



118-0282019-002

Agenda Item **No. 5(e)**
Meeting of August 6, 2019

MEMORANDUM

TO: Community Investment and Infrastructure Commissioners

FROM: Nadia Sesay, Executive Director

SUBJECT: Annual Certificate of Preference Marketing and Outreach Report, Fiscal Year 2017-18 from the Mayor's Office of Housing and Community Development

EXECUTIVE SUMMARY

The Property Owner and Occupant Preference Program, also known as the Certificate of Preference Program (the "COP Program"), provides preferences for displaced persons in the leasing and sale of housing within the former Redevelopment Agency's Project Areas or at city-wide affordable housing projects assisted with the Mayor's Office of Housing and Community Development ("MOHCD") funds. The COP Program implements state law requiring redevelopment agencies to prioritize low and moderate income households "in renting or buying" affordable housing developed with agency assistance if the households were "displaced by the redevelopment project." Cal. Health & Safety Code § 33411.3. This statutory authorization and the evidence of a certificate holder's displacement justify a housing preference that might otherwise violate the prohibition of discrimination under fair housing laws. The COP program does not guarantee any particular housing unit but provides the displacee with a preference over other applicants if the displacee meets the financial and other program qualifications for the affordable housing opportunity. OCII has an agreement with MOHCD whereby MOHCD implements the COP Program on behalf of OCII. This memorandum transmits MOHCD's report on COP Program compliance for Fiscal Year 2017-18.

BACKGROUND

The COP Program has long been part of a remedial program for displacees. The California Community Redevelopment Law (CRL) and other laws required that redevelopment agencies offer various forms of compensation and assistance to persons who were displaced by redevelopment projects. Under federal and state laws, displacees

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have been potentially eligible for: 1) just compensation to the owner of property acquired by the government; 2) relocation assistance, including payments for moving assistance to all displacees and payments for reestablishment expenses incurred by businesses; 3) temporary and permanent replacement housing, available prior to displacement, for low and moderate income households wherein the units are comparable to those from which the household was displaced; and 4) a preference for low and moderate income households to rent or buy affordable housing assisted by the redevelopment agency. In addition, redevelopment agencies had an obligation to replace any low or moderate income housing that it removed or caused to be removed within a four year period after the removal.

The determination of whether an occupant of property was actually displaced is important for establishing eligibility for these benefits. The law defines displaced persons as those who move themselves or their businesses as a result of acquisition of their property by an agency or by a private entity acting pursuant to redevelopment agency authority. Displaced persons also include people who move as a result of rehabilitation of the property by an agency or private party acting pursuant to agency authority.

Section 33411.3 of the CRL authorizes the COP Program:

[T]he agency shall require by contract or other appropriate means that the housing be made available for rent or purchase to the persons and families of low or moderate income displaced by the redevelopment project. Those persons and families shall be given priority in renting or buying that housing. However, failure to give that priority shall not affect the validity of title to real property. The agency shall keep a list of persons and families of low and moderate income displaced by the redevelopment project who are to be given priority, and may establish reasonable rules for determining the order or priority on the list.

Significantly, the CRL limits the priority or “preference” to persons who have low or moderate incomes and who were “displaced by the redevelopment project¹.” Moreover, the priority applies only in housing that is affordable to low and moderate income households. The CRL thus places several limitations on the preference program: the applicant’s income eligibility, the applicant’s status as displaced, and the type of housing—affordable—in which the preference applies. These limitations serve the purpose of preserving this preference for those households that the state legislature has determined to be particularly needy because they have suffered harm: low income displacees. These limitations also justify a narrow exception to fair housing law, which generally prohibits preferences that have the effect of discriminating against other classes of applicants. See e.g. Federal Fair Housing Act, 42 U.S.C. § 3604; Calif. Fair Employment and Housing Act, Gov’t Code § 12955; Calif. Unruh Civil Rights Act, Civil Code § 51.

¹ Under the CRL, the reference to “project” broadly refers to the agency’s actions in implementing a redevelopment plan

On June 3, 2008, the Redevelopment Agency authorized revised rules for the COP Program effective October 1, 2008. Section II.F.1 of the COP Program describes the duration of the Residential Certificate Holders; these certificate holders were those affected by the Urban Renewal Project Areas of either the Western Addition A-2 or Hunters Point (i.e., Area A of the Bayview Hunters Point Project Area) Redevelopment Project Areas. On December 15, 2015, the Commission authorized a five-year extension of Residential Certificates. Another extension may be approved in 2020, and, if approved, will extend the COP Program through 2025. Residential Certificate Holders meet the criteria under state law for receiving a priority in that they were displaced by actions of the former Redevelopment Agency.

On May 6, 2014 the Commission approved a Memorandum of Understanding (the “MOU”) with the Mayor’s Office of Housing and Community Development (“MOHCD”), through which MOHCD provides staffing and other services to assist in the implementation of OCII’s affordable housing obligations. One of MOHCD’s key responsibilities is to oversee marketing obligations of OCII’s affordable housing development partners. The MOU requires certain reporting on marketing activity. Marketing Outcomes Reports are presented to the OCII Commission on affordable and BMR units in OCII projects after full occupancy is achieved. These reports can be located at: <https://sfocii.org/housing>.

On June 5, 2018, OCII staff presented to the Commission the 2017 COP survey results “Recommendations to Maximize Success.” Specific recommendations that staff are now implementing include:

- income tiering in Requests for Proposals (RFPs);
- a mix of unit types (including one and two bedroom units);
- assuring services in new buildings offer seniors a welcoming environment;
- assuring COP holders they have a preference in all affordable housing developments;
- providing a “coming soon” list of units in the Western Addition;
- ensuring developers are notifying COP holders about all housing opportunities well in advance of marketing start;
- meeting with non-profit agencies to determine the effectiveness of the program; and,
- inform COP holders about all housing opportunities through the use of DAHLIA.

DISCUSSION

The Mayor’s Office of Housing and Community Development (“MOHCD”) oversees marketing obligations of OCII’s affordable housing developments pursuant to a Memorandum of Understanding (“MOU”) dated May 6, 2014. MOHCD manages the Certificate of Preference Program on behalf of OCII and the City. MOHCD also monitors compliance with other housing preferences required under redevelopment requirements.

Annually, MOHCD prepares a report for the Commission to provide the current status of the implementation of the COP Program in OCII projects. The Certificate of Preference Marketing and Outreach Report for Fiscal Year 2017-18 is included here as Attachment A.

Highlights of the attached FY 2017-18 report include:

- 18 COP holders were housed in OCII projects out of 61 COP applicants.
- 202 COP holders applied for affordable housing in OCII and MOHCD projects combined, and 35 COP holders were successfully housed.
- 61 new COPs were issued (an increase of 11% from the previous year)

As part of this reporting requirement, MOHCD has produced the attached Certificate of Preference Marketing and Outreach Report, FY 2017-18 describing activities and accomplishments over the past year.

(Originated by Pamela Sims, Senior Development Specialist – COP and Marketing Liaison)



Nadia Sesay
Executive Director

Attachment A: Certificate of Preference Marketing and Outreach Report, FY 2017-18