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August 8, 2002

Law and Legislative Committee  
Sacramento, California

Honorable Members in Session:

SUBJECT: Housing Preservation Ordinance

**LOCATION & COUNCIL DISTRICT**

Citywide, all Districts

**RECOMMENDATION**

This report recommends the Law and Legislative Committee instruct the City Attorney's office to investigate and draft a local Preservation Ordinance requiring owners of federally subsidized housing projects to follow the state prescribed noticing requirements cited in California Government Code 65863.10 when terminating their federal subsidies.

**CONTACT PERSONS**

Beverly Fretz-Brown, Director of Development Services, 440-1333  
Darren Bobrowsky, Program Manager Housing Finance, 440-1328

**FOR LAW AND LEGISLATIVE COMMITTEE MEETING:**

August 20, 2002

**SUMMARY**

Owners of federally subsidized multifamily developments have the right to prepay their Federal Housing Administration (FHA) mortgages and/or not renew their Section 8 contracts. After prepaying and/or terminating Section 8, the accompanying rent and tenancy restrictions are lifted, allowing owners to convert their developments to market rate. The California State Government has enacted legislation requiring owners converting their projects to notify tenants, state and local governments, and "qualified entities," defined as non-profit, for profit, or public agencies that agree to maintain the affordability restrictions in place at the time of the notice. It has been the experience of the Sacramento Housing and Redevelopment Agency as well as many of its development partners that owners are not adhering to these noticing requirements.

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Accordingly, the purpose of the proposed Preservation Ordinance is to create a mechanism that would encourage owners to adhere to the noticing requirements and provide penalties if they do not. This will provide affected tenants with their legally entitled notice and enable qualified entities to submit bids to purchase projects that are converting.

### **BACKGROUND**

Beginning in the mid-1960s the federal government provided low-interest rate financing and rental subsidies to developers that led to the production of affordable units. In the late 1970s and early 1980s, many of these projects received additional federal subsidies in the form of Section 8 contracts attached to the development (project-based Section 8). These contracts typically spanned somewhere between 15 and 20 years. As these contracts expire, owners are not required to renew them. In the absence of federal subsidy, the regulatory restrictions previously governing rent and tenancy requirements are lifted and an owner is able to convert his/her project to market rate. Income eligible tenants affected by the conversion are eligible for "enhanced" vouchers. These vouchers are similar to Housing Choice Vouchers (HCV). They provide tenants with initially a one-year lease that is subject to yearly renewal. They differ from HCVs because their rent limitations can exceed fair market rent (FMR) levels, allowing tenants to remain within the converted building if the new rent is based on market comparability. Numerous issues have arisen as a result of this solution, the most pressing are: 1) not all tenants receive vouchers because either they are not income qualified or they leave before they are qualified; and 2) in the tightening rental market, tenants who have made the choice to move from their converted buildings have faced problems finding apartments whose owners accepted vouchers.

In summary, Congress has allowed owners of assisted developments to convert their project-based assistance to tenant-based assistance subject to yearly renewal at their discretion. In so doing they have threatened the stock of permanent affordable housing and have not allocated any resources to state and local governments to ensure the long-term affordability restrictions.

There is little that can be done to change the rights of property owners to discontinue their federal subsidies. But the State of California has enacted Government Code Section 65863.10 to aid in the protection of tenants affected by a conversion and to encourage the sale of such projects to affordable housing developers. This code outlines specific noticing requirements to which an owner must adhere if he/she makes the decision to terminate his/her federal subsidies (See Attachment I). More specifically, the code outlines that an owner:

- Provide tenants, the Mayor or Board of Supervisors, the Public Housing Authority, and the State Department of Housing and Community Development (HCD) with a 12-month first notice 12 months prior to mortgage prepayment or termination of Section 8 contracts.
- Provide a second notice of termination and prepayment including specifics regarding time, change in rent, etc., six months after the first notice was issued.

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- Send a letter to all qualified entities listed on HCD's Qualified Entity List within the project's area.
- For 180 days after notification, owners can accept offers only from qualified entities.
- For the next 180 days after notification, owners can accept offers from anyone BUT must give qualified entities that have submitted offers opportunity to match an accepted offer which would convert the project to market rate housing.
- If an owner accepts an offer from a non-qualified entity, it must notify all qualified entities that have made bona fide offers.

In analyzing the inventory of 20 projects that have converted, 12 have maintained affordability restrictions through a transfer of ownership to qualified entities (a total of 1,511 out of 1,779 units have remained affordable). Although a majority of the projects have maintained their existing affordability restrictions, there is reason to believe that the recent past is not a good predictor of the future. Escalating single family home prices has taken many first-time homebuyers out of the market, creating pressure on rental properties. According to RealFacts, the rents at the lower end of the market have increased significantly from \$580 in the first quarter of 2000 to \$693 in the 1<sup>st</sup> quarter of 2002, an increase of 20%. Such rent increases have the potential to significantly benefit owners of assisted housing, because their rents, which have historically been governed by FMRs, are free of these restrictions. As a result of these market changes, purchasing HUD-assisted projects for conversion to market rate will continue to become more attractive to profit minded entities. For this reason it is vital to ensure state noticing requirements are enforced and that qualified entities receive notice of all conversions so that they can submit an offers to purchase these buildings.

Eight of the 20 HUD-assisted projects, having a total of 268 units, have lost their project-based affordability restrictions. As described above, income eligible tenants in these buildings should be issued vouchers. Of the total 268 units, 190 enhanced vouchers have been issued, leaving 78 units that did not receive them. According to Housing Authority Staff, it is very infrequent that a resident does not have a qualifying income because the income thresholds are high (80 percent of area median income) for enhanced vouchers. It is more frequent that tenants leave a building before they begin the income eligibility process and as a result receive no form of subsidy. The reason for the early departure varies from tenant to tenant, but there is little incentive to leave an assisted project unless there is miscommunication or fear regarding the upcoming conversion. The fact that tenants have left converted projects prior to the date that they are qualified for vouchers indicates again the need for state noticing requirements to be enforced so that tenants receive uniform, clear, and accurate information regarding the conversion process.

To see a historical record of the projects that have prepaid and/or terminated their Section 8 contracts and whether the project-based subsidies were preserved or replaced with HCV enhanced vouchers, please see Attachment II.

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Of the projects that have converted in Sacramento, qualified entities have not historically received the notices outlined by State law. Specifically, one of the Agency's non-profit corporations, Norwood Housing Corporation, a qualified entity, has never received proper notice regarding a project conversion since the law was instituted. In addition, other local non-profits such as Mercy Housing, Community Housing Opportunity Corporation, Legal Services of Northern California, and the California Coalition for Rural Housing site similar experiences. Without this vital notice, qualified entities do not have the opportunity to submit offers. And without the opportunity to submit offers, formerly subsidized projects are not likely to be transferred to an entity willing to maintain its project-based affordability restrictions.

