

# 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:** March 3, 2004  
**Department Name:** Housing and Community  
Development  
**Department No.:** 055  
**Agenda Date:** March 9, 2004  
**Placement:** Administrative  
**Estimate Time:** N/A  
**Continued Item:** Yes  
**If Yes, date from:** February 17, 2004

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**TO:** Board of Supervisors

**FROM:** Housing and Community Development  
Ed Moses, Director

**STAFF CONTACT:** Mike Sederholm, Housing Specialist  
560-1090

**SUBJECT:** Procedures to Monitor Owner Occupancy of Homes Sold Under County Affordable  
Housing Program

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## **Recommendation(s):**

That the Board of Supervisors:

Approve proposed procedures for Housing and Community Development Department's use to determine whether owners of affordable housing units are in compliance with the County's owner occupancy requirements and allow the director of Housing and Community Development Department to amend the procedures to ensure compliance with the affordable housing Restrictive Covenants.

## **Alignment with Board Strategic Plan:**

This recommendation is primarily aligned with Goal No. 1, An Efficient Government Able to Respond Effectively to the Needs of the Community.

## **Executive Summary and Discussion:**

Affordable units sold through the County's inclusionary and density bonus housing programs are subject to an affordable housing covenant (herein after Covenant) that limits the resale value of the home and places certain conditions upon it. Although the form of the Covenant has evolved over time, the versions of the Covenant recorded over the past seven years require owners of those units to occupy those units on a full time basis. This in turn is defined as living in the unit at least 10 months out of the year. The Covenant also limits the owners' ability to offer their homes for rent.

The County typically hears of alleged violations of the owner occupancy requirement through a phone call or letter from a neighbor or homeowners' association. Although the County Housing Authority did a one-time compliance check on behalf of the County for the Oak Grove Project, HCD does not have a formal process in place at this time to investigate such reports. The County however can send a "Request for Owner Occupancy Status Report" to affordable homeowners, which requires that the owners send a report of who is living in the units to the County. In the past, the County has not had an Owner Occupancy Report in a standardized form. At this time, a prototype has been developed and is attached to this Board Letter as Exhibit A. County Counsel has reviewed and approved the Owner Occupancy Form and the process as described in this Board letter.

The proposed compliance procedures presented below will be used to determine whether owners of affordable units comply with the owner occupancy requirement of their covenant. The recommended Board action will also authorize the Director of Housing and Community Development to make adjustments or amendments to these procedures, in order to respond to unforeseen issues in a timely manner.

These procedures were first presented to your Board on February 17, 2004. At that hearing, the matter was continued to allow staff to consider comments and suggestions made by Ms. Kim Seefeld, President of the Summerland Heights Homeowners' Association. Staff has incorporated most of Ms. Seefeld's suggestions into the proposed procedures before you.

### **Proposed Procedure to Investigate Alleged Violations of Owner Occupancy Requirements**

1. HCD will send a notice to the owner of each affordable for-sale unit in the County once a year requesting an occupancy status report.
  - a. Letters will be sent via certified mail, with the requirement that the owner provide a signature in order to receive the letter.
  - b. All letters sent by HCD will include "Do Not Forward" and "Owner Signature Only" notices so that the owner will not receive the letter if he or she is not living in the affordable unit and is not able to provide a signature to the postman.
  - c. Once collected, the County will keep copies of signatures on file in order to confirm whether not signatures are valid on subsequent mailings. Staff may also compare signatures against the signatures from the original purchases of the units.
2. If HCD receives no response within 10 days of the notice's delivery to the owner, the owner will be subject to further investigation pending a reasonable explanation.
  - a. Owners whose letters were returned undeliverable due to an owner's inability to provide a signature will be required to obtain a copy of the letter from HCD and will be subject to further investigation by HCD into the owner's residency status.
  - b. Homeowners will be advised that their responses must be truthful and accurate to the best of their knowledge under penalty of perjury.
3. If an owner does not return to the County a status report, or if the status report's validity is questionable, HCD will send a follow-up letter to the property owner informing the owner that the County is further investigating their occupancy status. This letter may also be sent in response to complaints, information received from third parties or other indications that the covenant is not being complied with.

4. After the follow-up letter, in response to staff concerns, or in response to information or complaints received, HCD may take one or more of the following steps:
  - a. HCD may visit the unit at random times of the day to determine occupancy.
  - b. HCD may solicit testimony from neighbors regarding who is occupying the owner's unit.
  - c. The owner must submit copies of most recent paycheck stubs (or other verification from employer) demonstrating the owner's current place of employment and any other information HCD reasonably requires.
  - d. If determined necessary by HCD, the investigator may seek entry into the unit and if not granted may seek an inspection warrant.
5. After further investigation, HCD and County Counsel may issue notices of default to owners of affordable units that it finds not to be owner occupied or of any other violation of the Covenant.
6. The County's enforcement abilities include, but are not limited to, financial penalties for rents collected in excess of those maximum allowable and a requirement that the home be sold by the owner not in compliance. Specific enforcement terms are included in the Covenant recorded for each affordable unit currently occupied, and vary by project due to modifications over time.
7. If the homeowner demonstrates a hardship as defined in the Covenant, and the County approves a request to rent the home for a period while it is on the real estate market, the homeowner must disclose to the County the name of the tenant, the amount of rent collected, and a copy of the written lease. Rents may not exceed the maximum allowable amounts listed on the County's Income and Price Guidelines for affordable housing units, and each tenant must submit a separate lease.

