

## RESOLUTION NO. 9-2012

*Adopted January 31, 2012*

### **NON-BINDING RESOLUTION TO URGE THE SAN FRANCISCO BOARD OF SUPERVISORS TO CONTINUE THE CERTIFICATE OF PREFERENCE PROGRAM AND TO EXPAND THE PROGRAM, CONSISTENT WITH APPLICABLE LAW, TO INCLUDE THE CHILDREN OF RESIDENTIAL “C” CERTIFICATE OF PREFERENCE HOLDERS**

#### **BASIS FOR RESOLUTION**

1. On October 22, 1963, the Redevelopment Agency of the City and County of San Francisco (“Agency”) initially authorized, by Resolution 136-63, a business preference program for the Western Addition A-2 Project Area. Its primary purpose was to enable business owners “to re-enter [the displaced] business in the redeveloped area.” Rules Governing Business Preferences for the Western Addition Redevelopment Project Area A-2 (Oct. 22, 1963) (“1963 Rules”) at page 1. This program implemented the then newly-adopted California Community Redevelopment Law requirement that redevelopment agencies extend reasonable preferences to businesses “to reenter in business within the redeveloped area.” Cal. Health & Safety Code § 33339.5. In conformity with this statute, the Agency has approved, on numerous occasions since 1963, business reentry programs for particular project areas prior to the approval of new redevelopment plans.
2. On July 25, 1967, the Agency extended, by Resolution No. 103-67, the preference program to residential owners and occupants who were “obliged to move as a direct result of the operation of the [redevelopment] program” in the Western Addition Project Area A-2. The program established that “every A-2 owner or occupant will be afforded preferential consideration in the purchase of project land for the purpose of private development, or the rental of improved space within the new and rehabilitated structures on such land.” The program authorized the issuance of certificates, which were “non-assignable and non-transferable” to “a property owner or occupant of Area A-2 prior to the date of the adoption of Agency Resolution No. 103-67.” Certificates were valid for one year from date of issuance and could only be used once for “reestablishment.” The minutes of the Agency Commission meeting on July 25, 1967 describe the program as “the first of its kind on the West Coast.”
3. In 1969, the California Legislature amended the Community Redevelopment Law to require redevelopment agencies to provide low and moderate income households displaced by a redevelopment project with a priority in the renting and buying of affordable housing units that the agency develops. The Legislature amended this section in 1974, 1975, and 2002.
4. The statutory authorization for the certificate of preference program in housing is codified at Section 33411.3 of the Health and Safety Code. It requires the Agency

to give “priority in renting or buying” to displaced, low and moderate income households “whenever all or any portion of a redevelopment project is developed with low- or moderate-income housing units and whenever any low- or moderate-income housing units are developed with any agency assistance.” To qualify, the lower income household must be “displaced by the redevelopment project.”

5. The state’s requirement of providing a priority to lower income residential displaces was in addition to other relocation benefits (i.e., fair market value for acquired property, relocation assistance, replacement housing units) that the displacees may have received; it was also subject to otherwise applicable eligibility requirements that the Agency imposed on the renting or buying of the property. The Agency has also had a statutory obligation to provide preferences to businesses for the purposes of reentering the project area.<sup>1</sup>
6. The Agency has fulfilled these obligations through the Certificate of Preference Program and through separately-adopted business re-entry policies that are part of redevelopment plan approvals. Historically, the Certificate of Preference Program has applied only in the Western Addition A-2, Hunters Point (Area A of the Bayview Hunters Point Redevelopment Plan), Stockton-Sacramento, and Bayview Industrial Triangle Redevelopment Project Areas, although the Rincon Point-South Beach Redevelopment Project Area also has its own Certificate of Preference Program. In other redevelopment project areas, the Agency did not use the Certificate of Preference Program, but implemented the separately-adopted business re-entry policies and directly relied on the statutory obligations to provide preferences to lower income displaced residents. Accordingly, the Certificate of Preference Program is only one means by which the Agency has fulfilled its statutory obligations to provide displaced persons with a priority in the renting or buying of property.
7. On April 18, 1978, the Agency Commission rescinded, by Resolution 76-78, prior versions of the Certificate Program and adopted a new policy that clarified the Agency’s rules and administration of the Certificate of Preference Program (“Certificate Program”). Memorandum, W. Hamilton to Agency Commissioners, No. 109-14078—002 (April 11, 1978). The 1978 policy established the framework for the current administration of the Certificate Program.
8. The 1978 policy made several changes including: expanding the Certificate Program to include other project areas besides the A-2 Area; establishing that “only one certificate may be issued to a person or entity whether or not preference can be established on more than one basis;” and providing that a Certificate Holder could only use the certificate once to rent or to purchase units in assisted development unless a Certificate Holder who had used the certificate to rent subsequently used it to “upgrade” by purchasing an assisted unit.
9. The 1978 policy provided that a single certificate was available to the family unless the applicant determined “independent eligibility” by demonstrating that

