



CONVERTING A PROPERTY TO DIVIDED CO-OWNERSHIP

PREPARATION GUIDE

NOTE : This document is intended mainly to explain how to complete an application and prepare supporting facts for a hearing. For more information on the rules and conversion steps, we suggest reading the Régie du logement's publication entitled *Divided Co-ownership...and the Tenants*.

Part I

PROCEDURE

1. Required Authorization

Under the *Act respecting the Régie du logement* (R.S.Q., c. R-8.1), any person who wishes to convert one or a number of buildings to a divided co-ownership must apply for authorization to the Régie, when the property has, or had in the last ten years, at least one dwelling.

Under the law, a "dwelling" means a premise rented for residential purposes, offered for rent or that is vacant after having being rented.

2. Notice of Intent to Convert : The First Step

Before taking any other steps, landlords must give notice to each tenant of their intention to convert the property concerned, in writing and in accordance with law. A copy of each Notice of Intent to Convert must be conveyed to the Régie. Landlords shall retain proof that such notice was conveyed to their tenants as this evidence shall be required at the hearing on the application for authorization (see part 6). Please note that the Régie provides Notice of Intent to Convert forms.

If is important to realize that, once such notice is served, the tenants benefit from an **unlimited right to remain in the premises in their dwelling**, and except in some rare cases, or where there is consent, they may not be evicted for the repossession of a dwelling by a prospective purchaser.

3. Application to the Municipality

A document must also be obtained from the municipality concerned. The procedure may differ from one municipality to another:

- a) In the territory of Ville de Montréal where conversion is prohibited :

Where the council of a borough of Ville de Montréal in which the immovable is situated has adopted a by-law providing for derogations, a derogation must be obtained through a resolution by the Council of the municipality concerned. Landlords should contact their borough to find out how to apply for a derogation and about the related cost.

Landlords should consult a publication by the Ville entitled *Conversion to condominiums*. This publication makes special mention of properties that are eligible for derogation. The publication is available at *Accès Montréal* offices.

- b) Elsewhere in Québec where conversion is allowed :

Landlords must obtain a resolution authorizing the conversion or a certificate attesting that there is no by-law restricting conversion in the municipality or that no such by-law has been adopted.

4. Application for Authorization

Landlords have **six** months to submit their application for authorization to convert to the Régie. This delay is calculated from the date of the Notice of Intent to Convert or the date on which the municipal document was obtained, whichever comes last.

The application shall be submitted along with the fee specified in the regulation which varies according to the number of dwellings.

Given the complexity of the procedure, applicants are advised to consult a notary or lawyer for help preparing the application and in relation to the hearing. When a notary assists an applicant, the notary shall see that the application is signed by the applicant and may act only as a witness for the applicant; he may not be considered a representative, in accordance with the requirements in Section 72 and 74 of the *Act respecting the Régie du logement* : mandate free of charge, etc.

5. Service of the Application

Notice of the application shall be served, at the applicant's expense, to each tenant and each co-tenant individually, where applicable. This notice shall also be served to any third party, where applicable.

The most common methods of serving notice are :

- 1- registered mail;**
- 2- certified mail;**
- 3- bailiff.**

Notice can also be served using any other method that provides proof of receipt, such as delivering the notice in person. Proof of receipt in this case, may be an acknowledgement of receipt or the testimony of a person who witnessed receipt of the application.

6. Hearing

The Régie shall notify the parties, tenants and any third party of the location, date and time of the hearing. A presentation notice is, therefore, not necessary as is the case for some applications and petitions before common law courts.

When applicants are physical persons, they must attend the hearing. Failing this, applicants may mandate a spouse or may be represented by a lawyer. When there is valid reason, applicants may also mandate a relative, relation by marriage or friend. When the applicant is a corporate body (company, etc.), an officer, lawyer, director or an employee duly mandated by a resolution or a lawyer may represent the applicant at the hearing.

Applicants shall bring to the hearing proof that the notice of the application was served and proof that the notice of intent to convert was conveyed to the tenants (see part 2).

A hearing usually take place before two commissioners. Because the hearing is not a mere formality, it is important to know that failure to provide any required evidence may lead to a postponement of the case and additional waiting periods.

Applicants or their representatives should be able to prove all the facts related to the application and all circumstances surrounding the conversion by means of testimony and material evidence. When an applicant is being represented and the representative is not aware of the facts, the applicant should ensure that there are witnesses able to relate the facts.

7. Posting of Notice

The law stipulates that a notice shall be posted before the building. the Régie asks for the cooperation of he landlord concerning the logistics of the posting. The posted notice

includes the statement that any person may make a written representation in relation to the application within ten days of posting or of the publication of a public notice, if such is the case.

The Régie may, if it considers it expedient, hold a public hearing or hear any person who has made a representation.

