

CITY OF EMERYVILLE

Incorporated 1896

1333 PARK AVENUE

EMERYVILLE, CALIFORNIA 94608-3517

TEL: (510) 596-4300 FAX: (510) 596-4389

EMERYVILLE HOUSING COMMITTEE

- Ed Treuting, Chairperson
- Lawrence Cardoza, Vice-Chairperson
- Ruth Atkin, Councilmember
- Joshua Simon, EUSD Boardmember
- Ra Adcock
- Elizabeth Altieri
- Sarah Harper
- Frank Jordan
- Lamonte Mack
- Kris Owens
- Michael Roth
- Vickie Jo Sowell
- C. Tito Young

EMERYVILLE HOUSING COMMITTEE

Regular Meeting of the Advisory Committee
 Emeryville Civic Center, 1333 Park Avenue
 Garden Level, Emeryville, CA 94608

Wednesday, August 7, 2013

6:00 p.m.

AGENDA

- I. Call to Order and Roll Call (6:00)
- II. Public Comment
- III. Approval of Minutes of June 26, 2013 Meeting (*Attachment*)
- IV. Action Items
 - a. Affordable Homeownership Program Revisions and Below Market Rate Ownership Program Guidelines (*Attachments*) (6:05-6:20)
- V. Information Items
 - a. Foreclosure Report (*Attachment*) (6:20-6:30)
- VI. Staff Comments (6:30 – 6:35)
- VII. Committee Member Comments (6:35 - 6:45)
- VIII. Adjournment (6:45)
- IX.

are public records and relate to an agenda item below which are distributed to a majority of the Emeryville Housing Committee (including writings distributed to a majority of the Emeryville Housing Committee less than 72 hours prior to the meeting noticed below) will be available at the Information Counter, 1333 Park Avenue, Emeryville, California during normal business hours (9am to 5pm, Monday through Friday, excluding legal holidays).

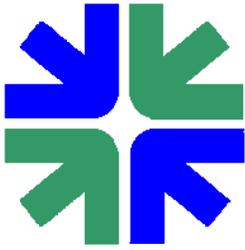
In compliance with the Americans with Disabilities Act, a person requiring an accommodation, auxiliary aid, or service to participate in this Committee meeting should contact the City Clerk's Office or the City's ADA Coordinator (510) 450-7800 as far in advance as possible, but no later than 72 hours before the scheduled event. The best effort to fulfill the request will be made. Assistive listening devices are available for anyone with hearing difficulty from the Advisory Committee Secretary prior to the meeting, and must be returned to the Committee Secretary at the end of the meeting.

All Advisory Committee meetings are noticed as Special City Council Meetings so that any or all of the City Council may attend and participate in the Advisory Committee's deliberations. However, actions taken by Advisory Committees are not official actions of the City Council but must be ratified at a regular City Council. All writings that

FURTHER INFORMATION may be obtained by contacting Catherine Firpo, Committee Secretary, Housing Coordinator, Economic Development and Housing Department, at (510) 596-4354. The next regular meeting will be September 4, 2013.

DATED: July 31, 2013
Posting Date: August 2, 2013
Post Until: August 8, 2013

KAREN HEMPHILL, CITY CLERK



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Action Minutes Emeryville Housing Advisory Committee Special Meeting of the Emeryville City Council

Emeryville Civic Center, 1333 Park Avenue
Garden Level, Emeryville, CA 94608
Wednesday, June 26, 2013, 6:00 p.m.

I. Call to Order and Roll Call:

The meeting was called to order at 6:00 p.m.

Members Present: Ed Treuting, Buzz Cardoza, Vickie Jo Sowell, Kris Owens, Frank Jordan, Ra Adcock, Lamonte Mack, Michael Roth, C. Tito Young, Sarah Harper

Members Absent: Elizabeth Altieri

Members Excused: Joshua Simon and Ruth Atkin

Staff Present: Catherine Firpo and Helen Bean

Citizens Present: Jason Vargas, Elaine Kam, Eri Kawai, Mike Pyatok, Jennifer Pechacek, Mary Murtagh, Steve Lucas, Susan Friedland, Eve Stewart.

Others Present: None

II. Public Comment – No members of the public were present

III. Approval of May 1, 2013 Action Minutes – A motion to approve minutes was made by Kris Owens and seconded by Frank Jordan minutes were approved on a voice vote.

IV. Action Item

a) 3706 San Pablo Avenue RFP/Q Short List

Staff presented a report on the financial analysis and ranking of the nine proposals for the 3706 affordable housing site. Developers from SAHA, EAH and EBALDC spoke about their projects. A motion was made by Michael Roth and seconded by Buzz Cardoza “The Housing Committee recommends that the City Council approve Satellite Affordable Housing Associates (SAHA), East Bay Asian Local Development Corporation (EBALDC), Linc Housing Corporation (Linc), and EAH Housing (EAH) as the short list of developers for redevelopment of 3706 San Pablo Avenue as affordable housing”. The motion passed unanimously.

The Committee discussed the proposed date of the community meeting and agreed to include an August 15th date in the 3706 San Pablo Short List Staff Report for a community meeting in the Council Chambers to gather community input on the four short list proposals.

b) 1075 41st Street Acquisition, Rehabilitation, and Sale

Staff presented a report on the abandoned and blighted house at 1075 41st Street and a proposal to acquire, rehabilitate and sell the house to a moderate income homebuyer. A motion was made by Ra Adcock and seconded by Michael Roth to “Postpone a decision on the purchase of the site until staff has purchased an appraisal of the property-with the understanding that the appraisal may be incomplete due to inability to enter the house”. The motion passed on a voice vote.

V. Staff Comments

- Staff informed the committee members a hard hat tour of Ambassador Housing on July 15th.
- Ambassador Housing received 1038 applications for 69 units.

VI. Member Comments

- None

VII. Next Meeting Date – August 7, 2013

VIII. Adjournment – The meeting was adjourned at 7:49 p.m.

Prepared by:

Approved by Committee:

Catherine Firpo
Economic Development and Housing Department

MEMORANDUM

DATE: July 31, 2013

TO: Housing Committee

FROM: Economic Development and Housing Department

SUBJECT: **Revisions to Programs Supporting Affordable Homeownership and New Below Market Rate Ownership Program Guidelines**

RECOMMENDATION

Staff recommends that the Housing Committee recommend approval of new program guidelines for the Below Market Rate (“BMR”) Ownership Program and revisions to programs supporting affordable homeownership and forward that recommendation to the City Council.

