



Condominium Conversion Handbook



**Montgomery County Maryland
Department of Housing and Community Affairs
Office of Landlord-Tenant Affairs
100 Maryland Avenue, 4th Floor
Rockville, MD 20850**

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For multiple copies of this pamphlet, please contact the Office of Landlord-Tenant Affairs at 240-777-3600 or at www.montgomerycountymd.gov/hca.

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Community Affairs
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Montgomery County, Maryland



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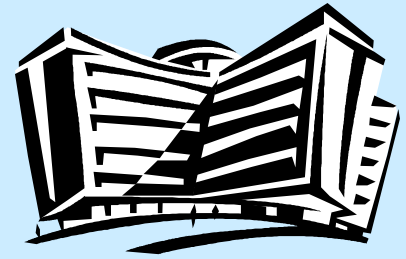
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INTRODUCTION



When the owner of an apartment building of ten or more units decides to convert the rental facility to a condominium, the County, the Montgomery County Housing Opportunities Commission (HOC) and tenants in apartment units have certain rights under both Maryland State and Montgomery County law. There are specific rules that an owner must follow during this process. This pamphlet provides a basic outline of the owner's obligations and rights afforded to the County, HOC and tenants when an apartment building is converting to condominiums.

Procedures regarding condominium conversions are contained in Title 11, Maryland Condominium Act, Real Property Article, Annotated Code of Maryland ("State Code"), Chapter 11A, Condominiums, of the Montgomery County Code ("County Code"), and Chapter 11A. Condominiums— Regulations of the Code of Montgomery County Regulations ("COMCOR").

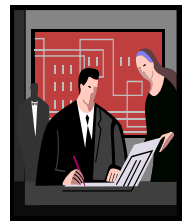
To review these laws and related regulations, visit the Montgomery County Department of Housing and Community Affairs' website at www.montgomerycountymd.gov/hca, or call or write to:

Montgomery County Department of Housing and Community Affairs
Office of Landlord-Tenant Affairs
100 Maryland Avenue, 4th Floor
Rockville, MD 20850
Phone: 240-777-3600; TDD 240-777-3679; Fax 240-777-3691

I. County's Right of First Refusal

If an apartment building containing 10 or more dwelling units is being sold for the purpose of conversion to a condominium, the County and HOC have the right of first refusal to purchase the building. This means that the owner must first offer the apartment building to Montgomery County's Department of Housing and Community Affairs (DHCA) and the Housing Opportunities Commission (HOC), to see if they are interested in purchasing the property. DHCA and HOC each have 60 days to match the contract and an additional 120 days to purchase the building. Chapter 11A. Condominiums– Regulations of COMCOR governs this procedure and can be reviewed via a link to our website at www.montgomerycountymd.gov/hca.

II. Registration as a Condominium with the Secretary of State



An owner of an apartment building who intends to convert it to a condominium must:

- File a Public Offering Statement (POS) with the Maryland Secretary of State. The POS must comply with the disclosure requirements of § 11-126 of the State Code.*
- File copies of the Public Offering Statement and a Montgomery County Consumer Guide with DHCA, in compliance with Section 11A-7 of the County Code.* The Consumer Guide provides information regarding the condominium units that will be for sale.
- Notify the tenants in writing of the registration filing with the Secretary of State and DHCA and of their right to review these documents at DHCA at 100 Maryland Avenue, 4th floor, Rockville, Maryland.

Amendments to the Public Offering Statement and the Consumer Guide must be filed with the Secretary of State and DHCA. If the Secretary of State determines that the application, along with any amendments, satisfies the requirements of state law, the Secretary of State will issue an order registering the condominium.

*Title 11, Condominiums of the State Code, Chapter 11A, Condominiums of the County Code, and Chapter 11A. Condominiums-Regulations of COMCOR are available via links at our website, www.montgomerycountymd.gov/hca.

