

# FAQs | Condominium Conversion in San Francisco

3/15/20 Edition,  
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*This article is provided as a resource for understanding the changes which are taking place in San Francisco's condominium conversion rules, and summarizes those changes as they are understood on the publication date. Updated versions of this article may appear on the firm's website at [www.g3mb.com](http://www.g3mb.com).*

For many years, condominium conversions of 2-6 unit residential buildings have been allowed on a limited basis (200 units per year) under a lottery program run by the City. In 2013, the San Francisco Board of Supervisors suspended the City's condominium conversion lottery until 2024, and replaced it with an entirely new "**Expedited Conversion Program**," which ended in January of 2020. Presently, there are no avenues for condominium conversion in San Francisco other than for 2-Unit "Bypass" properties (see within). New construction of housing units, condos or rentals, is both possible and encouraged by the City; under certain conditions, "New Construction" can include adding new units to existing residential buildings – contact us.

**No effect on 2-Unit "Bypass" Conversions.** The suspension of the condominium lottery did *not* make any changes in rules which allow 2-unit properties to apply to convert 12 months after each unit has been occupied by separate owners.

**Will the Condo Lottery Return in 2024 – or Ever?** This is an entirely *political decision* to be made by the San Francisco Board of Supervisors, so the answer is unknowable at this time.

## What is a Condominium?

A condominium consists of an individually owned "Unit", including the space within the walls, floors and ceilings of a dwelling, plus shared ownership of the remainder of the property, known as "Common Areas". Owners pay monthly dues to their Homeowners' Association to cover common repair and insurance expenses, but pay separately their individual mortgages, property taxes and utilities. The relationship between owners is governed by state laws and other rules set forth in a document called the "Covenants, Conditions and Restrictions," or "CC&Rs".

## Why Should I Convert My Property to Condominiums?

Most real estate professionals agree that conversion generally increases a property's value. Conversion allows co-owners of multi-unit buildings to eliminate many of the risks of TIC co-ownership and facilitates re-sale of individual units. Most condominium units are also exempt from local limits on annual rent increases.

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### Is My Property Eligible for Conversion?

San Francisco still limits *all* condo conversions to buildings of *no more than 6 residential* units. A mixed-use building may include any number of commercial units, but the number of residential units cannot be greater than 6. However, with the expiration of the City's Expedited Conversion program in January of 2020, only *2-unit* "Bypass" properties can currently qualify for conversion (as well as mixed-use buildings with no more than one residential unit).

### Did the Expedited Conversion Program affect my 2-Unit "Bypass" Conversion?

No. The Expedited Conversion Program did *not* make *any* changes in the current rules which allow *2-unit* properties to convert if *each unit* has been *separately occupied* for the past 12 months by *separate individuals* who have each owned *at least a 25% interest* in the property during the entire occupancy period. Owners who evicted a protected tenant *after* May 1, 2005, are subject to the "no fault" eviction rules discussed below.

### Can I Move Out During the Conversion Process?

No. The City requires that the two qualifying owner-occupants continue to live in the property throughout the entire conversion process, even after the application has been filed and approved.

### What happened to the City's Condominium Conversion Lottery?

Gone. The City has *suspended* the old annual lottery system awarding condo conversion rights until 2024 and replaced it with the now-ended "Expedited Conversion Program." Should the lottery ever return, owner-occupancy and evictions rules will be tighter, and the maximum allowable number of residential units will be reduced from *six* to *four* for most buildings.

### What Fees are charged for my "Bypass" Conversion?

The City fees for processing a 2-unit "Bypass" condo conversion are \$11,500 as of 7/1/19. Conversion Fees collected are allocated 25% to the Mayor's Office of Housing and 75% to the Citywide Affordable Housing Fund. Most properties will also have to pay \$2,300 to the SF Dept. of Building Inspection for a Condo Building Inspection (see below).

