected monthly assessment needed for replacing building components and systems whose life ex-
pectancy is less than five years; and g) a statement of the budget assumptions concerning occupancy and inflation factors.

Section 4.4. Warranty of repairs; set aside for repairs. Each developer shall warrant for one year from the date of completion all improvements and repairs disclosed pursuant to Section 4.3 of this Ordinance. In addition, the developer shall establish within 30 days after sale of the first unit, in a bank or other financial institution of his choosing, an escrow fund in an amount equal to 10% of the cost of all repairs and improvements warranted. The location of the fund shall be made known to all condominium and cooperative unit owners and to the owners' association and shall be available for making repairs to warranted improvements and repairs; Provided, that no money shall be withdrawn from the fund unless the developer has been advised in writing of the need for the specific repair and has failed to complete the repair within a reasonable period of time. Depletion of the escrow fund prior to expiration of the warranty period shall not relieve the developer of the obligation of making all repairs warranted. Any money remaining in the fund at the end of the one year period shall be returned to the developer. The owner's association's claim to any money in the escrow fund shall be prior to any creditor of the landlord, including a trustee in bankruptcy or receiver, even if such funds are co-mingled.

Section 4.5. Unlawful representations. It shall be unlawful for any developer, agent, or person to make or cause to be made in any disclosure or other document required by this Ordinance any statement or representation that is knowingly false or misleading. It shall also be unlawful for any developer, agent or other person to make, or cause to be made, to any prospective purchaser, including a tenant, any oral representation which differs from the statements made in the disclosures and other documents required to be provided tenants and purchasers by this Ordinance.

Section 4.6. Purchaser's right to rescind. Any purchaser who does not receive the notices, disclosures, and documents required by this Ordinance may, at any time prior to closing of the sale, rescind, in writing, any binding purchase agreement without any liability on the purchaser's part and the purchaser shall thereupon be entitled to the return of any deposits made on account of the agreement.
Section 4.7. Delivery of notice and other documents. Unless otherwise provided, all notices, contracts, disclosures, documents and other writings required by this Ordinance shall be delivered by registered or certified mail. The refusal of registered or certified mail by the addressee shall be considered adequate delivery. All documents shall be delivered to tenants at the address specified on the lease or rental agreement between the tenant and the developer or landlord. If there is no written lease or rental agreement then documents shall be delivered to the tenants' address at the converted building. In any sublet unit all documents shall be delivered to the tenant at his current address if known, and to the sub-tenant in possession. If the tenant's current address is unknown, then two copies of all documents shall be delivered to the sub-tenant, one addressed to the tenant and the other addressed to the sub-tenant.

Delivery of the 120 day notice of intention to sell required by Section 3.2 of this Ordinance, the developer's offer to sell, and all disclosure documents shall be delivered to the tenants in a converted building at a meeting between the developer and the tenants. The meeting shall be arranged by the developer at a time and place convenient to the tenants. At the meeting the developer shall discuss with the tenants the effect that the conversion will have upon the tenants. Should any tenant refuse to acknowledge acceptance of the notice, offer and disclosures, the developer shall deliver the documents in the manner prescribed in paragraph one of this section.

Section 4.8. Acceptance of offers. Acceptance by tenants or other beneficiaries of offers provided pursuant to this Ordinance, shall be in writing and delivered to the developer by registered or certified mail postmarked on or before the expiration date of the offer.

SECTION V
COMPLAINTS, PENALTIES, ENFORCEMENT

Section 5.1. Any person subjected to any unlawful practice as set forth in this Ordinance may file a complaint in writing with the City of Kent Building Department. The Director is hereby authorized and directed to receive complaints and conduct such investigation as are deemed necessary. Whenever it is determined that there has been a violation of this Ordinance the
Building Director is authorized, at the Director's discretion, to follow one or more of the following procedures:

1) Attempt to conciliate the matter by conference or otherwise and secure a written conciliation agreement.

2) Refer the matter to the City Attorney for prosecution.

Section 5.2. Penalties. Any person who violates any provision of this Ordinance, fails to comply with the provisions of this Ordinance or who deliberately attempts to void the application to this Ordinance shall, upon conviction thereof, be fined a sum not to exceed Five Hundred Dollars ($500). Each day's violation or failure to comply shall constitute a separate offense.

SECTION VI
SEVERABILITY

Section 6.1. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and an independent provision and such decision shall not affect the validity of the remaining portions thereof.

Section 6.2. This Ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication as provided by law.

ISABEL HOGAN, MAYOR

ATTEST:

MARI JE NSEN, CITY CLERK

APPROVED AS TO FORM:

DONALD E. MIRK, CITY ATTORNEY
PASSED the 20 day of August, 1979.
APPROVED the 21 day of August, 1979.
PUBLISHED the 24 day of August, 1979.

I hereby certify that this is a true copy of Ordinance No. 2177, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

[Signature]
MARIE JENSEN, CITY CLERK