



County of Monterey

Item No.

Board Report

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

Legistar File Number: 23-820

November 07, 2023

Introduced: 10/17/2023

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

- a. Approve and authorize Amendment No. 2 to the Karen J. Smithson individual Inclusionary Housing Agreement to allow conveyance of her 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 Inclusionary Housing Agreement.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve and authorize Amendment No. 2 to the Karen J. Smithson individual Inclusionary Housing Agreement to allow conveyance of her 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 Inclusionary Housing Agreement.

SUMMARY:

Inclusionary Housing Program homeowner, Karen J. Smithson, purchased her inclusionary unit in 2000 and executed a 30-year Inclusionary Housing Agreement. Karen J. Smithson 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 Subdivision, Phase II, and her unit is designated as moderate-income. Under the terms of the recorded Owners' Inclusionary Housing Agreement with the County ("Agreement"), transfers of title between owner-spouses and to eligible purchasers (i.e., new income qualified owner-occupants) are the only permitted transfers of title. Per the terms of the Agreement, any other transfer of property title, including into a trust, is not allowed.

The current Inclusionary Housing Program does allow for transfers into revocable trusts on certain conditions. However, this provision of the Inclusionary Housing Agreement requires Board 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.

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 First Amendment to the Karen J. Smithson Living Trust and the Corrective 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.

☒ Economic Development

☐ Administration

☒ Health & Human Services

☐ Infrastructure

☐ Public Safety

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Reviewed by: Darby Marshall, Housing Program Manager, x5391

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

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

Attachment A - Smithson - Inclusionary Housing Agreement.pdf

Attachment B - Amendment No. 2 Transfer to Trust PRE 2002 Smithson.pdf