This history provides a telling account of the ineffectiveness of Section 65863.10. When combined with the explosion of rents at the low end of the market, it is evident that the enforcement of the current law is essential and that local government is in the best position to do so. In the absence of both staff and monetary resources, the State will have a very difficult time enforcing the law in the foreseeable future. Thus, in order to ensure owners are following state law, the Agency recommends that a local ordinance be drafted that establishes local noticing requirements identical to Health and Safety Code Section 65863.10 and create specific consequences if owners are in non-compliance.

There are a number of municipalities across the country that have enacted preservation ordinances. The municipality whose ordinance SHRA is most interested in using as a model is Portland, Oregon. (Please see Attachment III). This is based on the intent of Portland, Oregon ordinance, which is to encourage owners to comply with the defined notification requirements and provide a mechanism for punishment if the owners do not. Although the intricacies of the Sacramento Ordinance might be substantially different from those established in Portland, when directing the City Attorney's Office to investigate and draft the local ordinance, it should identify the Portland Preservation Ordinance as a model.

The proposed ordinance is not a complete solution to the problem of preserving the at-risk stock of affordable housing, but one vital step in a comprehensive and strategic approach to preservation. This approach includes maintaining a current list of at risk projects, sending material to owners regarding State noticing requirements and financial programs that are available to aid owners in maintaining their project's affordability, conducting outreach to property management associations regarding preservation, as well as organizing and facilitating tenant outreach. For a full outline of the Agency Preservation Work Plan, please see Attachment IV.

The successful implementation and enforcement of a Preservation Ordinance would result in tenants receiving ample notice regarding the conversion of their residences and would ensure that all qualified entities are able to submit fair market offers for consideration by the converting owner. The Agency views this, when combined with the other proactive pragmatic measures defined above, a positive step toward the preservation of the at-risk units.

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## **FINANCIAL CONSIDERATIONS**

There are no financial considerations associated with this project.

## **POLICY CONSIDERATIONS**

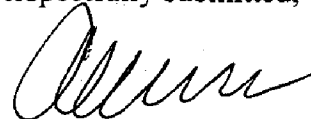
Establishing a preservation ordinance that:

- Outlines the noticing requirements applicable to those terminating their federal housing subsidies;
- Creates an incentive for owners to comply with requirements; and
- Establishes consequences if owners do not comply.

## **ESBD CONSIDERATIONS**

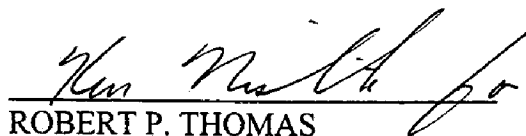
No goods and services will be purchased.

Respectfully submitted,



ANNE M. MOORE  
Executive Director

Transmittal approved,



ROBERT P. THOMAS  
City Manager

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65863.10.As amended by California  
Statutes 2000,.Chapter 666 (Senate Bill 1572).

(a) As used in this section, the following terms have the following meaning:

(1) "Affected public entities" means the mayor of the city in which the assisted housing development is located, or, if located in an unincorporated area, the chairperson of the board of supervisors of the county; the appropriate local public housing authority, if any; and the Department of Housing and Community Development.

(2) "Affected tenant" means a tenant household residing in an assisted housing development, as defined in paragraph (3), at the time notice is required to be provided pursuant to this section, that benefits from the government assistance.

(3) "Assisted housing development" means a multifamily rental housing development that receives governmental assistance under any of the following federal programs:

(A) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance, under Section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. Sec. 1437f).

(B) The following federal programs:

(i) The Below-Market-Interest-Rate Program under Section 221(d) (3) of the National Housing Act (12 U.S.C. Sec. 1715l(d) (3) and (5)).

(ii) Section 236 of the National Housing Act (12 U.S.C. Sec. 1715z-1).

(iii) Section 202 of the Housing Act of 1959 (12 U.S.C. Sec. 1701q).

(C) Programs for rent supplement assistance under Section 101 of the Housing and Urban Development Act of 1965, as amended (12 U.S.C. Sec. 1701s).

(D) Programs under Section 515 of the Housing Act of 1949, as amended (42 U.S.C. Sec. 1485).

(E) Section 42 of the Internal Revenue Code.

(4) "City" means a general law city, a charter city, or a city and county.

(5) "Prepayment" means the payment in full or refinancing of the federally insured or federally held mortgage indebtedness prior to its original maturity date, or the voluntary cancellation of mortgage insurance, on an assisted housing development described in subparagraph (B) of paragraph (3) that would have the effect of removing the current low-income affordability restrictions contained in the applicable laws and the regulatory agreement.

(6) "Termination" means an owner's decision not to extend or renew its participation in a federal subsidy program for an assisted housing development described in subparagraph (A) of paragraph (3), either at or prior to the scheduled date of the expiration of the contract, or a decision to terminate the rental restrictions for an assisted housing development described in subparagraph (E) of paragraph (3), that may result in an increase in tenant rents or a change in the form of the subsidy from project-based to tenant-based.

(b) (1) At least 12 months prior to the anticipated date of termination of a subsidy contract, termination of rental

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restrictions, or prepayment on an assisted housing development, the owner proposing the termination or prepayment of governmental assistance shall provide a notice of the proposed change to each affected tenant household residing in the assisted housing development at the time the notice is provided and to the affected public entities. The notice shall contain all of the following:

(A) In the event of termination, a statement that the owner intends to terminate the subsidy contract or rental restrictions upon its expiration date, or the expiration date of any contract extension thereto.

(B) In the event of prepayment, a statement that the owner intends to pay in full or refinance the federally insured or federally held mortgage indebtedness prior to its original maturity date, or voluntarily cancel the mortgage insurance.

(C) The anticipated date of the termination or prepayment of the federal program, and the identity of the federal program described in subdivision (a).

(D) A statement that the proposed change would have the effect of removing the current low-income affordability restrictions in the applicable contract or regulatory agreement.

(E) A statement of the possibility that the housing may remain in the federal program after the proposed date of termination of the subsidy contract or prepayment if the owner elects to do so under the terms of the federal government's offer.

(F) A statement that other governmental assistance may be provided to tenants residing in the development at the time of the termination of the subsidy contract or prepayment.

(G) A statement that a subsequent notice of the proposed change, including anticipated changes in rents, if any, for the development, will be provided at least six months prior to the anticipated date of termination of the subsidy contract or prepayment.

(H) A statement of notice of opportunity to submit an offer to purchase, as required in Section 65863.11.