### What Building Code Work will I Need to do to Convert?

Your building need *not* be upgraded to meet current building codes, be seismically retrofitted, or even provide parking. However, the City does require a building inspection as part of the conversion process, which involves: (i) an inspection request form and fee, (ii) a site visit by City building, plumbing and electrical inspectors, (iii) issuance of a written inspection report, (iv) permits for corrective work, (v) completion of all required work, (vi) re-inspection; and (vii) issuance of a Certificate of Final Completion and Occupancy. Inspection reports typically cover three types of problems: (i) work done without required permits (including everything from decks to in-law units), (ii) conditions which present safety hazards (like poor fire egress or dangerous electrical wiring), and (iii) energy and water conservation violations. Once you request a City inspection, you must perform the cited work whether or not you complete the conversion. In some cases, pre-inspection by a private consultant familiar with conversion requirements may be beneficial. A consultant can provide advance warning of likely inspection issues, recommend advance steps to minimize remediation requirements, establish the legality of preexisting improvements, and help you obtain building permits. We can provide a list of knowledgeable inspectors to our clients when needed.

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## How do the City's "No Fault" Eviction Rules Affect 2-Unit "Bypass" Conversions?

The rules governing how many and what kind of evictions disqualify a property from condo conversion for two-unit, owner-occupied "Bypass" conversions remain **unchanged**. Evictions after May 1, 2005, of a **protected** tenant (age 60+ and living in the property for at least 10 years; disabled; or catastrophically ill) still disqualify these buildings from conversion. Evictions after May 1, 2005 of non-protected tenants from **both units** in the building are ineligible for conversion until 10 years of owner-occupancy have passed. Evictions based on tenant fault (e.g., non-payment of rent, nuisance) never disqualify condo conversions.

## Do Tenant Buy-Outs Affect Conversions?

Not yet, even though the City has enacted a new rule which taints tenant "buy-outs" with the same disqualifying status as actual evictions. However, this new rule will apply **only** to conversions which may take place if the condo lottery resumes in 2024. ***This rule does not affect 2-unit "Bypass" conversions.***

## What is "Owner-Occupancy?"

"Owner-Occupancy" means an owner **on title** to the property who **continuously** occupies the property as that owner's **principal residence**. 2-unit buildings must have **one** unit owner-occupied in each unit for the required time period. Each owner must hold **at least a 25% individual ownership interest** in the property during the entire occupancy period. The owners must live separately in their respective units and cannot be married to each other.

## How do Lifetime Leases affect Title to a Property?

Building converting through the now-concluded Expedited Conversion Program were required to offer Lifetime Leases to their tenants, and to record those Offers against title. Anything recorded against title to real property can "cloud" its title, potentially interfering with later financing and sales. An Offer of Lifetime Lease, and the Lease itself, can cloud title to a property, but the City required the recording of both, together with a separate Agreement with the City. Offers of Lifetime Leases were required be **even if a tenant vacated before the conversion was completed**. At some point, it may be necessary for the owners of these properties to seek legal assistance in clearing title to the property by asking the City to issue a "Notice of Termination of Lifetime Lease".

## How do Qualifying Properties Begin Conversion?

Owners of qualifying 2-unit "Bypass" properties, must submit the latest version of the City's application package electronically, on a CD or USB flash drive. Documents requiring notarized signatures must still be filed as ink originals.. The major components of the City's package are:

**Inspection:** Before submitting a conversion application, you must request a City inspection and pay the required fee. The receipt for the inspection fee is part of the conversion application, and while you **need not have had your inspection** in order to submit your conversion application, an **early inspection** (and rapid completion of the work) can substantially **accelerate completion of your conversion**.

**Survey:** Conversion requires a survey or "map" prepared by a licensed surveyor which establishes the boundaries of the property and the condominium units. Counsel on the choice of a qualified surveyor is essential. We monitor the performance of local surveyors, and can help you select an affordable surveyor who is both knowledgeable of the City's ever-changing requirements, and easy to work with.

**History:** Your application must include a detailed six-year occupancy history of each unit in the building to allow the City to monitor compliance with its latest "no fault" eviction rules.

