



## INFORMATIONAL REPORT

**DATE ISSUED:** November 23, 2016

**REPORT NO:** HCR16-103

**ATTENTION:** Chair and Members of the San Diego Housing Commission  
For the Agenda of December 2, 2016

**SUBJECT:** Workshop & Discussion: Informational Report Concerning the Amendment of San Diego Municipal Code Concerning the San Diego Housing Commission and Approval of Revised Acquisition and Disposition Policies

**COUNCIL DISTRICT:** Citywide

### **NO ACTION IS REQUIRED ON THE PART OF THE HOUSING COMMISSION SUMMARY**

On Tuesday, November 15, 2016, the San Diego City Council adopted amendments to the San Diego Municipal Code (Municipal Code), giving additional authority to the San Diego Housing Commission (Housing Commission) Board of Commissioners and the President & Chief Executive Officer (President & CEO), by a vote of 6-0. In accordance with Municipal Code Section 98.0301(e)(2), actions taken pursuant to this additional authority are still subject to review by the entire Housing Authority of the City of San Diego (Housing Authority), if two Housing Authority members request to review a matter that was approved by the Housing Commission Board. A strike-out version of the Municipal Code changes is attached as Attachment 1 to this informational report.

In addition, the Housing Authority approved revisions to two Housing Commission policies, the real estate Acquisition and Disposition Policies, on November 15, 2016, by a vote of 8-0. A strike-out version of the policy amendments is attached as Attachment 2.

### **SAN DIEGO MUNICIPAL CODE CHANGE OVERVIEW**

The majority of the actions of the Housing Commission Board will not require Housing Authority approval. All actions of the Housing Commission, except for matters specified in the Municipal Code, will be final seven days after the Housing Commission Board acts upon them unless two members of the Housing Authority request a hearing within the seven-day period.

The following matters to be heard by the Housing Commission Board will now require that the Housing Commission provide seven days advance notice to each member of the Housing Authority:

- **Acquisition of Real Estate**
- **Sale of Real Estate**
- **Lease of Real Estate of more than 5 years**
- **Expenditure of more than \$1,000,000 for the approval of the following:**
  - **Any development**

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- **Rehabilitation loans**
- **Contracts for the acquisition of goods or services**

In addition, when these matters are approved, each Housing Authority member will receive another seven-day notice informing the Housing Authority of the actions taken by the Housing Commission Board.

The following matters will continue to be heard by both the Housing Commission Board and the Housing Authority:

- **Annual Budget approvals**
- **Any bond issuance related matter**
- **Memoranda of Understanding with Labor Unions**
- **Adoption or amendment of any major policy**
- **Any other matter for which either the Housing Authority or City Council determines that the actions of the Housing Commission shall be advisory only**

This new process will expedite the provision of affordable housing.

The full text of the changes to the Municipal Code are reflected in Attachment 1. The approval by the San Diego City Council was unanimous.

### **ACQUISITION AND DISPOSITION POLICY OVERVIEW**

The Acquisition and Disposition Policies' changes were approved unanimously by the Housing Authority on November 15, 2016.

The new Acquisition Policy allows the Housing Commission to convey property to an affiliate with only Housing Commission Board action, subject to some protections that are highlighted in the strike-out version.

The new Disposition Policy updates the policy approved in 2009, as shown in the strike-out version.

Strike-out versions of the two policies are attached as Attachment 2.

The ability of the Housing Authority members to review any matter now matches the new Municipal Code provisions.

Amendments to only two of the Housing Commission's 52 policies have been approved. The remaining 50 policies will be grouped into manageable sizes and presented to the Housing Authority throughout 2017. The Housing Commission is required to provide summary reports of the actions taken twice a year.

Executive Vice President & Chief Strategy Officer Deborah N. Ruane met with various Housing Authority members to answer questions and attended a meeting with the City of San Diego Independent Budget Analyst's office. Ms. Ruane and SDHC General Counsel Charles B. Christensen also attended the Council Staff briefing, at which no questions were asked.

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The Housing Commission's Communications & Government Relations Division is promulgating procedures to comply with the recent amendments and has had meetings with General Counsel and Executive Vice President & Chief Strategy Officer.

**AFFORDABLE HOUSING IMPACT**

The amendments to the Municipal Code and Housing Commission policies will expedite the provision of affordable housing for low- and moderate-income individuals and families.

**PREVIOUS ACTIONS**

The Housing Commission Board approved the Administrative Policy revisions on July 29, 2016 (HCR16-020).

The Municipal Code amendments were approved by the Housing Commission Board on May 6, 2016 (HCR16-047).

The San Diego City Council Smart Growth and Land Use Committee reviewed the Municipal Code amendments on July 27, 2016, and forwarded them to the City Council without a recommendation.

**ENVIRONMENTAL REVIEW**

The proposed amendments to the San Diego Municipal Code are not a project as defined by the California Environmental Quality Act (CEQA) Section 21065 and State CEQA Guidelines Section 15378(b)(2), as they are general policy and procedure making activities of a governmental entity. The determination that this activity is not subject to CEQA, pursuant to Section 15060(c)(3), is not appealable and a Notice of Right to Appeal the Environmental Determination (NORA) is not required. These activities contemplated are exempt under the National Environmental Policy Act pursuant to Part 58.34(a)(3) of Title 24 of the Code of Federal Regulations.

Respectfully submitted,

Approved by,

*Charles B. Christensen*

*Deborah N. Ruane*

Charles B. Christensen  
General Counsel  
San Diego Housing Commission

Deborah N. Ruane  
Executive Vice President/Chief Strategy Officer  
San Diego Housing Commission

Attachments:

1. Strike-out version of Municipal Code Amendments
2. Strike-out versions of the Acquisition and Disposition Policies

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Hard copies are available for review during business hours at the security information desk in the main lobby and at the fifth floor reception desk of the San Diego Housing Commission offices at 1122 Broadway, San Diego, CA 92101 and at the Office of the San Diego City Clerk, 202 C Street, San Diego, CA 92101. You may also review complete docket materials in the “Public Meetings” section of the San Diego Housing Commission website at [www.sdhc.org](http://www.sdhc.org).