### **Mandates and Service Levels:**

Santa Barbara County's current Housing Element requires housing projects of five or more units to include homes for sale or rent at prices below market rate through its various housing programs found in the Housing Element. Developers typically receive density bonuses and other development incentives for building the required affordable homes on site. The County receives credit from the State of California towards its Regional Housing Needs Assessment for each affordable unit produced throughout the Housing Element planning period. In July of 2003, HCD assumed the responsibility from Planning and Development to monitor affordable homeowners to ensure they comply with the Covenants.

### **Fiscal and Facilities Impacts:**

HCD's Affordable Housing Program Planner position spends considerable staff hours responding to reports from neighbors of affordable homeowners allegedly renting out their homes or owner's not living in the residences purchased under the affordable housing program. As of yet, the County has not had a formal procedure in place to handle effectively such reports and has had limited success in closing cases. With your Board's approval of the above policies, the County may incur additional costs due to an increase in mailings and, if necessary, due to the need to ask for assistance from the Sheriff's Department when visiting homes personally. However, once specific issues are resolved through the proposed procedure, ongoing monitoring costs for those issues should be reduced.

**Special Instructions:** None.

EXHIBIT A

**SANTA BARBARA COUNTY AFFORDABLE HOUSING PROGRAM**  
**ANNUAL CERTIFICATION**

Property Address \_\_\_\_\_ Unit \_\_\_\_\_ Zip \_\_\_\_\_

Home Phone # \_\_\_\_\_ # Bedrooms \_\_\_\_\_

Current HOA monthly dues \$ \_\_\_\_\_

1) Please PRINT the name and daytime and evening telephone numbers of each OWNER of the property:

| OWNER NAME | DAYTIME PHONE | EVENING PHONE |
|------------|---------------|---------------|
| _____      | _____         | _____         |
| _____      | _____         | _____         |
| _____      | _____         | _____         |
| _____      | _____         | _____         |

2) Please PRINT the name and daytime and evening telephone numbers of each OCCUPANT of the property:

| OCCUPANT NAME | DAYTIME PHONE | EVENING PHONE |
|---------------|---------------|---------------|
| _____         | _____         | _____         |
| _____         | _____         | _____         |
| _____         | _____         | _____         |
| _____         | _____         | _____         |
| _____         | _____         | _____         |

3) Has there been a change in ownership of the property since it was purchased through the County's affordable housing program<sup>1</sup>? (Include ALL transfers and changes of title) If so, please describe: \_\_\_\_\_

If there was a change in ownership, was it recorded?  Yes  No

4) Did you refinance your mortgage or secure any additional financing against your property since you purchased it?

Yes  No

If **YES**, return a copy of final settlement statement with this form (your Escrow Company will provide you a copy of your settlement statement if you don't have one)

5) Has any other person or institution obtained a security interest in the property since you purchased it that was not included in your response to the above question?  Yes  No

If yes, please explain: \_\_\_\_\_

<sup>1</sup> After the first year, questions will cover the previous calendar year instead of the period of time since purchase.

- 6) Have you rented out any portion of the property within the past calendar year?  
 Yes       No  
 If yes, please answer the following.  
 a. Did you receive written approval from Santa Barbara County? [renting of your property is only allowed in limited circumstances with the express written approval of the County Housing and Community Development Department and at restricted rental prices.]  
 Yes       No  
 If no, please explain \_\_\_\_\_  
 b. Was the whole property rented out or part of it? \_\_\_\_\_  
 c. What was the total amount of monthly rent paid by the tenant(s)? \_\_\_\_\_  
 d. For how long was the property rented out? \_\_\_\_\_  
 e. Was there a written lease?  Yes       No  
 f. Please list tenant names and phone numbers: \_\_\_\_\_
- 7) Has any person(s) or entity been added to/deleted from title to the Property other than as listed above?  
 Yes       No    If yes, please explain \_\_\_\_\_
- 8) Has EACH OWNER occupied property as principal place of residence on a full time basis for at least ten (10) months in the past calendar year?     Yes       No  
 If no, please explain \_\_\_\_\_
- 9) Do you have any questions/comments/concerns regarding compliance with the terms of the Affordability Covenant governing your property? Please write them below, or call Susan Everett at 568-2014.  
 \_\_\_\_\_  
 \_\_\_\_\_

**DECLARATION BY EACH OWNER OCCUPANT:**

I SWEAR UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT MY ANSWERS TO THE ABOVE ARE TRUE AND CORRECT. I FURTHER DECLARE THAT I HAVE FULLY COMPLIED WITH THE COUNTY OF SANTA BARBARA'S RESALE RESTRICTIVE COVENANT AND PREEMPTIVE RIGHT APPLICABLE TO MY PROPERTY.

\_\_\_\_\_  
**Signature Owner Occupant #1**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Signature Owner Occupant #2**

\_\_\_\_\_  
**Date**

**WITHIN 10 DAYS OF RECEIPT**  
**PLEASE RETURN COMPLETED FORM TO**  
**Susan Everett**  
**Housing and Community Development Department**  
**105 E. Anapamu, Suite #3**  
**Santa Barbara, CA 93101**