

## GERMAN LAW NEWSFLASH – JUNE 2015

### **CITY OF BERLIN: BAN ON CONVERSION FROM RENTAL HOUSING TO CONDOMINIUMS**

On 3 March 2015 the Berlin Senate finally adopted a new conversion regulation that requires prior approval for conversion of rental flats to condominiums. In line with the senates' intention the new regulation shall be another instrument for stopping rising rents and the displacement of socially deprived out of burdened city districts.

#### **HOW IT USED TO BE**

Before the new regulation, developers did not need any prior approval for the conversion of rental housing to condominiums. Thus, conversions have been an economically popular method to increase revenues and profits of house owners. It has been an attractive instrument for both developers and investors not least because the sale of rental free buildings typically draws more profits. With increasing rising rents and housing shortages especially in top city districts the Berlin Senate started to adopt several instruments to hold up urban gentrification. These include the ban on misappropriation of housing as well as a rental threshold regulation.

#### **WHAT IS NEW**

The new conversion ban will apply to real estate in so-called preservation districts. § 172 Abs. 1 S. 1 Nr. 2 BauGB (German Federal Building Act) enables the Berlin Senate to adopt preservation districts. To this day, 21 of such districts are determined. Particularly affected are popular areas such as Prenzlauer Berg, Friedrichshain-Kreuzberg as well as Schöneberg where most of the preservation districts are situated. From now on, prior approval of the responsible district office is required for any conversion plans. Only applications at the land registry that have already been made before 3 March 2015 won't need such an approval. Thus, on the safe side is everybody who already received the so-called separateness certificate. Moreover, the approval has to be granted in the following statutory scenarios: A refusal economically would not be reasonable for the house owner; the property concerned is part of an estate and condominium or section property shall be established in favor of coheirs or legatees; condominium or section property shall be established for utilization of family members of the house owner; at the date of application the property concerned has not been



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utilized for residential purposes and finally the possibility for owners to commit to sell flats only to tenants for a period of seven years after having established condominium.

#### **WHAT DOES IT MEAN FOR THE FUTURE**

It remains questionable whether the new regulation will have positive effects on the strained housing market. Rising rents firstly are a result of higher demand than available supply. Moreover, it cannot be excluded that further districts will be classified as preservation districts. For potential investors these circumstances might reduce incentives to invest in new housing space as it causes planning uncertainties.

*This newsflash was originally published by Magnusson Berlin LLP, of which Dr. Thomas Kaiser-Stockmann is also the Managing Partner.*