**STRIKEOUT ORDINANCE****OLD LANGUAGE: ~~Struck Out~~****NEW LANGUAGE: Double Underline**

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 9, ARTICLE 8,  
DIVISION 3 OF THE SAN DIEGO MUNICIPAL CODE BY  
RETITLING DIVISION 3, AND BY AMENDING SECTIONS  
98.0301 AND 98.Kr0302, ALL RELATING TO HOUSING AND  
THE SAN DIEGO HOUSING COMMISSION AND THE  
RELOCATION APPEALS BOARD.

**Article 8: Housing****Division 3: San Diego Housing Commission and Relocation Appeals Board****§98.0301 San Diego Housing Commission**

(a) Creation of ~~Commission~~ Commission. There is hereby created a  
~~Commission~~ Commission to act as a Housing Commission under the  
Housing Authority Law of the State of California. The name of the  
~~Commission~~ Commission shall be the San Diego Housing Commission.  
The ~~San Diego Housing Commission~~ Commission is granted all rights,  
powers, and duties of a Housing Authority pursuant to the provisions of  
the California Health and Safety Code sections 34200-34380, except those  
expressly retained by the Housing Authority of ~~T~~the City of San Diego in  
this section.

(b) ~~Definitions. As used in~~ For purposes of this article section, defined terms  
appear in italics. ~~the~~ The following definitions apply in this section:

(1) ~~"City" shall mean the City of San Diego;~~

- (2) ~~“City Council” shall mean the City Council of the City of San~~  
~~Diego;~~
- (3) ~~“Commission Commission” shall means the San Diego Housing~~  
~~Commission, a public agency created pursuant to State the~~  
~~California Health and Safety Code;~~  
  
~~Commission President means the President and Chief Executive~~  
~~Officer of the Commission.~~  
  
~~Housing Authority Executive Director means the Commission~~  
~~President who also serves ex officio as the Executive Director of~~  
~~the Housing Authority and is appointed by the Housing Authority.~~
- (4) ~~“Housing Authority Housing Authority” shall means the Housing~~  
~~Authority of the City of San Diego, a state public agency created~~  
~~pursuant to section 34200 et seq. of the State the California Health~~  
~~and Safety Code;~~
- (5) ~~“Mayor” shall mean the Mayor of the City of San Diego;~~
- (6) ~~“Member Member” shall means a member commissioner of the~~  
~~San Diego Housing Commission;~~
- (7) ~~“Person of low income Persons of low income” shall means a~~  
~~group or family which that lacks the amount of income which is~~  
~~necessary, as determined by the Housing Authority Housing~~  
~~Authority, to enable it without financial assistance to live without~~  
~~financial assistance in decent, safe, and sanitary dwellings without~~  
~~overcrowding.~~

(c) Investigatory and Advisory Functions of the ~~Commission~~ Commission.

The Commission's investigatory and advisory functions of the San Diego Housing Commission shall include, but not necessarily be limited to, the following:

- (1) [No change in text.]
- (2) Determine where there is a shortage of decent, safe, and sanitary dwelling accommodations for ~~persons of low income~~ persons of low income.
- (3) [No change in text.]
- (4) Make recommendations to the ~~Housing Authority~~ Housing Authority for changes or revisions in Housing Authority policies of the ~~Housing Authority~~.
- (5) through (6) [No change in text.]
- (7) Perform such other functions not inconsistent with this section as may be delegated from time to time to the Commission by that the Housing Authority Housing Authority or City Council delegates to the Commission by resolution.
- (8) Review and make recommendations on all matters to come before the Housing Authority prior to their action, except emergency matters and matters which the Commission, by resolution, excludes from Commission review and recommendation.

- (d) Administrative Functions of the ~~Commission~~ Commission. The Commission's administrative functions of the ~~Commission~~ shall include the following:
- (1) Approve plans and specifications, authorize advertisements for bids and proposals, accept and reject bids and proposals, and approve expenditures for goods, services, public works, land clearance, loans, grants, claims, leases and other interests in real property, and other contracts and agreements; however, the programs, projects or activities for such expenditures shall have been previously approved by the ~~Housing Authority~~ Housing Authority, or the expenditures shall be for items included in budgets previously approved by the ~~Housing Authority~~ Housing Authority.
  - (2) Approve submission of applications for funds where such applications do not constitute a binding agreement to accept such funds, if awarded, and approve contracts for the receipt of such funds if the program, project or activity for which such funds are received has been previously approved by the ~~Housing Authority~~.
  - (3) Approve guidelines for the administration of programs previously approved and funded by ~~the Housing Authority~~ Housing Authority.
  - (4) Approve guidelines for the administration of programs previously approved and funded by ~~Housing Authority~~ Housing Authority.



- (5) ~~Approve Review conflict of interest codes prior to adoption by the Housing Authority and submit proposed conflict of interest codes for City Council approval in accordance with California Government Code section 82011.~~
- (6) Approve lease forms, grievance procedures, occupancy policies, rent and utility schedules, tenant council agreements, and other United States Department of Housing and Urban Development (HUD)—required documents for the administration of public housing and rent subsidy programs.
- (7) Act upon such other matters not inconsistent with this section as ~~that the Housing Authority~~ Housing Authority or City Council delegates to the Commission by ~~may from time to time delegate by resolution to the Commission.~~
- (8) Before a Housing Authority decision, hold a public hearing to consider the matter. The Commission shall make a written recommendation to the Housing Authority, or shall forward the matter to the Housing Authority without a recommendation.
- (89) ~~Notwithstanding Section 98.0301(d)(1) through (7), the actions of the Housing Commission upon the following administrative matters~~ Act upon all other administrative matters in accordance with federal, state, and local laws and regulations, except the matters set forth below in sections 98.0301(d)(9)(A)-(E), and except as provided in section 98.0301(e), in which case, the

Commission's actions shall be advisory only, and shall be referred for Housing Authority action:

- (A) Approval of any proposed acquisition, sale, or lease of real property for a term in excess of five (5) years The Commission's annual budget;
- (B) Approval of any development project or rehabilitation loan commitment involving the expenditure of more than \$250,000 by the Housing Commission Bond issuances and actions related to Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) hearings;
- (C) Approval of any contract for acquisition of goods or services (other than a construction contract for a development project) involving the expenditure of more than \$100,000 by the Housing Commission Memoranda of Understanding between recognized employee organizations and the Commission;
- (D) The establishment or approval of any new major Adoption or amendment of any Commission policy relating to the method of operations of the Housing Commission; and
- (E) Any other matters that are determined to be advisory only by City Council or Housing Authority resolution.

