



Office of the City Manager

CONSENT CALENDAR
January 21, 2020

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Kelly Wallace, Interim Director, Health, Housing & Community Services
Subject: Release of Resale Restrictions on former Redevelopment Agency Homeowner Loans

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute releases for resale restrictions on seven homeowner loans made by the former Berkeley Redevelopment Agency.

FISCAL IMPACTS OF RECOMMENDATION

None. The City released its financial claims to the properties in 2017, per the executed agreements.

CURRENT SITUATION AND ITS EFFECTS

In 1987, the Berkeley Redevelopment Agency (RDA) created a first-time homebuyers program for low-income households. The agency selected nine eligible households through a lottery to purchase homes owned by the RDA in West Berkeley. The homes were acquired by the agency as part of a larger redevelopment plan in the early 1970s.

The RDA's program allowed the households to purchase a home with a low down payment supplemented by loans provided by the RDA and U.S. Department of Housing and Urban Development (HUD). In exchange, the RDA required program participants to agree to a resale restriction agreement that prohibits sale to anyone other than a low-income buyer at an affordable price for 35 years. Buyers would be required to repay the principal of the loans, down payment and capital improvements and restart the 35-year affordability period. Should the borrower sell to a non-qualifying buyer, they would be required to repay the RDA's loan plus accrued interest. The RDA loans had a 12% compounding interest rate that brought the balance of the loans to over \$2 million by the end of the loan term. The borrowers are also required to remain as the primary occupants of the homes as part of the agreement.

Borrowers paid off the HUD loans in 20 years. The RDA's loans were forgivable after 30-years provided the borrowers remained in compliance. Accordingly, the City forgave all of the loans in November 2017. The resale restrictions for the borrowers will expire in November 2022.

The primary purposes of the RDA's program were to rehabilitate homes in this West Berkeley neighborhood, provide homeownership opportunities for low-income households, and support a stable residential area. However, the program had several features, including the resale restrictions and high-interest rate 30-year (forgivable) loans described above, that make the properties very difficult for owners to sell, even to other low-income buyers. As a result, none of the participating homes have been sold in 32 years, despite an average homeownership term of 13 years in the United States. Over the lifespan of the program, many of the participating buyers have expressed a desire to sell or otherwise change their residence.

The City Council, acting as the Successor Agency to the RDA, previously released the resale restrictions for one borrower near the time of his death since he had no heirs that the agreement would have allowed to occupy the home until the expiration of the restrictions. The Council acted at the December 13, 2016, Successor Agency meeting. A second release was addressed at a Special Closed City Council meeting on October 21, 2019. The remaining seven borrowers are still subject to the 35-year restrictions, expiring in 2022.

The agreements for the remaining borrowers are recorded with the Alameda County Clerk-Recorder's Office with the instrument numbers listed below. Staff will record releases for each agreement following Council's approval.

- 88-018756
- 87-305517
- 87-305548
- 87-305529
- 87-305561
- 87-305554
- 87-305523
- 87-305542

BACKGROUND

The City acquired responsibility for these properties following the dissolution of redevelopment agencies by the State of California in 2012. The portfolio is currently being managed by the Department of Health, Housing and Community Services' Housing Services Division.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

The City released its monetary claims to these properties when it forgave all the RDA loans in 2017 (per the agreements). At that time, the City informed the owners that

resale restrictions remained in place for five more years. Subsequent conversations and correspondence with the borrowers indicate that a majority of the owners wish to sell their homes in 2022 when the resale restrictions expire.

The purpose of the program has been fulfilled. Enforcing the remaining years of the resale restriction would not advance the public interest in providing affordable housing opportunities, housing preservation, or neighborhood stability. The borrowers have remained in their homes for approximately 32 years, and there is little if any public benefit resulting from postponing the sale of their homes (should they choose) for three more years.

ALTERNATIVE ACTIONS CONSIDERED

The City could take no action and enforce the resale restrictions until they expire in 2022. It is highly unlikely that any borrower would sell at an affordable price to a low income buyer after 32 years, three years before the expiration of the resale restrictions.

CONTACT PERSON

Mike Uberti, Community Development Project Coordinator, HHCS, (510) 981-5114

Attachments:

1: Resolution

RESOLUTION NO. ##,###-N.S.

RELEASE OF RESALE RESTRICTIONS ON FORMER REDEVELOPMENT AGENCY
HOMEOWNER LOANS

WHEREAS, the Redevelopment Agency of the City of Berkeley authorized the sale of nine homes via a first-time homebuyers program the agency established in 1987; and

WHEREAS, the sales of these homes were contingent on each borrower executing a 30-year forgivable loan and 35-year resale restriction agreement held by the Redevelopment Agency and recorded with Alameda County; and

WHEREAS, the California Supreme Court action in the California Redevelopment Association v. Matosantos case dissolved all Redevelopment Agencies as of February 1, 2012; and

WHEREAS, the City of Berkeley is the designated Successor Housing Agency to the former Redevelopment Agency, with the authority to manage its housing assets; and
WHEREAS, the City forgave all the loans in the program in November 2017 in accordance with the loan agreements; and

WHEREAS, the resale restriction agreements will remain in effect until November 2022; and

WHEREAS, the City Council previously released the resale restrictions for two borrowers; and

WHEREAS, the resale restrictions impose limitations that make the properties very difficult for owners to sell, even to other low-income buyers; and

WHEREAS, enforcing the remaining years of the resale restriction would not advance the public interest in providing affordable housing opportunities, housing preservation, or neighborhood stability.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it approves the release of the resale restrictions for the seven borrowers under the former Redevelopment Agency's first time homebuyer program.

BE IT FURTHER RESOLVED that the City Manager, or her designee, is hereby authorized to execute all documents to effectuate this action.