8. Decision

The Régie will convey a copy of its decision to the parties and to each tenant identified on the list appended to the application.

Under the law, the Régie's decision shall give the names of all tenants concerned and their apartment number, so that no further effort to repossess the dwelling can be carried out.

9. Registration of the declaration of co-ownership with the Bureau de la publicité des droits (known as the Bureau d'enregistrement prior to 1994)

Once authorization to convert has been obtained, landlords have **one year** to have the declaration of co-ownership registered in the property records. The Régie's decision to authorize the conversion must accompany the declaration of co-ownership.

Once this period has elapsed, the authorization becomes null and void. Applicants may, for valid reason, apply for an extension, provided the application is conveyed to the Régie before expiry of the period.

10. Sanctions

If it is important to be aware that any interested party, including the Régie, may apply to the Superior Court to have any declaration of co-ownership registered without the Régie's authorization removed from the registry, where such authorization is required, and to have any contract arising from this registration annulled.

Part II

DETAILS OF THE APPLICATION AND REQUIRED DOCUMENTS

This kind of application often requires several pages of text, especially when there are a number of parties, long cadastral designations, and so on. Accordingly, we do not recommend using the standard Régie form (with carbon copy), which is not suitable for this kind of application. It would be more practical to complete the application on ordinary 8½ X 14 paper. Feel free to follow the *Application Model* in Part III of the present document

A) Parties to the Application

The application must correctly identify the landlord, who may be a physical person, an organization made up of a number of people or a corporate body (company, etc.), along with the address and postal code. It would be useful to include the telephone number and fax number where applicable.

B) Identification of Tenants

Each tenant must be identified in an appendix to the application. Care should be taken to specify the apartment number of each. Even tenants who, at the time of the application, have given notice of the non-renewal of their lease must be included.

An updated list of the tenants should be submitted at the hearing, with the names of those who have left, replaced by the names of the new tenants.

C) Buildings

The application must include the cadastral designation of the building or buildings that the applicants wish to convert, in accordance with Sections 3032, 3033 and 3037 Q.C.C. The designation must be complete, up-to-date and official, i.e., it must correspond, to the designation entered in the registry on the application. If subsequent cadastral changes are made, they must be conveyed to the commissioners at the hearing.

The application shall also give the street address of each building and the number of dwellings.

The landlord's title to the property (e.g., purchase contract) must be submitted.

When available, a map or certificate of the location of the property is considered a relevant document.

D) The Régie's Criteria/information Required in the Application

When examining the application, the Régie considers mainly the aspects related to the rights of the current tenants and tenants who have lived in the building in previous years, particularly, the right to remain on the premises. In brief, the Régie is required under the law to refuse authorization when :

- work was done to a building in order to prepare the building for conversion and to evict a tenant;
- a dwelling was repossessed illegally by the landlord or was repossessed in order to convert the building to divided co-ownership;
- in the five years preceding the application, the landlord was found guilty of harassing a tenant of the building in question, and has not been pardoned.

The application must provide details of the above aspects and the applicant must be willing to provide all relevant information in relation to these aspects at the hearing.

It is also important to be aware that when an application for conversion is refused for one of these three reasons, another application for the same building may not be submitted for another three years

E) Situations Where Conversion is Not Allowed

When a building belongs to the following kinds of organizations :

- housing co-op;
- non-profit organization;
- municipal housing corporation.

Conversion is prohibited if the property has been built, purchased, restored or renovated with the assistance of a government housing program.

Other information or documents may be requested by the tribunal. The applicant must agree to provide this information within the required time limit.

Part III

APPLICATION MODEL

Identification of owners - applicant(s)

APPLICATION FOR AUTHORIZATION TO CONVERT (A) PROPERTY(IES) TO DIVIDED CO-OWNERSHIP (Sec. 51, *Act respecting the Régie du logement* (R.S.Q., c. R-8.1)).

The applicant declares the following :

SECTION I - Description of the Property(ies)

Description of all properties concerned by the conversion application, with the address, number of dwellings and cadastral designation of each.

SECTION II - Root of Title

Statement of the root of title (from whom, and when each property was purchased) for all properties concerned by the application.

SECTION III - Statement to the effect that a Notice of Intent to Convert has been given

SECTION IV - Statement about the authorization of the municipality or the absence of regulation or of a derogation obtained by a municipality of the M.U.C.

SECTION V - Statement that there was no :

- work done in preparation for conversion for the purpose of eviction;
- guilty verdict in the last five years in relation to a harassment charge (Sec. 112.1 *Act respecting the Régie du logement*), for which a pardon was not granted;
- illegal repossession of a dwelling.

SECTION VI - List of Tenants

WHEREBY, the applicant requests the tribunal's authorization to convert the abovementioned property(ies) to divided co-ownership.

Signed at _____ on _____