

**SANTA BARBARA COUNTY  
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Agenda Number:**  
**Prepared on:** 7/13/06  
**Department Name:** CEO  
**Department No.:** 012  
**Agenda Date:** 7/25/06  
**Placement:** Departmental  
**Estimate Time:** 30 minutes  
**Continued Item:** YES  
**If Yes, date from:** 5/16/06

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**TO:** Board of Supervisors

**FROM:** Ron Cortez  
Deputy County Executive Officer

**STAFF CONTACT:** Jennifer Christensen, Project Manager, 568-2059  
County Executive Office

**SUBJECT:** Affordable Housing Compliance Project

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**Recommendation(s):**

That the Board of Supervisors:

- A. Receive and file report (Exhibit A);
- B. Approve the revised Lottery System Pre-Application Form and Application Process (Exhibit B);
- C. Approve staff's recommendations for program improvements to the Lottery, Certification, and Monitoring processes;
- D. Direct County Counsel to draft a final ordinance for presentation to the Board of Supervisors and public hearing (Exhibit C); and
- E. Direct staff to continue to develop monitoring and enforcement recommendations, and return to the Board of Supervisors with findings and recommendations on October 24, 2006.

**Alignment with Board Strategic Plan:**

The recommendations are primarily aligned with Goal No. 1, An Efficient Government Able to Respond Effectively to the Needs of the Community; Goal No. 4, A Community that is Economically Vital and Sustainable; and Goal No. 5, A High Quality of Life for All Residents.

## **Executive Summary and Discussion:**

### **I. Background**

In July 2003, HCD was assigned the responsibility for monitoring and enforcement of covenants for the Inclusionary Housing Program. At the time the program was assigned to HCD, there were no significant compliance policies or procedures. HCD initiated a monitoring and enforcement effort in December 2004, and reported to the Board of Supervisors on the new monitoring program in April 2005. Community members challenged the results of the monitoring effort, and the Board of Supervisors requested the assistance of the Auditor-Controller's Office. At that time, HCD halted all activity regarding monitoring and enforcement.

In April 2005, your Board asked the Auditor-Controller to perform an audit of the Housing and Community Development Department (HCD) with an initial emphasis on the monitoring and enforcement activity with regards to County affordable housing units. The Auditor-Controller returned to your Board on May 16, 2006 with an Affordable Housing Program Preliminary Report on Restrictive Covenant Compliance and on the Monitoring and Lottery Selection Process. This preliminary report indicated findings on certain internal control weaknesses and matters of noncompliance with regards to the lottery and certification processes, compliance monitoring, and occupancy and rental prohibitions.

The process for adding and maintaining affordable units in the Inclusionary Housing Program is diagrammed in Exhibit D. The diagram details all of the basic components of the Inclusionary Housing Program and was developed in order to determine where weaknesses occurred and improvements could be made in the Inclusionary Housing Program.

### **II. Lottery and Certification Process**

#### **A. Lottery Selection Process**

As a result of the project team's review of the lottery process, a new Lottery Pre-Application Form was developed to: 1) ease the burden of entering affordable housing programs, and 2) facilitate a more accurate final review and certification of lottery applications. The new 1-page, 2-sided Lottery Form ("Short-Form") is designed for simple completion while also emphasizing to the applicant that all provided information and eligibility representations are subject to verification. To help discourage ineligible applicants from applying, the form states that applicants will be disqualified immediately if program qualifications are not met or if intentional discrepancies are noted during the final certification process.

It is envisioned that the Short-Form, along with a pre-approval for the required home loan amount from a lender, will provide the necessary information for preliminary program eligibility. All applicants that meet preliminary eligibility criteria will have successfully entered the lottery and will be assigned a lottery number.

#### **B. Certification Process**

The certification process is the component of the program when all statements contained in an application for an affordable housing unit are checked for accuracy and substantive qualification of an applicant is performed. It is one of the most labor intensive components of the Inclusionary Housing Program, and it is also one of the most important components to ensure eligibility of buyers.

In order to build in additional review and control mechanisms, certification would begin in HCD by an affordable housing program staff member assigned to compile documentation detailed in the Public Information Package. Applicant information and documentation would be compiled in the same manner for every applicant; the certification file for every applicant would be organized in a multi-pocket file folder in a consistent fashion to provide easier access to the desired information for anyone reviewing the certification packet. The certification packet would then be presented to the Director of HCD or another member of HCD's management team to review the packet and sign off on certification. Upon review and signature by the department's director or another member of HCD's management team, the packet would be presented to the Certification Committee for final review and approval of certification. The proposed process incorporates two additional levels of review for certification.

The recommendation for the revised lottery process coupled with the revised certification process is intended to reduce the quantity of work on the total set of applications and refocus the time spent on document gathering and review toward a higher quality review of those applicants that are selected in the lottery process.

### III. Monitoring

#### A. Database

The project team reviewed the database of the existing Inclusionary Housing units in the County and developed a framework for a more accurate and efficient database to maintain information about existing and future units. The goal of the database project is to convert HCD's Inclusionary Housing spreadsheets into a web-enabled SQL database application that tracks deed restricted housing. Doing so will provide an enhanced data entry interface for maintenance of the data and a more powerful and flexible reporting environment. The web interface will also provide owners of affordable units a convenient way to respond to the annual certification request for covenant compliance ("Annual Surveys"). The information gathered and stored in the database can then be used by automated verification tools that compare the data against data in other databases for accuracy and consistency.

#### B. Annual Surveys

Annual surveys will be mailed via certified mail to every homeowner in the Inclusionary Housing Program; the certified mailing will include specific instructions not to forward the notice. Thus, each owner is required to sign for the annual certification notice at the address of the affordable unit. Responses will be tracked in the IHP database. Failure to respond will result in additional contact including an on-site visit by staff.

### IV. Compliance Enforcement

#### A. Proposed Ordinance

County Counsel has drafted a sample ordinance to enforce the affordable housing covenants. The proposed ordinance will apply to all affordable housing units in the Inclusionary Housing Program. The ordinance will provide the County with an increased ability to enforce affordable home restrictions against participants in the program when non-compliance is discovered.

**B. Buyback Program**

The project team recommends implementation of a mandatory Buyback Program to implement the existing covenant providing the County with the right of first refusal. The program would utilize funds in the Affordable Housing Trust Fund to repurchase the affordable units. The implementation of a mandatory buyback program will give the County maximum control over resales, ensuring retention of affordable units in the Inclusionary Housing Program.

**V. Top 7 Projects**

The audit findings of the Auditor have identified a list of the Top 7 cases (“HCD Identified Problem Units”) comprised of substantial evidence of violation of the above-listed covenants. The County Executive Office proposes to actively review this list on an ongoing basis and is working closely with the Auditor and County Counsel to pursue all available remedies to enforce the applicable covenants. In addition, the Office of the District Attorney has assigned staff so that suspected cases of fraud can be referred for investigation and possible criminal prosecution.

**Mandates and Service Levels:**

There is no requirement for the Board to act.

**Fiscal and Facilities Impacts:**

The project team will address HCD’s organizational structure and return to your Board to make recommendations regarding HCD staffing needs in order to provide a greater level of compliance monitoring and enforcement of Inclusionary Housing Program covenants.

**Special Instructions:**

None.

**Concurrence:**

Auditor-Controller  
County Counsel  
Housing and Community Development