



**SACRAMENTO  
HOUSING AND REDEVELOPMENT  
AGENCY**



7

May 22, 1991

Transportation/Community Development and  
Budget & Finance Committees  
of the City Council  
Sacramento, CA

Honorable Members in Session:

**SUBJECT:** Initial Statement of Policy with Regard to the Preservation of Federally  
Assisted Housing at Risk of Market Rate Conversion

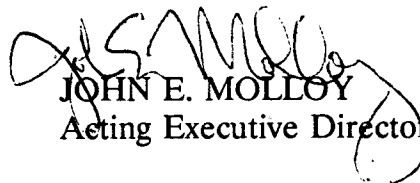
SUMMARY

The attached report is submitted to you for review and recommendation prior to consideration by the Redevelopment Agency, Housing Authority and City Council of the City of Sacramento.


RECOMMENDATION

The staff recommends approval of the attached resolutions approving the statement of policy.

Respectfully submitted,

  
JOHN E. MOLLOY  
Acting Executive Director

TRANSMITTAL TO COMMITTEE:

  
JACK R. CRIST  
Deputy City Manager

Attachment



# SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY



May 28, 1991

City Council,  
Redevelopment Agency of the  
City of Sacramento and  
Housing Authority of the  
City of Sacramento  
Sacramento, California

Honorable Members in Session

**SUBJECT:** Initial Statement of Policy with Regard to the  
Preservation of Federally Assisted Housing At Risk of  
Market Rate Conversion

## SUMMARY

This report provides an update on the issue of preservation of privately-owned, federally-assisted housing which is at risk of conversion to market rate rentals or condominiums. The report recommends an initial policy statement addressing the preservation issue.

In October 1990, staff reported on this issue to the City Council, and explained the preservation problem, along with recommending support for then-impending federal legislation addressing the issue. Subsequently, Congress passed the "Low Income Housing Preservation and Resident Homeownership Act of 1990", (LIHPRHA). The Department of Housing and Urban Development (HUD) is currently formulating regulations to implement LIHPRHA, which are expected to be finalized in September, although this timeline could slip. The initial policy recommended in this report establishes broad directives which will set the context for development of a more definitive preservation program and action plan, which will incorporate the provisions of the LIHPRHA regulations, once they are finalized.

Preservation will take a concerted effort by each of the three public agencies, the City Council, the Redevelopment Agency of the City of Sacramento, and the Housing Authority of the City of Sacramento (hereinafter referred to as "public agencies"). Each public agency will have a specific set of responsibilities, opportunities and potentials within the context of their statutory

(1)

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authorities. This report recommends adoption of the initial preservation policy by each of the three public agencies.

LIHPRHA provides, among other things, the opportunity to preserve HUD projects at risk of mortgage prepayment through acquisition by tenants, nonprofit organizations or local governmental agencies (known under the federal legislation as "priority purchasers"). This report recommends that the three public agencies adopt the goal of preservation of all at-risk properties, to the extent practically and financially feasible, by means which may include acquisition of projects by the appropriate public agency or by provision of assistance to non-profits or other owners willing to keep the housing affordable.

This report also recommends that the Redevelopment Agency of the City allocate \$400,000 of 1989 Certificates of Participation (COPs) funds for such preservation activities. An overall plan for expenditure of 1989 COPs and 1990 Tax Allocation Bond (TAB) funds was adopted in general form by the Council in November 1990. The overall plan designates approximately \$20.3 million to housing-related activities. Eighty percent of the housing funds were targeted to Central City housing projects and the remaining twenty percent to other, (at that time undesignated), housing projects. Over the past few months, specific expenditures of the non-Central City funds have been approved. Attachment D summarizes the approved and proposed expenditures of 1989 COP and 1990 Tax Allocation Bond (TAB) funds allocated to housing.

The \$400,000 amount falls far short of the funds needed to preserve all at-risk units, as is clearly shown in the discussion under the heading "FINANCIAL DATA". Among many other things, therefore, the local preservation program will need to address the overall issue of funding and will need to outline standards for the use of existing and future funds.

This report recommends that a full-time staff person be "dedicated" to the preservation issue. The recommendation is also made to support any further state and federal legislation addressing preservation goals, especially legislation adopting full federal funding of LIHPRHA.

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## BACKGROUND

In the mid-1960's, Congress enacted an aggressive federal housing program that encouraged the development of privately owned low-income housing through low-interest mortgages and, later, Section 8 contracts and rent subsidies. It is these projects that are at the core of the federal preservation or "at-risk" problem.

For the purposes of this report, there are two categories of "at-risk" projects. The first category are those developments financed under such federal loan programs as Section 236 and Section 221(d)(3). Under these programs, projects were subsidized with some form of below-market-interest rate, FHA-insured, 40-year loan, with the stipulation that the owner has the option to prepay after the 20th year. Upon prepayment, all use restrictions on the property are lifted, (i.e. rents may be increased to market rates and initial tenant income limits no longer apply, or the property could be converted to uses other than housing). Nonprofit organizations which constructed projects under these programs were locked into the full 40-year mortgage term, so nonprofit-owned projects are not currently at risk. However, most owners who built projects under these programs were for-profit and are eligible for prepayment.

The second category of "at-risk" projects are those whose financing was supported with some form of project-based Section 8 contract. Section 8 contracts provide deep rent subsidies, allowing owners considerable rental income while limiting tenant payments to 30 percent of income. Most Section 8 contracts were set up with terms of five to twenty years. However, many of the longer term (fifteen to twenty year) contracts allowed the owner the option of withdrawing ("opting-out") of the contract every five years. If the owner opts-out, the rent subsidy is stopped and the tenants must either pay market rent or move. In these situations, HUD has to date provided the tenant with a "portable" Section 8 voucher or certificate, but provision of portable assistance is not currently mandated by law.

An added problem is that the Sacramento at-risk inventory contains several projects whose Section 8 terms are simply about to run-out, or expire. Under the expiration scenario, even if the owner wishes to secure an additional Section 8 term from HUD, HUD may not have funds to renew the contract. It should be noted however, that

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recently it has been HUD's practice to renew all expired contracts, if the owner has desired to renew.