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**Occupancy:** Owners needing to prove occupancy must submit a sworn statement of the dates of their occupancy, along with proof that homeowner's property tax exemptions have been recorded for *all* owner-occupants.

**Photos:** The City continues to tighten its requirements for submission of site photos (to help identify sidewalk encroachments requiring a special permit). We can provide you with examples showing exactly where you must stand when you take photos of your property.

The application package also includes many other items which we can help you compile. ***An incomplete or improperly organized package will be rejected by the City; a service charge of \$250 is assessed for resubmission.*** Because the City gives priority to applicants who follow its complex (and often unpublished) rules, getting it right the first time can avoid unnecessary delays and expense.

### Are there any State Requirements for Condo Conversion?

***Some 5–6 unit properties*** are required to obtain a "Public Report" from the California Department of Real Estate ("DRE") by submitting a ***separate application***, with additional fees and expenses. This is frustrating because the City requires that the two qualifying owner-occupants continue to live in the property ***throughout the entire conversion process***. This requirement currently applies ***only*** to properties where the TIC ***seller/developer still owns one or more of the units***. There are no such state requirements for 2-unit "Bypass" conversions.

### How Long does the Conversion Process Take?

After successfully reducing the typical conversion time from years to a matter of months, the City has reversed course, and conversions are taking well over a year to complete. The City building inspection process, completion of which is required before a conversion can be completed, is no longer the primary determinant of how long the conversion process takes. That honor now belongs to the Planning Department and the Bureau of Street Use and Mapping. Based on current experience, we estimate that processing of 2-unit properties will take 15–24 months ***if the initial application package is correct and complete***.

### What Other Documentation is Needed?

All condominiums must record Covenants, Conditions & Restrictions ("CC&Rs") describing the rights and duties of the owners. CC&Rs must be prepared by an experienced attorney, and typically include:

- Unit Diagrams prepared by a licensed land surveyor
- Rules for group decision making
- Allocation of financial responsibilities
- Maintenance, repair and alteration rules
- Dues and maintenance reserve requirements
- Usage policies governing noise, pets, parking, rentals, etc.
- Requirements for management and record keeping systems

A ***self-prepared*** preliminary Operating Budget & Reserve Study is recommended for smaller properties; we can teach you how to prepare yours.

### Does My Lender have to Approve My Conversion?

Following final approval by the City, the survey map is copied onto plastic "mylar" sheets, to be signed by all record owners. For 2-unit properties, the City allows recording of the mylar map ***without*** lender signatures. Nevertheless, lenders are entitled by law to be offered a

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Consent Agreement, which the lender may choose to sign, or not. Some lenders sign willingly, charging a small fee. If a lender refuses to sign, or demands an excessive fee, we can offer effective alternative strategies. And if existing loans are going to be paid off or refinanced immediately following conversion, lender consent may not be necessary at all.

### What is the City's Property Tax Pre-Payment Rule?

The City requires payment of *all outstanding property taxes* at the time of completion of a condominium conversion. This includes taxes due for the *current fiscal year* (July 1 – June 30) for owners who record their maps between July 1 and January 1, plus, for owners who record their maps between January 1 and July 1, *an estimated tax bill for the next fiscal year*. As an alternative to pre-paying the entire next year's property tax bill, the City will accept a bond to guaranty future payment, an unattractive option, as bonding companies typically charge a premium of 2-3% of the bonded amount, and insist upon a rigorous qualification process, requiring verification of income and liquid assets high enough to justify the bonding company's risk of covering future tax payments.

### When is Conversion Complete?

After all owners have signed the mylar survey map, it is returned to the City with a certificate of completion of the building inspection work, and a Tax Certificate showing property taxes have been paid. The building officially becomes condominiums when the survey map is recorded. Notices to tenants in possession are given at this time, setting forth the tenants' special purchase and lease rights.

