



County of Monterey

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 24-276

April 30, 2024

Introduced: 4/5/2024

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

- a. Approve and authorize Amendment No. 2 to the Jeannette Warzycki individual Buyer's Occupancy and Resale Restriction Agreement with Option to Purchase to allow conveyance of their inclusionary unit into a revocable trust; and
- b. Approve and authorize the Housing and Community Development Director, or his designee, to execute the approved Amendment No. 2 to Buyer's Occupancy and Resale Restriction Agreement with Option to Purchase.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve and authorize Amendment No. 2 to Jeannette Warzycki individual Buyer's Occupancy and Resale Restriction Agreement with Option to Purchase to allow conveyance of their inclusionary unit into a revocable trust; and
- b. Approve and authorize the Housing and Community Development Director, or his designee, to execute the approved Amendment No. 2 to Buyer's Occupancy and Resale Restriction Agreement with Option to Purchase.

SUMMARY:

Jeannette Warzycki owns an Inclusionary Home in the Las Palmas Ranch, Phase II subdivision that is designated as a moderate-income unit. Moderate-income units are affordable to households earning no more than 120% of area median income, adjusted for the number of people in the household. Ms. Warzycki purchased her inclusionary unit in 2010 and executed a Buyer's Occupancy and Resale Restriction Agreement with Option to Purchase in perpetuity. Ms. Warzycki has requested approval to transfer title of her Inclusionary Housing Unit into a revocable living trust as part of her estate planning. She owns the inclusionary unit in the Las Palmas Ranch Inclusionary Housing Subdivision that are designated as moderate-income units. Under the terms of the recorded Owners' Buyer's Occupancy and Resale Restriction Agreement with Option to Purchase with the County ("Agreement"), transfers of title by Owner into an inter vivos trust in which Owner is the beneficiary is allowed, provided, however, that Owner shall provide written notice of such transfer to County. However, timing of the Agreement requires Board of Supervisors' approval.

The Board has previously approved requests by other Inclusionary homeowners to transfer their inclusionary unit into a revocable living trust.

DISCUSSION:

Owners of Inclusionary units who purchased their home after July 12, 2011, are allowed to transfer their homes into trusts under Section 3.E. TITLE CHANGES AND PROPERTY INHERITANCE of the Inclusionary Housing Program Administrative Manual previously amended and adopted by the County Board of Supervisors. The amendment, however, did not provide for retroactive application of this provision for existing homeowners who had entered into an agreement prior to July 12, 2011. Jeannette Warzycki’s Buyer’s Occupancy and Resale Restriction Agreement with Option to Purchase got first recorded on 10/6/2010. For this reason, our office is submitting this request to the Board of Supervisors for approval.

The proposed amendment to the Agreement enables the homeowners to transfer title of their property to a trust by expanding the Agreement’s definition of “Permissible Transfer” to include conveyance to a revocable living trust for estate planning purposes. The amendment will allow the County to preserve its affordable housing program by requiring homeowners: (1) specifically acknowledge the continuing conditions of the Inclusionary Housing Program; (2) include specific language in the Deed transferring title into the trust; and (3) include specific language in the homeowners’ trust documents. The proposed amendment will not affect the Inclusionary Housing Program’s restrictions regarding the resale of home to income-and-asset qualified buyers and is consistent with the Ordinance.

OTHER AGENCY INVOLVEMENT:

The County Counsel Office has reviewed this report and approved The Jeannette Warzycki Revocable Trust and the Trust Transfer Deed. The County Counsel Office will approve the Amendment No. 2 to Inclusionary Housing Agreement as to form.

FINANCING:

There is no fiscal impact on the General Fund or on revenues. Staff time to prepare this report is included in the FY2023-24 Adopted Budget for HCD Appropriation Unit HCD001, Unit 8542.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The County’s Inclusionary Housing Program provides homeownership opportunities in the unincorporated areas of Monterey County to Low- or Moderate-Income households.

Check the related Board of Supervisors Strategic Initiatives:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

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Approved by: Craig W. Spencer, Director of Housing & Community Development, x5233

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The following attachments are on file with the Clerk of the Board:

Attachment A - Warzycki - Buyer's Occupancy and Resale Restriction Agreement

Attachment B - Amendment No. 2 Transfer to Trust POST 2002 Warzycki