In Sacramento City and County, approximately 7,226 units in 119 complexes are subject to subsidy termination and market rate conversion by year 2008. Of the complexes subject to mortgage prepayment, all but two projects (278 units) are eligible for conversion within the next five years. Attachment A lists the prepayment projects eligible for conversion on an annual basis within the next five years. The following table breaks down the number of units and complexes eligible for conversion in the next five years in both the City and County. More detailed jurisdictional data will be presented in the final preservation plan:

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Sacramento City and County  
Units Subject to Subsidy Termination  
by 1996 (1)

(By Type of Subsidy)

	<u>Prepayment-</u> <u>Eligible</u> <u>Projects (2)</u>	<u>Opt-out/</u> <u>Expiration-</u> <u>Eligible</u> <u>Projects</u>	<u>TOTAL</u>
Units	3009	1684	4693
Complexes	41	28	69

- (1) The above numbers were derived from the Inventory of Federally Subsidized Low-Income Rental Units at Risk of Conversion, prepared for the California Housing Partnership Corporation by the California Coalition for Rural Housing Projects. The calculations use various assumptions which may cause variations in the numbers in the future.
- (2) These projects may also have Section 8 contracts attached, but the probability is low that owners will opt-out of these contracts as long as the loan is in place on the property.

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An additional issue is the preservation of state- and locally-financed projects which face an expiration or cancellation of low-income use restrictions sometime in the future. This includes programs funded by the California Housing Finance Agency and the State Department of Housing and Community Development, as well as those financed by local bonds or tax increment funding. This issue must be analyzed further by staff and will be reported on at a later date.

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For all programs, provisions allowing conversion, together with the increase in rent potentials and real estate values which has occurred over the past two decades, have created enormous incentives for many owners to seek market rate conversion.

In October 1990, the Council was presented a Summary Paper on the preservation issue and adopted a resolution supporting portions of the then-proposed federal legislation regarding preservation. Since then, permanent federal legislation has been instituted which provides for significant preservation opportunities and challenges.

## Current Federal Legislation

The following discussion describes the preservation provisions currently in place through federal legislation. Regulations implementing this legislation will not be adopted until September.

**Mortgage Prepayments:** In October 1990, Congress enacted the Low-Income Housing Preservation and Resident Homeownership Act of 1990 ("LIHPRHA"). (For a two-page description of the law, see California Housing Partnership Corporation "Update", Attachment B.) LIHPRHA creates a new and relatively complex mechanism for addressing the inventory of projects eligible for mortgage prepayment. The new law replaces interim legislation that was known as the Emergency Low-Income Housing Preservation Act of 1987 ("ELIHPA"). The interim legislation, ELIHPA, effectively served as a temporary moratorium against mortgage prepayments.

In brief, LIHPRHA provides private owners of HUD prepayment projects with two primary options. The first option is for the owner to receive certain financial incentives from HUD, which in return obligate the owner to keep the project affordable for the remainder of its useful life. If the owner does decide to keep the property, they will be provided with an incentive package which will assure an eight percent annual rate of return on current equity. Tenants are at the same time guaranteed rents not exceeding 30 percent of actual income.

The owner also has the option under the new law to sell the property at its "preservation value" (which is essentially equal to fair market value less the cost of conversion). If an owner decides to sell the property, then tenants, nonprofit organizations and state and local governments (all of which are termed "priority

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purchasers" under the new law) are given a twelve-month right-of-first-refusal period to make a bona fide offer to purchase the project, with a HUD-provided financial incentive package, and preserve the affordability. If no priority purchaser makes a bona fide offer during the twelve month period, then at the end of the twelve months, any other buyer willing to preserve the project's affordability (termed "qualified purchasers" under the new legislation) can make an offer over the following three months. If no offer is received after the end of the full fifteen-month period, the owner is free to prepay the mortgage, resulting in the lifting of the project's regulatory restrictions. The law provides that tenants are protected from higher rents for three years, but after that period, tenant displacement is likely to occur.

**Section 8 Opt-outs and Expirations:** LIHPRHA basically addresses only the prepayment problem, leaving the problem of Section 8 opt-outs and expirations almost uncovered.

The Section 8 opt-out problem was marginally addressed in ELIHPA (the former interim legislation), which provisions are still in effect and are the following: 1) lengthen the tenant notice period from three months to one year and 2) provide owners seeking an opt-out with a potential Section 8 rent increase as an incentive for them to stay in the program. Neither ELIHPA nor LIHPRHA provide protections to the tenant if the owner does decide to opt-out.

To date, six projects (322 units) in Sacramento City and County have opted-out. In each case, HUD's practice has been to request that the Agency apply for Section 8 vouchers on behalf of the tenants. To date all eligible tenants have received such vouchers. However, HUD is not obligated to provide vouchers by law and there is no guarantee that it will do so in the future.

The immediate threat in regard to expirations of project-based Section 8 has been postponed as a result of year-by-year appropriations for five-year renewals, as discussed previously. Congressional renewals of expiring contracts are by no means guaranteed, yet have occurred consistently during the past several years.

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## **Initial Policy for Preserving the At-risk Stock**

Despite the enactment of new federal legislation, the potential for loss of existing affordable units through mortgage prepayment or Section 8 contract cancellation has not at all been eliminated. In particular, the new prepayment provisions require careful monitoring and active participation of tenants, nonprofits and local governments to facilitate continued affordability. This is because, according to LIHPRHA, if no purchaser makes a bona fide offer within fifteen months to acquire the project and keep it affordable, the project may be sold to anyone and converted to market rate rents.

To promote efficient, cost effective and successful preservation of the local housing stock under the current regulatory environment, staff recommends adoption of the initial policy statement attached as Attachment C.