### Must I Refinance After Conversion?

Final recordation does not alter the ownership or financing of the property. All of the condominiums in the building remain owned by the same individual or group, and all remain subject to the same mortgage. Thus, if two owners each own 1/2 of a 2-unit building before conversion, they will each own 1/2 *of both condominium units* after conversion. Refinancing is a necessary step to separate ownership of the individual units, so that particular owners can acquire title to particular units, and involves replacing the existing loan(s) on the entire building with separate loans on individual condominium units. This is true even if the existing loans are "fractional" TIC mortgages.

### Can I Sell Before Conversion is Complete?

No. For 2-unit, owner-occupied "Bypass" properties, the City insists that the original owners continue to own and occupy the property until the conversion has been completed.

### Will Conversion Increase My Property Taxes and Insurance Premiums?

Conversion will not increase the assessed value of your property. The current assessed value will be allocated among the condominium units, and each unit will get a separate tax bill based on the allocation. Property taxes may increase, however, if the City levies any "parcel taxes", as each new unit will be considered a separate "parcel." Conversion often increases insurance costs, particularly in 3-6 unit buildings, and you may be obligated to switch insurance companies. Consulting your insurance agent early in the conversion process will help eliminate unpleasant surprises once the conversion is complete.

### Will My Unit Remain Subject to Rent Control After Conversion?

The State's Costa-Hawkins law exempts many single-family residences from local restrictions on annual rent increases, such as those found under the San Francisco Residential Rent Stabilization and Arbitration Ordinance. The landlord of a single-family residence which is subject to Costa Hawkins can raise rents *without restriction*; however, other eviction limitations continue to apply. Condominiums are considered single-family residences, and Costa-Hawkins privileges will apply to a newly converted unit, but only *after* the unit has been sold

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to a bona fide purchaser for value, or in the case of a building where ***all of the converted units but one have been sold***, to the remaining unsold unit after the owner has resided there for one year. Note that tenants who moved into their units ***before January 1, 1996***, are exempt from the Costa-Hawkins law, and retain all of their Rent Control rights; the same is true for tenants who acquire Lifetime Leases.

### What Will My Conversion Cost?

**City Fees:** San Francisco charges building inspection fees starting at \$2,346, an application fee of \$11,500, and recording fees of about \$100.

**Surveyor:** Survey maps start at about \$6,000, and increase with building size and complexity.

**Attorney:** Goldstein, Gellman, Melbostad, Harris & McSparran, LLP (“G3MH”) offers a complete, flat-fee package, including: preparation of the City Application; counsel on building inspection issues; assistance in selection of surveyor and title company; advice on space assignment; status reports, monitoring and troubleshooting; drafting Lifetime Leases; and CC&R preparation. Our fees vary depending on property size, and are competitively priced; please call for details.

**Repairs:** Building permit fees and repair costs will vary, depending on the results of your building’s physical inspection.

**Title:** A subdivision specialist at a title company is an essential member of your conversion team. Title companies charge from \$200-\$800 to write a Subdivision Guarantee title policy to the City, which will be required at the end of your conversion.

**Lender:** Most lenders typically charge from \$200-\$1,200 to approve conversions. However, if you are selling or refinancing immediately, lender approval may not be necessary.

### Are there any Buildings which can No Longer Convert?

Yes. ***Single-owner*** buildings and 2-4 unit TIC groups must wait and hope the lottery returns in 2024. 5-6 unit buildings may be allowed to participate in a future lottery only if ***there have been no evictions since 4/15/2013***, no recent tenant buy-outs, and the building has been continuously occupied by at least 3 owners for ***10 years***.

### I Want to Start my Conversion Right Away – What do I do Next?

- Confirm that your building qualifies as a 2-unit, owner-occupied “Bypass” property.
- Make an appointment ASAP with attorney Boyd McSparran or David Gellman at G3MH to review your building’s eligibility and get your conversion application started for submission to the City.