(2) Notwithstanding paragraph (1), if an owner provides a copy of a federally required notice of termination of a subsidy contract or prepayment at least 12 months prior to the proposed change to each affected tenant household residing in the assisted housing development at the time the notice is provided and to the affected public entities, the owner shall be deemed in compliance with this subdivision, if the notice is in compliance with all federal laws. However, the federally required notice need not satisfy the requirements of Section 65863.11.

(c) (1) At least six months prior to the anticipated date of termination of a subsidy contract or prepayment on an assisted housing development, the owner proposing the termination or prepayment of governmental assistance shall provide a notice of the proposed change to each affected tenant household residing in the assisted housing development at the time the notice is provided and to the affected public entities.

(2) The notice to the tenants shall contain all of the following:

(A) The anticipated date of the termination or prepayment of the federal program, and the identity of the federal program, as described in subdivision (a).

(B) The current rent and anticipated new rent for the unit on the

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date of the prepayment or termination of the federal program.

(C) A statement that a copy of the notice will be sent to the city or county, or city and county, where the assisted housing development is located, to the appropriate local public housing authority, if any, and to the Department of Housing and Community Development.

(D) A statement of the possibility that the housing may remain in the federal program after the proposed date of subsidy termination or prepayment if the owner elects to do so under the terms of the federal government's offer.

(E) A statement of the owner's intention to participate in any current replacement federal subsidy program made available to the affected tenants.

(F) The name and telephone number of the city, county, or city and county, the appropriate local public housing authority, if any, the Department of Housing and Community Development, and a legal services organization, that can be contacted to request additional written information about an owner's responsibilities and the rights and options of an affected tenant.

(3) In addition to the information provided in the notice to the affected tenant, the notice to the affected public entities shall contain information regarding the number of affected tenants in the project, the number of units that are government assisted and the type of assistance, the number of the units that are not government assisted, the number of bedrooms in each unit that is government assisted, and the ages and income of the affected tenants. The notice shall briefly describe the owner's plans for the project, including any timetables or deadlines for actions to be taken and specific governmental approvals that are required to be obtained, the reason the owner seeks to terminate the subsidy contract or prepay the mortgage, and any contacts the owner has made or is making with other governmental agencies or other interested parties in connection with the notice. The owner shall also attach a copy of any federally required notice of the termination of the subsidy contract or prepayment that was provided at least six months prior to the proposed change. The information contained in the notice shall be based on data that is reasonably available from existing written tenant and project records.

(d) The owner proposing the termination or prepayment of governmental assistance shall provide additional notice of any significant changes to the notice required by subdivision (c) within seven business days to each affected tenant household residing in the assisted housing development at the time the notice is provided and to the affected public entities. "Significant changes" shall include, but not be limited to, any changes to the date of termination or prepayment or the anticipated new rent.

(e) This section shall not require the owner to obtain or acquire additional information that is not contained in the existing tenant and project records, or to update any information in his or her records. The owner shall not be held liable for any inaccuracies contained in these records or from other sources, nor shall the owner be liable to any party for providing this information.

(f) For purposes of this section, service of the notice to the affected tenants, the city or county, the city and county, the



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appropriate local public housing authority, if any, and the Department of Housing and Community Development by the owner pursuant to subdivisions (b), (c), and (d) shall be made by first-class mail postage prepaid.

(g) Nothing in this section shall enlarge or diminish the authority, if any, that a city, county, city and county, affected tenant, or owner may have, independent of this section.

(h) If, prior to January 1, 2001, the owner has already accepted a bona fide offer from a qualified entity, as defined in subdivision (c) of Section 65863.11, and has complied with this section as it existed prior to January 1, 2001, at the time the owner decides to sell or otherwise dispose of the development, the owner shall be deemed in compliance with this section.

(i) Injunctive relief shall be available to any party identified in paragraph (1) or (2) of subdivision (a) who is aggrieved by a violation of this section.

(j) The Director of Housing and Community Development shall approve forms to be used by owners to comply with subdivisions (b) and (c). Once the director has approved the forms, an owner shall use the approved forms to comply with subdivisions (b) and (c).

(k) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 2011, deletes or extends that date.

65863.11. As amended by California Statutes  
2000, Chapter 666 (Senate Bill 1572).

(a) Terms used in this section shall be defined as follows:

(1) "Assisted housing development" and "development" mean a multifamily rental housing development as defined in paragraph (3) of subdivision (a) of Section 65863.10.

(2) "Owner" means an individual, corporation, association, partnership, joint venture, or business entity that holds title to an assisted housing development.

(3) "Tenant" means a tenant, subtenant, lessee, sublessee, or other person legally in possession or occupying the assisted housing development.

(4) "Tenant association" means a group of tenants who have formed a nonprofit corporation, cooperative corporation, or other entity or organization, or a local nonprofit, regional, or national organization whose purpose includes the acquisition of an assisted housing development and that represents the interest of at least a majority of the tenants in the assisted housing development.

(5) "Low or moderate income" means having an income as defined in Section 50093 of the Health and Safety Code.

(6) "Very low income" means having an income as defined in Section 50052.5 of the Health and Safety Code.

(7) "Local nonprofit organizations" means not-for-profit corporations organized pursuant to Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code, that have as their principal purpose the ownership, development, or management of housing or community development projects for persons and families of

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low or moderate income and very low income, and which have a broadly representative board, a majority of whose members are community-based and have a proven track record of local community service.

(8) "Local public agencies" means housing authorities, redevelopment agencies, or any other agency of a city, county, or city and county, whether general law or chartered, which are authorized to own, develop, or manage housing or community development projects for persons and families of low or moderate income and very low income.

(9) "Regional or national organizations" means not-for-profit, charitable corporations organized on a multicounty, state, or multistate basis that have as their principal purpose the ownership, development, or management of housing or community development projects for persons and families of low or moderate income and very low income.

(10) "Regional or national public agencies" means multicounty, state, or multistate agencies that are authorized to own, develop, or manage housing or community development projects for persons and families of low or moderate income and very low income.

(11) "Use restriction" means any federal, state, or local statute, regulation, ordinance, or contract that, as a condition of receipt of any housing assistance, including a rental subsidy, mortgage subsidy, or mortgage insurance, to an assisted housing development, establishes maximum limitations on tenant income as a condition of eligibility for occupancy of the units within a development, imposes any restrictions on the maximum rents that could be charged for any of the units within a development; or requires that rents for any of the units within a development be reviewed by any governmental body or agency before the rents are implemented.

(12) "Profit-motivated organizations and individuals" means individuals or two or more persons organized pursuant to Division 1 (commencing with Section 100) of Title 1 of, Division 3 (commencing with Section 1200) of Title 1 of, or Division 1 (commencing with Section 15001) of Title 2 of, the Corporations Code, that carry on as a business for profit.

(13) "Department" means the Department of Housing and Community Development.

(14) "Offer to purchase" means an offer from a qualified or nonqualified entity that is nonbinding on the owner.