The main thrust of the statement is that it will be the policy of the public agencies to prevent all conversions of existing, federally-assisted affordable housing to market-rate rents, to the extent that such prevention is practical and financially feasible and to the extent that funds are available. In particular, the public agencies will make full use of the LIHPRHA provisions for acquisition of prepayment projects, on a right-of-first-refusal basis, by nonprofit or tenant-based organizations, by public agencies, or by other purchasers who agree to keep the projects affordable. If fully funded, LIHPRHA will provide for much of the financing necessary to facilitate such acquisitions. However, local financing will also be necessary, as is outlined fully under the "FINANCIAL DATA" section, and the limited amount of local financing available will be a constraint to full implementation of the preservation goal. In general, the preservation policy outlined in Attachment C states that the public agencies will monitor projects, will act as a clearinghouse for interested purchasers and will seek to facilitate acquisitions of these projects within the fifteen-month time period stipulated by LIHPRHA. Notwithstanding the financial limitations discussed under "FINANCIAL DATA", the public agency will either take steps to acquire suitable projects itself, will financially assist other purchasers, or, in cases where no purchaser desires to acquire the project, will step in to acquire the property as a "buyer of last resort".

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This approach, of course, will have staffing implications. In addition to the project monitoring, purchaser clearinghouse and financing, and public agency acquisition activities mentioned above, staff time is also necessary to assist owners who are negotiating with HUD to obtain sufficient HUD incentives for preservation, to provide technical assistance to nonprofits and tenant groups interested in acquisition, and to monitor legislation addressing the preservation issue. By the end of 1991, seven projects will be eligible to prepay. Of these, one has already negotiated a workout with HUD, and four others have filed Notices of Intent to prepay. In 1992-1993, fifteen projects will be eligible to prepay. In 1994-1996, nineteen projects are eligible to prepay. A complete staffing plan will be outlined in the 1992 Agency budget. Given overall funding constraints, prioritization between programs will have to occur.

In order to educate developers, nonprofits, tenants and other interested parties in regard to the preservation issue, staff proposes to organize a one-day workshop this summer. Possible workshop topics will be discussion of state and federal legislation and procedures, financing acquisitions of at-risk projects, local policies regarding preservation, ownership models for acquisition, and tenant concerns and rights under state and federal legislation.

Staff recommends continued support for state and federal legislation addressing the preservation issue, especially the full funding of LIHPRHA by Congress. LIHPRHA specifically allows owners to prepay mortgages and convert properties to market rate if Congressional appropriations necessary to provide incentives are not available.

Because LIHPRHA gives priority to nonprofit, tenant and government purchases of at-risk projects, the issue of nonprofit capacity and tenant ownership is of vital importance to preservation. Although staff believes that buy-outs by nonprofits is a desirable preservation course, Sacramento currently has few fully functioning housing-oriented nonprofits -- not enough to acquire all of the projects at risk in Sacramento whose owners wish to sell over the next five years. In addition, HUD is especially emphasizing buy-outs by tenant-based organizations, which are very labor-intensive to form and which may tend towards instability unless established carefully. The typical nonprofit or tenant organization will be short of cash for operations and will lack the expertise necessary

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for the complex housing development problems liable to arise in acquiring and rehabilitating at-risk projects. Lack of predevelopment funds for these projects is also almost certain to be a problem. LIHPRHA does not authorize funds for nonprofit or tenant capacity building, nor for predevelopment activities. Congress' Home Investment Partnerships Act (HOME) allows nonprofits to use up to 10% of any funds allocated to them for technical assistance, site control loans and seed money but prohibits use of its funds in conjunction with ELIHPA or LIHPRHA. In general, discussion of solutions to the issue of capacity building and operational funding issues for nonprofits is an important topic even apart from the preservation question, and is beyond the scope of this report. However, the topic should be addressed in some detail in upcoming months.

## FINANCIAL DATA

The following discussion estimates financing needs for preservation of both mortgage prepayment and Section 8 opt-out/expiration projects:

**Mortgage Prepayments:** Buy-outs of prepayment-eligible complexes by "priority purchasers" at the project's "preservation value" (fair market value less cost of conversion) will be financed primarily through HUD-insured mortgages, subject to Congressional appropriations. The law provides that the projects may receive new project-based Section 8 contracts which have rents set high enough to meet operational expenses, service the original below-market rate loan (which is assumed by the buyer), service an acquisition loan for 95 percent of the owner's equity, and service a rehabilitation loan. Tenant, nonprofit or public agency purchasers would then need to put in the remaining five percent, plus any costs that are otherwise deemed ineligible by HUD. The gap financing required to ensure preservation through acquisition by a priority purchaser is estimated to be in the range of \$1,750 to \$3,000 per unit. It is expected that few of the nonprofits, and in particular tenant purchasers, will be able produce the full 5% and/or the costs not covered by HUD, necessary to acquire these developments.

In many, if not most, cases, this gap would need to be financed by local funds. The following table estimates the total requirement for local financing over the next five years, given two different

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assumptions regarding the percentage of projects which actually will be offered for sale by owners under LIHPRHA:

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## Estimated Requirements for Local Financing Five-year Scenario (1)

	LOW		HIGH
Percentage :			
of Units :		:	
Sold to :		:	
"Priority :	5-year	:	5-year
<u>Purchasers"</u> :	<u>Total</u>	<u>Ann.</u>	<u>Total</u> <u>Ann.</u>
		:	
50% :	\$2,633,000	\$526,600:	\$4,514,000      \$902,800
		:	
75% :	\$3,949,000	\$789,800:	\$6,770,000      \$1,354,000

- 1) These estimations are preliminary only and are given to indicate an order of magnitude of local funds which may be necessary. The estimations have been made by necessity without any experience with the details of the LIHPRHA buy-out provisions.

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The above table estimates that total local funds necessary to acquire, or finance the acquisition of, 20 to 30 prepayment projects (1,500 to 2,200 units) over the next five years could range from \$2,633,000 to \$6,770,000, depending on such factors as how many owners decide to sell, and the appraised preservation value of the property. This translates into an annual average of \$526,600 to \$1,354,000 over the next five years. (Please note that if LIHPRHA is not adequately funded by Congress, the local cost of preserving these units could be as much as twenty times higher.)