BACKGROUND

The City has policies and programs to support affordable homeownership through the creation, maintenance, and preservation of affordable homeownership opportunities for income-eligible households. Prior to the dissolution of redevelopment, the City implemented this mission primarily through three activities:

- Creation of deed restricted Below Market Rate units through the City’s Affordable Housing Set-Aside Ordinance (“AHSA”), frequently supported by additional financial assistance from the Emeryville Redevelopment Agency.
- Down payment assistance directly to income eligible buyers for both market rate and BMR units in form of fully deferred “silent second” mortgages delivered through the following programs:
 - Redevelopment Funded Programs
 - First Time Homebuyer Loan Program (FTHB), available to moderate income households for market rate and below market rate units
 - Ownership Housing Assistance Program (OHAP), available to low income households for below market rate units.
 - State of California Funded Programs (These programs are governed by regulations and guidelines provided by the State.)
 - CalHome Program, available to low income first time homebuyers for market rate and below market rate units. In order to use CalHome funds on a BMR, a contribution of local funds is required.

- Housing Enabled by Local Partnership (HELP) Program, available to low income buyers for market rate and below market rate units .
- Preservation of homeownership throughout Emeryville with a Foreclosure and Predatory Lending Prevention (“FPLP”) Strategy adopted by the City in 2007. Principal elements of this strategy were:
 - Workshops on loan modification and foreclosure prevention
 - Referrals to predatory lending and foreclosure prevention resources
 - Tracking data on Emeryville foreclosures
 - Outreach to all residents that received Notices of Defaults
 - Funding for counseling of City homebuyer and rehabilitation program participants facing foreclosure.

The above programs were developed at a time when there was an assumption of continued resources from redevelopment. In order to maintain and preserve affordable homeownership opportunities for income-eligible households in the current funding environment while protecting the City’s housing assets, some programmatic changes are needed.

Staff’s proposed changes will target funds to those in the greatest need and minimize risk to the City by addressing the following program issues:

- Currently, there is no maximum purchase price for market rate units. First time homebuyers can purchase market rate units at any price and request assistance from the City to purchase the unit. In other words, a household that can afford a \$250,000 mortgage and has \$100,000 in down payment can currently purchase a \$400,000 unit with a silent second mortgage from the City even though there are \$350,000 market rate units available. In this case, City funds have been used inefficiently since the buyer could have afforded the less expensive unit without City assistance.
- Income eligible buyers of market rate and BMR units currently can request the maximum amount of down payment assistance without demonstrating a need for the funding. This situation becomes a problem when buyers who have income to support a mortgage are purchasing market rate and BMR units with all cash or large cash investments. The purpose of providing City financial assistance is cover a gap in funding that cannot be met through a conventional bank loan. The City’s financial assistance should be limited to the amount needed to fill that gap.
- There is currently no minimum occupancy requirement for a unit. This results in inefficient use of the City’s resources when single homebuyers use the City’s down payment assistance program to purchase three bedroom units. The City

currently has eight three-bedroom BMR units. In 2012, a single person purchased one of the three bedroom units with \$50,000 assistance from her parents.

- Purchasers of BMR units received FTHB loans when their incomes have been sufficient to purchase at the restricted price. While, in the past, this has provided an additional benefit to BMR homebuyers, this benefit is not essential to sell BMR units. In the last year, 13 BMR units have sold to income qualified buyers with no assistance from the City.
- When a BMR unit is foreclosed, the unit is removed from the affordable housing stock. To date, three BMR units have been lost to foreclosure. In order save the affordability covenant on the unit, the City needs tools to purchase the unit quickly or to facilitate a purchase by a qualified buyer.
- In the past with the goal of deepening affordability, the City used its mortgage assistance program to facilitate sales to higher risk buyers (those with high front and back end ratios or who have other credit issue) to purchase homes. This practice increased risk for the City. When the City provided the buyer the maximum assistance, these funds were often lost in foreclosures and short sales. For example, a low income household was given \$180,000 in assistance to purchase a moderate income BMR unit. In order to facilitate a short sale and retain the affordability restriction on the unit, the City had to forgive \$150,000 in a short sale.

DISCUSSION

Staff has been evaluating ways in which the existing programs supporting affordable homeownership can be modified to accomplish the City's goals to support homeownership for income eligible households, to target funds where they are most needed, and to protect and maintain the City's supply of BMR units for qualified and eligible households. Specifically, the proposed program revisions to the First Time Homebuyer (FTHB) Loan Program and Foreclosure and Predatory Lending Prevention Strategy will accomplish the following objectives:

- Enhance program efficiency
- Serve borrowers in greatest need
- Limit risk to the City
- Preserve the affordable housing stock

Staff's proposed changes will allow the City to continue to implement the homeownership portion of its programs to support the affordable housing program in a manner that meets the City's policy objectives and is financially sustainable.

Staff is also proposing program guidelines for the BMR ownership program. The purpose of program guidelines is to provide procedures for program implementation, such as methods for means testing to determine income eligibility. The City does not currently have program guidelines for its BMR ownership program. In practice, prior to elimination of redevelopment, the majority of BMR buyers in the City of Emeryville also obtained down payment assistance from the City or the Emeryville Redevelopment Agency, so the program guidelines for the applicable loan program were used to evaluate the applicant. In the few instances where a BMR unit was purchased without City or Redevelopment Agency assistance, staff applied the FTHB BMR program guidelines. There have been 13 resales of BMR units since July 1, 2012, none of which had down payment assistance from the City. As the great majority of BMR sales and resales going forward will be done without City financial assistance, specific BMR-only program guidelines are needed, particularly to address certain issues that are not addressed in the FTHB program guidelines such as City inspection of the unit upon resale.

Recommended Revisions to FTHB Loan Program

Staff recommends the following changes to the FTHB program:

- *Maximum loan amount set by unit type*
This policy reduces the City's risk by establishing a ceiling on the down payment loan. Borrowers would still receive a loan to fund up to a 20% down payment to avoid the additional cost of private mortgage insurance. The maximum loan amount would be no greater than 20% of the price of the home or 20% of the maximum sales price for the unit type (e.g. Studio, 1 bedroom, etc.) as indicated in the current City of Emeryville Housing Affordability Table, whichever is less.
- *Set minimum and maximum household size by unit type*
This policy creates an efficient use of resources by reducing the incidence of small households buying large units. It thereby allows the City to use its funds to encourage optimal use of the unit. Occupancy limits for purchasing a BMR unit will be based upon Section 503(b) of the Uniform Housing Code, which specifies allowable minimum and maximum household sizes based upon the number of bedrooms in a unit. Minimum occupancy is one person or the number of bedrooms minus one, whichever is greater. Maximum occupancy of unit is determined as follows: each bedroom may have a maximum of two people, one additional person may live outside of a bedroom within the unit.
- Changes to the FTHB BMR loan program

Staff recommends that the FTHB program be offered to BMR borrowers on a more limited basis. The maximum sales prices in the Housing Affordability Table

are set such that a buyer at a moderate income level should be able to afford the monthly housing costs for a unit designated and priced for a moderate income household, including the cost for private mortgage insurance to account for a less than 20% down payment. Based on this pricing model, a typical income eligible buyer should be able to purchase a price-restricted BMR unit without additional financial assistance from the City. Therefore, the program revisions recommend using the FTHB funds only for BMR units that are in foreclosure (i.e. have received a Notice of Default from a lienholder with a deed of trust recorded on the property) as part the City's Foreclosure and Predatory Lending Prevention Strategy (see FPLP section below).