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<sup>1</sup> California Health and Safety Code, Section 33339.5 (Reentry in business in redeveloped areas).

they were part of a separate family unit who lived in the same household at the time of displacement or that they intended to live separately apart from the family upon displacement. An individual or family received either: a Residential Certificate A if they occupied a "Project Area building at the time it was acquired by the Agency," or a Residential Certificate B if they occupied a Project Area building after a certain date but before the Agency acquired the building.

10. The 1978 policy stated: "When a Certificate is requested and proof of eligibility cannot be established by Agency records, the burden shall be upon the applicant to supply the Agency with necessary documentation." Section VII of Property Owner and Occupant Preference Program attached to Memorandum, W. Hamilton to Agency Commissioners (April 11, 1978).
11. In 1991, the Agency confirmed the applicability of the Certificate Program to all new housing developed within any redevelopment areas and thereafter all developments assisted by tax increment funds were required to provide preferential consideration to the Certificate Holders.
12. On December 8, 1998, the Agency Commission authorized, by Resolution No. 253-98, the expansion of eligibility standards for the Certificate Program to include persons "who were minor children or adults in the household at the time of displacement and who appear in the Agency's Site Occupancy Records." Eligibility was limited to those persons whose names appeared on Agency records to ensure that a "preference" continued to provide meaningful opportunities only to persons whom the Agency could verify had been displaced. Agency staff estimated that the expanded eligibility could "translate to approximately 23,200 potential certificates." Memorandum, J. Morales to Agency Commissioners at page 2 (Dec. 1, 1998).
13. In new rules issued on June 1, 1999, the Agency established the Residential C Certificate Holder to describe the new class of eligible persons, but provided that this new certificate of preference was derivative of the original Residential A Certificate. In other words, the eligibility of the Residential C Certificate Holder was limited by the actions of the Residential A Certificate Holder in exercising the original certificate. If the Residential A Certificate Holder had used the certificate to rent, the Residential C Certificate Holder from that same displaced household could only use a certificate to obtain a preference in the purchase of an assisted unit. As with other Certificate Holders, the Residential C class had to meet income eligibility requirements for the low- and moderate-income housing that the Agency had assisted.
14. Since the beginning of 2007, the Agency Commission has received numerous memoranda from Agency staff and held several public hearings on the administration of the Certificate Program to consider how the Agency may improve it. See e.g. Memorandum, M. Rosen to Agency Commissioners, No. 118-41005-003 (Meeting of March 20, 2007); Memorandum, M. Rosen to Agency Commissioners, No. 118-35007-002 (May 31, 2007); Memorandum, F. Blackwell to Agency Commissioners, No. 118-09908-002 (Jan. 29, 2008).