III. Notice of Intention to Create a Condominium

After the Condominium is registered with the Secretary of State, a Notice of Intention to Create a Condominium (NICC) must be hand delivered to each tenant or sent via certified mail, return receipt requested/ postage prepaid. A copy of the NICC must be filed with DHCA. The Notice must comply with § 11-102.1 of the State Code (see *Appendix*) and must notify tenants of the following rights:



- The right to remain in the unit for 180 days or the expiration of the tenant’s lease, whichever is longer, except for breach of lease, nonpayment of rent, or if the tenant has given notice to vacate before receiving the NICC.
- The right to purchase the unit. A purchase offer must be included with the NICC.
- The right to receive moving expenses (see *Section V, Moving Expenses*).
- The right to terminate a lease without penalty upon 30 days written notice to the owner after receiving the NICC.
- The right that certain tenants who fall into protected categories are eligible for extended leases of either three-years or lifetime, depending on whether they meet certain eligibility requirements. The developer must set aside units for these tenants, up to a limit of 20 percent of the units in the rental facility.

Along with the NICC, the developer must deliver to the tenant:

- An application for an extended tenancy and an extended tenancy lease to be returned with the application.
- An offer to purchase the unit.
- A copy of the POS and Consumer Guide whose requirements comply with Chapter 11A. Condominiums-Regulations, Section 11A.05.01 of COMCOR.

These requirements do not apply to a tenant who has given the landlord notice of his/her intention not to renew their lease before the NICC was issued.

IV. Tenant's Right to Purchase an Individual Unit



At the time the tenant receives the NICC, the tenant must be offered the right to purchase his/her unit at a price and on terms and conditions at least as favorable as the price, terms, and conditions offered to the public for that unit during the 180 day period after the NICC was issued.

The purchase offer must state that:

- The offer will remain open for 60 days after the NICC is issued;
- Acceptance of the offer to purchase by a tenant qualified for an extended lease is contingent upon the tenant not receiving an extended lease. In other words, if your extended lease is accepted, then your purchase contract will be void; and
- Settlement cannot be required before 120 days after the offer is accepted.

If a tenant chooses not to purchase a unit, the tenant may remain in his/her unit for 180 days from the date of the NICC or the expiration of the tenant's lease, whichever is longer, except for breach of lease, nonpayment of rent, or if he/she has given notice to vacate before receiving the NICC. A tenant can terminate his/her lease without penalty by giving a 30-day written notice. However, once the tenant gives notice, he/she does not have the right to remain at the property beyond the notice date.

V. Extended Tenancies



A developer who converts a rental facility to condominium must offer extended leases to qualified households. The total number of units to be set aside for extended tenancies cannot exceed 20 percent of the units in the rental facility. Households which meet certain qualifications are eligible to receive either three-year or lifetime tenancies. To qualify for a three-year or lifetime tenancy, the tenant must meet specific criteria. Regarding such extended tenancies, the following definitions apply:

Senior Citizen: a person who is at least 62 years old on the date that the NICC is given.

Handicapped Citizen: a person with a measurable limitation of mobility due to congenital defect, disease, or trauma.

Disability or Disabled Individual: (1) an individual who has a physical or mental impairment that substantially limits one or more of the individual's major life activities; or (2) a record of having a physical or mental impairment that substantially limits one or more of an individual's major life activities.

Annual Income: the total income from all sources for all members of the household for the income tax year immediately preceding the year in which the NICC was issued (see *Appendix, Section II*). "Total income" means the same as "gross income" as defined in § 9-104 (a) (7) of the Tax-Property Article. Gross income includes:

1. Any benefit under the Social Security Act or the Railroad Retirement Act;
2. The aggregate of gifts over \$300;
3. Alimony;
4. Support money;
5. Any nontaxable strike benefit;
6. Public assistance received in a cash grant;
7. A pension;
8. An annuity;
9. Any unemployment insurance benefit;
10. Any worker's compensation benefit;
11. The net income received from a business, rental, or other and
12. Any rent on the dwelling, including the rent from a room or apartment.