- *Only provide loans for a BMR unit to save the unit from foreclosure*
If a BMR unit is in foreclosure, time is of the essence. The City could provide additional financial incentives to an income eligible buyer to prevent the unit from being sold at a trustee sale which would eliminate the City's deed restrictions.
- *Loan must be necessary to reduce front- and back-end ratios to meet maximum allowable ratios*
The buyer must demonstrate a need for the loan, such that they would not be able to feasibly afford the monthly housing costs without the use of the City's financial assistance.
- *Loan limited to only the amount necessary to bring down payment to 20%*
The maximum loan will be no more than is necessary for a down payment consisting of both the borrower's contribution and the City's loan to total 20% of the purchase price.
- *Maximum Total Loan to Value ratio of 98%*

To provide even further protection to the City, staff is recommending that the program guidelines include a maximum loan to value limit where buyer's first mortgage plus the FTHB loan can total up to 98% of the purchase price.

The program guidelines for the FTHB program for both market rate and BMR units have been revised to reflect these changes and can be found in Attachments 1 and 2 to this report.

Revisions to Foreclosure and Predatory Lending Prevention Strategy ("FPLP")

Preventing foreclosures in BMR units will preserve unit affordability and the financial resources of the City. In the event of a foreclosure, the City's deed restrictions on BMR units are removed thus eliminating that unit from the City's BMR inventory. This is necessary as many first mortgage lenders do not wish to make loans for properties

where the price restrictions survive foreclosure. Three BMR units were lost to foreclosure in FY 2012-13. Consequently, a major focus of the Foreclosure and Predatory Lending Prevention Strategy is the prevention of foreclosure among the City's BMR units.

The current FPLP, approved by the Council in late 2007, was primarily focused on halting the volume of foreclosures in the Emeryville community in general. Since that time the housing market has improved considerably and foreclosures have slowed. Several outreach activities to the general Emeryville community in the strategy, such as workshops, were funded by the Emeryville Redevelopment Agency.

Given reduced resources, staff is proposing that the City's foreclosure prevention efforts be targeted to retaining the City's assets by preventing foreclosures on the City's BMR units and on units occupied by homeowners receiving a down payment assistance loan. The City's more limited resources will focus on providing direct assistance to counseling for residents who participate in any of the City's affordable homeownership programs. Already an element of the FPLP, this assistance will both help stabilize the housing costs for the program participants and protect the City's investment in affordable housing.

Under the same goal of preserving the City's supply of deed-restricted BMR units, staff also proposes an additional strategy with respect to BMR units that are in the foreclosure process. The aforementioned use of the FTHB loan funds to facilitate purchase of BMR units in distress by income-qualified households would be combined with the creation a fund to purchase at least two BMR units per year that are in the foreclosure process.

As a junior lienholder, the City is in a position to purchase distressed BMR units before they are made available to general public through a Trust Sale and the City's deed restrictions are lost. The costs for this strategy would consist of the purchase price (typically the unpaid mortgage balance, outstanding HOA dues and fees, foreclosure fees), repairs, holding and selling costs. The majority of these costs would likely be recouped in the resale, although the actual costs and cost recovery would be determined and will vary widely based upon the unit type, amount of outstanding debt, and current maximum sale price. A similar strategy was explored by staff in early 2012 regarding the acquisition, rehabilitation, and resale of two BMR units in foreclosure in the Terraces project. At that time, the cost was estimated at \$370,000 for the two units. These units were fairly typical of a BMR unit, in that they had had received down payment assistance loans from the City so that their primary mortgages were approximately 80% of the purchase price of the units. Their delinquency was also fairly typical of other BMR units in distress, which were in arrears over a combination of unpaid debt service, overdue homeowner's dues and associated late fees. That same study found that the cost to the City, after proceeds from the sale were factored in,

ranged from \$0 to \$57,000. This compares to the \$330,000 to \$490,000 it costs to create a new BMR unit.

As a service to the whole community, staff will continue to make updated information available to prevent foreclosure and predatory lending. However, regular workshops are proposed to be eliminated.

The revised FPLP strategy can be found in Attachment 3 to this report.

Ownership Below Market Unit (BMR) Program Guidelines

As noted previously, the City currently does not have program guidelines for its home ownership BMR program. These program guidelines will provide specific procedures for implementing the BMR ownership program in a way that meets the City's objectives to target eligible households while reducing risk to City's BMR housing supply through thorough means testing, financing requirements, and standards for maintenance.

The proposed BMR Program Guidelines can be found in Attachment 4 to this report.

FINANCIAL CONSIDERATIONS

Revisions to Down Payment Assistance Program

During FY 2012-13, the City received approximately \$444,000 in repayments to the FTHB program and another \$74,000 from the Ownership Housing Assistance Program. ("OHAP"). Staff proposes that new loans made under the FTHB program be funded by these repayments, and that any future repayments of FTHB and OHAP loans be placed in a revolving loan fund for down payment assistance.

Assuming that the average loan is approximately \$50,000, there is currently funding to underwrite approximately 10 loans. As the loan fund will fluctuate based on upon repayments and new loan applications, staff will monitor the fund balance to determine if an annual appropriation should be made to ensure that funding for at least \$500,000 loans is available in the fund.

Revisions to the FPLP

The element of the revised FPLP Strategy that will require new funding is the acquisition and resale of BMR units in foreclosure. As noted earlier, an analysis of this strategy was conducted in in early 2012 regarding the acquisition, rehabilitation, and resale of two BMR units, with an estimated cost of \$370,000 for two units. Given the short timeframe since that analysis was conducted, this is a reasonable basis for estimating the funds that would need to be set aside for such a strategy.

This activity could be funded by repayments from HELP loans, a loan for down payment assistance from the State that was repaid by the City. HELP loan repayments totaled \$183,000 in FY2012-13. Additional funding could be sought from the residual property tax distribution under redevelopment dissolution laws in order to seed this program for the purchase of up to two units per year. It is anticipated that it will be a revolving fund, similar to the FTHB fund.

Ownership Below Market Unit (BMR) Program Guidelines

It is not anticipated that the program guidelines will result in any new financial obligations for the City.