The recommendation of the Housing Commission on these matters shall be referred for final action at the next available agenda of the Housing

~~Authority. By resolution passed by majority vote, the City Council may, at any time, add, delete or otherwise modify the items on which the Housing Commission is advisory.~~

~~Notwithstanding anything to the contrary in Section 98.0301(d)(8), in circumstances where it is not feasible to obtain review and approval by the Housing Authority on or before the established deadline, the Executive Director shall have the authority to execute documents required to be executed by the United States Department of Housing and Urban Development ("HUD") or other agencies in a timely manner in order to meet any deadlines imposed by those agencies. In addition, the Executive Director shall have the authority, without prior Housing Authority approval, to prepare and submit applications for funding in support of programs consistent with the Housing Commission's approved mission and goals.~~

(e) Finality of Actions:

- (1) All Commission actions of the ~~Commission~~ taken pursuant to ~~S~~section 98.0301(d) shall be final seven (7) days after action by the ~~Commission~~ Commission, except for Commission actions taken on the matters set forth in of the Commission for which a review by the Housing Authority has been requested pursuant to ~~S~~sections 98.0301(ed)(9)(A)-(E), and except for those actions which require final action by the Housing Authority pursuant to as provided in ~~S~~section 98.0301(~~de~~)(12)-(8).

- (2) ~~One or more of the persons set forth below, in the manner set forth below, may elect to refer a Any Commission matter may be referred to the Housing Authority Housing Authority for final action, within seven (7) days after the date of the Commission action by:~~
- (A) ~~The Commission Commission, by motion resolution.~~
  - (B) ~~The Housing Authority Executive Director Executive Director of the Housing Authority, by notifying written notification to the Commission Chairperson of the Commission.~~
  - (C) ~~Three (3) Written notice by two members of the City Council or Housing Authority, or the City Manager, by written notice to the Housing Authority Executive Director Executive Director and Commission President.~~
- (3) ~~If a matter is referred to the Housing Authority Housing Authority for final action in accordance with Section 98.0301(e)(2), the Chair of the Housing Authority, who shall be the Council President, as the role is defined in San Diego Municipal Code Section 22.0101, Executive Director shall promptly set the matter on the next available agenda of the Housing Authority Housing Authority, and the action taken by the Commission Commission shall be advisory.~~

(4) The Commission shall provide written notice to the Housing Authority at least seven days prior to the Commission taking action on any of the following matters:

(A) Approval of any proposed acquisition, sale, or lease of real property for a term in excess of five years; and

(B) Approval of any development project, rehabilitation loan commitment, or contract for the acquisition of goods or services, involving the expenditure of more than \$1,000,000.

(f) Appointment of ~~Commission~~ Commission Members ~~Members~~. The ~~Commission~~ Commission shall consist of seven ~~(7)~~ members ~~members~~ who shall be appointed by the Mayor with the approval of the subject to City Council confirmation. ~~Four members shall constitute a quorum and the affirmative vote of four members shall be necessary for any action by the Commission.~~

(1) Two ~~(2)~~ commissioners ~~members~~ appointed pursuant to this section shall be tenants of housing authority Commission-owned units, which include those owned by limited liability companies in which the Commission is the sole member, or recipients of housing assistance pursuant to HUD's tenant-based housing choice voucher program (Section 8). At least one ~~(1)~~ commissioner of the members so appointed pursuant to this subsection shall be over 62 years of age. So long as required by federal law, at least one of the

members appointed pursuant to this subsection shall be a recipient of housing assistance in the tenant-based housing choice voucher program (Section 8).

- (2) The term of office of each ~~member~~ member shall be four (4) years, except that the terms of office of the two (2) ~~members~~ members who are tenants of Housing Authority units appointed pursuant to section 98.0301(f)(1) shall be two (2) years, ~~and as set forth in Section 34272 of the California Health and Safety Code of the State of California section 34272. A member shall hold office until the member's successor has been appointed and confirmed.~~
- (3) Vacancies occurring during a term shall be filled for the unexpired term by appointment made by the Mayor with the approval of the subject to City Council confirmation. Whenever the Mayor does not appoint a ~~member~~ member within ~~forty five (45)~~ days after a vacancy occurs, the Council shall make such appointment. ~~A Member shall hold office until his successor has been appointed and qualified.~~
- (4) Each ~~member~~ member shall receive as compensation the sum of ~~Fifty Dollars (\$50)~~ for each ~~Commission~~ Commission meeting attended; ~~provided that the total compensation for each member~~ member shall not exceed One Hundred Dollars (\$100.00) in any one month. In addition, each ~~member~~ member shall receive necessary travel and subsistence incidental expenses incurred in

the discharge of his related to member duties. Any member member may waive compensation by filing a written waiver of compensation form with the Executive Director Commission President.

- (5) For inefficiency, neglect of duty, or misconduct in office, a member member may be removed ~~upon the affirmative vote of a~~ by majority vote of the ~~members of the~~ City Council.

- (g) Organization of the ~~Commission~~ Commission. ~~At its first meeting t~~The Commission Commission shall determine the time, place, and frequency of its meetings. Four members shall constitute a quorum and the vote of at least four members shall be necessary for any action by the Commission. The ~~Commission~~ Commission may adopt rules of procedure for the conduct of its business and ~~may do anything other thing else~~ necessary or proper to carry out its functions in accordance with federal, state, and local laws and regulations.