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At this time, staff recommends allocating \$400,000 from 1989 Certificates of Participation (COPs) for preservation of at-risk units. The majority of these funds would be used either for public agency acquisition of at-risk projects and/or as revolving predevelopment loan monies for non-profit or tenant buy-outs of at-risk projects. Specific use of these funds for acquisition or financing will have to be brought forward on a case-by-case basis in separate reports to the appropriate public agency. A small portion of these funds will go towards defraying costs for the one-day preservation workshop mentioned previously and may also go towards other research or training costs. Attachment D summarizes proposed expenditures of 1989 COP and 1990 Tax Allocation Bond (TAB) funds as adopted by the Council in November 1990, and as amended by specific actions since that time.

Other sources of financing will need to be developed to provide gap and permanent financing for public agency or non-profit buy-outs of at-risk units. Possibilities for gap financing include the Housing Trust Fund, CDBG or Section 108 loans, or proceeds from the proposed local general obligation bond for housing. Locally issued 501(c)(3) bonds could be used in conjunction with HUD insurance to provide slightly better terms for permanent financing. Staff will report back on financing issues within the context of the overall policy and action program for preservation which will be developed by staff once HUD regulations are published.

**Section 8 Opt-outs and Expirations:** It is current HUD practice to provide portable Section 8 vouchers to tenants displaced as a result of expiration or opt-outs of Section 8 contracts. It is unclear if HUD intends to continue this practice, or if funds will be available to HUD to do so. Regardless, the provision of vouchers to displaced tenants doesn't address the issue of loss of the actual affordable housing stock. The optimal solution would be to transfer the stock to non-profit, tenant or public agency ownership. The amount of local resources required to prevent Section 8 opt-outs by transferring projects to nonprofit or public ownership is harder to predict than for prepayment projects. The local subsidy required for a nonprofit buy-out of a project with considerable remaining Section 8 authority is estimated to be approximately twenty to thirty percent of value, plus any required rehabilitation and other transactional costs. This is a general estimate which assumes a standard buy-out model, using conventional financing based on affordable rents. Use of below-market rate bond

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financing and/or additional non-local subsidies would further reduce the gap requirement. However, on first analysis it does not appear that acquisition of opt-out projects will in the majority of cases be the most effective use of the limited local funds available for preservation.

In the case of Section 8 expirations, where, for example, the owner is willing to keep the project affordable, but HUD for some reason does not renew the contract, the cost to maintain rents at 30 percent of income would be substantially greater than the costs of subsidizing the acquisition itself and thus such a course is not expected to be feasible.

## **MBE/WBE EFFORTS**

MBE/WBE considerations are not required with this activity.

## **ENVIRONMENTAL REVIEW**

The proposed action is exempt from environmental review per CEQA Guidelines Section 15378(b)(3); NEPA does not apply.

## **POLICY IMPLICATION**

If adopted, the attached resolution would establish an initial local policy regarding preservation of privately-owned, federally-assisted housing at-risk of conversion to market-rate rents. The preservation issue was discussed to quite an extent in the Housing Assistance Plan, Program and Financing Strategy prepared by the City/County Housing Finance Task Force in 1988. Precedent was set for local action in the October 1990 resolution adopted by the City Council which supported prepayment provisions in the 1990 federal housing bill.

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## **VOTE AND RECOMMENDATION OF COMMISSION**

At its meeting of May 15, 1991, the Sacramento Housing and Redevelopment Commission adopted a motion recommending approval of the attached resolution. The votes were as follows:

**AYES:** Amundson, Cespedes, Diepenbrock, Moose, Simon, Williams,  
Wooley, Strong  
**NOES:** None  
**ABSENT:** Pernell, Simpson, Yew

## **RECOMMENDATION**

Staff recommends adoption by the City Council, the Redevelopment Agency of the City and the Housing Authority of the City of Sacramento the attached resolutions which:

- 1) Adopts the attached initial local policy for the preservation, as affordable housing, federally-subsidized housing projects at risk of conversion to market-rate rents, and commits to implementation of those portions of the initial policy within their statutory authorities and responsibilities.
- 2) Supports current and future federal and state legislation addressing affordable housing preservation issues in accordance with the attached initial policy.
- 3) Supports full funding by Congress of the Low Income Housing Preservation and Resident Homeownership Act of 1990.

Staff also recommends adoption by the Redevelopment Agency of the City of additional provisions which:

- 1) Allocate \$400,000 from 1989 Certificates of Participation funds for preservation activities.
- 2) State that establishment of a full-time staff person to address preservation issues will receive priority in the 1992 budget, within the context of the standard budget process.

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Staff also recommends adoption by the Housing Authority of the City of an additional provision which:

- 1) States that establishment of a full-time staff person to address preservation issues will receive priority in the 1992 budget, within the context of the standard budget process.

Respectfully Submitted,

  
JOHN E. MOLLOY  
Acting Executive Director

TRANSMITTAL TO COUNCIL:

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WALTER J. SLIPE  
City Manager

Contact Person: Thomas V. Lee, 440-1357

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# RESOLUTION NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

## ADOPTION OF AN INITIAL PRESERVATION POLICY FOR FEDERALLY-SUBSIDIZED AFFORDABLE HOUSING PROJECTS AT RISK OF CONVERSION TO MARKET RATE RENTS

BE IT RESOLVED BY THE CITY COUNCIL OF THE THE CITY OF  
SACRAMENTO:

Section 1: The City of Sacramento hereby adopts the attached initial local policy for the preservation, as affordable housing, of federally-subsidized housing projects at risk of conversion to market-rate rents, and commits to implementation of those portions of the initial policy which are within its statutory authorities and responsibilities.

Section 2: The City of Sacramento supports current and future federal and state legislation addressing affordable housing preservation issues in accordance with the attached initial policy.

Section 3: The City of Sacramento supports full funding by Congress of the Low Income Housing Preservation and Resident Homeownership Act of 1990.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

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\_\_\_\_\_  
FOR CITY CLERK USE ONLY

RESOLUTION NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_ ( 16 )

# RESOLUTION NO.

ADOPTED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

ON DATE OF \_\_\_\_\_

ADOPTION OF AN INITIAL PRESERVATION POLICY FOR  
FEDERALLY-SUBSIDIZED AFFORDABLE HOUSING PROJECTS  
AT RISK OF CONVERSION TO MARKET RATE RENTS

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

Section 1: The Redevelopment Agency of the City of Sacramento hereby adopts the attached initial local policy for the preservation, as affordable housing, of federally-subsidized housing projects at risk of conversion to market-rate rents, and commits to implementation of those portions of the initial policy which are within its statutory authorities and responsibilities.

