



Monterey County

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Board Report

Legistar File Number: 18-007

January 23, 2018

Introduced: 1/4/2018

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

- a. Approve Amendment No. 2 to the Dale and Carolyn DePalatis individual Inclusionary Housing Agreement to allow conveyance of their unit into a revocable trust; and
- b. Authorize the Economic Development Department Director to execute the approved Amendment No. 2 to Inclusionary Housing Agreement.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve Amendment No. 2 to the Dale and Carolyn DePalatis individual Inclusionary Housing Agreement to allow conveyance of their unit into a revocable trust; and
- b. Authorize the Economic Development Department Director to execute the approved Amendment No. 2 to Inclusionary Housing Agreement.

SUMMARY:

Inclusionary Housing home owners Dale and Carolyn DePalatis have requested approval to transfer title of their Inclusionary Housing Unit into a revocable living trust as part of their estate planning. They own the home in the Oak Tree Views Inclusionary Housing Subdivision of Monterra Ranch Properties that are designated as 120% moderate-income units. 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. While the current Inclusionary Housing Program does allow for transfers into revocable trusts on certain conditions, application of this provision to pre-existing Inclusionary Housing Agreements 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 on that date. The amendment, however, did not provide for retroactive application of this provision for existing Inclusionary homeowners.

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 in regard to 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 Dale DePalatis and Carolyn DePalatis 2009 Trust and Related Documents, and the Amendment No. 2 to Inclusionary Housing Agreement as to form.

FINANCING:

There is no fiscal impact on the General Fund or on revenues.

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.

Mark a check to the related Board of Supervisors Strategic Initiatives

X Economic Development

__ Administration

X Health & Human Services

__ Infrastructure

__ Public Safety

Prepared by: _____
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Approved by: _____
David L. Spaur, CECD, EDFP, Economic Development Director, Ext. 5387

Attachments:

Draft Amendment No. 2 to Inclusionary Housing Agreement for Dale and Carolyn DePalatis
DePalatis Inclusionary Agreement