Annual Income Limit: 80 percent of the median household income of the metropolitan statistical area in which the County is located, as determined by the Secretary of State. This amount is determined annually and contained in the NICC.

Lifetime Tenancies

In Montgomery County, a household is eligible for a lifetime tenancy if the household meets ALL of the criteria listed below:

- Includes a senior citizen (62 years old) or an individual with a handicap or disability on the date the NICC is given;
- The qualifying person(s) has lived in the apartment for a period of at least 12 months preceding the NICC;
- Annual income for all members of the household does not exceed the annual income eligibility limit; and,
- The household is current with its rent and has not violated any other material term of the lease.

Three-year Tenancies

A household is eligible for a three-year extended lease (subject to the twenty percent set aside) if it meets any of the following criteria:

- The household includes a senior citizen, handicapped or disabled individual who has lived in the household less than twelve months prior to the issuance of the NICC and meets the annual income limit as stated previously;
- The household meets the annual income limit regardless of family composition; or
- The household includes a senior citizen, handicapped or disabled individual, and exceeds the annual income limit, regardless of how long the senior citizen, handicapped or disabled individual has been a member of the household prior to the issuance of the NICC.

If a household meets all of the qualifications for life tenancy or any of the qualifications for a three-year tenancy as listed above and the household wants an extended lease, the completed extended lease forms must be returned to the developer within 60 days after receipt of the NICC.

Within 75 days after the NICC was given (15 days beyond the 60 day notice), the developer must notify each household which has submitted an application for extended tenancy whether the household qualifies for an extended tenancy, and if not, provide the household with an explanation of which criteria have not been met.

Within 75 days after the NICC was given, the developer must also provide to the Department of Housing and Community Affairs:

- a notice indicating the number of units being made available to qualified households;
- a list of the households that were offered extended tenancies;
- a list of the households which did not meet the criteria for extended tenancies; along with copies of the notices that were sent to these households; and
- a list of the households which applied and qualified for three year or life tenancies.

Extended Tenancy Leases

An extended lease must set forth the provisions for termination of the lease. A household may cancel an extended lease by:

- giving three months' written notice if more than one year remains on the lease; or
- one month's written notice if less than one year remains on the lease.

Rents under extended leases may only be increased once a year. The amount of the rent increase cannot exceed the percentage increase for the rent component of the U.S. Consumer Price Index for Urban Wage Earners and Clerical Workers as published by the U.S. Department of Labor, for the most recent 12-month period.

The extended lease must contain the same terms and conditions as the lease in effect on the day preceding the date the NICC was given; however, the extended lease must contain specific termination provisions as listed below.

The extended tenancy shall cease:

- 90 days after the death of the last surviving senior citizen, handicapped or disabled individual residing in the unit or after the senior citizen, handicapped or disabled individual has moved from the unit,
- If the household is evicted for failure to pay rent in a timely fashion or violation of a material term of the lease, or
- If the household voluntarily terminates the lease.



Priority for Extended Leases

If the total number of households eligible for extended leases exceeds the twenty (20) percent limitation contained in the State Code, the units are allocated on a priority basis as follows:

1. Households eligible for life tenancies;
2. Households eligible for three year tenancies with a senior citizen, handicapped or disabled individual;
3. Households eligible for three year tenancies that meet the annual income limit; and
4. Households with a senior citizen, handicapped or disabled individual that do not meet the income criteria.

If after allocating extended leases to all households in any of the four categories listed above, the number of eligible households exceeds the 20 percent limit established by the State Code, priority within a category must be based on household annual income, with the lowest income household receiving the highest priority.

