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County of Santa Cruz

REDEVELOPMENT AGENCY

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TOM BURNS, AGENCY ADMINISTRATOR

May 10, 2002

Agenda: May 21, 2002

Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

Issues Related to At Risk Housing Units

Dear Members of the Board:

During the Oral Communications segment of your Board's March 5 meeting, residents of the Seaside Apartments spoke to your Board regarding concerns about the owners of their apartment building potentially "opting-out" of their long term affordability covenants for the site. At the conclusion of that presentation Board members expressed an interest in understanding this issue and what actions, if any, the County could take to assist in protecting such units for long-term affordability.

Background

Over the years, both for-profit and non-profit housing developers have constructed apartments affordable to low and very low income households with the financial assistance of the federal government. The accompanying financing agreements/contracts have required the developers/owners to maintain the units as affordable housing for fixed periods of time (generally 20 years), after which the owner has the option to extend their affordable housing commitment in exchange for ongoing financial assistance from the original funding source or "opt-out", allowing the units to become market rate rental housing. Figure 1 provides an overview of the "at risk units under these programs in the County by jurisdiction. Attachment 1 provides a detailed listing of all affected projects.

Figure 1: At Risk Units by Jurisdiction

Jurisdiction	No. of Projects	No. of Affected Units
City of Santa Cruz	6	373
City of Watsonville	4	405
City of Capitola	1	78
Unincorporated County	9	646
Total	20	1,502

One can see that there are a significant number of units potentially at-risk throughout the cities and the unincorporated area. Fortunately, over the years few projects have opted-out. In fact, of the projects included in Figure 1, only one project – Capitola Gardens, in the City of Capitola – has opted-out to date, which will ultimately result in the loss of 78 affordable housing units from the housing stock. One other project – Villa San Carlos -- opted-out of a somewhat different program, but remains affordable through on-going commitments of the non-profit owners.

While these numbers initially appear alarming, it is important to recognize that five of the nine projects in the unincorporated area are owned by non-profit entities which are obligated under their non-profit charter to continue to operate housing for lower income households. Four of the projects (including 343 units) in the unincorporated area are truly “at risk due to being owned by for-profit entities. Those projects are listed below.

Figure 2: Truly At-Risk Units in Unincorporated Area		
Project Name	No. of Affected Units	Comments
Sea Pines Apartments – Aptos	27	HUD contract expires in 2012; County Measure J restrictions until 2014
Elizabeth Oaks Apartments – Live Oak	126	HUD contract expires in Jan. 2003; County Measure J restrictions until 2013 (owner has notified HUD of intention to extend)
Seaside Apartments – Live Oak	84	HUD contract expires in Nov. 2002 (owner has reserved the right to opt-out; will initiate negotiations with HUD in July)
Pajaro Vista – Freedom	106	HUD contract expires in July 2004 (owner already extended contract with HUD previously in 1999)

HUD Process for Addressing Expiring Restrictions

Under the contract terms with HUD, the owners of these projects have the option to extend their agreement for five year periods, subject to annual federal budgetary appropriations. If an owner is interested in extending their agreement they typically submit a rent survey for HUD's review at least 120 days before the contract's expiration date. Subsequently, HUD conducts its own local rent survey and then the two parties negotiate the rent levels for the term of the five year contract extension. Under recent federal law, HUD has greater latitude in negotiating the future rent levels, but they are still limited in their maximum rent levels. We are told that it is not unusual for these negotiations to go right up to the termination date of the contract.

In the event that negotiations are not initiated by the owner or are unsuccessful, HUD instructs the Housing Authority to issue Section 8 Vouchers to the tenants which they can continue to use on the site or take to another venue. The units themselves become market

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rate apartments. While not always the case, such a conversion may over time, without the benefits of HUD's regulatory requirements, lead to higher rent levels, more frequent unit turnover, a lower level of on-site management oversight, and a lower level on on-site maintenance. Higher rent levels can also result in unit overcrowding and a series of related issues, including overtaxing on-site parking facilities.

Ultimately, we are told by HUD staff that, barring any other considerations, the final decision by the property owner of whether to extend the contract is generally a business decision based on which path leads to higher sustained revenues. HUD sees its role simply as facilitating the termination or extension of the contract.

State Law Requirements for Projects Considering Opting-Out of Restrictions

State law requires the owners of federally-assisted affordable housing projects to provide a Notice of Intent, at twelve and six month intervals, prior to terminating rent subsidies or restrictions. These notices must be sent to all affected tenants, the Chairperson of the local government (in our case the Board of Supervisors), the local Housing Authority and the State Department of Housing and Community Development.

Furthermore, the law requires owners to provide notice of the opportunity to purchase the project to HCD approved "qualified entities", which includes non-profit and for-profit organizations that agree to maintain the long-term affordability of the projects. Qualified entities have 180 days to submit offers to purchase. Owners are not, however, required to negotiate with interested entities if they do not desire to sell their project.