15. On June 3, 2008, by Agency Resolution 57-2008, the Agency amended and restated the Certificate Program to codify and clarify previous amendments authorized by the Agency Commission. These amendments included:
  - a. extending the expiration date of residential certificates;
  - b. expanding the housing opportunities for Certificate Holders who did not receive certificates at the time of displacement because they were not then eligible, e.g., minor children and adults who were not heads of the household and did not appear in the Agency's Site Occupancy Records;
  - c. revising and clarifying the appeals process when the Agency denies a certificate;
  - d. confirming that a displacee may establish eligibility through other forms of documentation even though his or her name does not appear on Agency records;
  - e. providing an enhanced education and outreach program to identify displaces; and
  - f. reaffirming existing policy that only persons displaced by Agency action are eligible for a certificate.<sup>2</sup>
16. The head of a displacement household ("HOH") is known as "Residential A Certificate of Preference Holders" or "Residential A Certificate Holders". Adults and/or children who were part of a displaced household are known as "Residential C Certificate of Preference Holders" or "Residential C Certificate Holders".
17. In addition to Residential A and C Certificate Holders, there are Residential G Certificate Holders. "Residential G Certificate Holder" are displaced persons who otherwise meet the definition of a displaced person and who lived outside of the Western Addition A-2 Project Area or the Hunter Point Project Area when they were displaced.
18. The Residential G Certificate Holders were added so that the Agency would have a uniform program of preference for displacees regardless of whether they were displaced from the Western Addition A-2 Project Area, the Hunter Point Project Area or elsewhere within the City.
19. The Agency Commission directed Agency staff to explore the future expansion of the Certificate Program to include the grandchildren of Residential Certificate Holders for certificate eligibility. The Agency Commission did not authorize an immediate expansion of the Certificate Program to include this group, rather it directed Agency staff to continue investigating, among other things, the feasibility of expanding eligibility in light of the supply of affordable housing and the ability of the Agency to meet existing demand.

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<sup>2</sup> A complete history of the Certificate Program up to and including the 2008 amendment is contained in the Agency Staff Memorandum dated June 3, 2008 and restated in the Agency Resolution 57-2008, both of which are attached hereto.

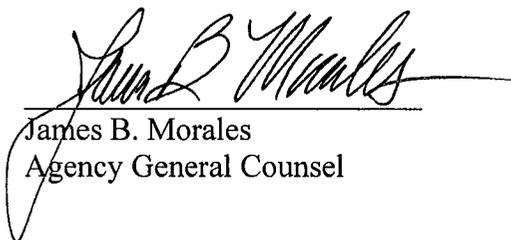
almost a year and will be dissolved on January 31<sup>st</sup>, 2012. Moreover, AB 26 prohibits the Agency from “amend[ing], or otherwise modify[ing] a redevelopment housing plan,” such as the Certificate of Preference Program. Cal. Health & Safety Code § 34164 (h). The City and County of San Francisco, through its Mayor’s Office of Housing has been designated to receive all housing assets and programs on February 1, 2012. Under these circumstances, Agency is unable to do additional research and develop program recommendations for the Certificate Program.

25. The Agency Commission desires that the Mayor’s Office of Housing continue the work started under the Certificate Program and that the City expand the Certificate Program to include the children of Residential C Certificate Holders.
26. On January 17, 2012, the Agency Commission directed staff to prepare a non-binding resolution to urge the San Francisco Board of Supervisors to continue and expand the Certificate Program to include the children of Residential C Certificate Holders for eligibility to receive a certificate.
27. Authorization of the amendments to the Certificate Program does not constitute a project, pursuant to California Environmental Quality Act Guidelines Section 15378(b)(5).

#### **RESOLUTION**

**ACCORDINGLY, IT IS RESOLVED** that the Commission of the Redevelopment Agency of the City and County of San Francisco strongly urge the Board of Supervisors of the City and County of San Francisco to continue the Certificate of Preference Program and to expand the Certificate Program, consistent with applicable law, to include the children of Residential “C” Certificate Holders.

**APPROVED AS TO FORM:**

  
James B. Morales  
Agency General Counsel