- (h) Indemnification of ~~Members~~ Members. To the fullest extent that ~~Commission would itself be permitted by law, under California Government Code sections 825, 995, and 995.2 and to the extent that insurance and other resources available to Commission are inadequate,~~ City shall indemnify ~~members~~ members of the ~~Commission~~ Commission, ~~including former members, against all expenses, judgments, fines, settlements and other amounts actually and reasonably incurred by them in connection with any threatened, pending or completed action or~~

~~proceeding, whether civil or administrative~~ civil actions brought against them in their individual or official capacities, or both, and pay judgments and settlements for claims against the *members* for matters arising out of acts or omissions occurring within the scope of their service to the *Commission*, provided that the *member* cooperates and assists with the defense. Expenses shall include, without limitation, attorney's fees and any expenses of establishing a right to indemnification. City shall, where indemnification is warranted as provided above, advance expenses incurred by a member in defending any such proceeding, before final disposition thereof, on receipt by City of an undertaking on behalf of that member that the advance will be repaid unless it is ultimately determined that the member is entitled to be indemnified by City for those expenses. Any indemnification shall not include punitive or exemplary damages.

**§98.0302 Relocation Appeals Board**

- (a) ~~Creation of Membership:~~ There is hereby created a A Relocation Appeals Board which shall consist of five ~~(5)~~ members who shall serve without compensation. The members shall be appointed by the Mayor, and ~~confirmed by the~~ subject to City Council confirmation. The members shall serve ~~two (2)-year~~ two-year terms and each member shall serve until ~~his~~ the member's successor is duly appointed and ~~qualified~~ confirmed. The members shall be appointed in such a manner that the terms of not more than three ~~(3)~~ members shall expire in any year. The expiration date shall be October 1. ~~Initial appointments to the Board shall be made after the~~



~~effective date of this ordinance, and be effected so that the expiration date of the terms of three (3) members shall be October 1, 1975 and two (2) members on October 1, 1974.~~ During October of each year, the Mayor may designate one (1) member as ~~Chairman~~ chairperson; however, in the absence of such designation, the Relocation Appeals Board shall, on or after November 15, select from among ~~their~~ its members a ~~Chairman~~ chairperson.

- (b) Qualifications. All members of the Relocation Appeals Board shall be electors of the City of San Diego and shall be specially qualified to act as a Relocation Appeals Board member by reason of training and experience in real estate, human relations, housing, urban development, redevelopment, or other relevant business or profession.
- (c) Meetings. The Relocation Appeals Board shall meet regularly to transact business on the second Tuesday in November of each year or more often if necessary for the transaction of business. It shall establish its own rules and procedures necessary for the conduct of its business.
- Three (3) members of the Relocation Appeals Board shall constitute a quorum. The ~~affirmative~~ vote of ~~not less than~~ at least three (3) members shall be necessary for any action by the Relocation Appeals Board.
- (d) Functions.

- (1) The Relocation Appeals Board shall promptly hear all complaints relating to relocation brought by persons displaced by City action, ~~and in those cases relating to redevelopment projects shall~~

~~determine if the Redevelopment Agency has complied with those provisions of Chapter 4 of Part 1 of Division 24 of the Health and Safety Code (Sections 33300 et seq.) which relate to relocation and also, where applicable, federal regulations.~~

- (2) The Relocation Appeals Board shall, after a public hearing, transmit its findings and recommendations to the City Council, ~~or, in those cases relating to a redevelopment project, to the Redevelopment Agency.~~

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10/11/16 Cor. Copy  
10/18/16 Rev. Cor. Copy  
Or.Dept: SDHC  
Doc. No.: 1265428



## POLICY

EFFECTIVE DATE: TBD

NO: PO-RED-300.104

SUBJECT: **POLICY FOR SALE AND/OR DISPOSITION OF REAL ESTATE**  
**HOUSING COMMISSION SINGLE FAMILY AND/OR**  
**CONDOMINIUM UNIT REAL ESTATE DISPOSITION POLICY**

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### 1 Purpose

To provide a comprehensive policy of the San Diego Housing Commission ("Housing Commission") concerning the disposition and sale of Housing Commission-owned real estate, including without limitation multi-family projects, single-family homes, and/or condominium units, land by the President/Chief Executive Office of the San Diego Housing Commission and/or public housing.

### 2 Definitions-

Terms or words used within this policy are defined within the policy itself or by reference to other applicable references in which the words and or terms are defined. The word "disposition" includes all forms of transfer of real estate, including by grant deed, quitclaim deed, warranty deed, ground lease, sublease, assignments, transfers, and any and all other legally permissible methods of transferring real estate and/or interests in real estate to another person and or entity.

### 3 Policy

#### 3.1 Implementation of Sale or Disposition of Housing Commission-owned ~~single-family~~ single-family homes and/or condominium units:

3.1.1 In order to allow for expeditious sale and disposition of ~~single-family~~ single-family homes and/or condominium units, without approval by the Board of Commissioners of the ~~San Diego~~ Housing Commission ("Board of Commissioners") or the Housing Authority of the City of San Diego ("Housing Authority"), the Housing Authority and the City Council of the City of San Diego hereby delegates to the President and Chief Executive Officer of the ~~San Diego~~ Housing Commission ("CEO"), or designee, the power to sell and dispose of single-family homes and/or condominium units without further approval by either the Housing Authority or the Board of Commissioners in the following instances:

- (a) When the sale and/or disposition of the ~~single-family~~ single-family homes or condominium units are determined by the CEO to be necessary to comply with any program in an effort to acquire and redevelop foreclosed properties that might otherwise become sources



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of abandonment and blight within their communities, i.e. programs like the former Neighborhood Stabilization Program (“NSP”) that are hereafter created by state, federal and/or local law, law, and the sale is to a low income or moderate income buyer; in accordance with the terms of the Housing Authority approved NSP; and,

- (b) When single-family homes or condominium units have been acquired by foreclosure (Real Estate Owned, “REO”) and have been determined to be surplus, within the meaning of Health and Safety Code Section 34315.7, and not needed by the San Diego Housing Commission (Commission) for Commission for its housing stock; or
- (c) When it is determined by the President & Chief Executive Officer that the sale meets the requirements of Health & Safety Code Section 34312 et seq., including without limitation Section 34312.3, including scheduling a public hearing at the Housing Commission Board level, when required by any applicable law, including without limitation, Health & Safety Code Section 34312.3;
- (d) When single-family homes or condominium units have been acquired by foreclosure or through a deed in lieu of foreclosure on an affordable for-sale restricted unit and the homes or units are sold to an eligible buyer subject to affordable restrictions recorded against the property; or
- (e) In any other situation where the sale of the single-family homes or condominiums is determined by the CEO, upon the advice of counsel, to comply with applicable federal, state and local law and the sale of the single-family homes or condominiums advances the mission of the Commission.