State law therefore, while providing notice to tenants and local governments of impending contract cancellations and connecting willing sellers with appropriate affordable housing operators, does not generally restrict the owner's ultimate actions.

Local Options Available to Addressing Projects Opting-Out of Restrictions

Some local jurisdictions have adopted regulations in an attempt to intervene in the "opting-out" process. Staff has conducted an initial review of some of these approaches and has found that most programs operate similarly to the State's approach, focusing on requiring the owner to provide a more formal notification process for local agencies and potential purchasers of the project. In some parts of the Country, however, more aggressive efforts have been taken to protect the long term affordability of these units, including use of eminent domain, use of focused rent control, or requiring lease extensions for existing tenants. There are substantial questions regarding the legality of these more extreme efforts.

In discussions with the Housing Authority concerns have been raised that, while local

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intervention in most cases is relatively innocuous, it can raise significant enough concerns to cause an owner to opt-out as a result of fear of intervention by local governments in what they perceive as a contract issue between them and HUD. Clearly, if such local actions could have that impact, they would need to be carefully considered and the full range of legal options understood.

There are roles that local governments can play, however, in addressing such conversions. In fact, Redevelopment law provides clear authority to redevelopment agencies to, "preserve the availability to lower income households of affordable housing units in housing developments which are assisted or subsidized by public entities and which are threatened with imminent conversion to market rates." In cases where the owner is intending to opt-out & is interested in selling the project, local governments can partner with non-profit or for-profit housing entities in the purchase of the project, thereby providing long term affordability protections. Additionally, in rare cases it is possible that a local government could provide assistance in another fashion. In either instance, local government's involvement can be extremely expensive and should only be pursued as a last resort. Clearly, our number one priority should be to encourage the owner to extend their contract with HUD.

Status of Seaside Apartments

The owners of the Seaside Apartments provided their tenants a notice which reserves their potential rights to opt-out of their HUD contract. At this point, were they to pursue extension of their agreement with HUD, those discussions would be initiated in July. If those discussions do not take place or result in an unsuccessful conclusion, the contract would expire and the Housing Authority would issue Section 8 vouchers to the individual tenants later this year. Staff from both the Agency and Housing Authority have talked with the owner's representative who has indicated that they do not intend to sell, but are interested in negotiating an extension with HUD. The Board should also be aware of the owner's history in renewing their agreements with HUD. Of their 15 properties state-wide, two (including Seaside Apartments) have opt-outs pending, seven have been extended, four have agreements that have not yet expired, one was sold to another party who later opted-out, and one, which involved restrictions on only 20% of the units, opted-out.

Conclusion/Recommendation

Housing affordability has become a growing concern in many high-cost communities, including Santa Cruz County. The level of effort and financing required to create new affordable housing units – particularly low and very low income apartments – along with the limited land resource is such that only a finite number of new projects will occur in the future. Therefore, it is that much more critical to carefully monitor at-risk projects to do what can be done to retain their long term affordability as a community asset.

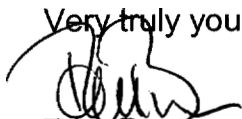
In the event that assistance is provided, the form will vary greatly based on the specifics of each project. But, it is clear that the most beneficial strategy for retaining the affordability of these units is through encouraging owners to extend their affordability covenants through renewals of their agreements with HUD. Through initial research on the various regulatory approaches attempted by other communities, staff believes that the approach used by most communities will not provide substantial benefits beyond the process already established in State law, but it may serve instead as an incentive for an owner to opt-out at the earliest possible date. Therefore, we caution against taking any actions at this time which could be counterproductive to the goal of encouraging extensions of the current restrictions.

Staff will continue to monitor these projects and work with the Housing Authority and the owners, where appropriate, to develop approaches for encouraging the long term affordability of these units. Where positive outcomes do not otherwise appear likely, staff will bring specific proposals to the Board for your consideration.

In regard to the Seaside Apartments Project, staff will continue to monitor the progress of the discussions between the owner and HUD, through the Housing Authority, and if it appears that the negotiations are not proceeding in a positive fashion, will identify what options, if any, are available to your Board to preserve the affordability of these units.

It is therefore RECOMMENDED that your Board accept and file this report.