Section 2: Establishment of a full-time staff position to address preservation issues will receive priority in the 1992 budget, within the context of the standard budget process.

Section 3: The Redevelopment Agency of the City of Sacramento supports current and future federal and state legislation addressing affordable housing preservation issues in accordance with the attached initial policy.

Section 4: The Redevelopment Agency of the City of Sacramento supports full funding by Congress of the Low Income Housing Preservation and Resident Homeownership Act of 1990.

Section 5: Four hundred thousand dollars (\$400,000) from 1989 Certificates of Participation is allocated for preservation activities in accordance with the staff report for this Resolution.

\_\_\_\_\_  
CHAIR

ATTEST:

\_\_\_\_\_  
CLERK

FOR CITY CLERK USE ONLY

RESOLUTION NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_ (17)

# RESOLUTION NO.

ADOPTED BY THE HOUSING AUTHORITY OF THE CITY OF SACRAMENTO

ON DATE OF \_\_\_\_\_

## ADOPTION OF AN INITIAL PRESERVATION POLICY FOR FEDERALLY-SUBSIDIZED AFFORDABLE HOUSING PROJECTS AT RISK OF CONVERSION TO MARKET RATE RENTS

BE IT RESOLVED BY THE HOUSING AUTHORITY OF THE CITY OF SACRAMENTO:

Section 1: The Housing Authority of the City of Sacramento hereby adopts the attached initial local policy for the preservation, as affordable housing, of federally-subsidized housing projects at risk of conversion to market-rate rents, and commits to implementation of those portions of the initial policy which are within its statutory authorities and responsibilities.

Section 2: Establishment of a full-time staff position to address preservation issues will receive priority in the 1992 budget, within the context of the standard budget process.

Section 3: The Housing Authority of the City of Sacramento supports current and future federal and state legislation addressing affordable housing preservation issues in accordance with the attached initial policy.

Section 4: The Housing Authority of the City of Sacramento supports full funding by Congress of the Low Income Housing Preservation and Resident Homeownership Act of 1990.

\_\_\_\_\_  
CHAIR

ATTEST:

\_\_\_\_\_  
CLERK

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DATE ADOPTED: \_\_\_\_\_

**Sacramento County  
HUD-Subsidized Projects  
Eligible for Prepayment**

Year: 1989

<u>City</u>	<u>Project Name/Address</u>	<u># Units</u>	<u>Date</u>
Sacramento	Florin Meadows I 7301 29th St.	120	June 28, 1989
<b>TOTAL UNITS</b>		<b>120</b>	

**Sacramento County  
HUD-Subsidized Projects  
Eligible for Prepayment**

**Year: 1990**

<b><u>City</u></b>	<b><u>Project Name/Address</u></b>	<b><u>#Units</u></b>	<b><u>Date</u></b>
Sacramento	Florin Meadows II 7301 29th St.	124	July 13, 1990
Sacramento	Sun Garden Plaza Apts. 6248 Lemon Hill Ave.	150	September 1, 1990
Sacramento	Campus Gardens 655 Howe Ave.	126	December 8, 1990
<b>TOTAL UNITS</b>		<b>400</b>	

**Sacramento County  
HUD-Subsidized Projects  
Eligible for Prepayment**

**Year: 1991**

<u><b>City</b></u>	<u><b>Project Name/Address</b></u>	<u><b># Units</b></u>	<u><b>Date</b></u>
Folsom	Folsom Gardens 613 Stafford St.	48	January 14, 1991
N. Highlands	Larchmont Arms 7405 Larchmont Dr.	64	November 9, 1991
Sacramento	Norwood Arms Apts. 4300 Norwood St.	108	March 19, 1991
<b>TOTAL UNITS</b>		<b>220</b>	

**Sacramento County  
HUD-Subsidized Projects  
Eligible for Prepayment**

Year: 1992

<u>City</u>	<u>Project Name/Address</u>	<u># Units</u>	<u>Date</u>
Citrus Hts.	San Juan Greenback I 7500 Greenback Ln.	112	December 13, 1992
Sacramento	Camelot South 1220 E St.	20	August 16, 1992
Sacramento	Camelot North 1221 E St.	20	August 16, 1992
Sacramento	Normandy Arms 1327 E St.	20	February 8, 1992
Sacramento	Meadowview Riviera 2454 Meadowview Rd.	96	September 29, 1992
Sacramento	College Gardens 7745 College Town Dr. Sacramento, CA 95826	100	August 17, 1992
Sacramento	"2301 C St." 2301 C St.	16	November 9, 1992
Sacramento	"2517 C St. Apartments" 2517 C St.	16	November 29, 1992
Sacramento	Rosswood Manor 9400 Kiefer Blvd.	97	December 21, 1992
<b>TOTAL UNITS</b>		<b>497</b>	

**Sacramento County  
HUD-Subsidized Projects  
Eligible for Prepayment**

Year: 1993

<u>City</u>	<u>Project Name/Address</u>	<u># Units</u>	<u>Date</u>
Sacramento	Foothill Plaza Apts. I 5234 Hemlock St.	100	January 24, 1993
Sacramento	"2410 C St." 2410 C St.	16	March 1, 1993
Carmichael	Sutter Terrace 5822 Sutter Ave.	76	August 15, 1993
Folsom	Folsom Gardens II 613 Stafford St.	48	September 19, 1993
N. Highlands	Larchmont Gardens 7330 Watt Ave.	116	September 6, 1993
Sacramento	"1215 D St." 1215 D St.	24	September 20, 1993
<b>TOTAL UNITS</b>		<b>380</b>	

