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Council Districts: Citywide
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Honorable Members of the City Council
City of Los Angeles
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COUNCIL TRANSMITTAL: REPORT FROM THE LOS ANGELES HOUSING DEPARTMENT REGARDING PROCEDURES GOVERNING MARKETING AND TENANT SELECTION FOR NEWLY CONSTRUCTED COVENANTED AFFORDABLE HOUSING UNITS IN UNSUBSIDIZED, MIXED INCOME PROJECTS

SUMMARY

The General Manager of the Los Angeles Housing Department (LAHD) respectfully submits this report in response to Council File (C.F.) No. 24-0124, approved by the City Council on April 3, 2024. The referenced Council action requested that LAHD report back on the procedures governing the marketing and tenant selection for newly constructed, covenanted, affordable housing units in unsubsidized, mixed-income projects created through Transit Oriented Communities (TOC), Density Bonus (DB), and similar Land Use incentive programs, the extent of City oversight of these processes, and what, if any, changes will be necessitated by the roll out of the Comprehensive Online Affordable Housing Search System as directed by C.F. No. 23-0426, approved by the City Council on November 14, 2023.

In summary, LAHD executes covenants for projects that receive Land Use incentives, commonly known as “Land Use projects.” Covenants prepared after October 1, 2021, reflect the City Council’s direction to require Land Use Affirmative Marketing Plans (LUAMPs) for Land Use projects (C.F. No. 21-0664, approved August 25, 2021). The covenants provide owners of Land Use projects with discretion regarding their marketing and tenant selection processes, while the City ensures compliance with covenanted requirements. Through its monitoring efforts, LAHD confirms that eligible households occupy restricted units and that they do not pay more rent than is allowed by the Covenant. LAHD also prioritizes working with hundreds of Land Use projects to complete their online listing requirements to ensure Angelenos and the general public are aware of the newest available affordable housing opportunities in the City.

RECOMMENDATIONS

That the City Council receive and file this report.

BACKGROUND

LAHD's inventory of monitored affordable housing projects consists of both affordable housing projects restricted by a regulatory agreement with accompanying funding and mixed-income projects that restrict a portion of units as affordable through a Land Use covenant, as a result of TOC, DB, or other similar programs.

LAHD is charged with preparing and executing covenants when an owner has received a Land Use concession from the City or is subject to a City ordinance or law that requires an affordable housing set-aside. Land Use covenants for unsubsidized, mixed-income projects use a standardized template that is updated as laws and requirements change. Land Use covenants obligate owners to designate a specified number and type of affordable units, usually for a term of fifty-five (55) years, which the covenant defines as starting on the date of the Certificate of Occupancy. Land Use covenants run with the land and are binding on all current and future owners of the site; and are signed by the property owner, LAHD, City Attorney, and City Clerk, and then recorded with the County Assessor's office by LAHD.

LAHD certifies that Land Use projects are in compliance at initial lease-up and once a year thereafter, for the term of the covenant, which begins with the issuance of a project's Certificate of Occupancy. Owners/property managers are required to submit an income certification package for the Department's review before tenants move into the restricted units.

LAHD acknowledges that affirmative marketing concerns have increased as the affordable housing crisis in the City has grown. LAHD also understands that a large number of affordable housing opportunities in the City are directly tied to new construction projects, including Land Use projects. In response, LAHD staff in the Occupancy Monitoring section (OM) have dedicated an increased amount of time to work with owners and property managers of new Land Use projects. The technical support that LAHD staff provides has been important to the implementation of current and new covenant requirements. Specifically, LAHD staff has helped owners of Land Use projects reach broader audiences of prospective applicants by advertising newly constructed affordable units on the LAHD's Affordable and Accessible Housing Registry (AAHR). LAHD staff also provides enhanced technical assistance to help owners and property managers list their new, affordable units and monitors occupancy activities to ensure eligible households are selected for affordable units and pay affordable rents. Specifically, LAHD staff dynamically responds to both owner/property manager and housing seeker inquiries, which has included virtual meetings where LAHD staff can screenshare and provide one-on-one instructions on how to successfully complete property listing corrections and filter their housing search queries respectively. Additionally, OM staff has conducted over two years of development support and website functionality testing to improve the separate user experience/interface that has been created for Land Use property listings on the AAHR. LAHD OM and Systems staff regularly collaborate to improve AAHR functionality. Moreover, in the 2024

calendar year, LAHD staff responded to 122 email inquiries regarding the AAHR, which helped to publish new Land Use project listings.