(b) An owner of an assisted housing development shall not terminate a subsidy contract or prepay the mortgage pursuant to Section 65863.10, unless the owner or its agent shall first have provided each of the entities listed in subdivision (d) an opportunity to submit an offer to purchase the development, in compliance with subdivision (h).

(c) An owner of an assisted housing development shall not sell, or otherwise dispose of, the development in a manner that would result in either (1) a discontinuance of its use as an assisted housing development, or (2) the termination of any low-income use restrictions that apply to the development, unless the owner or its agent shall first have provided each of the entities listed in subdivision (d) an opportunity to submit an offer to purchase the development, in compliance with subdivision (h).

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(d) The entities to whom an opportunity to purchase shall be provided include only the following:

- (1) The tenant association of the development.
- (2) Local nonprofit organizations and public agencies.
- (3) Regional or national nonprofit organizations and regional or national public agencies.

(4) Profit-motivated organizations or individuals.

(e) For the purposes of this section, to qualify as a purchaser of an assisted housing development, an entity listed in subdivision (d) shall do all of the following:

(1) Be capable of managing the housing and related facilities for its remaining useful life, either by itself or through a management agent.

(2) Agree to obligate itself and any successors in interest to maintain the affordability of the assisted housing development for households of very low, low, or moderate income for either a 30-year period from the date that the purchaser took legal possession of the housing or the remaining term of the existing federal government assistance specified in subdivision (a) of Section 65863.10, whichever is greater. The development shall be continuously occupied in the approximate percentages that those households who have occupied that development on the date the owner gave notice of intent or the approximate percentages specified in existing use restrictions, whichever is higher. This obligation shall be recorded prior to the close of escrow in the office of the county recorder of the county in which the development is located and shall contain a legal description of the property, indexed to the name of the owner as grantor. An owner that obligates itself to an enforceable regulatory agreement that will ensure for a period of not less than 30 years that rents for units occupied by low- and very low income households or that are vacant at the time of executing a purchase agreement will conform with restrictions imposed by Section 42(f) of the Internal Revenue Code shall be deemed in compliance with this paragraph. In addition, the regulatory agreement shall contain provisions requiring the renewal of rental subsidies, should they be available, provided that assistance is at a level to maintain the project's fiscal viability.

(3) Local nonprofit organizations and public agencies shall have no member among their officers or directorate with a financial interest in assisted housing developments that have terminated a subsidy contract or prepaid a mortgage on the development without continuing the low-income restrictions.

(f) If an assisted housing development is not economically feasible, as defined in paragraph (3) of subdivision (h) of Section 17058 of the Revenue and Taxation Code, a purchaser shall be entitled to remove one or more units from the rent and occupancy requirements as is necessary for the development to become economically feasible, provided that once the development is again economically feasible, the purchaser shall designate the next available units as low-income units up to the original number of those units.

(g) (1) If an owner decides to terminate a subsidy contract, or prepay the mortgage pursuant to Section 65863.10, or sell or otherwise dispose of the assisted housing development pursuant to subdivision (b) or (c), the owner shall first give notice of the

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opportunity to offer to purchase to each qualified entity on the list provided to the owner by the department, in accordance with subdivision (q), as well as to those qualified entities that directly contact the owner. The notice of the opportunity to offer to purchase must be given prior to or concurrently with the notice required pursuant to Section 65863.10 for a period of at least 12 months. The owner shall contact the department to obtain the list of qualified entities. The notice shall conform to the requirements of subdivision (h) and shall be sent to the entities by registered or certified mail, return receipt requested. The owner shall also post a copy of the notice in a conspicuous place in the common area of the development.

(2) If the owner already has a bona fide offer to purchase from an entity prior to January 1, 2001, at the time the owner decides to sell or otherwise dispose of the development, the owner shall not be required to comply with this subdivision. However, the owner shall notify the department of this exemption and provide the department a copy of the offer.

(h) The initial notice of a bona fide opportunity to submit an offer to purchase shall contain all of the following:

(1) A statement that the owner will make available to each of the type of entities listed in subdivision (d), within 15 business days of receiving a request therefor, the terms of assumable financing, if any; the terms of the subsidy contract, if any; and proposed improvements to the property to be made by the owner in connection with the sale, if any.

(2) A statement that each of the type of entities listed in subdivision (d) has the right to purchase the development under this section.

(3) A statement that the owner will make available to each of the type of entities listed in subdivision (d), within 15 business days of receiving a request therefor, itemized lists of monthly operating expenses, capital improvements as determined by the owner made within each of the two preceding calendar years, the amount of project reserves, and copies of the two most recent financial and physical inspection reports on the development, if any, filed with the federal, state, or local agencies.

(4) A statement that the owner will make available to each of the entities listed in subdivision (d), within 15 business days of a request therefor, the most recent rent roll listing the rent paid for each unit and the subsidy, if any, paid by a governmental agency as of the date the notice of intent was made pursuant to Section 65863.10, and a statement of the vacancy rate at the development for each of the two preceding calendar years.

(5) A statement that the owner has satisfied all notice requirements pursuant to subdivision (b) of Section 65863.10, unless the notice of opportunity to submit an offer to purchase is delivered more than 12 months prior to the anticipated date of termination of prepayment.

(i) If a qualified entity elects to purchase an assisted housing development, it shall make a bona fide offer to purchase the development. A qualified entity's bona fide offer to purchase shall identify whether it is a tenant association, nonprofit organization, public agency, or profit-motivated organizations or individuals and

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shall certify, under penalty of perjury, that it is qualified pursuant to subdivision (e). During the first 180 days from the date of an owner's bona fide notice of the opportunity to submit an offer to purchase, an owner shall accept a bona fide offer to purchase only from a qualified entity. During this 180-day period, the owner shall not accept offers from any other entity.

(j) When a bona fide offer to purchase has been made to an owner, and the offer is accepted, a purchase agreement shall be executed.

(k) Either the owner or the qualified entity may request that the fair market value of the property, as a development, be determined by an independent appraiser qualified to perform multifamily housing appraisals, who shall be selected and paid by the requesting party. All appraisers shall possess qualifications equivalent to those required by the members of the Appraisers Institute. This appraisal shall be nonbinding on either party with respect to the sales price of the development offered in the bona fide offer to purchase, or the acceptance or rejection of the offer.

(l) During the 180-day period following the initial 180-day period required pursuant to subdivision (i), an owner may accept an offer from a person or an entity that does not qualify under subdivision (e). This acceptance shall be made subject to the owner providing each qualified entity that made a bona fide offer to purchase the first opportunity to purchase the development at the same terms and conditions as the pending offer to purchase, unless these terms and conditions are modified by mutual consent. The owner shall notify in writing those qualified entities of the terms and conditions of the pending offer to purchase, sent by registered or certified mail, return receipt requested. The qualified entity shall have 30 days from the date the notice is mailed to submit a bona fide offer to purchase and that offer shall be accepted by the owner. The owner shall not be required to comply with the provisions of this subdivision if the person or the entity making the offer during this time period agrees to maintain the development for persons and families of very low, low, and moderate income in accordance with paragraph (2) of subdivision (e). The owner shall notify the department regarding how the buyer is meeting the requirements of paragraph (2) of subdivision (e).