Summary of Proposed Program Funding

Funding Source	FTHB Loan Program – New Loans	Purchase of BMR units in Foreclosure
FTHB Repayments	\$444,000	
OHAP Repayments	74,000	
HELP Repayments		\$183,000
Residual Property Taxes		187,000
<i>Total</i>	<i>\$518,000</i>	<i>\$370,000</i>

Attachments:

1. First Time Homebuyer Program Guidelines for Market Rate Units
2. First Time Homebuyer Program Guidelines for Below Market Rate Units
3. Foreclosure and Predatory Lending Prevention
4. Below Market Rate Program Guidelines

ATTACHMENT 1

FIRST TIME HOMEBUYERS PROGRAM GUIDELINES
(for Market Rate Units)
Last Revised May 7, 2013

I. Applicant Eligibility

- a. The total household income can be no greater than 120% of area median, adjusted by household size, as published annually by the United States Department of Housing and Urban Development (HUD), unless one of the buyers in the household is an employee of the City of Emeryville.
- b. No individual in the household may have owned a home for past three years unless one of the following criteria is met:
 1. the individual is a single individual or single parent who previously owned a house within the past three years with a previous spouse;
 2. the individual is an employee of the City of Emeryville;
 3. the individual is a teacher in the Emery Unified School District;
or
 4. the individual previously owned a house with a domestic partner within the past three years but the domestic partnership has been terminated. Proof of the establishment as well as the termination of the domestic partnership as defined by the State of California must be presented to City staff.
- c. Preference will be granted to Emeryville residents (#1), those working in Emeryville (#2), and those living outside Emeryville (#3).
- d. Eligible homes include single family, condominiums, limited equity coop units, and co-housing units. Assistance may be provided for the purchase of duplexes, or a single-family home with a second unit, if both the primary unit and the second unit are affordable to, and occupied by, moderate-income households.
- e. Units shall be owner-occupied.
- f. Underemployed or unemployed borrowers must demonstrate that they have a combination of income and/or assets to purchase at least 50% of the value of the unit. Examples of unacceptable applicants would be

students or others in a very low income bracket, whose parents or others are providing the capital or income for a substantial portion of the purchase price.

- g. Occupancy limits for purchasing unit will be based upon Section 503(b) of the Uniform Housing Code, which specifies allowable minimum and maximum household sizes based upon the number of bedrooms in a unit. Minimum occupancy is one person or the number of bedrooms minus one, whichever is greater. Maximum occupancy of unit is determined as follows: each bedroom may have a maximum of two people, one additional person may live outside of a bedroom within the unit. See table below for occupancy limits by unit type:

Unit Type	Minimum Occupancy/ Maximum Occupancy
Studio	1 Person Minimum/ 2 Person Maximum
1 Bedroom	1 Person Minimum / 3 People Maximum
2 Bedrooms	1 People Minimum / 5 People Maximum
3 Bedrooms	2 People Minimum / 7 People Maximum
4 Bedrooms	3 People Minimum / 9 People Maximum

II. Loan Terms

- a. Deferred payment loan, due upon sale or transfer of property. Recorded as a second deed of trust to the mortgage, unless subordinate to CalHFA High Cost Area Assistance Program (Hicap) or California Housing Assistance Program (CHAP) loans. At the end of the 30-year term, the accrued interest and principal is completely forgiven. Reasonable and customary non-recurring sales costs may be deducted prior to repayment of this loan, if the total outstanding loan balances exceed the current fair market value at the time of sale.

- b. Buyer must provide downpayment funds. Downpayment funds may be from any source other than loan funds, such as borrower's own funds, gift funds, or grant.
- c. Simple fixed interest rate of 75% of the rate of the first mortgage, or 5%, whichever is less, if the property has not appreciated from the date of purchase to the date of repayment. In the event there is no other mortgage on the property aside from the City's loan, the interest rate shall be 3%.
- d. If the property has appreciated from the date of purchase to the date of repayment,—Promissory Note and Deed of Trust include Shared Appreciation provisions so that the Agency recoups a percentage of the profit made from selling the home in direct proportion to the dollars loaned at the time of purchase. If the property has depreciated from the date of purchase to the date of repayment, the principal and interest due under the Agency's loan are reduced by a depreciation share. The depreciation share is equal to the appreciation share percentage. The principal and interest due under the City's loan are reduced by an amount equal to the product of the depreciation share multiplied by the depreciation amount.
- d. The First Time Homebuyers Program loan amount will be no greater than the 150% of the buyer's downpayment, with a maximum loan amount no greater than 20% of the price of the home or 20% of the maximum sales price for the unit type (e.g. Studio, 1 bedroom, etc.) as indicated in the current City of Emeryville Housing Affordability Table, whichever is less.
- f. For employees of the City of Emeryville and teachers in the Emery Unified School District, no downpayment is required and the First Time Homebuyers Program loan may be up to 20% of the purchase price of the residence or 20% of the maximum sales price for the unit type (e.g. Studio, 1 bedroom, etc.) as indicated in the current City of Emeryville Housing Affordability Table, whichever is less. .
- g. Homebuyers with a rental unit will be required to execute a Rental Restriction Agreement restricting the rent for the rental unit for the duration of the City's loan. Annual reporting of the income from the rental unit will be required. Rental income will not be counted as part of the qualifying income for the homebuyer.

III. Senior Loan Restrictions

- a. The senior purchase mortgage must be at least a 30-year, fully amortizing fixed-rate mortgage. It may not have negative amortization, principal increases, balloon payments, or deferred interest payments.
- b. The senior mortgage may not be an adjustable rate mortgage.

- c. The maximum total loan to value ratio cannot exceed 98%

IV. Refinance /Short Sale Policy

- a. Borrowers may refinance their first mortgage loans without requiring repayment of the City loan under the following condition: if the new first mortgage is for an amount equal to, or less than, the original first mortgage. All other requirements for senior financing under Section III apply to new first mortgage.
- b. While the City has the ability to require repayment of the City's loan upon refinancing the primary loan, as established in the program's promissory note and deed of trust, the Agency may agree to subordinate to a new first mortgage, under the condition stated above, in order to help borrowers stabilize or reduce their housing costs.
- c. For First Time Homebuyers Program loan recipients who own property in the Watergate development, borrowers may refinance their first mortgage loans, or take out a new equity loan, through a private mortgage lender to cover the cost of the special assessment (levied by the Watergate Community Association in the year 2000), plus any non-recurring closing costs.
 - a. For First Time Homebuyers Program loan recipients who own property in the Emery Bay Village development, borrowers may refinance their first mortgage loans through a private mortgage lender to cover the cost of the special assessment (levied by the Emery Bay Homeowners Association in September 2004), plus any non-recurring closing costs.
 - b. The City will consider approving a short sale on the loan, based on an appraisal or other documentation of recent comparable sales data to determine the fair market value of the property and a reduced total real estate broker's commission of 5%.

V. Owner-Occupancy Waivers

- a. Owner-occupancy waivers for more than a year shall only be granted, in no more than one-year increments, if the current documented fair market value of the property is less than the outstanding balance on the first mortgage lien, if the property is in foreclosure, if litigation related to the development precludes a first time homebuyer from obtaining mortgage financing, or if the program participant or member of the program participant's household is on active military duty.
 - 1. Owner-occupancy waiver recipients requesting an extension to the owner-occupancy waiver must have made the request and provided

supporting documentation at least 60 days prior to the expiration of the owner-occupancy waiver period. If the extension is granted, the property may be rented during the City-approved owner-occupancy waiver period.