### 3.2 Conditions for Sale or Disposition by the CEO or designee of Single-Family Homes/Condominium Units:

- (a) All sales of condominium units or single-family homes acquired by the Housing Commission or the Housing Authority under the



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~~Neighborhood Stabilization P Program or other similar programs~~  
any government stimulus program for sale to subsequent low or moderate income buyers must be sold within the parameters of ~~the a~~ Housing Authority approved ~~program~~ program NSP. The CEO is given and delegated the full authority and power to make expenditures within his or her procurement authority, as referenced within the Housing Authority approved procurement policy, to repair and rehabilitate such homes and/or condominiums, if determined necessary or advisable by the CEO, before such resale, or, in the alternative, to sell such homes or condominiums in an “as-is where-is” condition without repair or rehabilitation. In such cases of no repair or rehabilitation, the CEO is delegated the authority and power to make rehabilitation loans to the ~~homebuyers to make repairs or remediation within his or her authority levels, for homebuyer~~ in sufficient amounts to allow the homebuyer to repair and rehabilitate the homes or condominiums, so that the homes and/or condominiums are safe, decent and sanitary.  
~~repair by the homeowners after acquisition.~~

- (b) ~~ii.~~ All sales of condominium units or single-family homes acquired as REOs, under the terms of the Housing Commission’s foreclosure policy or otherwise, shall also be sold and disposed of by the CEO in accordance with applicable state, federal and local law, the procedures set forth within Health and Safety Code Section 34315.7, with preference being given to low and moderate income families and/or households, to the extent feasible and to the extent required by applicable law.
- (c) ~~iii.~~ All sales of affordable for-sale restricted condominium units or single-family homes acquired by foreclosure or deed in lieu of foreclosure shall be sold by the CEO in accordance with the terms of any applicable restrictions recorded against the property.

~~iv. All sales and dispositions shall be accomplished in a manner that shall provide for low and moderate income ownership opportunities to the qualified persons, households and families, to~~



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~~the greatest extent possible. With the exception of the affordable for sale restricted units, all sales and dispositions shall be at prices no lower than the purchase price paid by the Housing Commission and/or the Housing Authority, except to the extent that the fair market value of the property acquired, as determined by an appraisal at the time of sale, has decreased from said purchase price(s), in which case the sales or dispositions may be made at the appraised value at the time of sale. All sales involving any stimulus program shall be made in accordance with all laws, rules and regulations affecting the program. To the extent that any proposed sale or disposition does not meet all of the requirements set forth within this policy, it must be forwarded to the Housing Commission Board for approval prior to the consummation of the proposed sale or disposition. In the event that the price difference between purchase price and sale prices is greater than \$250,000, disposition approval must be forwarded to the Housing Authority for approval.~~

- (d) ~~Any~~ Any action taken by the CEO to sell or dispose of any single-family home or condominium unit, with the exception of the affordable for-sale restricted units, shall be preceded by a seven (7) day written notice to each of the Members of the Board of Commissioners and a hand-delivered written notice to each of the Members of the Housing Authority with a signed and dated receipt of delivery. Within seven (7) days of the receipt of such written notice, any ~~one~~ two (~~1~~2) Members of the Board of Commissioners or any ~~one~~ two (~~1~~2) Members of the Housing Authority may elect to have the entire Board of Commissioners, or the entire Housing Authority, respectively, review a proposed sale or disposition. Such review shall be pursuant to the provisions of San Diego Municipal Code ~~Section 98.0301(e)~~, in the case of the review by the Housing Authority of the City of San Diego. If any Member of the Housing Authority or the Board of Commissioners elects to hear the matter, the sale or disposition shall not proceed until such hearing occurs before the full Board of the body seeking the



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review. In the event that the Board of Commissioners elects to hear a matter, the Board of Commissioners shall give seven (7) days written notice of its action to each Member of the Housing Authority, via hand-delivered written notice with signed and dated receipt of delivery, and any action of the Board of Commissioners shall not become final until seven (7) days have elapsed from the written notice to the Housing Authority Members, without any Member of the Housing Authority seeking review of the decision. If a review is sought of a decision of the Board of Commissioners, by any Member of the Housing Authority, any action of the Board of Commissioners shall not be final until it is reviewed by the Members of the Housing Authority.

~~vi. Affordable for sale restricted units can only be sold to eligible low and moderate income buyers pursuant to the affordable restrictions recorded against the property.~~

- (e) Any action by the CEO to sell or dispose of any single-family home or condominium unit shall not become final until seven (7) days have elapsed, with no election by any Member of either the Board of Commissioners or the Members of the Housing Authority to hear the matter(s). Whenever a public hearing is required under applicable law, including without limitation, Health & Safety Code Section 34312.3, the CEO shall ensure that such hearing is scheduled before the Housing Commission Board.
- (f) ~~vi.~~ The CEO is delegated the power and authority to acquire and/or provide such lending as is required to allow the property to be disposed of and/or sold.
- (g) ~~vii.~~ The CEO shall comply with any and all relocation laws, if any, to the extent applicable, in connection with a sale or disposition of the single-family homes and/or condominium units.
- (h) ~~viii.~~ The CEO shall acquire real estate appraisals of the single-



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family homes or condominium units, before sale or disposition, ~~but only to the extent necessary to comply with any applicable laws or regulations concerning the sale or disposition of single family homes and/or units in accordance with the approved stimulus programs.~~

3.3 Implementation of Sale or Disposition of Housing Commission-owned real estate other than single-family homes and condominiums:

(a) This policy allows for the sale and disposition of all other real estate, of every nature and kind, (except for the single-family homes and condominiums, which are dealt with in Section 3.2 of this policy), owned by the Housing Commission, including without limitation, multifamily housing and undeveloped land (which is defined as “*real estate*” for the purposes of this Section 3.3), with approval by the Board of Commissioners or the Housing Authority, under the following ~~instances~~ conditions:

1. ~~Any action taken by the CEO~~ Any action to sell or dispose of any *real estate* shall be determined by the Board of Commissioners upon the recommendation of the President & CEO and shall be preceded by a seven (7) day written notice to each of the Members of the ~~Board of Commissioners and a hand delivered written notice to each of the Members of the~~ Housing Authority with a signed and dated receipt of delivery. Whenever a public hearing is required under applicable law, including without limitation, Health & Safety Code Section 34312.3, the CEO shall ensure that such hearing is scheduled before the Housing Commission Board. Within seven (7) days of the receipt of such written notice, any ~~one two (12)~~ Members of the ~~Board of Commissioners~~





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~~or any one (1) Member of the Housing Authority may elect to review any action of the Board of Commissioners or the entire Housing Authority, respectively, review a proposed sale or disposition.~~ Such review shall be pursuant to the provisions of San Diego Municipal Code ~~in the case of the review by the Housing Authority of the City of San Diego.~~ If ~~any two Members of the Housing Authority or the Board of Commissioners elects to hear the~~ matter, the sale or disposition shall not proceed until such hearing occurs before the ~~body seeking the review~~ Housing Authority. ~~In the event that the Board of Commissioners elects to hear a matter, the Board of Commissioners~~ The Housing Commission shall give seven (7) days written notice of its action to each Member of the Housing Authority, via hand-delivered written notice with signed and dated receipt of delivery, and any action of the Board of Commissioners shall not become final until seven (7) days have elapsed from the written notice to the Housing Authority Members, without any two (2) Members of the Housing Authority seeking review of the decision. If a review is sought of a decision of the Board of Commissioners by ~~any two~~ Members of the Housing Authority, any action of the Board of Commissioners shall not be final until it is reviewed by the ~~Members of the~~ Housing Authority.

2. When the sale and/or disposition of the ~~multifamily housing units are~~ real estate is determined by the ~~CEO~~ Housing Commission Board to be necessary and the best option for



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redevelopment of properties that might otherwise become sources of abandonment and blight within their communities, or

3. When ~~multifamily housing developments~~ **real estate** has ~~have~~ been acquired by the Commission through foreclosure or through a deed in lieu of foreclosure and has been determined to be surplus, within the meaning of Health and Safety Code Section 34315.7, and not needed by the Housing ~~Commission~~ ~~for~~ Commission for its housing stock; or
4. When the ~~President and CEO~~ Housing Commission Board determines that a greater public purpose can be achieved through the sale of underperforming ~~assets~~ **real estate** and the investment of sales proceeds into better performing assets and/or other affordable housing opportunities in the best interest of the public, the Housing Commission, and the City of San Diego.

(b) Additional Conditions for the Sale or Disposition of Housing Commission-owned **real estate**:

1. The CEO is authorized to review, approve and execute any and all documents and to perform such acts as are necessary and/or appropriate and/or convenient to effectuate the sales and dispositions referenced in this policy.
2. The CEO is authorized to contract directly with brokers and/or cooperate with brokers to effectuate the sales and dispositions and to pay commissions as appropriate.



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3. The CEO shall adopt Administrative Regulations to implement this policy as necessary and appropriate.
4. The CEO shall, ~~as necessary or appropriate,~~ acquire real estate appraisals of the real estate ~~single family homes or condominium units,~~ before sale or disposition, to ensure the Commission receives the fair market value of the property, ~~but only to the extent necessary to comply with any applicable laws or regulations concerning the sale or disposition of single family homes and/or units in accordance with the approved NSP Program and/or Health and Safety Code Section 34315.7.~~

~~1.1 All sales and dispositions shall be accomplished in a manner that shall provide for low and moderate income ownership opportunities to the qualified persons, households and families, to the greatest extent possible. All sales and dispositions shall be at prices no lower than the purchase price paid by the Commission and/or the Housing Authority, except to the extent that the fair market value of the property acquired, as determined by an appraisal at the time of sale, has decreased from said purchase price(s), in which case the sales or dispositions may be made at the appraised value at the time of sale. All sales involving the NSP shall be made in accordance with all laws, rules and regulations affecting the NSP. To the extent that any proposed sale or disposition does not meet all of the requirements set forth within this policy, it must be forwarded to the Housing Authority for approval prior to the consummation of the proposed sale or disposition.~~

~~Any action taken by the CEO to sell or dispose of any single family home/condominium unit, with the exception of the affordable for sale restricted units, shall be preceded by a seven (7) day written notice to each of the Members of the Board of Commissioners and a hand-delivered written notice to each of the Members of the Housing Authority with a signed and dated receipt of delivery. Within seven (7) days of~~



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~~the receipt of such written notice, any one (1) Member of the Board of Commissioners or any one (1) Member of the Housing Authority may elect to have the entire Board of Commissioners, or the entire Housing Authority, respectively, review a proposed sale or disposition. Such review shall be pursuant to the provisions of San Diego Municipal Code Section 98.0301(e), in the case of the review by the Housing Authority of the City of San Diego. If any Member of the Housing Authority or the Board of Commissioners elects to hear the matter, the sale or disposition shall not proceed until such hearing occurs before the full Board of the body seeking the review. In the event that the Board of Commissioners elects to hear a matter, the Board of Commissioners shall give seven (7) days written notice of its action to each Member of the Housing Authority, via hand-delivered written notice with signed and dated receipt of delivery, and any action of the Board of Commissioners shall not become final until seven (7) days have elapsed from the written notice to the Housing Authority Members, without any Member of the Housing Authority seeking review of the decision. If a review is sought of a decision of the Board of Commissioners, by any Member of the Housing Authority, any action of the Board of Commissioners shall not be final until it is reviewed by the Members of the Housing Authority.~~

~~Affordable for sale restricted units can only be sold to eligible low and moderate income~~



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~~buyers pursuant to the affordable restrictions recorded against the property; therefore no additional review of the terms of the sale is required.~~

~~Any action by the CEO to sell or dispose of any single family home or condominium unit shall not become final until seven (7) days have elapsed, with no election by any Member of either the Board of Commissioners or the Members of the Housing Authority to hear the matters(s). The CEO is delegated the power and authority to acquire and/or provide such lending as is required to allow the property to be disposed of and/or sold.~~

~~The CEO shall comply with any and all relocation laws, if any, to the extent applicable, in connection with a sale or disposition of the single family homes and/or condominium units.~~

The CEO shall report to the Board of Commissioners and the Housing Authority, quarterly, concerning all sales and dispositions pursuant to this policy.