(m) This section shall not apply to any of the following: a government taking by eminent domain or negotiated purchase; a forced sale pursuant to a foreclosure; a transfer by gift, devise, or operation of law; a sale to a person who would be included within the table of descent and distribution if there were to be a death intestate of an owner; or an owner who certifies, under penalty of perjury, the existence of a financial emergency during the period covered by the first right of refusal requiring immediate access to the proceeds of the sale of the development. The certification shall be made pursuant to subdivision (p).

(n) Prior to the close of escrow, an owner selling, leasing, or otherwise disposing of a development to a purchaser who does not qualify under subdivision (e) shall certify under penalty of perjury that the owner has complied with all provisions of this section and Section 65863.10. This certification shall be recorded and shall contain a legal description of the property, shall be indexed to the name of the owner as grantor, and may be relied upon by good faith

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purchasers and encumbrances for value and without notice of a failure to comply with the provisions of this section.

Any person or entity acting solely in the capacity of an escrow agent for the transfer of real property subject to this section shall not be liable for any failure to comply with this section unless the escrow agent either had actual knowledge of the requirements of this section or acted contrary to written escrow instructions concerning the provisions of this section.

(o) The department shall undertake the following responsibilities and duties:

(1) Maintain a form containing a summary of rights and obligations under this section and make that information available to owners of assisted housing developments as well as to tenant associations, local nonprofit organizations, regional or national nonprofit organizations, public agencies, and other entities with an interest in preserving the state's subsidized housing.

(2) Compile, maintain, and update a list of entities in subdivision (d) that have either contacted the department with an expressed interest in purchasing a development in the subject area or have been identified by the department as potentially having an interest in participating in a right-of-first-refusal program. The department shall publicize the existence of the list statewide. Upon receipt of a notice of intent under Section 65863.10, the department shall make the list available to the owner proposing the termination or removal of government assistance. If the department does not make the list available at any time, the owner shall only be required to send a written copy of the opportunity to submit an offer to purchase notice to the qualified entities which directly contact the owner and to post a copy of the notice in the common area pursuant to subdivision (g).

(p) (1) The provisions of this section may be enforced either in law or in equity by any qualified entity entitled to exercise the opportunity to purchase and right-of-first-refusal under this section, that has been adversely affected by an owner's failure to comply with this section.

(2) An owner may rely on the statements, claims, or representations of any person or entity that the person or entity is a qualified entity as specified in subdivision (d), unless the owner has actual knowledge that the purchaser is not a qualified entity.

(3) If the person or entity is not an entity as specified in subdivision (d), that fact, in the absence of actual knowledge as described in paragraph (2), shall not give rise to any claim against the owner for a violation of this section.

(q) It is the intent of the Legislature that the provisions of this section are in addition to, but not preemptive of, applicable federal laws governing the sale, or other disposition of a development that would result in either (1) a discontinuance of its use as an assisted housing development or (2) the termination of any low-income use restrictions which apply to the development.

(r) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 2011, deletes or extends that date.

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65863.13 As added by California  
Statutes 2001, Chapter 117 (Senate Bill 429).

(a) An owner shall not be required to provide a notice prior to prepayment as required by Section 65863.10 if, upon prepayment, all of the following conditions are contained in a regulatory agreement that has been recorded against the property:

(1) No tenant who resides in the development on the effective date of prepayment shall be involuntarily displaced on a permanent basis as a result of the prepayment, unless the tenant has breached the terms of the lease.

(2) The owner shall accept and fully utilize all renewals of project-based assistance under Section 8 of the United States Housing Act of 1937, if available, and if that assistance is at a level to maintain the project's fiscal viability. The property shall be deemed fiscally viable if the rents permitted under the terms of the assistance are not less than the regulated rent levels established pursuant to subparagraph (A) of paragraph (6).

(3) The owner shall accept all enhanced Section 8 vouchers, if the tenants receive them, and all other Section 8 vouchers for future vacancies.

(4) The owner shall not terminate a tenancy at the end of a lease term without demonstrating a breach of the lease.

(5) The owner may, in selecting eligible applicants for admission, utilize criteria that permit consideration of the amount of income, as long as the owner adequately considers other factors relevant to an applicant's ability to pay rent.

(6) (A) For units that have project-based Section 8 assistance upon the effective date of prepayment and subsequently become unassisted by any form of Section 8 assistance, rents shall not exceed 30 percent of 60 percent of the area median income. If any form of Section 8 assistance is or becomes available, rent and occupancy levels shall be set in accordance with federal regulations for the Section 8 program.

(B) For unassisted units and units that do not have project-based Section 8 assistance upon the effective date of prepayment and subsequently remain unassisted or become unassisted by any form of Section 8 assistance, rents shall not exceed the greater of (i) 30 percent of 50 percent of the area median income, or (ii) for projects insured under Section 241(f) of the National Housing Act, the regulated rents, expressed as a percentage of area median income. If any form of Section 8 assistance is or becomes available, rent and occupancy levels will be set in accordance with federal regulations governing the Section 8 program.

(b) As used in this section, "regulatory agreement" means an agreement with a governmental agency for the purposes of any governmental program, which agreement applies to the development that would be subject to the notice requirement in Section 65863.10.

(c) Section 65863.11 shall not apply to any development for which the owner is exempt from the notice requirements of Section 65863.10 pursuant to this section.

(d) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends

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that date.