Relocation of Extended Tenancy Households

If a conversion to condominium involves substantial rehabilitation or reconstruction of the building(s) of such a nature that does not permit the continued occupancy of a unit because of danger to the health and safety of the tenants, then the developer can require the household to vacate the unit not earlier than the expiration of the 180-day period and relocate at the expense of the developer to a comparable unit at the rental facility until renovations are completed. The NICC must contain the tenant's rights regarding moving expenses. If there is no comparable unit available, then the designated household may be required to vacate the rental facility, at the developer's expense. The household will be notified at the completion of the reconstruction and has 30 days from the date of that notice to return to their original or a comparable rental unit at the condominium. The term of the extended lease of the household will begin on the household's return to the rental unit.

VI. Moving Expenses



If a tenant's household income from does not exceed the income eligibility limit, the tenant is eligible for \$375 in moving expenses prior to moving. If the tenant's moving expenses exceed the \$375 payment, the tenant may also be reimbursed up to \$375 more (for a total not to exceed \$750), for moving expenses which are actually and reasonably incurred, to:

- Hire contractors, labor, trucks, or equipment for the transportation of personal property;
- Pack and unpack personal property;
- Disconnect and install personal property;
- Insure personal property to be moved; and
- Disconnect and reconnect utilities such as telephone service, gas, water, and electricity.

If a tenant's annual income exceeds the income eligibility limit, a tenant can be reimbursed up to \$750 for moving expenses actually and reasonably incurred as outlined above.

The tenant must make a written request for payment of moving expenses with documentation of the expenses within 30 days after vacating the unit. Payment must be made by the developer within 30 days after the tenant's request is received.

If a household is eligible for an extended lease, but due to the 20 percent limitation, no unit is available, the developer must make a payment equal to three months rent within 15 days after the household vacates the rental facility. The household is also entitled to up to \$750.00 in moving expenses as outlined above.

The household must make a written request for payment of moving expenses with documentation of the expenses within 30 days after vacating the unit. Payment must be made by the developer within 30 days after the household's request is received.

If a household is eligible for an extended lease but chooses not to accept one, the household is also entitled to three months rent within 15 days after vacating the rental facility. To receive the three month rent payment, the household must complete and return the Application for Extended Tenancy but not execute a lease. The household is also entitled to up to \$750.00 in moving expenses as outlined above.

APPENDIX

**“NOTICE OF INTENTION TO
CREATE A CONDOMINIUM”**

_____ (date)

This is to inform you that the rental facility known as _____ may be converted to a condominium regime in accordance with the Maryland Condominium Act. You may be required to move out of your residence after 180 days have passed from the date of this notice, or in other words, after _____ (date).

Section I

Rights that apply to all tenants

If you are a tenant in this rental facility and you have not already given notice that you intend to move, you have the following rights, provided you have previously paid your rent and continue to pay your rent and abide by the other conditions of your lease.

(1) You may remain in your residence on the same rent, terms, and conditions of your existing lease until either the end of your lease term or until _____ (date) (the end of the 180-day period, it will be extended on the same rent, terms, and conditions until _____ (date) (the end of the 180-day period) In addition, certain households may be entitled to extend their leases beyond the 180 days as described in Section 2.

(2) You have the right to purchase your residence before it can be sold publicly. A purchase offer describing your right to purchase is included with this notice.

(3) If you do not choose to purchase your unit, and the annual income for all present members of your household did not exceed _____ (the income eligibility figure for the appropriate area which equals approximately 80 percent of the median income for your county or standard metropolitan area) for 20 ____, you are entitled to receive \$375 when you move out of your residence. You are also entitled to be reimbursed for moving expenses as defined in the Maryland Condominium Act over \$375 up to \$750 which are actually and reasonably incurred. If the annual income for all present members of your household did exceed _____ (the income eligibility figure for the appropriate area which equals approximately 80 percent of the median income for your county or standard metropolitan area) for 20 ____, you are entitled to be reimbursed up to \$750 for moving expenses as defined in the Maryland Condominium Act, actually and reasonably incurred. To receive reimbursement for moving expenses, you must make a written request, accompanied by reasonable evidence of your expenses, within 30 days after you move. You are entitled to be reimbursed within 30 days after your request has been received.