**Sacramento County  
HUD-Subsidized Projects  
Eligible for Prepayment**

**Year: 1994**

<u><b>City</b></u>	<u><b>Project Name/Address</b></u>	<u><b># Units</b></u>	<u><b>Date</b></u>
Carmichael	Kenneth Arms 5945 Kenneth Ave.	97	June 20, 1994
Citrus Hts.	Manzanita Arms 5701 Manzanita Ave.	89	December 12, 1994
Citrus Hts.	San Juan Greenback II 7500 Greenback Lane	44	April 11, 1994
Galt	Palm Gardens 701 A St.	32	June 20, 1994
Rancho Cordova	Rancho Arms 11020 Coloma Rd.	95	November 14, 1994
Sacramento	Piedmont Arms 2556-2560 27th St.	14	July 10, 1994
Sacramento	Sherwood Court 12th & D Sts.	14	October 9, 1994
Sacramento	Washington Square II 801 E St.	51	October 16, 1994
Sacramento	Henson Gardens 1225 Morse Ave.	80	July 31, 1994
Sacramento	College Gardens II 7901 La Riviera Dr.	200	March 6, 1994
Sacramento	Foothill Plaza II 5322 Hemlock St.	76	July 18, 1994
Sacramento	Lance Apartments 4828 El Camino Ave.	76	July 18, 1994
Sacramento	Cosumnes River Apts. 8180 Center Pkwy.	84	August 14, 1994
Sacramento	The Greenbriar 2844 Wright St.	140	August 21, 1994
Sacramento	American River Gardens 4954 Ferigo Lane	56	September 11, 1994
<b>TOTAL UNITS</b>		<b>1,148</b>	

**Sacramento County  
HUD-Subsidized Projects  
Eligible for Prepayment**

Year: 1995

<u>City</u>	<u>Project Name/Address</u>	<u># Units</u>	<u>Date</u>
Sacramento	Washington Square III 901 E St.	40	October 30, 1995
Sacramento	Odea Apartments 4231 Apostolo Circle	44	June 11, 1995
Sacramento	Kohler Gardens 5450 Kohler Ave.	96	November 5, 1995
<b>TOTAL UNITS</b>		<b>180</b>	

**Sacramento County  
HUD-Subsidized Projects  
Eligible for Prepayment**

Year: 1996

<u>City</u>	<u>Project Name/Address</u>	<u># Units</u>	<u>Date</u>
Fair Oaks	Northridge Apts. 4941 Stamas Ln. #1	64	April 28, 1996
<b>TOTAL UNITS</b>		<b>64</b>	



## CHPC UPDATE

NOVEMBER / DECEMBER 1990

### Congress Enacts Permanent Preservation Legislation

After years of debate, a temporary prepayment moratorium, three emergency extensions, and a prolonged legislative battle, Congress has finally passed a permanent preservation measure. The future of more than 360,000 units of federally assisted housing eligible for mortgage prepayment and market rate conversion -- including nearly 40,000 units in California -- is more secure, though the potential for conversions has not been completely eliminated. New legislation now provides owners a fair rate of return on the equity in their projects in exchange for continued affordability. Where owners decide to sell, the burden of preservation falls heavily on nonprofit organizations, local governments, and tenants, who must successfully exercise their right-of-first-refusal to purchase at-risk projects or otherwise face potential prepayment and tenant displacement.

#### Brief Summary of the Legislation

The new preservation law is known as the "Low-Income Housing Preservation and Resident Homeownership Act of 1990," (LIHPRHA), and is included as Title VI of the National Affordable Housing Act of 1990.

LIHPRHA covers only projects eligible for prepayment of federally subsidized mortgages, specifically, projects assisted under the Section 221(d)(3) Below Market Interest Rate and Section 236 programs. Under the Act, an owner may file a first notice of intent up to two years prior to the scheduled prepayment date. After the owner files the notice, both HUD and the owner commission separate appraisals. A third appraisal may be necessary if HUD's and the owner's disagree. The appraisal determines the fair market (unrestricted) value of the project as residential rental property, as well as the highest and best use value of property, if different. The appraisal discounts only for the reasonable costs of conversion to market rate housing or other uses.

Based on the appraised value, HUD calculates the rents necessary to provide owners with an 8 percent annual return on their recalculated equity. If HUD can provide the owner with this return without exceeding the federal cost limits, the owner cannot prepay the mortgage. The owner may then file a Plan of Action seeking incentives to provide the 8 percent return, or offer the project for sale to nonprofit entities, tenants and public bodies for a 12 month negotiation period, and other purchasers for an additional 3 months. The owner must accept a bona fide offer to purchase at the appraised value. If no bona fide offer is made within the negotiation period, the owner may subsequently prepay.

If HUD cannot provide the owner with the 8 percent return, the owner may prepay only after offering the property for sale to a nonprofit entity, tenants or public body for 12

months, and other qualified buyers for the next three months, regardless of whether the owner wishes to sell. If no offer is made and the owner can prepay, tenants are offered portable Section 8 certificates or vouchers. Tenants who wish to stay are held harmless at current rents for three years.

The federal costs limits are: 1) 120 percent of Section 8 Fair Market Rent; or 2) 120 percent of local market rents, if higher. It appears that most projects in California will fall within the federal costs limits, except those with exceptionally high rental value, or those with condominium conversion potential.

Both owners who stay in and new purchasers will receive financial incentives after filing an approved Plan of Action. The heart of the incentive package is a project-based Section 8 contract, with HUD-subsidized rents set at levels high enough to provide the 8 percent return to owners who stay in, or to cover debt service on an acquisition loan for new purchasers. There are also provisions allowing HUD to provide grants to nonprofit buyers.

Mortgage insurance is available both for equity take-out loans and for acquisition loans. Insured equity take-out loans are limited to 70 percent of equity, with 10 percent of loan proceeds held back for five years in an escrowed account. Acquisition loans are available at 95 percent of equity.

Plans of Action will require the housing to remain affordable for its useful life. At the end of 50 years from the execution of the Plan of Action, however, an owner may petition HUD for a determination that the useful life of the property has ended.

The law also creates a Resident Homeownership Program for prepayment-eligible projects that is modeled after Kemp's HOPE proposal. While some excess sales proceeds can be recaptured by HUD, LIHPRHA does not mandate resale restrictions or long-term affordability under the homeownership program.

Finally, the new act provides for preemption of state or local preservation laws that restrict prepayment, limit or interfere with the owner's allowed annual return or incentive package, or apply solely to federally assisted housing where the owner has prepaid the mortgage.