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**CHANGE IN STATUS: HUD ASSISTED PROJECTS  
CITY OF SACRAMENTO**

Name	Address	Location	Zip	Type *	Total Units	# of Section 8 Units	Residents Leased In Place	Residents w/Vouchers Who Moved	Affordability Maintained (6)
17th-V Street Apartments	1708 V Street	Sacramento	95818	PR/O	16	16	14	1	Sec. 8 Vouchers
Broadway Gardens Duplex	3018 53rd Street	Sacramento	95820	Opt	16	4	Completed		Sec. 8 Vouchers
Cascade Apartments	7600 Fruitridge Road	Sacramento	95820	Opt	74	73	73		Section 8 Maintained & Tax Credit Allocation
College Gardens II (2)	7901 La Riviera Drive	Sacramento	95826	PR	198	0	71	21	Nonprofit Bond
Cosumnes River	8180 Center Parkway	Sacramento	95823	PR	84	0	57		SB439 - 30% at 60% AMI
Countrywood Village	5700 Mack Road	Sacramento	95823	Opt	124	27	18	3 leasing on-going	Sec. 8 Vouchers
Countrywood Village East	5500 Mack Road	Sacramento	95823	Opt	168	34			Section 8 Maintained/MRB
Discovery Park (1-3)	2025 W. El Camino Ave	Sacramento	95833	Opt	566	103	20	64	Sec. 8 Vouchers
Fairview Apartments	2115 Wyda Way	Sacramento	95825	Opt	4		Completed		Sec. 8 Vouchers
Foothill Plaza				PP	76	0	60		SB439 - 30% at 60% AMI
Florin Meadows I and II	7301 29th Street	Sacramento	95822	120	244	244	244	Project-based	Section 8 Maintained/MRB
Greenfair Towers I and II	701 Fairgrounds Drive	Sacramento	95817	PR/O	331	331	331	Project-based	Section 8 Maintained/MRB
Greenfair Complex (cw & bc)	Fairgrounds Drive	Sacramento	95817	PR/O	52	52	52	Project-based	Section 8 Maintained/MRB
Piedmont Arms	2556 27th Street	Sacramento	95818	PR/O	11	11	11	0	Sec. 8 Vouchers
Ping Yuen Center (3)	915 4th Street	Sacramento	95814	Repl.	72	54	vacated	54 Sec.8/Pub Hsg.	Replaced Hsg. Currently Vacant
Ralph Kennedy Estates (4)	6531 Elder Creek Road	Sacramento	95824	Flex	100	100	100	100 Sec.8/Pub.Hsg.	Tax Credit/PH Project-Based Section 8
River Garden Estates (1) aka American R	2223 Northview Drive	Sacramento	95833	LM	124	25	8	9	Tax Credit/VS.8
Sun Garden	6248 Lemon Hill Ave.	Sacramento	95824	Opt	144	144	127	4	MRB/Sec.8 Vouchers
Whispering Pines AKA Meadowview	7610 Amherst Street	Sacramento	95832	PR/O	96	96	96		Section 8 Maintained/Tax Credit
Washington Square 1&11	813/815 E Street	Sacramento	95814	PR/O	103	103	77	9	Section 8 Maintained
<b>Total</b>					<b>2,603</b>	<b>1,417</b>	<b>1359</b>		

(1) HUD - foreclosed property, sold to nonprofit; Sec. 8 loan management setaside. All units have affordability restrictions for 55 years.

(2) Two conversions: 1) owner prepaid, vouchers given - Many tenants over-income; 2) sold to nonprofit in 501©(3) bond sale; 30-year affordability restrictions

(3) Property vacated for building system failure, units to be replaced. Tenants relocated with Sec. 8 or public housing

(4) Property sold to nonprofit for rehab; tenants relocated with Sec. 8 or public housing; Sec. 8 from Flexible Subsidy. All units have affordability restrictions for 55 years.

(5) Tax credit developments have affordability restrictions for 55 years; mortgage revenue bond (MRB) projects have, at a minimum, affordability restrictions for 30 years.

\*PR = Owner prepaid HUD-insured mortgage.

Opt = Owner terminated expiring Section 8 contract.

PR/O = Property opted out of the Section 8 program and prepaid a HUD-insured loan.

1/2/02

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## Portland Oregon Housing Preservation Ordinance

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### 30.01.010 Policy

It is the policy of the City of Portland that publicly assisted rental housing affordable to low and moderate income persons and households should be preserved as a long-term resource to the maximum extent practicable, and that tenants of such properties should receive protections to facilitate securing new housing should the affordable units be converted to market rate units or otherwise be lost as a resource for low and moderate income housing.

### 30.01.020 Intent

The intent of this Title is to protect the availability of publicly assisted affordable housing for low and moderate income households by: providing for notice to the City and tenants when transitions from current assistance programs and/or affordable housing uses are planned; providing purchase opportunities for the City to attempt to preserve the affordable housing while respecting ownership interests of building owners; providing tenant relocation assistance when the affordable housing is converted; and, ensuring long term affordability in future projects that the City assists with public financing designed to create or preserve affordable housing.

### 30.01.030 Definitions

**A. "Affordable housing."** The term "affordable housing", "affordable rental housing" or "housing affordable to rental households" means that the rent is structured so that the targeted tenant population pays no more than 30% of their gross household income for rent and utilities. The targeted tenant populations referred to in this section include households up to 80% of area median family income.

**B. "BHCD."** The City of Portland's Bureau of Housing and Community Development.

**C. "City Subsidy."** Locally controlled public funds administered by the Portland Development Commission, the Bureau of Housing and Community Development, or other City bureau or agency, allocated for the purpose of creating or preserving affordable rental housing to households below 80% of median family income. City subsidies may be provided to developers through direct financial assistance such as low interest or deferred loans, grants, equity gap investments, credit enhancements or loan guarantees, or other mechanisms.

**D. "City Subsidy Projects."** Privately owned properties of five or more units which receive a City subsidy after the effective date of Title 30.01 through programs designed to create or preserve rental housing affordable at or below 80% of area median family income.

**E. "Commercial Market Compatible Offer."** A fair market value purchase offer made by the City or its designee which is consistent with the terms and conditions which would be made by a buyer on the open market such that a seller negotiating with the City on such terms would not experience any significant disadvantage as compared to a market rate transaction with a private party.

**F. "Fair Market Value."** The amount of money in cash that real property would bring in the open market if it were offered for sale by one who desired, but was not obligated to sell, and was bought by one willing but not obliged to buy. It is the actual value of the property on the date when a City offer pursuant to Title 30.01.050 is made. As may be further refined by BHCD through its Administrative Procedures developed in reference to the Uniform Standards of Professional Appraisal Practice, the Oregon Uniform Trial Instructions, and relevant case law, fair market value is based on the best and highest use of the property, which may be greater than the use being made of the property by the current owner. However, fair market value does not include speculative value, or possible value based on future expenditures and improvements, or potential changes in

applicable zoning regulations or laws, which are not reasonably probable. Fair market value includes assessment of environmental, structural or mechanical information derived from inspections or other due diligence activities.

**G. "Federal Preservation Projects."** Properties having project-based rental assistance contracts for some or all of the units (such as Section 8 and Project Rental Assistance Contracts) including those developed under a variety of HUD mortgage assistance and interest rate reduction programs. Federal preservation projects include properties with loans, contracts, or insurance under the following federal subsidy programs: section 221(d)(4) with project-based Section 8; Section 202; Section 236(J)(1); Section 221(D)(3) BMIR; Section 221(D)(3) MIR; Section 811; Project based Section 8 contracts administered through HUD, Oregon Housing and Community Services, or the Housing Authority of Portland; Project Rental Assistance Contracts (PRAC); LIHPRHA capital grant program; and

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Section 241(f) preservation grant. An updated list of all known Federal Preservation Projects will be maintained and available upon request to the public.

