



County of Monterey

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

Board Report

File #: A 12-158, **Version:** 1

- a. Approve Amendment No. 2 to the Richard and Patricia Walton individual Inclusionary Housing Agreement to allow conveyance of their unit into a revocable trust;
- b. Approve Amendment No. 2 to the Rowaine W. Kram individual Inclusionary Housing Agreement to allow conveyance of her unit into a Revocable Living Trust;
- c. Approve Amendment No. 2 to the Guy and Linda Agrati individual Inclusionary Housing Agreement to allow conveyance of their unit into a revocable living trust; and
- d. Authorize the Interim Assistant County Administrative Officer to execute the Approved Agreements.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve Amendment No. 2 to the Richard and Patricia Walton individual Inclusionary Housing Agreement to allow conveyance of their unit into a revocable trust;
- b. Approve Amendment No. 2 to the Rowaine W. Kram individual Inclusionary Housing Agreement to allow conveyance of her unit into a Revocable Living Trust;
- c. Approve Amendment No. 2 to the Guy and Linda Agrati individual Inclusionary Housing Agreement to allow conveyance of their unit into a revocable living trust; and
- d. Authorize the Interim Assistant County Administrative Officer to execute the Approved Agreements.

SUMMARY:

Three Inclusionary Housing homeowners have requested approval to transfer title of their Inclusionary Housing Units into revocable living trusts as part of their estate planning. All three own homes 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 Inclusionary Housing Agreement with the County ("Agreement"), the only permitted transfers of title are between owner-spouses and to eligible purchasers (i.e., new income qualified owner-occupants). 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 recently approved a request by another Inclusionary homeowner to transfer their unit into a revocable living trust (February 28, 2012).

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 existing Agreements will allow 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 that 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 resale of houses to income qualified buyers and is consistent with the Ordinance.

Requests from other Inclusionary owners are expected to be received in the future. The Economic Development Department will return to the Board with a proposal to amend the Inclusionary Housing Program Administrative Manual to include authorization by department staff to approve future requests for transfers to revocable trusts upon specified terms and conditions.

OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed and approved the Amendments as to form.

FINANCING:

There is no fiscal impact on the General Fund.

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Approved by:

Gene Rogers, Ext. 5383
Interim Assistant CAO
Acting Economic Development/WIB Director

Attachments: Amendment No. 2 to Inclusionary Housing Agreements: Walton, Kram, and Agrati; Required Deed Language for Transfer to Revocable Trust; and Required Trust Language.