



REPORT

DATE ISSUED: October 1, 2004

ITEM 102

REPORT NO.: HCR04-69
For the Agenda of October 8, 2004

SUBJECT: Amendments to YWCA Declaration of Covenants, Conditions and Restrictions (Council District 2)

SUMMARY

Issue: Should the Housing Commission authorize amendments to the Declaration of Covenants, Conditions and Restrictions (Tenant Restrictions) for the site owned by the Young Women's Christian Association of San Diego County (YWCA) at 1012 C Street?

Recommendation: That the Housing Commission authorize the President and Chief Executive Officer to execute any and all documents necessary, including an Amendment to the Declaration of Covenants, Conditions and Restrictions, to increase the eligible income of tenants from 40 percent to 50 percent of Area Median Income (AMI), provided that the maximum rents will not be increased.

Fiscal Impact: None with this action.

Affordable Housing Impact: This action will allow formerly homeless individuals and families with incomes at/below 50 percent of area median income (AMI) (\$34,250 for a 4-person household) to occupy 110 transitional housing beds in a program operated by the YWCA.

Previous Related Actions:

On October 13, 1988, the Housing Commission approved a loan of \$250,000 using local funds for the rehabilitation of the YWCA's facility located at 1012 C Street (Report No. 88-209) restricting 20 percent of the beds for households earning 40 percent or less of AMI for 25 years or the life of the loan, but not less than 10 years.



In January 1992, the Centre City Development Corporation granted a \$525,000 loan for renovation of the fifth floor to expand the YWCA's Women in Transition program. The loan was later increased to \$1,755,046 covering all three floors. The CCDC Loan Agreement restricts all 110 beds to 30 percent of 40 percent AMI for a period of 35 years.

On June 1, 1992, the Housing Commission authorized amending the Loan Documents to increase the restricted beds in the YWCA residence from 30 to 43 beds and extend the term of affordability to 35 years. The Housing Commission also authorized the revocation of the Declaration of Covenants and Restrictions, and the execution of an Agreement Affecting Real Property.

On June 8, 1992, the Housing Commission, Centre City Development Corporation and the YWCA entered into an Agreement Affecting Real Property (AARP). This agreement included a clause that the AARP could not be amended without the written consent of CCDC and the Housing Commission. On May 4, 1994, the AARP was amended and the Housing Commission was removed as a party to the agreement. This action was taken without the Housing Commission's consent.

In November 1995 the Housing Commission approved Supportive Housing Contracts with various agencies, including the YWCA. In December 1996, the Housing Commission and YWCA executed a \$715,757 Rehabilitation and Supportive Services Revocable Grant and a new Declaration of Covenants, Conditions and Restrictions. This grant provided \$186,667 in rehabilitation funds and \$529,090 for supportive services and operations for a three-year period.

The Housing Commission has provided Housing Trust Fund transitional housing operating support to the YWCA's Passages Program (Women in Transition and Supportive Independent Living) since 1993.

Future Related Action: The Centre City Development Corporation (CCDC) will seek similar amendments from that Board pertaining to its portion of project funding.

BACKGROUND

The YWCA's facility at 1012 C Street serves several functions. The first and second floors contain administrative offices including on-site legal services, counseling and career and employment services. The third through fifth floors house several transitional housing programs consisting of 61 units with 110 transitional housing beds. The programs prepare women for self-sufficiency via stable employment and affordable transitional housing. Participants may stay in the units and participate in the programs for up to two years.

Because of the way the Housing Commission and CCDC's restrictions are drafted, participants who are successful and gain employment that results in their income rising above 40 percent AMI must leave the program and are evicted from their housing. With the current rent structure, there is a disincentive to succeed in the program. The YWCA requested that the program income guidelines be changed to serve households at/below 50 percent of AMI and that occupancy restrictions for tenants who become over-income during their participation in the program be modified to allow a larger number of participants to successfully complete the program. Transitional housing programs assist the homeless with education, jobs, and the life skills training to help them become good tenants. Thus, participants need to stay in the transitional housing programs until they are deemed ready to transition to permanent housing.

DISCUSSION

Current Restrictions

When the Housing Commission loan was granted in 1988, the occupancy restrictions were modeled after the Housing Commission's Single Room Occupancy (SRO) hotel rehabilitation guidelines (adopted by the Housing Commission on May 18, 1987) which limited occupancy to households with incomes ≤ 40 percent of AMI. These guidelines have never been updated nor have they been adopted as a policy, although several changes have been made to the other Housing Commission rehabilitation programs since 1987.

Today, the very low-income household definition of ≤ 50 percent of AMI is used in virtually all Housing Commission programs, including the Housing Trust Fund Transitional Housing Grant program. In addition, the income restriction for very-low income households under the Supportive Housing Program (SHP), another major funding source for this project, is also ≤ 50 percent of AMI.

The Housing Commission Agreements allow for over-income tenants to stay in the program, but require another bed be assigned as the restricted bed. The Centre City Development Corporation (CCDC) Rehabilitation Loan Agreement does not have a provision for allowing over-income tenants. When there is a conflict between agreements, the stricter requirement applies, thus tenants who become over-income during their participation in the program are being evicted. CCDC is expected to change this provision in their upcoming discussion and action to mirror the proposed Housing Commission action.

Staff recommends that the eligible income and occupancy restrictions for participants entering the program be changed from ≤ 40 percent AMI to ≤ 50 percent AMI, consistent with other Housing Commission, Federal and State homeless assistance programs.

Maximum Rents

Currently, 37 units are restricted for 55 years with rents set at 30 percent of actual adjusted gross income for the first 20 years and then at 30 percent of 40 percent AMI for the remaining 35 years.

The recommendations to increase eligible income to 50 percent AMI and allow over-income tenants to remain in the program (for up to two years) would result in increased cash flows to the YWCA since participants currently pay 30 percent of actual adjusted gross income. To avoid the appearance of a gift of public funds (higher rental income to the YWCA), staff recommends that for the next 13 years (years remaining in the first 20 year period) the tenants continue to pay 30 percent of actual adjusted gross income, but capped so rents received do not exceed 30 percent of 40 percent of AMI. The terms for the remaining 35 years would leave rents set at 30 percent of 40 percent AMI. Maximum gross rents are as follows: \$480 for a 1-person household, \$548 for 2-person household, \$616 for a 3-person household, \$685 for a 4-person household. The average family size of participants is four persons.

CONCLUSION

Staff recommends amending the CC&Rs to change the eligible income of participants entering the program from ≤ 40 percent AMI to ≤ 50 percent AMI and revise the rent restrictions so tenants pay 30 percent of actual adjusted gross income, not to exceed 30 percent of 40 percent of AMI for the next 13 years.

These changes are contingent on CCDC amendment of any and all documents necessary so that the Housing Commission and CCDC agreements are not in conflict should CCDC not amend.

These changes will increase the number of homeless women and families eligible to participate in the YWCA's programs at 1012 C Street and allow the participants to complete their transitional housing programs.

ALTERNATIVES

1. Instead of capping the rents at ≤ 40 percent AMI, the Housing Commission Board could request extending the term of affordability an additional five years.
2. The Housing Commission Board can disapprove these recommendations leaving the current occupancy restrictions in place. This action would continue limiting the programs to those homeless persons and families with incomes ≤ 40 percent AMI and disqualify tenants who become over-income during the course of their participation in the transitional housing programs.

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Respectfully submitted,

**Signature on File
With Original Document**

Cissy Fisher
Director, Housing Finance & Development

Approved by,

Elizabeth C. Morris
President & Chief Executive Officer

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Information: A. KERN 578-7582