**H. "HUD."** The United States Department of Housing and Urban Development

**I. "Involuntary Displacement."** Tenants of Federal Preservation Projects are considered to be involuntarily displaced if:

1. They are served a notice to vacate the property for reasons other than just cause as defined herein; or
2. They are not offered a one year lease under their tenant based voucher by the property owner; or
3. They are offered a one year lease under their tenant based voucher, but are required to pay as rent and utilities an amount greater than the tenant contribution to rent (and utilities) in effect under the project-based Section 8 contract, and they then choose to move from the property rather than enter into a lease under the voucher. This form of displacement is referred to as "economic displacement."

**J. "Just Cause Eviction."** Evictions for serious or repeated violations of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State or local law, or other good cause (ORS 90.400).

**K. "Local Preservation Projects."** Properties with 10 or more rental units which received financial assistance (from the programs listed below), to create or preserve housing serving households below 80% of median family income since January 1, 1988 and through the effective date of Title 30.01, which have affordability restrictions that are still in force as of the effective date of Title 30.01. Financial assistance programs include subsidies from the City of Portland through the Portland Development Commission (Rental Housing Development Loan Program, Investor Rehabilitation Loan Program, Rental Rehabilitation Loan Program, or Downtown Housing Preservation Program), and/or from the State of Oregon Housing and Community Services Department (Housing Development Grant Program, Oregon Affordable Housing Tax Credit Program, and the former Oregon Lenders Tax Credit Program, Risk Sharing Bond program, Elderly and Disabled Bond Program), and/or which have received bond financing issued by the Housing Authority of Portland or the Portland Development Commission. An updated list of all known Local Preservation Projects will be maintained and available upon request to the public.

**L. "Low Income."** Low income individuals, households or tenants are those with a gross household income below 50% of the area median family income.

**M. "MFI."** Median family income for the Portland Metropolitan Statistical Area as defined by HUD as adjusted for inflation and published periodically.

**N. "Moderate Income."** Moderate income individuals, households or tenants are those with a gross household income below 80% of the area median family income.

**O. "Opt Out."** An owner's non-renewal of an available project-based Section 8 contract in a Federal Preservation Project. Owners may consider "opting out" when they contemplate conversion to open market rental housing, other housing or commercial uses, or a sale of the property.

**P. "PDC."** Portland Development Commission

**Q. "Preservation Process."** The requirements contained in 30.01.050 - 30.01.070 for Federal Preservation Projects and in 30.01.080 for Local Preservation Projects respectively.

**R. "Qualifying Household."** A household legally residing in a federal preservation project with a gross household income at or below 50% of median family income.

### 30.01.040 Title 30.01 Responsibilities

The Bureau of Housing and Community Development will have primary responsibility for implementation of Title 30.01. This responsibility will include the development and administration of operating procedures, and taking any and all City actions referenced herein as may be necessary for implementation of the requirements of this Title. The Portland Development Commission will work with the Bureau of Housing and Community Development to implement property acquisition responsibilities described in this Title. The Portland Development Commission is also expected to develop strategies to implement the 60 year affordability requirements in 30.01.090.

### 30.01.050 Federal Preservation Projects - City Notice and Preservation Opportunities (Replaced by Ordinance No. 174180, effective March 17, 2000.)

**A.** Owners of Federal Preservation Projects must provide the City and each building tenant with a one year's notice of a pending HUD Section 8 contract expiration. In order to facilitate the owner's knowledge of the City's interest in notification, BHCD shall provide written confirmation of the City's interest in the property to each Section 8 property within the City of which BHCD is aware.

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B. Owners of Federal Preservation Projects who have decided to "opt out" must provide to the City a notice of 210 days of intent to do so if the owner is opting out of a long-term contract, and 150 days if the owner is opting out of a one-year extension to a long-term contract. The notice shall specify: (1) whether the owner intends to withdraw the property from the Section 8 program; (2) whether the owner intends to convert the participating property to a nonparticipating use; and (3) whether the owner is involved in negotiations with HUD or the Housing and Community Services Department regarding an extension of an expiring contract.

C. Owners of Federal Preservation Projects who have decided to "opt out" must consent to reasonable inspection of the property and inspection of the owner reports on file with HUD or the State of Oregon Housing and Community Services Department. These inspections are designed to facilitate the City's ability to assess the fair market value of the property and evaluate status of the tenants, viability of transfer and/or continuation of a Section 8 agreement with HUD and other pertinent information.

D. To the extent allowed by HUD, owners of Federal Preservation Projects must maintain an available HUD Section 8 contract in good standing during the notice periods identified in this chapter as well as any condemnation proceeding commenced under ORS Chapter 35.

E. Owners of Federal Preservation Projects must refrain from taking any action, other than notifying HUD of the owner's intention to not renew the contract, that would preclude the City or its designee from succeeding to the contract or negotiating with the owner for purchase of the property during the notice periods identified in this Chapter as well as any condemnation proceeding commenced under ORS Chapter 35.

F. In addition to any other times, during the notice periods identified in this Chapter, the City may pursue preservation of the Project through negotiation for purchase or through condemnation under ORS Chapter 35.

#### **30.01.060 Federal Preservation Projects - Tenant Provisions (Replaced by Ordinance No. 174180, effective March 17, 2000.)**

A. Owners of Federal Preservation Projects who have decided to "opt out" must provide to each affected building tenant a notice of 210 days of intent to do so if the owner is opting out of a long-term contract, and 150 days if the owner is opting out of a one-year extension to a long-term contract. The notice shall specify: (1) whether the owner intends to withdraw the property from the Section 8 program; (2) whether the owner intends to convert the participating property to a nonparticipating use; and (3) whether the owner is involved in negotiations with HUD or the State of Oregon Housing and Community Services Department regarding an extension of an expiring contract

B. Owners of Federal Preservation Projects who have decided to "opt out" may not disturb any tenancy other than for cause defined in the contract, for a period of 180 days after expiration of the contract, if the City has paid or arranged to pay to the owner on the first day of each month, the monthly subsidy that the owner was receiving under the contract.

C. BHCD shall identify and make available adequate financial resources for tenant relocation assistance for all tenants who experience involuntary displacement from Federal Preservation Properties. BHCD shall request voluntary contributions to a tenant relocation fund. from owners of Federal Preservation Projects who have decided to "opt out."

#### **30.01.070 Federal Preservation Projects - Civil Fines (Replaced by Ordinance No.174180, effective March 17, 2000.)**

A. An owner who fails to comply with any of the requirements specified in PCC 30.01.050 (A.-E.), tenant notice requirements in 30.01.060 A., or BHCD procedures implementing those specified provisions of this Chapter, shall pay a civil fine. The fine shall be calculated in relation to the costs and damages caused by the owner's failure to comply, up to full replacement costs of each project-based Section 8 housing unit lost. Such civil fines shall be payable into a housing replacement fund to be established and managed by the City. If the civil fine is not received within the timeframes specified in the Administrative Procedures developed by BHCD, the City may commence enforcement proceedings.