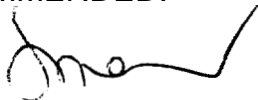
Very truly yours,



Tom Burns

Redevelopment Agency Administrator

RECOMMENDED:



Susan A. Mauriello
County Administrative Officer

cc. RDA
Housing Authority
Housing Advisory Commission
Live Oak Family Resource Center
Central Coast Interfaith Committee

Federally Assisted Multifamily Housing

Prepayment Eligible and Expiring Section 8 Contract

County Of Santa Cruz
Sorted by City and Project Name

Project Name / Address	City	County	Federal Insurance Program	Owner Type	Flex Sub	Sec 8 Units	Total Section 8 Units	Total Asst. Units	Total Units	Original Exp. Date	Prepaid File	HUD Fig. Filed	Sec 8 Opt Out Filed	Section 8 Terminated	Title #/VI Funded	Pres. Acq.	Risk Assessment
Sea Pines Apartments 1806 Surver Ave	Aptos	Santa Cruz	CHFA	NP		80	80	80	80	10/1807							Low Risk Np
Seascape Senior Housing 1860 Via Pacifica	Aptos	Santa Cruz	202/8 Direct	NP		80	80	80	80	10/1807							Low Risk Np
Capitola Gardens 1745 46th Ave	Capitola	Santa Cruz	221(d)(4)	PM		78	78	78	78	08/29/89			12/1/88	7			Prepaid/ Opted Out
Pajaro Vista 1655 Pajaro	Freedom	Santa Cruz	221(d)(4)	PM		106	106	106	106	07/25/01							At Risk
Arbor Cove 84 Blackburn St	Santa Cruz	Santa Cruz	202/8 Direct	NP		35	35	35	35	08/05/12							4 RI k Np
Casa Linda 1840 Maciel Ave	Santa Cruz	Santa Cruz	202/82	NP		20	20	20	20	12/31/15							Low Risk Np
East Cliff Village 1635 Tremont Dr	Santa Cruz	Santa Cruz	202/8 Direct	NP		75	75	75	75	03/04/08							Low Risk Np
Elizabeth Oaks Apts. 1460 Jose Ave	Santa Cruz	Santa Cruz	221(d)(4)	PM		126	126	126	126	01/12/03							At Risk
Garfield Park Village 721 Bay St	Santa Cruz	Santa Cruz	202 Direct	NP		19	19	19	102	08/30/01							Low Risk Np
La Posada 609 Frederick St	Santa Cruz	Santa Cruz	221(d)(4)	PM		122	122	122	145	04/28/01							At Risk
Mission Gardens IV 90 Grandview	Santa Cruz	Santa Cruz	CHFA			50	50	50	50	06/14/11							Post-2006 Expiration
San Lorenzo Park Apts 134 Dakota Ave.	Santa Cruz	Santa Cruz	221(d)(4)	PM		77	77	77	78	03/31/99							At Risk
Santa Cruz Riverfront 146 Blaine St	Santa Cruz	Santa Cruz	221(d)(4)	PM		70	70	70	71	03/29/03							At Risk
Seaside Apartments 1380 30th Ave	Santa Cruz	Santa Cruz	221(d)(4)	PM		84	84	84	84	11/23/02							At Risk
Stepping Out Housing 740 Plymouth St	Santa Cruz	Santa Cruz	202/8 Direct	NIP		18	18	18	18	05/21/12							Low Risk Np
Villa San Carlos 2500 Soquel Dr	Santa Cruz	Santa Cruz	236(j)(1)/	NIP		70	110	200	200	09/30/88							Low Risk Np
Casa De Exito 107 California St	Watsonville	Santa Cruz	811 Capital	NP		5	5	5	5	07/31/17							Low Risk Np

Sources: U.S. Department of Agriculture, U.S. Department of Agriculture, California Housing Partnership Corporation
Risk assessment is a subjective classification developed by CHPC based on available HUD data. Assessments are intended to help target preservation efforts, but are not necessarily a reliable predictor of a project's likelihood of market-rate conversion. ("The Section 8 Total Unit value originally provided by HUD for this record was incorrect. We have substituted the Title VI Total Units as a best guess at the true value.")

Revised: April 2001

Prepared by: California Housing Partnership Corporation

Prepayment Eligible and Expiring Section 8 Contracts

County Of Santa Cruz

Sorted by City and Project Name

Project Name / Address	City	County	Federal Insurance Program	Owner Type	Flex Sub	Sec. 8 Units	Total Section 8 Units	Total Assisted Units	Total Units	Original Sec. 8 Exp. Date	Prepay Notice Filed	HUD Mtg. Prepaid	Sec. 8 Opt Out Filed	Section 8 Terminated	Title #/VI POA Funded	Pres. Acq.	Risk Assessment
Clifford Manor 240 Clifford Ave	Watsonville	Santa Cruz	221(d)(3)	MAN	yes	100	100	100	100	07/31/01							Low Risk Np
Independence Square 1355 Madison St	Watsonville	Santa Cruz	202/8 Direct	NP		100	100	100	100	03/28/01							Low Risk Np
Sunny Meadows	Watsonville	Santa Cruz	221(d)(3)	NP	yes	200	200	200	200	05/01/10							Low Risk Np

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Sources: U.S. Department of Housing and Urban Development, U.S. Department of Agriculture, California Housing Partnership Corporation
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