

**RESOLUTION NO. 2001-016**

**ADOPTED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO**

ON DATE OF **MAR 13 2001**

**POLICY REGARDING RECAPTURE OF AFFORDABILITY ASSISTANCE  
MADE WITH AGENCY FUNDING  
UPON UNQUALIFIED SALE OF RESTRICTED HOUSING UNIT**

**BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF THE CITY OF  
SACRAMENTO:**

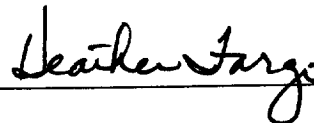
**Section 1.** The recapture of affordability assistance policy for ownership housing developed with Agency financing as outlined in the attached in Attachment 1. POLICY REGARDING RECAPTURE OF AFFORDABILITY ASSISTANCE MADE WITH AGENCY FUNDING UPON UNQUALIFIED SALE OF RESTRICTED HOUSING UNIT ("Policy") is approved and adopted.

**Section 2.** The Executive Director is authorized to subordinate Agency Regulatory Agreements to first loans if and to the extent that secondary market institutions (such as FNMA) require such subordination and no other means of financing is reasonably available.

**Section 3.** The City Housing Trust Fund program is hereby modified to be consistent with the Policy.

**Section 4.** The Executive Director is authorized to amend documents of the following projects as necessary to reflect the Policy: Rainbow Springs, 931 T Street, and Del Paso Nuevo, and to apply the policy to the CADA Warehouse.

**Section 5.** Agency's policies and procedures for the assistance of affordable housing projects, as detailed in the staff report, are reaffirmed.



CHAIR

ATTEST:



SECRETARY

**FOR CITY CLERK USE ONLY**

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(11)

ATTACHMENT 1

**POLICY REGARDING RECAPTURE OF AFFORDABILITY ASSISTANCE  
MADE WITH AGENCY FUNDING  
UPON UNQUALIFIED SALE OF RESTRICTED HOUSING UNIT**

Except as required to meet the requirements of law or of a funding source, the following shall be the policy of the Agency regarding the recapture of Agency assistance provided for a housing unit that is subject to an Agency Regulatory Agreement ("Restricted Unit"):

**1. PURPOSE AND TYPE OF AGENCY FUNDING.** In order to increase and improve the stock of affordable housing in the community, the Agency may provide two types of financial assistance for the development and sale of affordable housing units. "Development Assistance" is provided to a developer to make feasible the development of the entire project including the Restricted Unit. "Affordability Assistance" is provided to reduce the amount payable by the buyer of the Restricted Unit to an amount that does not exceed the "Affordable Price." Affordable Price is determined in accordance with the funding requirements ("Funding Requirements") for the funding source used by Agency to make the project affordable ("Funding Source"). Affordability Assistance is direct financial assistance to the buyer of the Restricted Unit. Development Assistance increases the stock of affordable housing, but does not provide a special financial benefit to the buyer, since the buyer is paying market value for the unit. Without Development Assistance, the project could not be built under market conditions, because the cost to develop the project exceeds its market value upon completion. Development Assistance funding is provided to reduce the cost of the project as a whole; therefore, recapture provisions for Affordability Assistance and Development Assistance are different.

**2. RECAPTURE ON SALE EXCEEDING AFFORDABLE PRICE; LIEN.** Except as specifically provided otherwise in the Funding Restrictions, if the current owner of a Restricted Unit ("Owner") sells the Restricted Unit at a price exceeding the Affordable Price or otherwise in violation of the Regulatory Agreement ("Unqualified Sale"), the Owner must repay to Agency an amount that is referenced as the "Recapture". The Recapture is determined in accordance with this Section 2. Owner must pay the Recapture to Agency at close of escrow for the unqualified resale.

a. **NET SALES PROCEEDS.** "Net Sales Proceeds" is an amount equal to the sale price on the Unqualified Sale reduced by all of the following payments:

1) Payment of selling costs actually incurred, including only sales commissions, transfer taxes, title insurance and escrow fees, and such other customary and usual costs approved in advance in writing by the Agency.

2) An amount equal to the amount paid by the Owner to purchase the Restricted Unit.

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b. **RECAPTURE.** The Recapture is the total of the all of the following amounts, but not to exceed the Net Sales Proceeds. For Affordability Assistance, the recapture is an amount equal to the total of the following:

- 1) All of the Affordability Assistance provided to make the Restricted Unit affordable upon the initial sale of the Restricted Unit to the first homebuyer.
- 2) A percentage of the Net Sales Proceeds remaining after recapture of Affordability Assistance, which percentage is the same as the "Recapture Percentage" (i.e., Recapture Percentage x Remaining Net Sales Proceeds). The Recapture Percentage is the same percentage as the Affordability Assistance provided the Restricted Unit bears to the market price of the Restricted Unit at the time of the first sale from the developer to the first homebuyer (the price at which the Restricted Unit would have sold without restrictions).

c. **ORDER OF PAYMENT.** The order of payment on an Unqualified Sale will be as follows:

- a) First, for payment of sales costs allowed under Section 2.a.2) above.
- b) Second, to, or on behalf of Owner, for the repayment of the amount paid by the Owner to purchase the Restricted Unit.
- c) Third, to Agency for Affordability Recapture, first to recapture the Affordability Assistance and then to recapture the Recapture Percentage of the remaining Net Sales Proceeds.

d. **TERMINATION OF REGULATORY AGREEMENT.** Agency will terminate this Individual Regulatory Agreement upon payment of the Recapture.

3. **RECAPTURE OF EXCESS RENTS.** If an Owner charges rents in excess of the Affordable Rent, within thirty (30) days after demand by Agency or the affected renter, the Owner must repay to the affected renter all rents collected by Owner in excess of such Affordable Rent. If such excess rents are not so repaid when due, they will bear interest from the date of collection until repaid, at the maximum rate allowed by law, or such lesser rate as Agency may determine in its sole discretion. If Owner cannot, with reasonable diligence, locate the renter for repayment, Owner must repay such amounts directly to the Agency.

4. **DEVELOPER RECAPTURE.** If the developer of the project including the Restricted Units ("Developer") sells a Restricted Unit in violation of the provisions of the Regulatory Agreement, Developer must repay Agency all of the funding provided by the Agency to the Restricted Unit, together with interest at the highest market rate available to the Developer for a similar loan.

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