- 3.4 This policy is adopted pursuant to the provisions of Health and Safety Code Section 34320 affecting the disposition of ~~real property~~ real estate.
- 3.5 This delegation by the ~~City Council of the City of San Diego~~ Housing Authority of the City of San Diego is made pursuant to the provisions of the San Diego Municipal Code ~~Section 998.0301(d)~~.
- 3.6 ~~All~~ All sales and dispositions shall comply with any and all federal, state, local and Housing Commission conflict of interest provisions and shall preclude the sale of property to any person or entity that would have a conflict of interest under any



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applicable law. No sales shall be made to insiders at preferential rates and each sale shall be an ~~arms-length~~ arm's length bona fide transaction.

- 3.7 This policy does not authorize the sale or disposition of any multifamily federal public housing projects, as defined in the 1937 Act, without the approvals referenced within this Section 3.7. Under certain exceptional and extenuating circumstances, where the Commission deems it necessary to enhance its financial ability to increase very low-income housing opportunities, the Commission may consider the sale of public housing units if such a sale is determined to be in the best interest of the Commission and of very low and low-income households in need of affordable housing opportunities, but only to the extent such sale or disposition complies with all applicable laws and regulations concerning the sale or disposition of public housing, including without limitation 24 CFR Part 970 and other applicable sections. In addition to the approval of the U.S. Department of Housing and Urban Development, any sale of public housing shall also require the approval of the CEO and the Housing Commission Board and the subject to the right of the Housing Authority of the City of San Diego to review that decision within seven (7) days of its approval by the Housing Commission Board as provided in the Municipal Code.  
~~Accordingly, the approval by the Housing Authority of the City of San Diego is required for the sale of any federal public housing projects.~~
- 3.8 Under the terms of this policy, the Commission may dispose of which meaning shall include, but not be limited to sell, transfer, convey and lease real estate owned by it to any of its affiliates, including Housing Development Partners, or to wholly owned Limited Liability Companies formed by the Commission, (collectively "Affiliates") for any and all business reasons, provided that the dispositions provide the Commission with full and adequate consideration, including covenants by the Affiliate or LLCs to construct, rehabilitate, renovate and operate affordable housing for households earning 80 percent or less of area median income "AMI", or in appropriate cases up to 120 percent of AMI for workforce housing for a term of years. In addition, the Commission may ground lease the real estate to the Affiliate or LLC, for a period of years, with a reversion of the fee title to the Commission at such time as the parties may agree. In addition, the Commission may otherwise dispose of real estate by grant deed or other conveyance method, provided that the Commission receives an option to reacquire the real estate, at a time agreed to by the parties. The terms of the option shall be drafted in



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such a way that the Commission's interest to reacquire the property during the option period is preserved, and shall minimize any substantially adverse financial burden to the Commission, to the extent possible. Any transaction between the Commission and an Affiliate shall be entered into only after appropriate analysis by attorneys, bond counsel, financial advisors and others necessary to ensure that the interests of the Commission are fully protected and to ensure that the real estate disposed of provides affordable housing for the contracted term. This policy is promulgated under the provisions of Health and Safety Code Section 34320 and shall be interpreted in view of that code section, which provides, in part:

- 3.8.1 It is the intent of this policy to set a procedure for disposition or sale of Commission real estate to an Affiliate in full compliance with the following provisions of said Section 34320, which ~~provides: No~~ provides: **No law concerning the acquisition, operation, or disposition of property by other public bodies is applicable to an authority unless the Legislature specifically so states.**
- 3.8.2 Any disposition of *real estate* to Housing Development Partners under the provisions of this Section 3.8 may be made ~~by~~ upon the recommendation of the Executive Vice President and Chief of Staff of the Housing Commission, or designee, to the Housing Commission Board of Commissioners ~~or designee~~, after approval by the processes in place at the time, provided however, the approval by the Housing Authority shall not be required unless ~~one~~ two (2) or more members of the Housing Authority seek to review such actions by the Commission within seven (7) days of notice of such ~~proposed action~~ approval by the Housing Commission Board as provided under the terms of the San Diego Municipal Code.
- 3.8.3 Any disposition of any *real estate* to an Affiliate other than Housing Development Partners, pursuant to the provisions of this Section 3.8, may be made by the recommendation of the President and Chief Executive Officer ~~;~~ or designee, to the Housing Commission Board, following ~~the~~ same procedures set forth in Section 3.8.2, above, ~~without the approval of the Housing Authority of the city of San Diego, as required by San Diego Municipal Code Section 98.0301.~~



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Approved:

\_\_\_\_\_  
Jeff Davis  
Executive Vice President & Chief of Staff

\_\_\_\_\_  
Date

**History:**  
10/13/1988

**Revision Date:**  
4/20/10

**Legislative Authority:**  
**Health & Safety Code Sections: 34312.3; 34320; 34315; 34312.5; 34315.7**  
**San Diego Municipal Code: Section 98.0301(d) and (e)**  
**24 CFR Part 970**





# POLICY

EFFECTIVE DATE: TBD

NO: PO-RED-374.02

SUBJECT: REAL ESTATE ACQUISITION POLICY FOR ACQUISITION AND/OR PURCHASE OF REAL ESTATE

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## 1 Purpose

To state San Diego Housing Commission ("Housing Commission") ~~Policy~~ and program parameters for acquiring real estate of all types, including, without limitation, existing dwelling units/homes and/or multifamily rental projects for Housing Commission ownership.

## 2 Scope

To provide guidance and direction to Housing Commission staff for the acquisition of real estate for Housing Commission ownership. This Policy also provides a mechanism for the approval of such acquisitions.

## 3 Definitions

Terms utilized within this policy are either defined the first time that the term is utilized or there is a cross reference to other sources that provide those definitions.