2. At the end of the owner-occupancy waiver period, if the unit owner does not reoccupy the unit, the City's loan must be repaid.
- d. Program participants who have purchased a principal residence elsewhere shall not be eligible for owner-occupancy waivers.
 - e. Owner-occupancy waiver recipients shall provide copies of executed lease/rental agreements to the City for the entire rental period.

ATTACHMENT 2

FIRST TIME HOMEBUYERS PROGRAM GUIDELINES **FOR BELOW-MARKET-RATE UNITS**

Last revised May 7, 2013

I. Applicant Eligibility

- a. The total household income can be no greater than 120% of area median, adjusted by household size, as published annually by the United State Department of Housing and Urban Development (HUD).
- b. No individual in the household may have owned a home for past three years unless one of the following criteria is met:
 1. the individual is a single individual or single parent who previously owned a house within the past three years with a previous spouse;
 2. the individual is an employee of the City of Emeryville;
 3. the individual is a teacher in the Emery Unified School District;
or
 4. the individual previously owned a house with a domestic partner within the past three years but the domestic partnership has been terminated. Proof of the establishment as well as the termination of the domestic partnership as defined by the State of California must be presented to City staff.
- c. Preference will be granted to Emeryville residents (#1), those working in Emeryville (#2), and those living outside Emeryville (#3).
- d. Eligible homes are those Below Market Rate (BMR) units set aside for moderate income households within developments subject to the City's Affordable Housing Set-Aside Ordinance.
- e. Units shall be owner-occupied.
- f. Underemployed or unemployed borrowers must demonstrate that they have a combination of income and/or assets to purchase at least 50% of the value of the unit. Examples of unacceptable applicants would be students or others in a very low income bracket, whose parents or others are providing the capital or income for a substantial portion of the purchase price.
- g. Units must be in foreclosure in order to obtain a City loan.

- h. Borrower must require City financing in order to achieve front- and back-end ratios found in the City's BMR Program Guidelines.

II. LoanTerms

- a. Deferred payment loan, due upon sale or transfer of property. Recorded as a second deed of trust to the mortgage, unless subordinate to CalHFA High Cost Area Assistance Program (Hicap) or California Housing Assistance Program (CHAP) loans. At the end of the 30-year term, the accrued interest and principal is completely forgiven. Reasonable and customary non-recurring sales costs may be deducted prior to repayment of this loan, if the total outstanding loan balances exceed the current fair market value at the time of sale.
- b. Simple fixed interest rate calculated at 75% of the interest rate of the first mortgage, not to exceed 5%. In the event there is no other mortgage on the property aside from the City's loan, the interest rate shall be 3%.
- c. Buyer must provide downpayment funds. Downpayment funds may be from any source other than loan funds, such as borrower's own funds, gift funds, or grant.
- d. The First Time Homebuyers Program loan amount will be no greater than the 150% of the buyer's downpayment, with a maximum loan amount no greater than 20% of the price of the home.
- e.

III. Restrictions on Senior Financing.

- a. The senior mortgage may not have negative amortization, principal increases, balloon payments, or deferred interest payments.
- b. The senior mortgage may not be an interest-only or option adjustable rate mortgage.
- c. The senior purchase mortgage must be at least a 30 year, fixed-rate mortgage.

IV. Owner-Occupancy Waivers

- a. Owner-occupancy waivers for more than a year shall only be granted, in no more than one-year increments, if the current documented fair market value of the property is less than the outstanding balance on the first mortgage lien, if the property is in foreclosure, if litigation related to the development precludes a first time homebuyer from obtaining mortgage

financing, or if the program participant or member of the program participant's household is on active military duty.

1. Owner-occupancy waiver recipients requesting extension to the owner-occupancy waiver must have made the request and provided supporting documentation at least 60 days prior to the expiration of the owner-occupancy waiver period. If the extension is granted, the property may be rented during the approved owner-occupancy waiver period.
 2. At the end of the owner-occupancy waiver period, if the unit owner does not reoccupy the unit, the loan must be repaid.
- b. Program participants who have purchased a principal residence elsewhere shall not be eligible for owner-occupancy waivers.
 - c. Owner-occupancy waiver recipients shall provide copies of executed lease/rental agreements to the City for the entire rental period.

V. Refinance /Short Sale Policy

- a. Borrowers may refinance their first mortgage loans without requiring repayment of the First Time Homebuyers Program second mortgage under the following conditions: if the new first mortgage is for an amount equal to, or less than, the original first mortgage. All other requirements for senior financing under Section III apply to new first mortgage.
- b. While the Agency has the ability to require repayment of the City's loan upon refinancing the primary loan, as established in the program's promissory note and deed of trust, the City may agree to subordinate to a new first mortgage, under the condition stated above, in order to help borrowers stabilize or reduce their housing costs.
- c. For First Time Homebuyers Program loan recipients who own a Below-Market-Rate unit in the Oliver Lofts development, borrowers may refinance their first mortgage loans through a private mortgage lender to cover the cost of the special assessment (levied by the Oliver Lofts Owners' Association in September 2008), plus any non-recurring closing costs.
- d. The City will consider approving a short sale on the loan, based on an appraisal or other documentation of recent comparable sales data to determine the fair market value of the Below Market Rate property and a reduced total real estate broker's commission of 5%.

V. Home Buyer Training

The Borrower is required to participate in a home buyer training prior to close of escrow that meets CalHome regulation requirements, or, if CalHome Program no

longer exists, is approved by the City.

Attachment 3

Emeryville Predatory Lending and Foreclosure Prevention Strategy Revised August 2013

1. Provide information on resources and services available to homebuyers and homeowners related to predatory lending and foreclosure prevention at City Hall, departments with direct access to residents such as Community Services and the Police Department, and other agencies serving the Emeryville community such as the Emery Unified School District, and the Alameda County Fire Department
2. Provide information on the City's website regarding predatory lending and foreclosure prevention links to useful and relevant information on other websites; and referral information to housing counseling and legal services agencies.
3. Obtain and track data on foreclosures in Emeryville.
4. Allocate funding for counseling for participants in the City's affordable homeowner programs, including BMR owners and residents who have used the City's down payment assistance or rehabilitation loan programs who are in foreclosure.
5. Use the First Time Homebuyer Loan program to extend down payment assistance to income eligible households purchasing Below Market Rate units that are under foreclosure.
6. Fund the purchase up to two (2) deed-restricted below market rate (BMR) units that are under foreclosure in order to preserve the City's supply of BMR units.
7. Coordinate efforts with other jurisdictions, such as Oakland and Alameda County, and other partner organizations to do community outreach and education. Work with local mortgage lenders and the Emeryville Chamber of Commerce to coordinate efforts to educate and assist borrowers at risk of default.

**Attachment 4
City of Emeryville
Below Market Rate (BMR) Homeownership Program Guidelines**

BMR SALES PRICE

The maximum allowable sales prices for Below Market Rate units are set by the City at the time unit is placed on the market.

