



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: July 11, 2017

TO: Carolyn Lehr, City Manager

FROM: Charles S. Bryant, Community Development Director

SUBJECT: Resolution Of The City Council Of The City Of Emeryville Adopting The 2017 Housing Affordability Table Pursuant To The Affordable Housing Program (Article 4 To Chapter 5 Of The Planning Regulations)

STAFF RECOMMENDATION

Staff recommends that the City Council approve the attached resolution adopting the 2017 Housing Affordability Table pursuant to the Affordable Housing Program (Article 4 of Chapter 5 of Title 9 of the City of Emeryville Planning Regulations).

BACKGROUND

The City's Affordable Housing Program (AHP) was adopted in 1990 and updated in 2014. Prior to 2014, the ordinance required that new residential and live-work developments of thirty or more units (rental or for-sale) include a set-aside of Below Market Rate (BMR) units. In the case of for-sale developments, twenty percent of the units were to be set aside at the moderate income level. In the case of rental developments, six percent of the units were to be set aside at the very low income level and nine percent of the units were to be set aside at the moderate income level. In both rental and ownership projects, the AHP allowed the developer to apply to the City to provide low income units in lieu of all or some portion of their moderate income unit requirement. In 2014, the AHP was updated to require that new ownership residential projects of ten or more units have a set-aside of twenty percent of the units at the moderate income level. The current AHP requires an impact fee of \$28,122 per rental unit or an in-lieu production requirement of eight percent of the units at the low income level and four percent at the very low income level.

Currently, the City's BMR inventory includes 903 units consisting of 667 rental units and 236 ownership units. This total includes 63 affordable rental units completed since 2015 at the 3900 Adeline, EMME (64th and Christie) and Parc on Powell (Powell and Hollis) housing projects. The income levels of the City's BMR units are as follows:

Tenure	Very Low Income	Low Income	Moderate Income	Total
Rental	423	138	106	667
Ownership	34	61	141*	236
Total	457	199	247	903

* The Moderate income figures may include some units restricted to Median incomes.

In late 2009, the California Supreme Court upheld the *Palmer/Sixth Street Properties v. City of Los Angeles* case (Palmer Decision). Under this decision, Los Angeles' inclusionary housing ordinance was preempted by the Costa-Hawkins Rental Housing Act, which allows landlords to set the initial rent for new units and to adjust rents whenever units become vacant. The Palmer Decision only applies to rental projects and not to owner-occupied for-sale developments. The Palmer Decision does not apply in cases where the owner has agreed to provide affordable units in exchange for a financial contribution or other incentive, such as a density bonus, or the owner has agreed to provide affordable rental units in exchange for vested rights conferred under a development agreement. Emeryville's AHP and the affordable housing rental limits presented in this staff report will apply to all rental projects except those where application of the ordinance is precluded by the Palmer Decision and the Costa Hawkins Act.

Typically, the State of California Housing and Community Development Department (HCD) releases the income limits for each county between February and April of each year. This year, HCD released the income limits on June 9, 2017. A copy of the State's release is found in Attachment 3. After the State releases its annual income limits for Alameda County, staff updates the "Housing Affordability Table" which is used to provide the maximum sales prices and gross rent levels that are eligible under the AHP.

DISCUSSION

Alameda County Income Limits

The median income limits for Alameda County set by HCD have not changed significantly since the 2012 levels. This is because the State has held income limits stable pursuant to a "Hold Harmless Policy", while income limits issued by the U.S. Department of Housing and Urban Development (HUD) decreased in 2012 and have slowly increased since 2013. The Federal income limits have now exceeded the California hold harmless rates but only by a small margin. In the absence of a Hold Harmless Policy, a decrease in Area Median Income (AMI) results in a decrease in unit rents and therefore threatens the financial viability of existing and future affordable housing projects. In addition, the risk of future decreases in rents may discourage private lenders from investing in properties whose rental income could be reduced by future downward adjustments to income limits, rendering it difficult to pay debt service.