City's Role in Affirmative Marketing for Restricted Housing Units in Unsubsidized, Mixed-Income Projects

LAHD has been working to resolve concerns and frustrations that surround the search for newly constructed, affordable units, specifically those in Land Use projects. While LAHD-funded, 100% affordable housing projects were and are still required to conduct online marketing activities, the City Council expressed concern that Land Use projects did not have an online marketing requirement. The City Council then required that rental unit status and availability in Land Use projects be made easily accessible to the public by listing projects on the AAHR via C.F. No. 21-0664. In response, LAHD worked with the City Attorney's Office to include a new requirement for Land Use projects called a Land Use Affirmative Marketing Plan (LUAMP). At minimum, Land Use projects with covenanted LUAMP language are required to list affordable/restricted units on the AAHR. This new requirement is a significant step towards improving the online search for affordable housing units in the City of Los Angeles.

Effective October 1, 2021, LUAMP language was incorporated into the LAHD Land Use project covenant template as follows:

Affirmative Marketing of the Property. *At least one hundred and twenty days (120) days prior to the issuance of a Certificate of Occupancy or Certificate of Completion for the Project, if applicable, the Owner shall submit to the Department for review and approval, a plan for marketing the Restricted Unit(s) at the Project (the "Land Use Affirmative Marketing Plan" or "LUAMP") ...At a minimum, the LUAMP shall include Owner's obligation to advertise the availability of any Restricted Unit(s), both for the purpose of initial lease up and each time a Restricted Unit(s) becomes vacant) on the internet-based City of Los Angeles Affordable and Accessible Housing Registry (AAHR) at <https://lahousing.lacity.org/AAHR> and/or any other site subsequently designated by the City after providing Owner with ten (10) days written notice.*

A Land Use project takes an average of three (3) years to complete construction from the time of covenant execution. This means that Land Use projects with covenants recorded as early as October 2021 have LUAMP requirements and have started to complete the construction and lease up their affordable units in 2024. For additional context, as of May 31, 2024, LAHD has been actively monitoring 844 Land Use projects that have been issued a Certificate of Occupancy. Since the beginning of the 2024 calendar year, 47 projects have published their property listings on the AAHR. Based on the number of Land Use covenants recorded in 2023 and 2024, OM anticipates that approximately 1,000 projects with LUAMP requirements will be ready for occupancy by 2030. As such, LAHD's priority remains to provide Angelenos and the general public with the most accurate information regarding newly available restricted units in the City via affirmative marketing efforts as quickly and clearly as possible. With only one (1) staff currently dedicating part of their overall time to LUAMP-related work, LAHD is focused on ensuring affordable units in these newly-completed Land Use projects with LUAMP requirements are listed in the AAHR. Land Use projects without covenanted LUAMP requirements have more general language regarding marketing; and LAHD will work to list these projects as departmental staffing levels permit.

Moreover, effective FY2024-25, LAHD's budget request for one Housing, Planning, and Economic Analyst (HPEA) was approved with nine (9) months of funding. While this approval is a significant step towards successfully listing future projects on the AAHR, LAHD was unable to hire this position in FY 2024-25 due to the managed hiring protocol effective at that time. LAHD has been working with Personnel to prioritize the hiring of this position for the last 15 months and has been able to hire a HPEA who has been assigned to OM. The newly hired HPEA will focus on LUAMP implementation, development of procedures and materials, and early outreach to owners of new Land Use projects to list their new affordable units on the AAHR when they join OM at the end of this month. However, until this HPEA is properly onboarded and trained, there remains only one OM staff member that regularly conducts LUAMP-related work on a part-time basis.

City's Role in Tenant Selection for Restricted Housing Units in Unsubsidized, Mixed Income Projects

The owners and operators of Land Use projects have discretion over their administrative activities, including tenant selection. The current covenant template contains the following language:

Owner's Administration. *Owner shall administer each Restricted Unit, including tenant selection, lease-up, Rent collection, Property maintenance, and eviction procedures.*

The City is responsible for verifying the eligibility of tenants selected by the owner:

Tenant Selection. *Owner shall select Eligible Household(s) to occupy the Restricted Unit(s) subject to Owner's verification and the Department's certification of the household's eligibility.*

The owner is responsible for confirming a prospective tenant's income eligibility using income certification and source documentation such as tax returns, employment records, pay stubs, bank statements, benefits statements, and other appropriate records. The owners and prospective tenants must also confirm that the household's projected income is within the current maximum allowable income limits according to the project's assigned income and rent schedule(s) detailed in their respective property covenant. Additionally, under penalty of perjury, owners and prospective tenants must attest that they share no conflict of interest, specifically that the prospective renter is not: (a) an owner, developer, or sponsor of the Property, (b) an officer, employee, agent or consultant, or elected or appointed official of an owner, developer or sponsor of the Property; or (c) a member of the Immediate Family of any such person described in subsections (a) or (b).