### How do I Choose a Lawyer to Assist Me in My Conversion?

***A Law Firm Specializing in Condominium Conversions should offer you:***

- A choice of experienced attorneys knowledgeable in all aspects of the conversion process;
- A long history of successfully completing conversions in San Francisco;
- Ongoing guidance to help prevent you from making 1st timers’ mistakes;
- ***Expertise in landlord/tenant issues, and the ability to draft Lifetime Leases which are landlord-friendly;***

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- Concise, customized application materials, tailored to your specific property;
  - Counsel in all stages of the conversion process, including building inspection, selection of a competent surveyor, and lender issues;
  - Representation before the City Planning Commission when required;
  - A single point of contact with City agencies;
  - Outstanding experience in mortgage lender consent requirements;
  - Knowledge of the City’s rules and procedures – those on the books, as well as the unwritten rules learned only through experience.

**What Sets  
Goldstein, Gellman,  
Melbostad, Harris  
& McSparran, LLP  
 (“G3MH”) Apart in  
Condo Conversions?**

**EXPERIENCE:**

G3MH has been a respected member of San Francisco’s real estate community for over thirty-five years. Our team initiated its first condominium conversion in 1998. Since then, we have successfully completed the majority of all San Francisco conversions, including most prior lottery winners – over 3,000 condominium conversions. Our daily contacts with the City staffers who process conversions keep us current on the “unwritten rules” – the little tweaks essential to submitting a perfect application that the City doesn’t divulge in its published materials. *G3MH is the only condominium conversion law firm drafting landlord-friendly Lifetime Leases for its conversion clients. G3MH is also the only condominium conversion law firm providing dispute resolution services to condominium owners and associations, giving us unique insights into steps that can be taken at the conversion stage to minimize future conflicts.*

**SPEED:**

The G3MH team’s excellent and long-standing reputation with City officials helps insure that your conversion application receives attention in a timely fashion. The City has come to expect that every G3MH application will be complete and correct the first time it is submitted. Our attorneys will meet with you personally multiple times throughout the conversion process, and we will offer important alerts and reminders, to keep your conversion from falling behind.

**ECONOMY:**

G3MH provides its condominium conversion services throughout the entire process on a flat-fee basis. We think you will find our fees both affordable and appropriate to the services you will receive. The scope of our work is clearly explained up front, and the costs laid out for you, so that there will be no surprises down the road. Any additional hourly services are incurred only at your specific request.

**SERVICE:**

At G3MH, you will find *attorneys* (not just paralegals) ready and willing to meet with you face-to-face whenever needed. G3MH is a full-service law firm, which means that we can offer additional guidance in landlord/tenant issues, title transfer and vesting, trust and estate matters, easements, tenancies-in-common, property taxes, and other matters related to the conversion process. We will keep you apprised of changes in law or local procedures affecting your application. No other firm in San Francisco offers the staffing and resources to meet your needs in every aspect of condominium conversion, and beyond.

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*About the Authors and the G3MH Condo Conversion Team:*