The Alameda and Contra Costa County Area Median Income limits by household size are as follows:

1-person:	\$68,200
2-person:	\$77,900
3-person:	\$87,650
4-person:	\$97,400
5-person:	\$105,200

The chart below presents the annual percentage changes in median income at the four-person household size since 2011. While increases were slight to moderate between 2012 and 2016, the 4.1% increase between 2016 and 2017 deviates from that pattern. This results in an increase of the allowable amounts of BMR gross monthly rents and maximum resale prices.

	2011	2012	2013	2014	2015	2016	2017
Alameda Co. Median Income -- 4 person household	\$92,300	\$93,500	\$93,500	\$93,500	\$93,500	\$93,600	\$97,400
% Increase	2.21%	1.30%	0.0%	0.0%	0.0%	0.1%	4.1%

Affordable Housing Cost

Pursuant to the AHP, maximum housing costs are calculated in compliance with Section 50052.5 of the California Health and Safety Code. The chart below shows the maximum amount that may be spent on total housing costs from a household's income for owner-occupied and renter-occupied housing.

- For owner-occupied housing, total housing costs include monthly mortgage principal and interest, property taxes and assessments, homeowners insurance, homeowner association fees where applicable, an allowance for utilities, property maintenance and repairs and private mortgage insurance (PMI).
- For renter-occupied housing, total housing costs includes the monthly rent, and an allowance for utilities, fees or service charges charged to all tenants.

<u>Income Level</u>	<u>Ownership Housing</u>	<u>Rental Housing (gross rent)</u>
Moderate income	35% of 110% AMI	30% of 110% AMI
Low income	30% of 70% of AMI	30% of 60% of AMI
Very low income	30% of 50% of AMI	30% of 50% of AMI

Process to Implement the AHP

As part of a development's entitlement process, the City places conditions of approval on the project to direct its design and development, as required by the AHP. For ownership projects of 10 or more units, the Planning Commission imposes a condition of approval requiring the applicant to enter into an Affordability Agreement that is approved by the City Council before the project may receive its building permits. For rental projects that choose the in-lieu production requirement instead of the Affordable Housing Impact fee, the Planning Commission imposes a condition of approval requiring the applicant to enter into an Affordability Agreement that is approved by the City Council before the project may receive its building permits.

The Affordability Agreement implements the requirements of the AHP, including the duration of the affordability covenants (45 years for ownership projects and 55 years for rental projects), the developer's requirements for marketing the BMR units, the designation of the BMR units within the project, the required resale restriction documents (for ownership projects), the required compliance documents (for rental projects), and the initial sales prices or rent levels for the affordable units.

Staff determines the initial sales prices or rents on a project-by-project basis, applying the State definition of affordable housing cost, but applying the specific project's estimate for homeowner dues and/or maintenance and utility costs.

Annual Housing Affordability Table

While each project's sales or rent levels are set individually and contained as an exhibit within that project's Affordability Agreement, staff also produces the Housing Affordability Table in conjunction with the release of the income limits by HCD.

This table is used for reference purposes and is distributed to developers of projects subject to the AHP so that they may conduct project financial analyses. The calculations in the table are based on the State affordable housing cost definitions and the amounts are adjusted for family size. The table assumes a household size one more than the number of bedrooms. For example, the one-person household income limit is applied for studios, the two-person household income limit is applied for one-bedroom units, the three-person household income limit is applied for two-bedroom units, and so forth.

Actual sales and rent levels of BMR units may be less than the sales prices and rents in the table, which estimate the maximum sales price or rent that could be charged based on statutory requirements. As noted above, actual maximums will be based on project specific information such as condominium fees and utility and maintenance costs. Furthermore, BMR units may be priced below the maximum as the developer, or seller in the case of resales, responds to market conditions.