Land Use projects must request that LAHD review and certify the income of a prospective tenant to determine eligibility before the household moves into the restricted unit. Through the certification, the project demonstrates that the household's projected income and rental amount are within the limits described in the property covenant. The owner must submit an income certification package with forms and income documentation for LAHD's review. This is another opportunity for LAHD to confirm that the project has successfully completed the LUAMP requirements. If a project has not completed the LUAMP requirements, LAHD will guide the owner/property manager on how to complete the property listing.

It takes approximately ten (10) business days to review a complete income certification package, which begins when all required items have been received. More commonly, owners/property managers submit incomplete

income certification packages. Incomplete submissions cause delays, but when owners/property managers resubmit packages properly, reviews are completed within five (5) business days. Furthermore, in consultation with the City Attorney's Office, LAHD created an expedited process for projects with restricted units assigned to moderate (120% AMI) and workforce (150% AMI) income levels. This updated process requires modified income documentation for these types of restricted units, which are not considered low income and have rental rates that are comparable to market-rate rents.

LAHD continues to look for new ways to streamline and quicken the income certification process while maintaining integral oversight to determine income eligibility prior to tenancy. In addition to providing timely responses to hundreds of emails and calls received on a monthly basis from applicants, housing seekers, tenants, owners, and property managers about the income certification process, LAHD hosts regular tutorial presentations for Land Use project owners and property managers on how to properly complete an income certification package. However, it is important to note that in 2024 alone, LAHD received and reviewed 1,514 requests for income certification. This is a 44% growth from 2023 (where 1,051 requests were received), and a 115% growth from 2022 (where 703 requests were received). Without additional staffing to complement the consistent growth of work, review times and delays in tenancy will continue to increase, especially when owner/property managers do not comply with covenanted income certification requirements.

Furthermore, owners/property managers may have additional requirements for prospective tenants as part of their own applicant screening process, which is handled by the property independently of LAHD and any property covenant requirements. Such activities can include rental history inquiries, credit checks, and setting a minimum monthly income requirement. LAHD is not involved in any other tenant selection activities outside of household income and rent level certification. This is because the property covenant states that owners have the right and responsibility to administer each restricted unit, including tenant selection, lease-up, rent collection, property maintenance, and eviction procedures. However, if there are any inquiries that LAHD receives that pertain to rent, income, or other covenant violations, LAHD staff will provide assistance and support to resolve any compliance issues.

Needs for Comprehensive Online Affordable Housing Search System

The LAHD's AAHR is an online tool that allows affordable housing seekers to search for rental listings without creating a user account. Affordable housing seekers may opt to receive automatically generated email notifications when Land Use projects are accepting applications for their newly constructed affordable units. The AAHR has also connected projects to eligible households who are willing and ready to occupy affordable units. However, a number of users have reported that the registry is not intuitive, while others have recommended improvements to simplify the process of updating and publishing listings for projects with LUAMP requirements. LAHD is planning to implement these and other user upgrades via the forthcoming Comprehensive Online Affordable Housing Search System, as directed by C.F. No. 23-0426.

Once LAHD has successfully onboarded and trained the HPEA position assigned to OM, this new staff will work with LAHD Systems staff to develop enhanced marketing features and improve user experience elements in the

Comprehensive Online Affordable Housing Search System. Significant improvements to the user experience are contingent upon the completion of the work under this contract and implementation of the new user interface, which should allow for greater efficiencies in publishing Land Use project listings more quickly and effortlessly.

While this process is underway, LAHD continues to use the existing AAHR to list newly available rental units in Land Use projects. Currently, one (1) Management Analyst is assigned to review AAHR listings for Land Use Projects on a part-time basis. As of the date of this report, only thirty eight (38) of the approximately 600 executed projects with LUAMP requirements have received their Certificates of Occupancy. LAHD staff has successfully published fifteen (15) LUAMP project listings to the AAHR and is in the process of outreaching to and reviewing property listings for the remaining projects. Because the AAHR property listing review process is a multi-layered effort that requires coordination efforts between LAHD OM staff, LAHD Systems Staff, and the property, the AAHR listing review process takes 45 days on average. This is because the property listing process requires cooperation and depends on the accuracy of the information submitted and overall responsiveness of the property. Also, the review process requires extensive work that is currently handled by one OM staff person on a part-time basis. This work includes, but is not limited to, listing setup and creation, communication exchanges regarding corrections and/or missing items, and technical assistance, which commonly takes place during the review process and post-publishing. Upon receipt of their Certificate of Occupancy, many more projects with listing requirements will be contacted and engaged to complete their property listings.

