



CITY OF POMONA

COUNCIL REPORT

April 15, 2019

To: Honorable Mayor and Members of the City Council

From: Linda Lowry, City Manager

Submitted By: Benita De Frank, Neighborhood Services Director

**SUBJECT: STATUS OF AFFORDABLE RENTAL HOUSING COVENANTS
OVERSEEN BY THE POMONA HOUSING AUTHORITY ACTING AS
THE HOUSING SUCCESSOR AGENCY**

RECOMMENDATION:

It is recommended that the City Council receive and file the information provided within this report.

EXECUTIVE SUMMARY:

The Pomona Housing Authority (PHA) was designated by City Council as the Housing Successor Agency to the Redevelopment Agency (RDA). With this designation, the PHA assumed all of the rights, obligations, and housing assets associated with use of the Low and Moderate Income Housing Funds of the former RDA. This includes the oversight of affordable rental housing covenants.

FISCAL IMPACT: There is no fiscal impact with this item

PREVIOUS RELATED ACTION: On January 30, 2012, the Pomona City Council adopted a resolution designating the City of Pomona Housing Authority as the Housing Successor Agency to the Redevelopment Agency and with it all Low and Moderate Income Housing Fund (LMIHF) properties and functions.

DISCUSSION:

On June 29, 2011, Governor Brown signed legislation abolishing redevelopment agencies (AB IX 26). Pursuant to AB 1X 26, on February 1, 2012, the City of Pomona Redevelopment Agency was dissolved. The City initiated implementation of AB 1X 26 by designating the City of Pomona as the Successor Agency to the Redevelopment Agency (RDA). In addition, the City Council also designated the PHA as the Housing Successor Agency (HSA) to the Redevelopment Agency. With this designation, the Pomona Housing Authority assumed all of the rights, obligations, and housing assets associated with use of Low and Moderate Income Housing Funds (LMIHF) of the former RDA.

These obligations included oversight of:

- Twenty-three real property assets of vacant land;
- Twelve real property assets of rental housing units;
- Seven low-moderate income funded rental housing projects requiring annual monitoring of affordability covenants;
- Six low-moderate income funded owner-occupied housing projects requiring annual certification;
- 104 outstanding first-time homebuyer loans receivable; and
- 64 outstanding single family rehabilitation loans receivable.

No funding for Housing Successor Agency administration, operation or maintenance came with the transfer of assets or functions.

New Community Redevelopment Law (Senate Bill 341)

Following the implementation of AB 1X 26, on October 13, 2013, Governor Brown signed into law Senate Bill 341 (SB 341). This law, codified in Health and Safety Code Section 34176.1, amended the former redevelopment agencies housing annual report requirement and established affordable housing requirements to be performed by the HSA effective January 1, 2014.

As the housing successor the Pomona HSA must maintain and deposit funds into a Low and Moderate Income Housing Asset Fund (LMIHAF). Under SB 341, each housing successor is required to prepare a Housing Successor Annual Report (Report) relating to use of the LMIHAF and the activities of the HSA in the prior fiscal year. This report is submitted annually to the state's Department of Housing and Community Development prior to April 1st of each year. The City Council, sitting as the Governing Board of the Pomona HSA, is provided with the annual report prior to submission and is posted on the City's website. In addition, the Pomona HSA is required to conduct and provide to the Governing Board an independent financial audit of the LMIHAF within six months of the end of the fiscal year. This audit is included as part of the City's independent financial audit.

These regulations under SB341 dictate how the Pomona HSA can spend low-moderate income (LMI) housing funds and provides guidelines for what programs and activities can be undertaken. However, several key provisions of California Community Redevelopment Law were not modified by SB 341. These include:

- The methodology to be used for calculation of allowed rents and incomes for assisted units.
- 55-year affordability requirement for rental units and 45-year affordability requirement for owner occupied units assisted by the HSA.
- Required recordation of a Notice of Affordability Restrictions for all units assisted by the HSA and submission of an Annual Affordability Compliance Report from each rental project assisted with LMIHF.
- Procedural requirements for sale or lease of property originally acquired with LMI funds.

Oversight of Affordable Rental Housing Covenants

Affordable rental housing development projects are a major long-term asset for Pomona and as such the City needs to protect and ensure that financially assisted properties remain affordable according to the standards set forth in the individual funding agreement known as a Regulatory Agreement.

As a condition of receiving low-mod set aside housing funds, or LMIHF, from RDA to assist in the construction of affordable rental housing, each entity that was a recipient of this financial assistance has a requirement to rent a determined number of units in the project to persons meeting certain low to moderate income requirements. These affordability requirements, or covenants, are outlined in the Regulatory Agreements that are signed prior to funding and are to be implemented throughout the term prescribed in the agreement as the “affordability period”. To ensure that each entity that receives LMIHF adheres to these housing affordability covenants, submission of an Annual Affordability Compliance Report to the Pomona HSA is required.

There are currently seven affordable rental housing projects requiring annual monitoring of affordability covenants. These seven projects represent 614 units of affordable housing and have a 55-year affordability covenant attached to them. They each have a different expiration of affordability depending on when the funding was awarded.

The seven projects are outlined in the table below and in more detail in Attachment 1.

Housing Successor Agency Affordable Rental Housing Covenants			
Project	Street Address	No. of Affordable Rental Units	Expiration Date of Affordability Period
Pomona Park & Plaza*	777 E 3rd Street	302	2026
North Towne Housing	2167, 2163, 2169 & 2185 N Towne Avenue	26	2057
Las Brisas	286 Beaver Court	80	2059
Edison Loft*	565 W. 2nd Street	4	2064
Fairplex Mobile Home Park	1101 McKinley Avenue	50	2064
Tivoli Plaza	1731-1753 W. Holt Avenue	90	2064
Parkside	934 & 942 W. Holt Avenue	62	2070

*Currently not in compliance with reporting requirements. Staff has notified the property owners of their non-compliance and is working with the City Attorney to pursue corrective action.

Each year, the Pomona HSA sends a letter to each of the property owners requesting the completion of an Annual Affordability Compliance Report. The majority of property owners reply to this request, providing recorded evidence of the eligibility of households occupying the units that hold covenants. As part of the report, the units are broken down into extremely low, low and moderate income levels per household. Since the Pomona HSA has been reviewing these reports, the majority of property owners are in compliance with the covenants as outlined in their Regulatory Agreement. However, there are currently two property owners that received LMIHF to construct their projects that are not in compliance. They are identified in the table above. Staff has been working with the City Attorney’s office to seek a remedy to this non-compliance.

Oversight of Affordable Owner Occupied Housing Covenants

In addition to the affordable rental housing covenants, the City also requires covenants for projects that received LMIHF to build for-sale or owner-occupied housing, to purchase owner-occupied housing, or to rehabilitate owner-occupied housing. These covenants are enforced through a recordation of the covenant on the property itself. When a property is refinanced, sold or changes title, the City's Housing Services Division is notified and depending on the term of the covenant the City either receives a loan payoff or re-records the covenant for the next owner. The covenant for for-sale or owner-occupied housing is 45-years.

There are currently six low-moderate income funded owner-occupied housing projects requiring annual certification; 104 outstanding first-time homebuyer loans receivable; and 64 outstanding single family rehabilitation loans receivable.

Prepared by: Benita DeFrank, Neighborhood Services Director

ATTACHMENTS:

Attachment No. 1 – Affordable Rental Housing Covenants Overview