A moderate income unit's sale price or rent level may be close to the market price. In this case, there may be little incentive for a household to buy or rent the unit, given the administrative burden on the household to qualify for a BMR unit. To sell or rent the unit, the developer may further discount the price. In general, market rate studio, one, two and three bedroom rents are higher than the maximum moderate income rents allowed for BMR units under the AHP. When rents increase, as they are currently in Emeryville, BMR rent restrictions will increasingly make apartments more affordable to very low, low and moderate income households. The same pattern is true in ownership units; the larger the unit, the more likely it is that the market price will be higher than the maximum moderate income price allowed for BMR units under the program. In addition, moderate income buyers currently have difficulty competing against all-cash offers for market rate units and are more likely to apply to purchase BMR units.

Rental housing assumptions

The Housing Affordability Table calculates *gross rents*. Developers are required to deduct from the gross rent any charges or fees paid by the tenants, and an allowance for utilities paid by tenants in accordance with the most recent utility allowances published by the Housing Authority of the County of Alameda (HACA).

Ownership housing assumptions

For ownership housing, it is necessary to make assumptions about several factors that influence the affordable sales price. These assumptions are the interest rate and term, the down payment level, the homeowner association fees, and utilities and maintenance allowances.

In the past year, some buyers have been able to access loans with interest rates as low as four percent. However, because moderate and low income households are often first-time purchasers and may not have a strong credit history, they may be subject to higher interest rates on their first mortgages than what is seen on average in the market. In addition, interest rates are currently low and may increase throughout the coming year as the economy continues to recover. Staff uses the fifteen year average of the Fannie Mae 30-year interest rate which calculates to 4.5 percent when rounded to the nearest 0.25 percentage point. Staff estimates that the PMI on a private mortgage on a condominium unit is approximately 0.52% of the first mortgage amount.

Finally, the table makes assumptions about homeowner association fees, utilities and maintenance that are applied under all three income levels. These levels are based on staff's assessment of recent condominium projects that have been subject to the AHP. Again, when the City is preparing an Affordability Agreement for an individual project, staff will obtain the estimated homeowner association fees for that particular project and calculate the maximum sales prices accordingly.

Summary of 2017 Housing Affordability Table

The chart below provides a summary of the maximum sales prices and rent levels for 2017, by unit size and income level. Under the Affordable Housing Program, the sales prices are set at the moderate income level (although the table includes all income levels), and the rent levels are set at the moderate, low, and very low income levels.

2017 Maximum Sales Prices				
	Studio	One-Bedroom	Two-Bedroom	Three-Bedroom
Moderate Income	\$279,363	\$318,319	\$357,179	\$393,389
Low Income	\$119,595	\$135,827	\$151,847	\$165,216
Very Low Income	\$74,657	\$84,504	\$93,997	\$100,841

2017 Gross Monthly Rents				
	Studio	One-Bedroom	Two-Bedroom	Three-Bedroom
Moderate Income	\$1,876	\$2,142	\$2,410	\$2,679
Low Income	\$1,023	\$1,169	\$1,315	\$1,461
Very Low Income	\$853	\$974	\$1,096	\$1,218

FISCAL IMPACT

Adoption of the 2017 Housing Affordability Table has no fiscal impact.

STAFF COMMUNICATION WITH THE PUBLIC

On May 3, 2017, the Housing Committee passed a motion to recommend that the City Council adopt the Draft Housing Affordability Table: Maximum Sales Prices and Rents, once updated by staff with State of California Income Limits when made available.

LEGAL CONSIDERATIONS

As noted above, the AHP will only apply to new rental units in cases where the owner has agreed to provide affordable rents by contract in exchange for assistance in the development of the project, if required for a density bonus, or if the owner opts for an in-lieu production requirement rather than paying the Affordable Housing Impact Fee.

PREPARED BY: Catherine Firpo, Community and Economic Development Coordinator II

REVIEWED BY: Chadrick Smalley, Economic Development and Housing Manager

**APPROVED AND FORWARDED
TO THE CITY COUNCIL OF THE CITY OF EMERYVILLE:**



Carolyn Lehr, City Manager

ATTACHMENTS

1. Resolution
2. Exhibit A to Resolution - Income and Rent Limit Table
3. State HCD Income Limits Release for 2017