Furthermore, OM staff continues to work with Systems staff to update and improve the user experience/interface of the AAHR to make it easier for owner/property managers to complete their Land Use property listings with minimal requests for corrections. OM staff are also supporting efforts to create a comprehensive, multilingual online housing registry system to ensure that the Land Use property listings are easy to find and understand. It is the hope that when the new online system is released and OM has onboarded and trained at least the HPEA position, LAHD will be able to list all new Land Use projects with Certificates of Occupancy and LUAMP requirements within two (2) years, if not sooner.

Successfully listing the growing inventory of unsubsidized, mixed-income Land Use projects with LUAMP requirements will necessitate additional staff to increase outreach efforts, manage and maintain a new system with increased features and activities, and conduct regular reviews and as-needed enforcement of covenanted requirements, which is detailed in the next section.

Resources Required to Enforce Covenant Compliance

While LAHD continues to work with the City Attorney's Office to address non-compliance, enforcement tools are especially limited for unsubsidized, mixed-income Land Use projects. As of the date of this report, 43% of LAHD-monitored projects are non-compliant with their tenant occupancy monitoring requirements. The responsibility to enforce covenant requirements and resolve non-compliance issues remains with LAHD's OM staff, who actively work with projects and tenants to resolve disputes related to compliance. Eleven (11) staff currently work in OM, who are responsible for monitoring a growing inventory of over 51,000 units. This includes

two (2) senior managers and three (3) analyst-level staff who diligently work to address, respond to, and resolve non-compliance cases.

LAHD's current Land Use covenant template has only one section that addresses penalties for Land Use project owners:

Penalties. *If Owner fails to reasonably verify eligibility and rents to occupants whose Household Income exceeds permissible limits, Owner agrees to pay the Department all rents received for each day of such occupancy within ten (10) business days of the Department's written request.*

This penalty section only addresses non-compliance with tenant selection. There are no penalties described for non-compliance with covenanted online listing requirements. Also, there is no existing requirement or mechanism to implement the penalty fee collection. Furthermore, as LAHD's inventory of affordable housing units expands, additional staffing is needed to more adequately and efficiently address non-compliance with the new LUAMP requirements, as well as other issues related to overcharging tenant rents and failure to report tenant occupancy.

As of May 31, 2024, OM monitors over 51,000 units, a 12% growth from the previous calendar year. There are currently two (2) Management Analysts and one (1) Administrative Clerk who are assigned to work on Land Use project-related activities. These staff work on data verification required for annual monitoring, responding to inquiries received (from owners, property managers, tenants, applicants, and constituents), reviewing and resolving non-compliance cases, and outreaching to non-responsive Land Use projects. These three (3) staff have also taken on new Land Use project-centered responsibilities, including hosting monthly income certification tutorial presentations, weekly reviews to expedite income certification for new tenant move-ins, reviewing and publishing rental housing listings to the AAHR, and providing technical support to owners and property managers to complete their LUAMP and other covenant requirements.

Moreover, LAHD is projecting that approximately 1,000 new projects with LUAMP and income certification requirements will be ready for occupancy over the next five years, by 2030. Additional staff will be needed to quickly resolve covenant compliance issues, and provide customer service and technical assistance to Land Use project owners, managers, applicants, and other stakeholders. Also, with the unprecedented growth of the Land Use project inventory as a result of TOC and Mayor Karen Bass' Executive Directive 1-related incentives, LAHD needs new staff to supplement the demands of the rapidly increased inventory, especially to confirm project compliance. For this reason, LAHD will review current staffing allocations for OM. LAHD has also completed a recent fee study where it was determined that OM's monitoring fee collected for Land Use Projects should be increased, which would increase LAHD's special fund revenue. If this new fee increase is approved, LAHD will review the option to add new resources to OM.

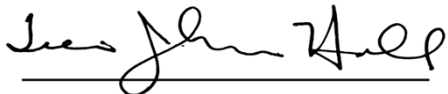
Specifically, to properly staff the projected workload and maintain covenant compliance for Land Use projects, LAHD anticipates requiring at least ten (10) additional OM staff. Staff would assist through the 55-year covenant term with early project outreach, provide more in-depth technical assistance with affirmative marketing and income certification requirements, address and resolve non-compliance issues, and engage with constituents in

a timely manner to resolve any complaints or covenant violations. Ideally, these additional staff should be comprised of three (3) teams which would focus on compliance monitoring and support, constituent outreach and engagement, and technical assistance respectively. Each team would have at least one (1) Management Analyst, one (1) Management Assistant, and one (1) Senior Administrative Clerk. These three (3) teams would be supervised by one (1) Senior Management Analyst, who is responsible for administering the teams' deliverables and reports.

FISCAL IMPACT

There is no impact to the General Fund from the recommendation to receive and file this report.

Approved By:

A handwritten signature in black ink, appearing to read "Tiena Johnson Hall", written over a horizontal line.

TIENA JOHNSON HALL
General Manager
Los Angeles Housing Department