Agenda Report

DATE: JUNE 14, 1999

TO: CITY COUNCIL

FROM: CYNTHIA J. KURTZ, CITY MANAGER

SUBJECT: POLICY REVISIONS TO DENSITY BONUS RENTAL HOUSING COVENANTS

RECOMMENDATION:

It is recommended that the City Council take the following actions:

1. Approve the proposed policy revisions pertaining to rent and income restrictions, as specified in pages 2-3 of this report, for rental housing projects developed with density bonuses during the period 1986 through 1989; and

2. Authorize the City Manager to approve, and the City Clerk to attest, any and all agreements and related documents necessary to effectuate the proposed policy revisions.

BACKGROUND

During the period 1986 through 1989, the City of Pasadena entered into 30-year rental housing covenant agreements with the owners of 11 density bonus apartment projects totaling 341 units. Under the covenant agreements, 68 of these units are required to be occupied by moderate income households. In addition, the covenant agreements specify that the rents charged for the moderate income units cannot exceed the Fair Market Rent levels ("FMRs") established by the United States Department of Housing and Urban Development ("HUD"). However, beginning in 1990, all affordable housing covenants entered into between the City and rental housing project owners would restrict rents to those limits established under state affordable housing law, instead of HUD FMRs. State affordable housing rent limits are substantially higher than the federal FMRs. For example, the moderate income rent limit for a two-bedroom unit under state affordable housing law is currently $1,269 compared to the HUD FMR of $749.

This wide differential between the two rent limits was originally brought to staff's attention in May 1998 by the owners of the apartment complexes located at 64 N. Mar Vista Ave. and 271 E. Bellevue Dr., who entered into density bonus covenant agreements with the City in 1986 and 1987, respectively. These two projects were also controlled by city bond financing regulatory agreements which were even more stringent than the density bonus covenant agreements, requiring that the 20% designated units be occupied by low income households with rents set at 30% of the household income. The bond regulatory agreements for both projects have recently expired, leaving the density bonus covenant agreements to regulate the designated units. The owners requested that the City modify the covenant agreements so that the HUD FMR limits ($592 for a one-bedroom unit, and $749 for a two-bedroom unit) are replaced with the higher state limits for moderate income housing ($1,128 for a one-bedroom unit, and $1,269 for a two-bedroom unit). The current market rents for one- and two-bedroom units are as high as $1,100 and $1,300, respectively.

Typically, HUD FMRs are utilized as rent ceilings for the Pasadena Community Development Commission's Section 8 Rental Assistance Program, a federal rent subsidy program in which property owners lease dwelling units to very low income households. However, the dwelling units controlled by the density bonus covenants entered into from 1986 to 1989 are designated for moderate income households. A thorough examination of the City's legislative record and department files was conducted to determine what policy basis existed for applying the federal rent limits during 1986-1989. None could be ascertained. Staff concludes, however, that most likely, the City used the federal HUD rent limits during the period 1986-1989 because a state definition for moderate income housing rent did not exist at the time. The moderate income rent limit was not codified until 1990 under Section 50053 of the State Health and Safety Code. In hindsight, it can be argued that the covenant agreements in question should have been modified in 1990 to comport with the then newly-defined state limit for moderate income housing rent.

The Community Development Committee recommended approval of the recommendations at its meeting on May 13, 1999.

PROPOSED POLICY REVISIONS

Staff, in consultation with Keyser Marston Associates, Inc., sought to meet the following objectives in developing the proposed policy revisions:

1. Establish rent limits that comport with state affordable housing law.
2. Avoid displacement of existing tenants due to rent increases.
3. Achieve a broader income and rent mix among the 20% designated affordable units to include very low income housing and gradations of moderate income housing. (Currently, all designated units have income limits at 120% of area median income, with rents set at HUD FMRs.)

The proposed policy revisions are as follows:

Application: These policy revisions shall apply only to those rental housing projects which, during the period 1986-1989, received density bonuses, and which are controlled by a rental housing covenant agreement designating, among other things, that 20% of the project's dwelling units (the "Designated Units") be occupied by moderate income households (i.e., income does not exceed 120% of area median income) with maximum rents at the HUD Fair Market Rent level.

Policy: A) 15% of the Designated Units shall be restricted as follows:

Occupancy by very low income households not exceeding 50% of area median income.

Rents shall not exceed 30% of 50% of area median income (the state definition of very low income rent).

The bedroom mix of these very low income units shall generally reflect the bedroom-unit composition of the project.

B) 45% of the Designated Units shall be restricted as follows:

Occupancy by moderate income households not exceeding 100% of area median income.

Rents shall not exceed 30% of 80% of area median income.

C) 40% of the Designated Units shall be restricted as follows:

Occupancy by moderate income households not exceeding 100% of area median income.

Rents shall not exceed 30% of 100% of area median income.

D) For projects with 20 or more Designated Units, the percentage of Designated Units under category "B" shall be 35% and the percentage of Designated Units in category "C" shall be 50%.

E) Rent increases shall be applied only upon a tenant household's voluntary vacation of the Designated Unit.

F) Dwelling units currently contracted under the Commission's Section 8 Rental Assistance Program shall be exempt from these rent restrictions.

Comparisons of existing rent and income limits with those under the proposed policy are shown in the attachment to this report.

FISCAL IMPACT

Implementation of the proposed policy revisions will have no direct fiscal impact on the Commission's funds, but may have a positive impact on the City's general fund. To the extent that the valuation of the effected rental housing properties are increased as a result of the proposed increase in rents, this would generate greater tax revenues to the City's general fund.

Respectfully submitted

Cynthia J. Kurtz
City Manager

Prepared by:

James Wong
Project Manager

Reviewed:

For

Gregory Robinson
Housing Administrator

Approved by:

Stephen G. Harding
Director, Housing and Development
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