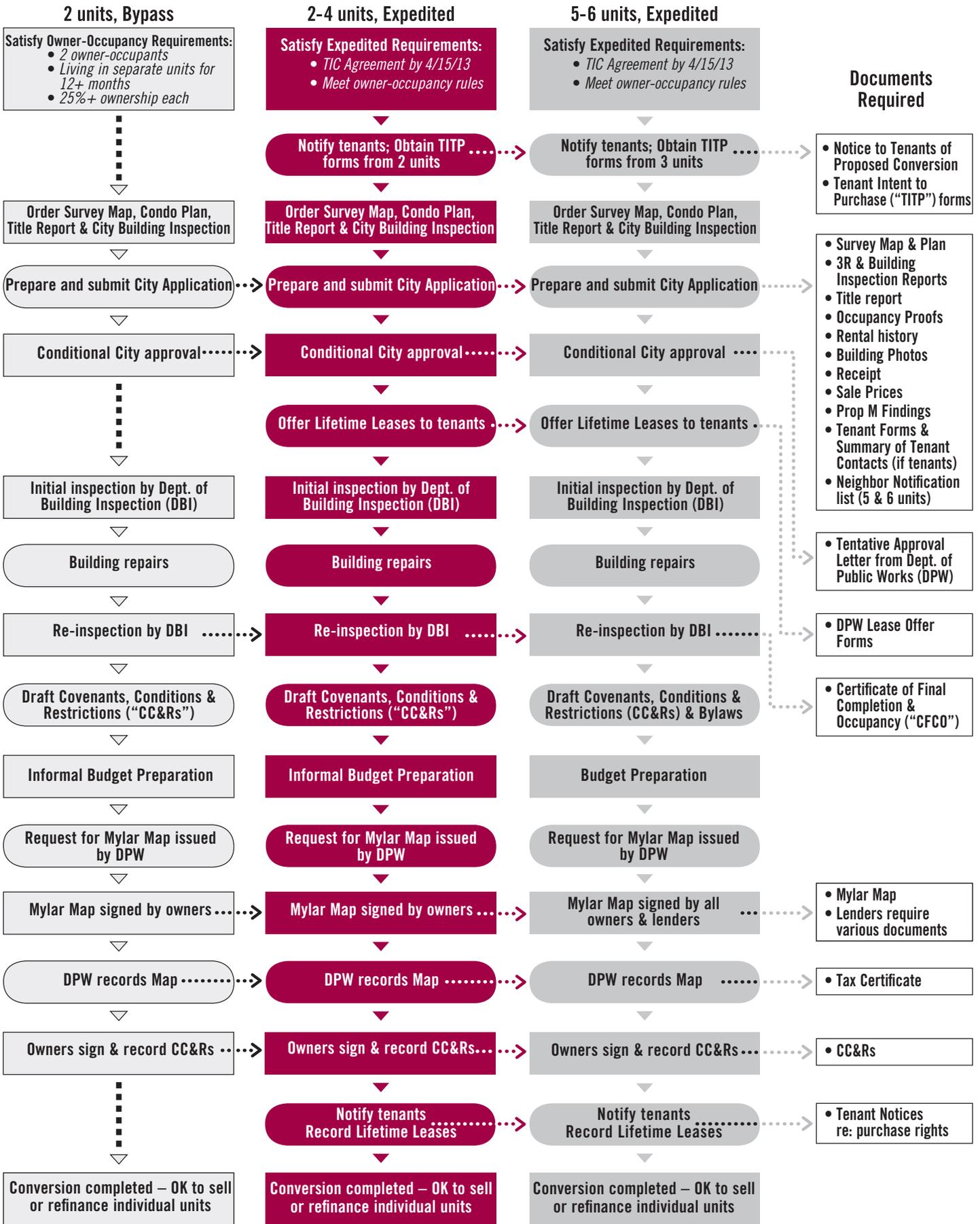
**David R. Gellman**, partner at G3MH, has extensive experience in condominium subdivisions, tenancy-in-common (TIC) formation, landlord/tenant (rent control), real estate litigation, commercial leasing, like-kind exchanges, and estate planning. His companion article, “Small Condominium Dispute Resolution” can be found on the firm’s website at [www.g3mh.com](http://www.g3mh.com). Mr. Gellman is an accredited instructor with the California Department of Real Estate, and frequently conducts co-ownership workshops for attorneys, real estate agents, and prospective home buyers. Mr. Gellman can be contacted via email at [DGellman@g3mh.com](mailto:DGellman@g3mh.com), or by phone at 415/673-5600 ext. 229.

**R. Boyd McSparran** is the managing partner of G3MH. His practice areas include condominium conversion, tenancies-in-common, commercial and residential real property transactions, leases, and landlord-tenant disputes. He can be contacted via email at [BMcSparran@g3mh.com](mailto:BMcSparran@g3mh.com), or by phone at 415/673-5600 ext. 257.

**Brian Hession de los Santos** is a paralegal at G3MH. He has prepared over a thousand successful conversion application packages. Brian is responsible for maintaining contact with the City departments and staff who process conversion applications, and is an invaluable resource for the latest twists and turns in the City’s application requirements.

*This article is for informational purposes only, and should not be relied on as legal advice about specific situations. Readers should consult an attorney if they need help with legal matters. We invite readers seeking legal assistance to contact one of our attorneys to discuss their needs.*

# Condominium Conversion Process



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## Notes