### Implications for California

The new law creates enormous opportunities for nonprofit organizations, tenants and local governments to purchase at-risk properties. Subject to appropriations, HUD will provide most -- and in some cases all -- of the financial incentives necessary for acquisition. The onus is now on nonprofits, tenants or public entities to acquire properties where the owner desires to sell in order to prevent prepayment. Further, nonprofit, tenant and/or public ownership will help ensure maximum affordability, adequate maintenance, quality management, and perpetual public benefit from the underlying land.

(Copies of the legislation, as well as a detailed summary, are available upon request from CHPC.)

# PROCESS FOR PREPAYMENT ELIGIBLE HOUSING

## Under Title VI of National Housing Act of 1990

*Due 4 months after notice*

*Due 6 months after prepayment notice  
or 9 months after incentives notice*

- 1.** Owner Files Notice of Intent to:
- Prepay (skip steps 2 & 3),
  - Stay-in with incentives,
  - Sell with incentives

- 2.** Property Is Appraised to:
- Determine value without federal use restrictions, after deducting all costs of conversion, including rehab expenses. Two values are calculated: market rate rental & "best and highest use."

- 3.** HUD Calculates "Preservation Rents" and Compares to Federal Cost Limit Rents
- Rents at 120% of Section 8 fair market rent (FMR)
  - Rents at 120% of Local Market Rents

- 4.** HUD Provides Owner With:
- Information on preservation value, preservation rents, & results of federal cost limit analysis
  - Information on incentives (stay-in/sale)
  - Criteria for prepayment (if applicable)

**5.** *Prepayment, or ...*

*Stay-In With Incentives, or ...*

*Voluntary Sale With Incentives,*

*or ... Mandatory Sale*

- Owner files plan of action showing compliance with public policy criteria
- If owner fails to meet criteria, HUD disapproves plan and notice of intent is void
- Owner who may not prepay can file new notice of intent for incentives and start over

- Owner files plan of action requesting mix of incentives
- HUD sends notice of deficiencies
- Owner supplies additional information
- HUD review and approval of plan of action
- If plan is not funded within time limits, owner can prepay

- Owner offers property for sale to priority purchasers for 12 months for price not to exceed best & highest use value
- If no priority purchasers, then offer to qualified purchasers for 3 months
- Plan of action filed when owner *accepts* bona fide offer
- HUD notice of deficiencies
- Owner/purchaser supplies additional information
- HUD review and approval; sale closes
- If no bona fide offers, or sale falls through, or plan is not funded, then owner can prepay, subject to tenant protections

- (if federal cost limits are exceeded)*
- Owner offers property for sale to priority purchasers for 12 months
  - If no priority purchaser, then offer to qualified purchasers for 3 months
  - Plan of action filed when buyer *tenders* bona fide offer (price must be no less than best & highest use value)
  - HUD notice of deficiencies
  - Owner/purchaser supplies additional information
  - HUD review and approval; sale closes
  - If no bona fide offers, or sale falls through, or plan is not funded, then owner can prepay, subject to tenant protections

WILD CARD: HUD can deny incentives based on Windfall Profits Test

# SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

ATTACHMENT C

## INITIAL POLICY FOR THE PRESERVATION OF AFFORDABLE HOUSING UNITS AT RISK OF CONVERSION TO MARKET RATE RENTS

**Policy Statement:** It shall be the policy of the City of Sacramento, the Redevelopment Agency of the City of Sacramento and the Housing Authority of the City of Sacramento to prevent all conversions of existing, federally-assisted affordable housing to market-rate rents, to the extent that such prevention is practical and financially feasible and to the extent that funds are available. This statement recognizes the need for maintaining an adequate supply of decent and affordable housing for all segments of the population, the greater cost involved in providing new affordable housing as compared to preserving the existing stock, and the need to prevent large-scale tenant displacement.

**Steps to Implementation:** The following steps will be taken by the appropriate entity (noted in parentheses) to achieve the goal of preservation:

- 1) Assess Options as Soon as Practical (staff): Staff shall assess options for preservation of each property as soon as practical. Early assessment of options will help ensure maximum flexibility and cost effectiveness.
- 2) Monitor Projects and Legislation (staff): The Low-Income Housing Preservation and Resident Homeownership Act of 1990 ("LIHPRHA") provides for defined timetables which must be carefully monitored to maximize opportunities for preservation. Staff shall develop a process for monitoring the status of at-risk projects, especially after owners have filed Notices of Intent with HUD indicating interest in prepayment, sale or opt-out of Section 8 contract. In the case of prepayment projects, staff will, with HUD, monitor the submission and HUD approval of the owners' incentive plans to ensure maximum long-term affordability of housing units and adequate property maintenance. In the case of opt-out projects, where owners do not wish to sell their properties, staff shall attempt to negotiate with the owner and HUD to seek sufficient contract rent increases and/or contract extensions to encourage continued Section 8 participation.

## SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

Staff will also review and comment on the proposed LIHPRHA regulations and continue to monitor their progression towards adoption. Staff will continue to monitor any new proposed legislation on the state or federal level.

- 3) Act as Clearinghouse for Interested Purchasers (staff): Staff will act as a clearinghouse for all interested purchasers of at-risk projects and will, to the extent practical, take steps to ensure that there is a reputable "priority" or "qualified" purchaser, (as defined under LIHPRHA and any regulations adopted in conjunction with LIHPRHA), who is ready, willing and able to acquire projects, who will bring maximum third-party financing to the transaction, and who will improve or maintain the condition of the property and its affordability restrictions.
- 4) Commit Local Resources (City of Sacramento, Redevelopment Agency of the City of Sacramento): Local funding will be committed on a case-by-case basis if necessary to ensure long-term preservation of such housing units. This will be through acquisition of the units by the appropriate public agency or through financial assistance to a "priority" or "qualified" purchaser.

If a property appears suitable for acquisition by a public agency, and funding for acquisition, rehabilitation and operations is available to that public agency, the public agency itself will take steps to acquire the project.