In most cases the maximum sales price will be determined based upon the then current "Housing Affordability Table" as approved by the City Council of the City of Emeryville. The maximum sales price is based on several factors, including the applicable State of California Income Limits for Alameda County in effect at the time the unit is put on the market, homeowner's associations dues for the unit, and assumptions regarding mortgage interest rates, downpayment, property taxes, utilities/maintenance, insurance, and private mortgage insurance (if applicable).

For Below Market Rate units located in the Emeryville Warehouse Lofts project, the resale price is based on the percentage change in the local Consumer Price Index from the date the owner purchased the property to the time the unit is placed on the market.

ELIGIBILITY REQUIREMENTS

1. Maximum Household Income

Current household income must be at or below the most current income limits as approved by the City Council of the City of Emeryville and found on the Housing Affordability Table. Household eligibility is based on current gross household income projected for a year (or an average of the prior year and year-to-date gross income, if income varies, or an average of your prior two years' net income, if self-employed).

Household income includes all income that is derived by all adult household members, age 18 and above, from all sources. The exception to this includes all dependents who are up to 24 years of age and full-time students.

Buyers who work less than a full-time equivalent or are unemployed must demonstrate that they have a combination of income and/or assets to purchase at least 50% of the value of the unit. Examples of unacceptable applicants are students or others for whom a third party (e.g. parents) is providing the capital or income for a substantial portion of the purchase price and/or monthly housing costs.

2. Asset Limits

Assets include all savings, checking, accounts, gifts, cash in safety deposit boxes, equity in real property, cash value of stocks (including options), bonds, Treasury bills, certificates of deposit, money market accounts, and revocable trusts; personal property held as an investment such as gems, jewelry, coin and art collections, antiques, and vintage and/or luxury cars; lump sum or one-time receipts such as inheritances, capital gains, lottery winnings, gambling winnings, victim's restitution, and insurance settlements; payment of funds from mortgages or deeds of trust held by the applicant(s); boats and planes; motor homes intended for primary residential use, and other sources of cash.

An applicant who has assets that exceed \$30,000 dollars will have the following amounts added to their total household income:

1. 10% of assets between \$30,001 and \$130,000
2. 30% of assets over \$130,000

The maximum amount of allowable assets is \$250,000.

Qualified retirement accounts (ie. accounts that would incur a penalty if withdrawn before a specified retirement age), the funds that will be used toward the downpayment on the home, and 529 college saving accounts will not be counted toward an applicant's income or the maximum allowable assets.

3. First-time Homebuyer

Applicants must be First-Time Homebuyers. A First-Time Homebuyer is defined as the following:

- a. As an individual who has not owned or jointly owned a home or a principle place of residence in the last three years, up to the date of the current Below Market Rate unit purchase.

Exceptions to this definition include:

- a. An individual who owned a home with a former spouse during their marriage,
- b. A displaced homemaker who has only owned a home with a spouse,
- c. An individual who has owned a principle residence that was not permanently affixed to a permanent foundation, according to applicable regulations,

- d. An individual who has owned a property that was not in compliance with state or local building codes and which cannot be brought into compliance for less than the cost of constructing a permanent structure

4. Household Size and Occupancy Limits

A household is defined as all persons who live in the Below Market Rate unit. Pregnant applicants are counted as a two members of a household upon submittal of medical documentation.

Under penalty of perjury the applicant(s) must execute a notarized affidavit stipulating the household size at the time of the application.

Occupancy limits for purchasing a BMR unit will be based upon Section 503(b) of the Uniform Housing Code, which specifies allowable minimum and maximum household sizes based upon the number of bedrooms in a unit. Minimum occupancy is one person or the number of bedrooms minus one, whichever is greater. Maximum occupancy of unit is determined as follows: each bedroom may have a maximum of two people, one additional person may live outside of a bedroom within the unit.

Applying these standards, in order to purchase a three bedroom unit, there must be a minimum of two people in the household and a maximum of seven. The table below provides occupancy limits by unit type.

Unit Type	Minimum Occupancy/ Maximum Occupancy
Studio	1 Person Minimum/ 2 Person Maximum
1 Bedroom	1 Person Minimum / 3 People Maximum
2 Bedrooms	1 Person Minimum / 5 People Maximum
3 Bedrooms	2 People Minimum / 7 People Maximum
4 Bedrooms	3 People Minimum / 9 People Maximum

5. Credit Score

The applicant must be able to demonstrate sufficient creditworthiness. This includes:

1. Having *at least* two years of clean credit following a bankruptcy or foreclosure,
2. A minimum FICO credit rating of 660

A lower credit score can be considered following review from the Economic Development and Housing Department Director or his/her designee.

6. Front and Back Ratios (Debt-to-Income Ratios)

The “front-end” ratio is the proportion of monthly housing costs as a percentage of monthly income. Monthly housing costs include mortgage (principal and interest), private mortgage insurance (if applicable), hazard insurance, property taxes, condominium fees or dues, and utilities.

The applicant’s total or "back-end" debt-to-income ratio is the proportion of monthly housing costs plus all other monthly debt payments (e.g. student loans, car payments, credit cards, etc.) as a percentage of total monthly household income may not exceed the limits in the table below.

Income Level	Maximum Qualifying Debt Ratios	
	Monthly Housing Cost (Front-End Ratio)	Total Monthly Debt (Back-End Ratio)
Very Low	30%	35%
Low	35%	40%
Moderate	40%	45%

The qualifying debt ratios applied to a particular applicant will be based upon the applicant’s household income category, not the maximum allowable income category for the BMR unit. For example, a low income household purchasing a BMR sold at a moderate income price must have a front-end ratio of no more than 35%.

Depending on whether the applicant has a high credit score, such as 720, or is able to give a down payment that is higher than the required 3% (described in

detail in Section 8 of these Guidelines), the Economic Development and Housing Department Director or his/her designee has the option of increasing the back-end ratio by up to 3%.

If the applicant's back-end ratio is at the maximum limit for the applicant's income level, Economic Development and Housing Department staff will evaluate if the applicant will be subject to "rent shock" (i.e. new housing costs will increase by 100% or more over current housing costs). If the applicant is both at the maximum limit for a back-end ratio and would be subject to rent shock as a result of the purchase of the BMR unit, then Economic Development and Housing Department Director or his/her designee has the option of declining the application.

7. Legal Resident

All applicants must be citizens or nationals of the United States, or qualified permanent residents. The Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 provides more details as to the description of a qualified legal resident.

FINANCING REQUIREMENTS

8. Down Payment

The applicant must be able to make at least a 3% down payment from the borrower's own funds.

The applicant's downpayment funds must be held in their bank account for at least three months prior to submitting this application.