(4) If you want to move out of your residence before the end of the 180-day period or the end of your lease, you may cancel your lease without penalty by giving at least 30 days prior written notice. However, once you give notice of when you intend to move, you will not have the right to remain in your residence beyond that date.

Section II

Right to lifetime lease extension, 3-year lease extension or 3-month rent payment for certain individuals with disabilities and senior citizens

The developer who converts this rental facility to a condominium must offer extended leases to qualified households for up to 20 percent of the units in the rental facility. Households which receive extended leases will have the right to continue renting their residences for at least three years or a lifetime from the date of this notice. A household may cancel an extended lease by giving three months written notice if more than one year remains on the lease, and one month written notice if less than one year remains on the lease.

Rents under these extended leases may only be increased once a year and are limited by increases in the cost of living index. Read the enclosed lease to learn the additional rights and responsibilities of tenants under extended leases.

In determining whether your household qualified for an extended lease, the following definitions apply:

(1) (i) "Disability" means:

1. A physical or mental impairment that substantially limits one or more of an individual's major life activities; or
2. A record of having a physical or mental impairment that substantially limits one or more of an individual's major life activities.

(ii) "Disability" does not include the current illegal use of or addition to:

1. A controlled dangerous substance as defined in § 5-101 of the Criminal Law Article; or
2. A controlled substance as defined in 21 U.S.C. § 802.

(2) "Senior citizen" means a person who is at least 62 years old on the date of this notice.

(3) "Annual income" means the total income from all sources for all present members of your household for the income tax year immediately preceding the year in which this notice is issued but shall not include unreimbursed medical expenses if the tenant provides reasonable evidence of the unreimbursed medical expenses or consents in writing to authorize disclosure of relevant information regarding medical expense reimbursement at the time of applying for an extended lease. "Total income" means the same as "gross income" as defined in § 9-104 (a) (7) of the Tax-Property Article.

(4) "Unreimbursed medical expenses" means the cost of medical expenses not otherwise paid for by insurance or some other third party, including medical and hospital insurance premiums, co-payments, and deductibles; Medicare A and B premiums; prescription medications; dental care; vision care; and nursing care provided at home or in a nursing home or home for the aged.

To qualify for an extended lease you must meet ALL of the following criteria:

- (1) A member of the household must be a disability, senior citizen or handicapped; must be living in your unit as of the date of this notice, and must have been a member of your household for at least 12 months preceding the date of this notice;
- (2) Annual income for all present members of your household must not have exceeded _____ (80 percent of applicable median income) for 20____; and
- (3) You must be current in your rental payments and otherwise in good standing under your existing lease.

If you meet all of these qualifications and desire an extended lease, then you must complete the enclosed form and execute the enclosed lease and return them. The completed form and executed lease must be received at the office listed below within 60 days of the date of this notice, or in other words, by _____ (date). If your completed form and executed lease are not received within that time, you will not be entitled to an extended lease.

If the number of qualified households requesting extended leases exceeds the 20 percent limitation, priority will be given in accordance with Section 11A-5 of the Montgomery County Code.

Due to the 20 percent limitation your application for an extended lease must be processed prior to your lease becoming final. Your lease will become final if it is determined that your household is qualified and falls within the 20 percent limitation.

If you return the enclosed form and lease by _____ (date) you will be notified within 75 days of the date of this notice, or in other words, by _____ (date), whether you are qualified and whether your household falls within the 20 percent limitation.

You may apply for an extended lease and, at the same time, choose to purchase your unit. If you apply for and receive an extended lease, your purchase contract will be void. If you do not receive an extended lease, your purchase contract will be effective and you will be obligated to buy your unit.

If you qualify for an extended lease, but due to the 20 percent limitation, your lease is not finalized, the developer must pay you an amount equal to three months rent within 15 days after you move. You are also entitled to up to \$750 reimbursement for your moving expenses, as described in Section I of this notice.



**Montgomery County, Maryland
Office of Landlord-Tenant Affairs**