It is unlikely that there will be sufficient funds to enable preservation of all projects requiring local resources to prevent prepayment or opt-out. Therefore, certain criteria will need to be applied to determine priorities for acquisition or funding by a public agency. While the priorities will in large part be determined by the final LIHPRHA regulations, which are not anticipated to be circulated until September 1991, in general the following types of projects will be considered as priority projects for such acquisition and/or funding:

- a) Projects at risk of prepayment, as opposed to projects at risk of opt-out. LIHPRHA provides for 95% financing of prepayment projects, whereas no targeted financing is available for opt-out projects. Thus, at the current time it appears that prepayment projects will probably be preserved with less public gap financing relative to opt-out projects.

## SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

- b) Projects in Community Plan Areas not meeting their Fair Share requirements, since loss of affordable projects in these areas will add further to the area's affordability gap.
- c) Projects whose acquisition and rehabilitation would contribute to neighborhood revitalization.
- d) Projects whose acquisition and rehabilitation costs will be less than cost of new construction of a similar project.
- e) Projects where maximum units are preserved for a minimum contribution of local funds.
- f) Projects with two, three or four bedrooms, and seniors projects.
- g) Projects located near schools, public transit, medical and other services.
- h) Projects in areas likely to garner high market rate rents, whose conversion most negatively impacts existing tenants.

In cases where a project is not preferred for acquisition by a public agency, but no other "priority" or "qualified" purchaser wishes or is able to acquire the property, one of the public agencies will step in to acquire the property as a "buyer of last resort" where practical, and financially feasible, and to the extent local funds are available.

The public agencies will also explore the use of such resources or techniques as friendly condemnation and tax exempt financing which have no direct cost to the public agency and may lower the overall development costs and/or requirement for local funding.

- 4) Promote Tenant Participation (City of Sacramento, Redevelopment Agency of the City, Housing Authority of the City): LIHPRHA encourages acquisition of at-risk projects by tenants and it is anticipated that the final regulations will further define both the role of tenants and the expected interaction between local government and tenants in preservation efforts. Tenant participation requirements of the final LIHPRHA regulations will be fully met. In any event, tenant concerns will be addressed by: a) taking steps to educate tenants regarding preservation issues through workshops and other means as appropriate, b) keeping any

## **SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY**

designated tenant representatives informed as to the status of their projects in HUD processes or with regard to acquisitions, c) supporting, through technical assistance and/or funding, to the extent practical and to the extent funds are available, acquisition of projects by tenant groups where the tenant group appears viable and where such acquisition appears desirable and financially feasible.

POTENTIAL USES OF 1990 TAB & 1989 COP HOUSING COMPONENT

	<u>TAXABLE</u>	<u>TAX-EXEMPT</u>	<u>TOTAL</u>	<u>APPROVED FOR ALLOC BY GOVERNING BOARD</u>
<b><u>DOWNTOWN PROJECTS:</u></b> (All projects funded thru Tax Allocation Bonds, except \$2,324,520 which is funded by 1990 COPS)				
Downtown Housing Strategy Projects:	\$2,756,670 (1)	\$ 600,000	\$3,356,670	2
Southside Acquisition & Rehab:	\$2,100,000	\$	\$2,100,000	YES
Residential Hotels:	\$4,500,000	\$1,400,000	\$5,900,000	YES 3
	\$	\$1,100,000	\$1,100,000	
Housing Strategy (Preparation):	\$	\$ 100,000	\$ 100,000	YES
Riverview Plaza - Loan Pay-Off Fund:	\$	\$2,500,000	\$ 2,500,000	
<b>SUBTOTAL - DOWNTOWN</b>	<b>\$9,356,670</b>	<b>\$5,700,000</b>	<b>\$15,056,670</b>	
<b><u>OTHER PROJECTS:</u></b> (Funded by 1990 COP Funds)				
Local Leverage Funding:	\$ 600,000	\$	\$ 600,000	YES 4
HUD Opt-outs:	\$ 400,000	\$	\$ 400,000	5
Boarded & Vacant Properties:	\$ 400,000	\$	\$ 400,000	YES 6
Agency Housing Site Acquisition:	\$	\$1,400,000	\$1,400,000	
Transitional Housing:	\$	\$ 500,000	\$ 500,000	7
Home Loan Counseling:	\$	\$ 40,000	\$ 40,000	8
Non-profit Assistance:	\$ 275,480	\$ 148,687	\$ 424,162	YES
Inebriate Facility:	\$	\$1,449,163	\$1,449,163	
<b>SUBTOTAL-OTHER PROJECTS</b>	<b>\$1,675,480</b>	<b>\$3,537,850</b>	<b>\$5,213,330</b> (20%)	
<b>GRAND TOTAL</b>	<b>\$11,032,150</b>	<b>\$9,237,850</b>	<b>\$20,270,000</b>	

Revised 5-06-91

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- 1 An additional \$414,000 in previously budgeted funding is available for site acquisition in the Northeast neighborhood.
- 2 NE neighborhood site acquisition to be approved May 28th by City Council, approximate amount \$700,000. Allocation of balance of funds expected July 2nd - will include NOFA plus RFP for development of 17th & K Sts.
- 3 \$2,000,000 (taxable funds) allocated to Rehab NOFA - to be released around June 1st.  
\$1,800,000 (taxable bonds) allocated to new construction NOFA - to be released June 13th.  
\$300,000 (taxable bonds) allocated to SHASTA.  
\$400,000 (taxable) allocated for developer assistance - NOFA to be released May 3rd.  
\$1,400,000 (tax exempt) yet to be allocated to acquire a site and begin developing the site for a new Agency owned SRO - City Council action expected July.
- 4 NOFA to be released 5/3/91.
- 5 To be approved by City Council on 5/28/91.
- 6 \$200,000 allocated to Family Housing Demonstration. The other \$200,000 is as yet unallocated and will be targeted to improve a boarded and vacant multi family site.
- 7 To be allocated 5/28/91, to enter into an option to buy a site.
- 8 To be allocated in June/July 1991.
- 9 \$200,000 already committed to the Mutual. (Of this allocation, \$148,687 will likely be tax exempt and \$51,313 taxable). Another \$200,000 (taxable bonds) to be committed to Village Park Apartments - 5/28/91.