## 4 Policy

### Implementation of Acquisition

4.1 ~~4.1~~ In order to allow the San Diego Housing Commission (~~Commission~~) to acquire, homes, condominium units and/or multifamily rental projects, leasehold interests, unimproved land, and any and all other types and kinds of ~~residential~~ real property for Housing Commission ownership and operation, including units in that are foreclosure or that are in jeopardy of being foreclosed (collectively defined as "real estate" within this policy), with or without the use of real estate brokers, the Housing Authority of the City of San Diego ("Housing Authority") delegates to the Housing Commission, the right, power and authority to purchase and acquire real estate as set forth within and subject to the criteria of this policy, units /homes and/or projects as set forth in this policy and the resolution approving this policy.

4.2 ~~4.2~~ In addition to utilizing brokers and/or dealing directly with individual developers and owners, the Housing Commission is encouraged to deal directly with lenders, to the extent feasible, including, without limitation, FNMA and FHLMC, to purchase properties acquired by such lender(s) through foreclosure, or by deeds in lieu of



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foreclosure, and/or to acquire ~~properties~~ real estate that is the subject of a Notice of Default during the foreclosure procedure, but prior to actual foreclosure. In addition, the Housing Commission is encouraged and authorized to acquire properties real estate not at risk of foreclosure ~~deal directly with lenders, to the extent feasible, to meet the City's Balanced Communities Policy. goal of acquiring and/or producing a minimum of an additional 350 units.~~

4.3 ~~4.3~~ The Housing Commission is authorized to review, approve, and execute any and all documents necessary and/or appropriate to effectuate the acquisition(s) referenced in this policy.

4.4 ~~4.4~~ The Housing Commission is authorized to contract directly with brokers and/or to cooperate with brokers to effectuate the acquisitions.

4.5 ~~4.5~~ Any acquisitions of single family homes/condominium units (Single Family Residences) may be accomplished by the President and Chief Executive Officer of the ~~San Diego~~ Housing Commission ("CEO"), or designee, subject to the provisions of Section 4.8 of this policy, without further action from or by the Board of Commissioners of the San Diego Housing Commission (Board of Commissioners), provided that the acquisition(s) is/are based upon a purchase price(s) at or below an appraised value and provided further the clear fee simple title shall be acquired by the Housing Commission at the close of escrow. The appraisal shall be performed by a state certified appraiser, duly licensed. The appraisal shall be dated within six months of the date of the purchase and sale agreement. The appraisal shall be one prepared at the request of the San Diego Housing Commission. The CEO is authorized to execute any and all documents necessary and appropriate to allow for the acquisition of the ~~single family homes and/or condominium units~~ Single Family Residences, as approved by the General Counsel of the Housing Commission.

4.6 ~~4.6~~ The CEO is delegated the power and authority to approve due diligence efforts, up to the limits as set forth by the Housing Authority (currently \$250,000), in order to determine a property's value and suitability for acquisition. Due diligence efforts may include, but shall not be limited to, appraisal, physical needs assessment, lead paint and asbestos containing materials assessment, Phase I and Phase II environmental reports, geotechnical studies, and environmental review.

4.7 ~~4.7~~ Acquisitions of ~~multifamily projects and multiple units~~ real estate other than



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Single Family Residences shall be approved by the Board of Commissioners.

- 4.8 ~~1-8~~ Any action taken by the Board of Commissioners, as authorized in this policy, may be reviewed by the Housing Authority within seven (7) days of the date of any Housing Commission approval of an acquisition, by notice from any two (2) members of the Housing Authority ~~member Commissioner~~ (City Councilmembers) ~~and/or the Executive Director of the Housing Authority~~, in ~~accordance~~ addition to the other methods of causing review by the Housing Authority as set forth within the applicable provisions of San Diego Municipal Code, as may be amended from time to time Section 98.0301(e).
- 4.9 ~~1-9~~ Any action of the Housing Commission concerning any acquisition shall become final if no request for review by the Housing Authority is received within such seven (7) days period, in accordance with the provisions of San Diego Municipal Code ~~Section 98.0301(e).~~
- 4.10 ~~1-10~~ The Housing Commission is delegated the power and authority to acquire loans, tax credits or other financing ~~lending~~ necessary and appropriate, if any, for any acquisition approved by it.
- 4.11 ~~1-11~~ The property acquired shall be utilized by the Housing Commission, either as rental properties for low or moderate income housing, and/or the homes and/or units may be resold to qualified low and/or moderate income purchasers as permitted under applicable law. Any property to be resold shall be in safe, decent and sanitary condition
- 4.12 ~~1-12~~ No property may be acquired unless and until a certified appraisal of value has been obtained for each property to be acquired. The purchase price for the property to be acquired must be at or below the appraised value.
- 4.13 ~~1-13~~ The Housing Commission shall comply with federal and/or state relocation law, as required in connection with any acquisition.
- ~~1-14 The Commission shall adopt Administrative Regulations to further implement this policy.~~



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- ~~1.15 In addition to acquiring units that have been foreclosed and/or are in jeopardy of being foreclosed, the Commission is delegated authority and power to and may acquire other units/homes and projects, to achieve the goal of acquiring and/or producing a minimum of 350 units required by HUD in its approval of the public housing disposition, without further action by the Housing Authority, but subject to review by the Housing Authority as referenced in Paragraph 7 of this policy. These acquisitions may be accomplished with or without brokers, through lenders and/or directly from private owners and developers, or any combination of the foregoing.~~
- 1.16 The Commission shall report to the Housing Authority and the City Council annually not less frequently than twice a year on the status of the acquisition(s) by written informational report(s).
- 4.14 ~~1.17~~ The Housing Commission shall endeavor to balance the acquisitions of housing among neighborhoods so as to not overly concentrate low and moderate income residential dwelling units in any one geographic area. ~~of the areas of acquisition~~
- 4.15 To the extent that any real estate being acquired is to be utilized for public housing, the Housing Commission shall, prior to the close of escrow for the acquisition, develop a workable and cost effective plan to meet the federal requirements of all applicable federal law and regulations concerning public housing



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Approved:

\_\_\_\_\_  
Jeff Davis  
Executive Vice President & Chief of Staff

\_\_\_\_\_  
Date

**History:**  
4/13/1979

**Revision Date:**  
2/12/2009

**Legislative Authority:**  
Health & Safety Code Sections: 34312.3, 34320, 34315, 34312.5, 34315.7  
San Diego Municipal Code: Section 98.0301 (d) and (e)