

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014
RESOLUTION NO. 16-101

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
REGARDING THE APPEAL OF MS. KIMBERLY SANDSTROM AND
AFFIRMING THE RECOMMENDATION OF THE HOUSING COMMISSION
REGARDING THE ELIGIBILITY OF MS. SANDSTROM TO PURCHASE A BMR
UNIT**

WHEREAS, the City of Cupertino (the "City") has since 1993 implemented an Office and Industrial Housing Mitigation Program and a Residential Housing Mitigation Program, described in the Housing Element of the General Plan, requiring the payment of housing mitigation fees by non-residential development and residential projects with six units or less, and requiring the provision of moderate-income and median-income housing in developments with seven units or more (the "Housing Mitigation Program"); and

WHEREAS, the *Policy and Procedures Manual for Administering Deed-Restricted Affordable Housing Units* (the "BMR Manual") serves as the day-to-day operational manual for both City staff and its Below Market-Rate (BMR) program administrator for BMR units generated by the City's Housing Mitigation Program; and

WHEREAS, the City contracts with West Valley Community Services ("WVCS") to manage the BMR program, including the determination of eligibility of potential applicants;

WHEREAS, applicants who desire to rent or purchase a BMR unit in the City must complete an application demonstrating that the applicant's annual gross income does not exceed the maximum published limit for the BMR unit; and

WHEREAS, WVCS maintains a waiting list of qualified applicants who wish to rent or purchase a BMR unit; and

WHEREAS, Kimberly Sandstrom applied to purchase a BMR unit that became available in January 2016; and

WHEREAS, based on the requirements of the BMR Manual, WVCS determined that Ms. Sandstrom's annual gross income exceeded the established income limit to purchase the BMR unit; and

WHEREAS, Ms. Sandstrom has completed three levels of appeal at WVCS; and

WHEREAS, Ms. Sandstrom has completed a fourth level of appeal to the Housing Commission, which made a recommendation to the City Council that the City Council affirm the determination that Kimberly Sandstrom was ineligible to purchase a BMR unit because her income exceeded the established income limit, but permit Ms. Sandstrom to retain her current position on the BMR waiting list; and

WHEREAS, Cupertino Municipal Code Section 2.08.096 regarding a petition for reconsideration applies to this Council adjudicatory action. Further, the City of Cupertino has adopted the time limits contained in the California Code of Civil Procedure Section 1094.6 and the time within which to seek judicial review of a final decision is governed by that section.

THEREFORE, BE IT RESOLVED:

Section 1. After careful consideration of the facts, exhibits, staff report, testimony, and other evidence submitted in this matter, the City Council finds as follows:

1. The foregoing recitals are true and correct and incorporated into this resolution by this reference.
2. Kimberly Sandstrom's income was correctly determined to exceed the established maximum allowable income for a two-person household at a moderate income level in Santa Clara County. Her income was correctly determined to be \$103,648.14, consisting of biweekly income of \$96,012.80 and bonus income of \$7,635.34, for a total income of \$103,648.14, based on the provisions of the BMR Manual and as described in the staff report.

Section 2. The City Council hereby further provides that Kimberly Sandstrom retain her current priority for a two-bedroom unit on the BMR waiting list maintained by WVCS when new and continuing waiting list applications are accepted in October.

PASSED AND ADOPTED this 6th day of December, 2016, at a meeting of the City Council of the City of Cupertino by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

Grace Schmidt
City Clerk

Barry Chang
Mayor, City of Cupertino