B. Any civil fines received shall be used only for creating replacement housing serving households at or below 50% MFI.

#### **30.01.080 Local Preservation Projects - Tenant and City Notice Provisions**

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A. When the owner of a Local Preservation Project takes action which will make the affordable housing no longer affordable, whether the affordability requirements which were established under prior agreement with the City, PDC or State have expired or are still in effect, the owner must provide a notice of 90 days to the City. The notice shall meet standards developed by BHCD. During the 90 day notification period, the owner may not sell or contract to sell the property, but may engage in discussions with other interested parties. Within this period, the City or its designee may make an offer to purchase or attempt to coordinate a purchase by an owner committed to maintaining affordability.

B. Owners of Local Preservation Projects who have decided to take action described in 30.01.080 A., must provide a notice of 90 days to tenants. This shall be in addition to the City notice to be provided to the City under 30.01.080 A. During this notice period the Owner may not initiate a no cause eviction. The notice must meet standards developed by BHCD.

#### **30.01.090 City Subsidy Properties - Long-Term Affordability Requirements**

A. Properties that in the future request and receive a City subsidy from PDC or other City bureau or agency for the purpose of creating or preserving rental housing affordable to households below 80% of median family income, will be subject to a minimum of 60 year affordability contract requirements developed by PDC consistent with the implementing charge in 30.01.090 B.

B. All City Bureaus and agencies administering affordable rental housing subsidy programs will be responsible for implementing this section. As the primary agency charged by the City to negotiate and confer affordable housing subsidies, PDC will develop implementing strategies consistent with the 60 year affordability principles contained in this section, the Administrative Procedures Implementing Title 30.01 and the approved 1998/99 Consolidated Plan, Principle III (Ordinance No. 172259).

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#### **30.01.100 Compliance and Enforcement**

A. BHCD shall develop and implement procedures to enforce the provisions of this code. Such procedures should include, where feasible, record notice of the applicability of this code to affected properties, filing a lien to enforce the provisions of this code, and developing civil penalties or other enforcement provisions necessary or appropriate to enforce this code.

B. The City Attorney's Office may enforce the provisions of this code on behalf of the City in any court of competent jurisdiction or City administrative body.

#### **30.01.110 No Restriction of Powers of Eminent Domain; Severability**

A. This Chapter shall not be construed to restrict the City's existing authority to exercise powers of eminent domain through condemnation as outlined in state law.

B. If any part or provision of this Chapter, or application thereof to any person or circumstance, is held invalid, the remainder of this Chapter and the application of the provision or part thereof, to other persons not similarly situated or to other circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter are severable.

## **Preservation Scope of Work**

### **Guiding Principal for the Preservation Working Group**

- I. Efforts should be targeted toward those owners/management agents who own projects presently at-risk of conversion
- II. The Preservation Working Group should be an inclusive group of local and Agency officials involved with the preservation process in some capacity. Accordingly, efforts should be made to include the following players to the Preservation Working Group:
  - Internally: Housing Choice Voucher (HCV) Division
  - Externally: U.S. Department of Housing and Urban Development (HUD), State Department of Housing and Community Development (HCD), California Housing Partnership (CHPC), local nonprofits, property management firms, owner representatives, and the CA.Coalition for Rural Housing
- III. The Agency will move forward with its efforts to provide outreach to both tenants and owners regarding Preservation
- IV. The Agency would like input from the Preservation Working Group regarding whether or not SHRA should locally institute a Preservation Ordinance and if so what should be included in the ordinance

### **Work Items**

#### **Staff Items:**

1. Establish a current inventory of at-risk properties and analyze the inventory (includes getting a list of tax credit expirations in Sacramento County)
  - The at-risk projects should have upcoming Section 8 expirations
  - SHRA will continue to gather Section 8 expiration information from HUD to refine these lists.
  - This list will be maintained and updated every 6 months
2. Send out letter to Management Agents and owners of at- risk HUD assisted projects informing them of the notification requirements and to whom the letter should be addressed locally
3. Work with HUD to develop a packet of information for Management Agent/Owners regarding all resources that are available for preservation activities.
  - Follow up after mailing with a phone call or other personal contact to encourage agents/owners first to stay in the program, if at all possible and if not, to transfer to an affordable housing developer
4. Assist in tenant education
  - Tenant education is a very important part of the preservation process so that they understand the process, possible outcomes, and the use of vouchers.
  - Special attention need so to be paid to tenants who do not speak or understand English – the tenant information needs to be distributed in different languages including at least Spanish and Russian
  - Develop a workshop on preservation for elected officials,
5. Develop a workshop on preservation for Management Agents and Owners
  - Provide on an ongoing basis, twice /year or more frequently if appropriate/possible.
  - The AHMA (Affordable Housing Management Association) might be a good forum
6. Track what happens to Section 8 tenants issued tenant-based voucher after a prepay or an opt out.
  - Development Services to coordinate with Section 8 to get the information recorded

7. Develop a list of management agents and owners who manage or have purchased preservation properties
  - SHRA to complete with input from Preservation Group
8. Develop a list of consultants who can aid an owner if he/she decides to preserve a projects or if he/she wants to sell to an organization that will preserve the units
  - SHRA to complete with input from Preservation Group

**Legal:**

1. Submit to the Law and Legislative Committee a proposal for a preservation ordinance (August 20, 2002) that would enforce existing state noticing requirements that would outline consequences for non-compliance
2. Look into how "matching offer" provision of the State's noticing requirements is defined in state law
3. Look into the possibility of placing a lien on title for those who fail to comply with new ordinance
4. Research recent California statutes affecting HUD Preservation properties (noticing requirements)
5. Research Ellis Act and whether it limits ability of municipalities to regulate HUD owners
6. Research other jurisdictions' preservation ordinances, including Portland's, and its accompanying letter of credit program for acquisition of preservation properties.
7. Analyze which actions by the city, if any, are pre-empted by California law
8. Research source of income discrimination (California Law, Practice)
9. Investigate incentives to maintain some or all project-based assistance in the development whether it sells to an affordable housing or to a market-rate developer.

**Financial Assistance:**

1. Identify resources the city and county resources required for the Agency to commit to funding first right of purchase or other subsidy requirements in light of other housing priorities.
2. Identify other potential acquisition funds outside the Agency
3. Work with CHFA to increase the local use of their Preservation Program
4. Become informed on IRP decoupling
5. Maintain up to date information on HUD's Office of Multifamily Restructuring (OHMAR)