9. Gift Fund Limits

The applicant may use gift funds in an amount that does not exceed 49% of the purchase price. Gift funds may not be used for the 3% downpayment requirement. All gift funds must be documented in the Below Market Rate program application using a form of "gift letter" provided by the City. All signatures on the gift letter must be notarized. The gift letter includes:

- a. The amount of money being provided;
- b. The relationship of the giftor to the applicant; and
- c. Statement, under penalty of perjury, that the applicant is not required nor expected to repay the funds, nor is the giftor to hold title for the property, in whole or in part, upon the close of escrow or in the future.

Attached to the letter, the applicant must provide documentation of the funds to be gifted (e.g. most current account statement).

10. Senior Financing

The first mortgage used by applicant(s) must be for no more than a 30-year term, (shorter terms are acceptable). Loans must also be fixed-rate and fully amortizing.

Balloon payments, negative amortization, adjustable and/or non-prime interest rate loans, prepayment penalties, and stated-income loans are prohibited. The City, in its sole discretion, may identify other prohibited loan characteristics.

Co-signing for a loan by non-BMR household member is prohibited.

11. Home Equity Lines of Credit and Home Equity Loans

Home equity lines of credit and home equity loans are not allowed on a BMR unit. Owners who use such programs without approval from the City of Emeryville will be in default of the Resale Restriction Agreement (see Section 16). The default must be cured by a removal of the unauthorized line of credit/loan or the City will invoke any remedies available to it.

12. Loan to Value Limits

Housing mortgage assistance loans must not have a loan-to value ratio that exceeds 98% of the sales price.

13. Refinancing

Owners may refinance their first mortgage loans only with the express written permission of the City of Emeryville and under the following conditions:

- a. The principal amount for the new first mortgage is for an amount equal to, or less than, the original first mortgage plus closing costs.
- b. The interest rate for the new first mortgage is less than the interest rate on the original first mortgage.
- c. All other conditions for senior financing under section 10 and 12 apply.

14. All Cash Sale

In the event of an all cash sale, the following conditions must be met:

- a. The buyer's remaining housing costs as related to their applicable household income level must not exceed the maximum qualifying debt ratios as described in Section 6; and
- b. The buyer's household income cannot exceed the maximum allowable

- income for the BMR unit; and
- c. Cash assets being used to purchase the BMR unit will be excluded from the maximum asset limit calculation in Section 2.

BUYER/OWNER OBLIGATIONS

15. Homebuyer Education Workshop

The applicant must complete a City-approved homebuyer education workshop and submit a certificate of completion for the workshop to the City prior to the close of escrow. The workshops cover such topics as: the loan application process, closing costs and escrow fees, recurring housing expenses, refinancing, budgeting, responsibilities of homeownership, home maintenance, and the importance of maintaining good credit.

16. Resale Restriction

A 45-year deed restriction will be recorded on the property in the form of a Resale Restriction Agreement as a condition for the close of escrow. This deed restriction requires:

- a. The unit will be sold for no more than the maximum allowable resale purchase price, as determined by the City.
- b. The unit must be sold to an income eligible household, whose income eligibility will be determined by the City after the parties are in contract to purchase the unit.

In addition to the deed restriction, the buyer will be required to record a performance deed of trust on the property related to the Resale Restriction Agreement as a condition of the close of escrow to purchase the property.

The Resale Restriction Agreement will be secured by a Performance Deed of Trust, also to be recorded on the property as a condition for the close of escrow.

17. Owner Occupancy

The applicant must use the Below Market Rate unit as their primary place of residence. The household must move into the unit within 60 days of escrow and it must be owner-occupied for at least ten months of the calendar year.

Homeowners must provide the City of Emeryville with annual owner occupancy certification consisting of a signed and notarized affidavit, under penalty of perjury. Attached to the affidavit must be valid third party documentation, such as a property tax statement or utility bill, proving that the unit is owner-occupied.

Renting, leasing, or subleasing is prohibited unless authorized by the City of Emeryville. Owner occupancy waivers may be granted as follows:

- a. Owner occupancy waivers of up to one year may be granted under one or more of the following circumstances:
 - i. The current documented fair market value of the property is less than the outstanding balance on the first mortgage lien,
 - ii. The property is in foreclosure,
 - iii. Litigation related to the development precludes a first time homebuyer from obtaining mortgage financing,
 - iv. The owner is on active military duty, and/or
 - v. For reasons deemed acceptable by the City, in its sole discretion, that are temporary in nature (e.g. sabbatical, caring for a sick relative, temporary relocation for work) after which the owner unambiguously intends to return to the unit as an owner-occupant.

- b. Owner-occupancy waivers for more than a year shall only be granted, in one-year increments, under the following circumstances:
 - i. the current documented fair market value of the property is less than the outstanding balance on the first mortgage lien,
 - ii. the property is in foreclosure,
 - iii. litigation related to the development precludes a first time homebuyer from obtaining mortgage financing, and/or
 - iv. if the owner is on active military duty.

- c. Any owner-occupancy waiver request must be in writing and accompanied by appropriate supporting documentation. The specific documentation requirement will be based upon the conditions under which the waiver will be granted. The Economic Development and Housing Department Director or his/her designee will inform the owner-occupancy waiver applicant of the documentation requirements upon request.
 - i. Owner-occupancy waiver applicants must have made the request and provided supporting documentation at least 30 days prior to commencement of the waiver period.
 - ii. Owner-occupancy waiver recipients requesting an additional one-year increment to their current owner occupancy waiver must make the request at least 60 days prior to the expiration of the owner-occupancy waiver period. If the extension is granted, the property may be rented during the City-approved owner-occupancy waiver period.

- d. At the end of the owner-occupancy waiver period, if a BMR owner does not reoccupy a BMR unit, it must be listed for sale prior to the expiration of the waiver period. Tenants must be given a minimum

notice to vacate of at least 60 days prior to the expiration of the waiver period, and the property may no longer be rented.

- e. Owners of BMR units with a CalHome loan may not obtain an owner-occupancy waiver. On a case-by-case basis, a three-month waiver may be allowed if litigation related to the development precludes a first-time homebuyer from obtaining mortgage financing.

Owner-occupancy waiver recipients shall provide copies of executed lease/rental agreements to the City for the entire rental period.

Program participants who have purchased a principal residence elsewhere shall not be eligible for owner-occupancy waivers.

18. Insurance

The owner must obtain and maintain a standard homeowner's insurance policy, with the City named as an additional insured. The owner must ensure that the City receives a copy of evidence of insurance on at least an annual basis.

19. Homeowner's Exemption

The owner must continuously claim a homeowner's exemption for property taxes for the BMR unit.

20. Maintenance of Home

The homeowner is required to maintain the unit throughout the ownership period. All appliances shall be in good and working order, the unit must be sanitary and free of code violations, as well as in compliance with all the health and safety laws of the City of Emeryville. Ordinary wear and tear are not excepted.

21. Inspection Upon Resale

Upon notification of resale, the City will inspect the unit to ensure the unit is in good repair, free of code violations, and clean. All appliances, finishes and fixtures must be fully operable and free of defects or any damage. No units may sold as-is. Ordinary wear and tear are not excepted.

