



## COMMUNITY DEVELOPMENT DEPARTMENT

CITY HALL

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### CITY COUNCIL STAFF REPORT

Meeting: September 20, 2016

#### Subject

Proposed Amendments to Policy and Procedures Manual for Administering Deed-Restricted Affordable Housing Units.

#### Recommended Action

Adopt the draft resolution adopting the proposed amendments to the Policy and Procedures Manual for Administering Deed Restricted Affordable Housing Units.

#### Introduction

Under Chapter 19.172 of the Cupertino Municipal Code, the City administers a Below Market Rate Housing Program (the "BMR Program") to provide housing affordable to a broad range of households with varying income levels within the City. The City administers the BMR Program using the guidelines included in the *Policy and Procedures Manual for Administering Deed Restricted Affordable Housing Units* (the "BMR Manual"). The City contracts with West Valley Community Services ("WVCS") to manage the BMR Program, including the determination of eligibility of potential homebuyers.

The City has become aware of various issues regarding the calculation of income of applicants to the BMR Program and other policy issues in connection with the administration of the BMR Program.

On August 2, 2016, the City Council approved changes to the BMR Manual regarding appeal procedures and conflict of interest policies.

On August 11, 2016, the Housing Commission unanimously recommended that the BMR Manual be further amended as described in this report. The specific proposed amendments are shown in Attachment B to this report.

## **Recommended Changes to the BMR Manual**

### *Method of Calculating Income*

The proposed changes to the method of calculating income are discussed in detail in the staff report regarding the appeal of Ms. Kimberly Sandstrom. Attachment B to this report shows the precise proposed changes.

### *Waiting List Methodology*

BMR Program applicants apply once a year during the month of October. The City and WVCS require individuals already on the waiting list to re-apply for the current year, to ensure the list remains current. After the application period ends, WVCS then creates the waiting list through a random lottery drawing within each priority category (e.g. within the list of households who qualify for 3 priority points, then within the list of households who qualify for 2 priority points, etc.). This annual lottery system can yield dramatically inconsistent results from one year to the next for applicants who are already on the waiting list; it can result in those who have been on the waiting list for years ending up at the bottom of the waiting list in their priority category, while those who have just applied for the first time may go to the top of the list. The policy justification for this approach of ensuring that the list remains current can be accomplished by requiring the yearly reapplication, but without creating these inconsistent results.

Consequently, the Housing Commission recommended a policy change to require WVCS to freeze the current waiting list in its present order and a change to the BMR Manual to remove the lottery system for those already on the waiting list. This change would allow those who are on the waiting list to work their way up the list if they are on the list for a significant period of time. Each applicant will have to reapply each year to remain on the waiting list. If the applicant is already on the list and reapplies, the applicant may keep their position on the waiting list (provided the applicant continues to be eligible for the BMR Program and their priority points remain unchanged). Applicants who are no longer income eligible or who do not reapply will be removed from the waiting list each year. If an applicant loses any priority points since the last year's application, that applicant will be assigned to the next appropriate priority group and will receive a waiting list number within that priority group based on the date of their initial application. If there are other applicants on the list in the lower priority group who initially applied during the same year, the applicant who lost the priority point(s) will be placed below the person who was already in that priority group during the previous year.

New applicants will be added to the bottom of the list of the priority group for which they are eligible, after applicants who were on the list in previous years and continue to qualify. WVCS will conduct a lottery for the new applicants within each priority group to randomly assign each applicant a waiting list number after those applicants already on the list. For example, a new applicant who qualifies for three priority points will be placed into the lottery with the other new applicants who qualify for three priority points and all of the new applicants will be placed in the order generated by the lottery below those who were already on the list within that priority group who continue to be eligible.

In addition, to track the applicants who potentially fall under the revised conflict of interest provisions adopted by the City Council and to verify priority for working in Cupertino, the City Council previously adopted a provision requiring that WVCS request each applicant's employer and position and show that information on the waiting list.

#### *Preference Policy*

Currently, the BMR Program provides one point for applicants who live in the City and two points for applicants who work in the City. Applicants who both live and work in the City have the highest priority.

The City Council suggested, at its August 2nd meeting, that the BMR Program provide an additional preference to city employees and to public school teachers who work in the City. The Housing Commission recommended that this additional preference be somewhat expanded to include all public employees who work in the City of Cupertino. Eligible applicants would include income-eligible police officers, firefighters, teachers, and others who work for school districts, the City, or any other public agency located in the City. Expanding the eligibility for the preference would avoid conflicts with fair housing laws by not limiting the preference to certain occupations.

The preference would be accomplished by providing one additional preference point to applicants who meet these criteria. All applicants who work for public agencies in the City would then have three points, equivalent to current applicants who both live and work in the City anywhere other than at a public agency. If an applicant both works for a public agency in the City and lives in the City, the applicant would have the highest priority.

#### *Marketing of BMR Program*

It was suggested that the City of Sunnyvale does a commendable job of marketing its BMR program to the public by holding open house presentations to introduce the program and listing information about available properties on its website. Additionally, the policies and

codes that apply to the program are available on Sunnyvale's website. Proper marketing of BMR units is important and thus staff and the Housing Commission have recommended that the City work with WVCS to improve the public's access to information about the City's BMR Program, in particular by including the BMR Manual on the City's website.

Sustainability Impact

None.

Fiscal Impact

None.

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Approved for Submission by: David Brandt, City Manager

Attachments:

- A. Draft Resolution (with the amended BMR Administrative Manual as Exhibit A)
- B. Redline Showing Proposed Changes to BMR Administrative Manual
- C. Housing Commission Resolution No. 16-06, a Resolution of the Housing Commission of the City of Cupertino Recommending Adoption of Amendments to the Policy and Procedures Manual for Administering Deed Restricted Affordable Housing Units