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PLANNING AND BUILDING
DEPARTMENT

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April 16, 2004

City Council
Sacramento, California

Honorable Members in Session

**SUBJECT: AN INTERIM ORDINANCE RELATING TO ESTABLISHING AND
MAINTAINING AFFORDABLE RESALE PRICES FOR INCLUSIONARY FOR-
SALE HOUSING UNITS (M04-040)**

LOCATION AND COUNCIL DISTRICT: Citywide

RECOMMENDATION: Staff recommends that the City Council adopt the attached interim ordinance which establishes procedures for the review and approval of for-sale affordable housing in conjunction with the Mixed Income Housing Ordinance.

CONTACT PERSON: Julie Sontag, Associate Planner, 808-5691
Emily Hottle, Housing Finance Analyst, SHRA, 440-1399, ext. 1420

FOR COUNCIL MEETING OF: April 29, 2004

SUMMARY:

Chapter 17.190 of the City Code sets forth the City's Mixed Income Housing Ordinance ("Ordinance"), establishing an inclusionary housing policy. The Ordinance establishes procedures for the approval of for-sale housing as an option in complying with the requirements of the Ordinance. The section of the Ordinance pertaining to for-sale housing, however, contains a provision allowing the re-sale price to be set at market rates and does not comply with the accepted practices of the Sacramento Housing and Redevelopment Agency ("Agency") in regards to the sale and re-sale of affordable housing. The proposed amendment to the Sacramento City Code would correct the procedures for the affordability, sale, and re-sale of inclusionary housing under the Ordinance. This interim ordinance is an interim measure proposed to expire when Council adopts the more comprehensive Ordinance changes that staff is working on and plans to bring before the Council by summer of 2004. The comprehensive changes will include the contents of this interim ordinance.

COMMITTEE ACTION:

The ordinance is an interim one and was not reviewed by the Planning Commission or the Law and Legislation Committee.

BACKGROUND:

The City's Mixed Income Housing Ordinance allows developers to meet their inclusionary housing obligation through the development and sale of affordable, for-sale housing within or, in some instances, outside of their development project. Section 17.190.090 of the Ordinance speaks to the requirements for the affordability, sale, and re-sale of such units. Part C of this section currently contains an error that would establish the re-sale price of inclusionary units at market value rather than at an affordable sales price. This would result in City funds being required to ensure long term affordability and does not represent the best practices of the Sacramento Housing and Redevelopment Agency, which has the responsibility to implement this portion of the Ordinance. The interim ordinance would correct this by establishing the re-sale price of inclusionary units at an affordable sales price, rather than at market value.

There are currently two projects in development that are providing for-sale affordable housing under the Ordinance. Ryland Homes' Las Casitas (P00-022) contains five affordable units, and JTS' The Meadows (P00-116) contains nineteen. As these two projects are in the process of selling affordable homes, it is imperative that the Ordinance reflect the correct intent in regard to long term affordability.

In addition to the correction of this error, the interim ordinance revises the entire Section 17.190.090 in plain English. The specific changes generally include:

- Increasing the time the Agency has to find a new income-eligible buyer from ninety (90) days to one hundred twenty (120) days;
- Allowance of reasonable and customary costs of sales, as well as Agency-approved capital improvements to the home to be factored into the new affordable sales price;
- Referral to the Agency-adopted Guidelines for the Sale of Inclusionary Housing for specific information on sales price calculations, selection of buyers, etc.

The attached ordinance is proposed as an interim one that will be in effect until the Council adopts the more comprehensive Ordinance changes that staff is working on and plans to bring before the Council by summer 2004. The ordinance and Guidelines for the Sale of Inclusionary Housing have been reviewed and approved by the Sacramento Housing and Redevelopment Commission. Adoption of this ordinance would allow current for-sale inclusionary projects under development to continue with consistent direction while staff works on the overall revision to the ordinance, to be heard by the City Council later in the year.

FINANCIAL CONSIDERATIONS:

This report has no fiscal implications.

ENVIRONMENTAL CONSIDERATIONS:

This project is exempt from environmental review pursuant to State EIR Guidelines (California Environmental Quality Act, Section 15061 (b) (1)).

POLICY CONSIDERATIONS:

The proposed ordinance amendment will assist in the processing of development projects while a more comprehensive amendment to the City's Mixed Income Housing Ordinance is being prepared. The ordinance is consistent with the City's strategic plan goal to have policies, programs and strategies that should promote the maintenance and development of the fullest range of housing choices in every community in the City.

ESBD CONSIDERATIONS:


There is no requirement for the purchase of goods or services associated with this item.

Respectfully submitted,



GARY L. STONEHOUSE
Planning Director

RECOMMENDATION APPROVED:



ROBERT P. THOMAS
City Manager

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Attachment A: Proposed Interim Ordinance

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ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

**AN INTERIM ORDINANCE RELATING TO ESTABLISHING
AND MAINTAINING AFFORDABLE RESALE PRICES FOR
INCLUSIONARY FOR-SALE HOUSING UNITS (M04-040)**

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

SECTION 1.