This inspection is for purposes of the BMR program only, and is not be used in lieu of a home purchase inspection by the new buyer. The unit must pass the City inspection prior to the close of escrow. If the unit does not pass inspection, the City will not approve the close of escrow.

In the sole discretion of the Economic Development and Housing Department Director, the City may approve painting of the unit by the buyer. However, the

seller must clean and prepare all paintable surfaces such that they are ready to accept paint. Prior to the close the escrow, the following must be completed:

- a. The prepared surfaces must be inspected and approved by the City.
- b. The buyer must submit a signed letter to the City acknowledging that he/she will paint the unit at his/her own cost after the close of escrow.

Not including painting of the unit as addressed in the prior paragraph, at his/her sole discretion the Economic Development and Housing Department Director may allow the buyer (if desired by the buyer) to undertake some repairs identified by the City as part of its pre-close inspection after the close of escrow. In order to allow the seller to transfer this obligation to the buyer, the following must occur prior to the close of escrow:

- a. The seller must obtain at least two bids from a licensed, bonded contractor to complete the needed repairs.
- b. Buyer and seller must agree in writing to reduce the original contract price by the amount of the highest bid and submit evidence of that agreement to the City.
- c. The buyer must submit a signed letter to City staff acknowledging that they will complete the repair, accepting full responsibility (including additional costs above and beyond the initial estimate) for implementing the repair to the satisfaction of the City, and allowing the City to inspect the completed repair 30 days after the close of escrow.

22. Short Sale

BMR units that received loan assistance from the City will be governed by the most restrictive applicable program guidelines related to the associated loan type(s).

For BMR units that have not received loan assistance from the City, the City will consent to a short sale request provided that the short sale price does not exceed the maximum sales price allowed under the BMR program and the buyer will be required to record a performance deed of trust on the property related to the Resale Restriction Agreement as a condition of the close of escrow to purchase the property.

Foreclosure Report
Period January 1, 2013 to June 30, 2013
Updated: July 26, 2013

Due to the historic housing downturn and the concurrent rise in foreclosures, starting in 2007, staff has been tracking Emeryville properties in the foreclosure process. In the table (attached as Exhibit A), properties that are or have been in some phase of the foreclosure process are organized as follows:

- Units in an initial stage of the foreclosure process:
 - Having received a Recorded Notice of Default (NOD); or
 - Having received a Recorded Notice of Trustee Sale.
- Units that have been lost to foreclosure :
 - Taken over by the lender through foreclosure sale, called Real Estate Owned (REO) properties, or
 - Sold to a third party at the foreclosure sale.

Historic Data

The data gathered prior to 2012 was determined using a variety of sources. Due to the varied nature of the source information, the database is not necessarily a cumulative list of all properties in Emeryville that have been in some phase of the foreclosure process. However, the cumulative data for the period 2007 through 2012 provides information on the number of units lost to foreclosure in Emeryville during this period. It should be noted that each time a property goes through foreclosure is counted as a single instance and a single unit may have been lost to foreclosure, purchased by a buyer who subsequently lost the unit to foreclosure during this period.

Current Data

For the six-month period of January through June 2013, staff evaluated data from RealtyTrac, a website that compiles foreclosure information from throughout the United States. The data was first sorted to eliminate commercial properties or addresses located in Oakland, then to identify whether the property was a single family detached home, a single family unit in a multifamily property or a multifamily rental building that had been foreclosed in its entirety. Based on that data, 22 properties were issued NOD's or scheduled for a trustee sale, consisting of 19 single family units and 3 rental properties. An additional 16 properties were foreclosed upon, consisting of 14 single family units and 2 rental properties.

Trends

Based on the historic data from 2007 to 2012, on average 30 units were foreclosed in each six month period as compared to the 16 units in the most

recent six month period. .

It should be noted, that this foreclosure data does not reflect short sales. , A short sale is another way in which owners of properties in which the liens are more than the property is worth (“underwater”) resolve their mortgage issues. These owners may be in the foreclosure process or may need to sell for some other reason. The process is one in which the lender allows the property to be sold for less than the outstanding liens. The number of short sales is another indicator of instability in the housing market. As these transactions do not require particular documents to be recorded with the Clerk-Recorder, staff is unable to track this data at this time.

Anecdotally, of the 13 resales of BMR units in Emeryville during FY 2012-2013, three units required a short sale of City loans to facilitate close of escrow. Only one of these units was in the foreclosure process. The City forgave from 6% to 84% of the outstanding principal and accrued interest. In all three cases, the purchase price was adequate to pay the amounts due for the primary mortgage so a short sale of the first mortgage was not necessary. One unit with a rehabilitation loan was sold under a short sale on the first mortgage. The City forgave half of the outstanding principal amount.

Conclusion

Based on the reduced number of foreclosures in the last 6 month period, as compared to the historic data from 2007 to 2012 and the reduction in NOD’s received by City staff, it appears that there is downward trend in foreclosure activity in Emeryville. Staff believes that some of the reduction in foreclosures is due to banks’ increased willingness to allow short sales. In addition, staff believes that the rates of foreclosures will continue to decline as prices increase and distressed owners are able to sell before foreclosure.

Exhibit A:

City of Emeryville
Location of Homes Foreclosed or in Foreclosure

	# of Units in Development	Foreclosed 12/2007- 12/2012	1/1/13-6/30/13 In Foreclosure	Foreclosed
Single Family Attached: ¹				
Andante	125	24	1	3
Artisan Walk ²	72	0	0	0
Bay Street One Condos	95	20	1	1
Beaudry Condos	2	0	0	1
Besler Building	52	2	0	0
BlueStar Corner	20	0	0	0
Bridgewater	424	31	0	1
Christie Ave. Commons	22	1	0	0
City Limits ²	92	2	0	0
Elevation 22	71	3	0	0
Emeryville Warehouse Lofts	141	10	0	0
Emery Bay Village	112	8	2	1
Gateway	6	0	0	0
Glashaus	145	3	0	1
Green City Lofts ²	62	9	0	0
Horton Street Lofts	15	1	0	0
KeyRoute Lofts	22	4	0	0
Liquid Sugar Lofts	55	3	0	0
Ocean Avenue Lofts	5	0	0	0
Oliver Lofts	50	6	0	0
Pacific Park Plaza	583	22	3	0
Powell Street Lofts	10	0	0	0
Salem Manor	3	0	0	0
Temescal Lofts	4	0	0	0
Terraces at EmeryStation	101	6	2	1
Vacant Housing Program	11	0	1	0
Watergate	1247	58	8	5
Single Family Detached ¹	542	9	1	0
Subtotal Single Family Units:		222	19	14
Multiple Units:		19	3	2
TOTAL:		241	22	16

Notes:

¹Single family= separately owned properties that include one unit, either a detached house or an attached condominium, townhouse, or live/work unit.

²Oakland foreclosed units in City Limits, Artisan Walk, and Green City Lofts not included.