The Council declares and finds as follows:

- A. The City Council enacted Sacramento City Code Chapter 17.190 Mixed Income Housing to provide affordable housing in the City's "new growth" areas. The program is administered jointly by the City and the Sacramento Housing and Redevelopment Agency (SHRA).
- B. The City and SHRA staffs have been working for over a year on revisions to Chapter 17.190 to update the chapter and address implementation and processing issues encountered administering the program. Of critical importance are the proposed amendments to the basic resale and recapture provisions for inclusionary for-sale housing units and SHRA guideline authority contained in section 17.190.090.
- C. During this time the City and SHRA have received many applications from income-eligible buyers, and many new affordable housing units are under development. Currently there are twenty-six for-sale inclusionary housing units under development, and SHRA is assisting hopeful homeowners to purchase these homes. The qualification of purchasers and the terms of these sales are governed in part by the resale and recapture provisions of, and the SHRA guidelines adopted pursuant to, section 17.190.090. The proposed amendments to section 17.190.090 are needed to ensure the continued affordability of the for-sale inclusionary housing units at resale.

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DATE ADOPTED: _____

SECTION 2.

Notwithstanding the provisions of Sacramento City Code Chapter 17.190 or any other provisions of the Code, the sale and resale of for-sale inclusionary housing units under Chapter 17.190 shall be governed by the following provisions:

A. **Affordability.** The owner of a development project subject to an inclusionary housing agreement shall sell the inclusionary housing units to income-eligible initial owners at an affordable price. The initial sale and any subsequent sale to an income-eligible purchaser shall be subject to the recordation by SHRA of legal documents to enforce the affordability, resale, and recapture requirements described in this ordinance for a period of not less than thirty (30) years. Legal documents may include an interest-bearing note, a deed of trust, and a regulatory agreement or other affordability covenant. To the extent possible, affordability and resale requirements shall be designed to be compatible with conventional mortgage financing programs, including secondary market requirements.

B. **Resale Procedure.**

1. If the initial owner or any subsequent owner of a for-sale inclusionary unit intends to sell the unit at a time that the unit is subject to affordability restrictions, the owner shall notify SHRA in writing of the intent to sell, prior to initiating discussions with a real estate professional or taking any other steps to market the unit. Upon receipt of the notice from the owner, SHRA, or its assignee, shall have 120 days to either (a) identify, qualify as income eligible, and refer to the seller an income-eligible buyer; or (b) give notice to the seller that SHRA, or its assignee, will acquire the unit. If SHRA, or its assignee, gives notice of intent to acquire the unit, it shall complete the transaction to purchase the property within thirty (30) days from the date it provides the notice of intent.

2. If the owner receives either a referral of an income-eligible buyer or a notice of intent to acquire from SHRA, or its assignee, the owner shall sell the unit to the referred buyer or to SHRA, or its assignee, at the resale price established by SHRA as provided in C., below.

3. If, within the timeframes specified, SHRA, or its assignee, (a) does not refer an income-eligible buyer to owner and (b) does not give notice of intent to acquire or does not complete the purchase of the unit, the inclusionary unit may be sold to a non-income eligible buyer. The sale to a non-income eligible buyer shall be subject to the recapture provisions of C. 2, below. Thereafter, affordability restrictions applicable to the unit shall terminate. SHRA shall apply all funds recaptured at resale to subsidize

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other inclusionary housing units.

C. Resale Price. SHRA shall establish the resale price for inclusionary units as follows:

1. For income-eligible buyers, the resale price shall be based on the lesser of: (a) market value, as established by an appraiser approved by SHRA; or (b) the new affordable price as established by SHRA for the appropriate income level of the buyer. Should the resale price be less than the last affordable sales price, or should the resale price be insufficient to ensure that the seller receives his or her original investment in the unit as well as reasonable and customary closing costs, SHRA shall allow the resale price to be increased to cover these costs. SHRA may also allow a higher resale price for owners occupying the unit for a substantial period of time and making capital improvements to the unit.

2. For non-income eligible buyers, the resale price shall be based on the market value established by an appraisal approved by SHRA. The seller shall receive the amount described in C.1, above. The remaining proceeds of the sale shall be paid to SHRA as recapture funds.

D. SHRA Guidelines. SHRA shall adopt guidelines as it determines to be necessary or convenient for the administration of the inclusionary housing program. The guidelines shall address homebuyer selection procedures and provisions allowing the income-eligible owner's share of the resale price to increase when the owner has occupied the inclusionary unit for a substantial period of time and has made capital improvements to the house.

E. The definitions contained in Sacramento City Code Section 17.190.020 shall apply to the terms used in this ordinance.

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DATE ADOPTED: _____

SECTION 3.

It is anticipated that amendments to Chapter 17.190 addressing, in part, the sale and resale of inclusionary for-sale housing units will be submitted to the Council for its consideration and adoption by December, 2004, and that upon the Council's decision on whether to adopt the amendments and in what form, the provisions of this ordinance will be repealed and replaced by those amendments.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

(M04-040)

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DATE ADOPTED: _____