



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: July 20, 2021

TO: Christine Daniel, City Manager

FROM: Charles S. Bryant, Community Development Director

SUBJECT: **Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute All Documents Necessary To Effectuate The Sale Of A Below Market Rate Unit Located At 1500 Park Avenue #322 For \$338,200; Amending The Fiscal Year 2021-2022 Operating Budget To Increase Revenues To, And Expenditures From, The Affordable Housing Fund (Fund No. 299) By The Net Proceeds Collected Upon The Close Of The Sale Of The Property; And Appropriating The Net Proceeds Collected To The Fiscal Year 2021-2022 Capital Improvement Program Budget For The Below Market Rate Acquisition Program (CIP Project # H-06)**

RECOMMENDATION

Staff recommends that the City Council adopt the above-entitled resolution authorizing the City Manager to execute all documents necessary to effectuate the sale of a Below Market Rate ("BMR") unit located at 1500 Park Avenue #322 (the "Property") for \$338,200; amending the Fiscal Year 2021-2022 operating budget to reflect the increased revenue to, and expenditures from, the Affordable Housing Fund (Fund No 299); and appropriating the net proceeds to the Capital Improvement Program Budget for the BMR Acquisition Program (CIP Project # H-06).

BACKGROUND

Robert Arias Jr. ("Owner") purchased the Property, a one-bedroom unit, on September 18, 2003 for \$206,000 as a moderate-income homebuyer. To ensure long-term affordability of the Property, the City required that a Resale Restriction and Right of First Refusal ("Agreement") be recorded against the Property. The Agreement will expire on September 20, 2028, and annually the Owner must confirm that they still reside in the Property as their principal place of residency.

On April 21, 2021, the City received notification from the Owner of their intent to sell the Property. Pursuant to the terms of the Agreement, the City had 60 days to exercise its right to purchase the Property or assign its right to purchase to an income eligible buyer. On June 1, 2021, the City Council adopted Resolution No. 21-47 authorizing the City Manager to purchase the BMR Property for \$338,200, to ensure that the City retained the affordability period on the Property.

DISCUSSION

Maximum Resale Price

The Agreement specifies that the resale price of the Property must be fixed at the lower amount derived from following two methods:

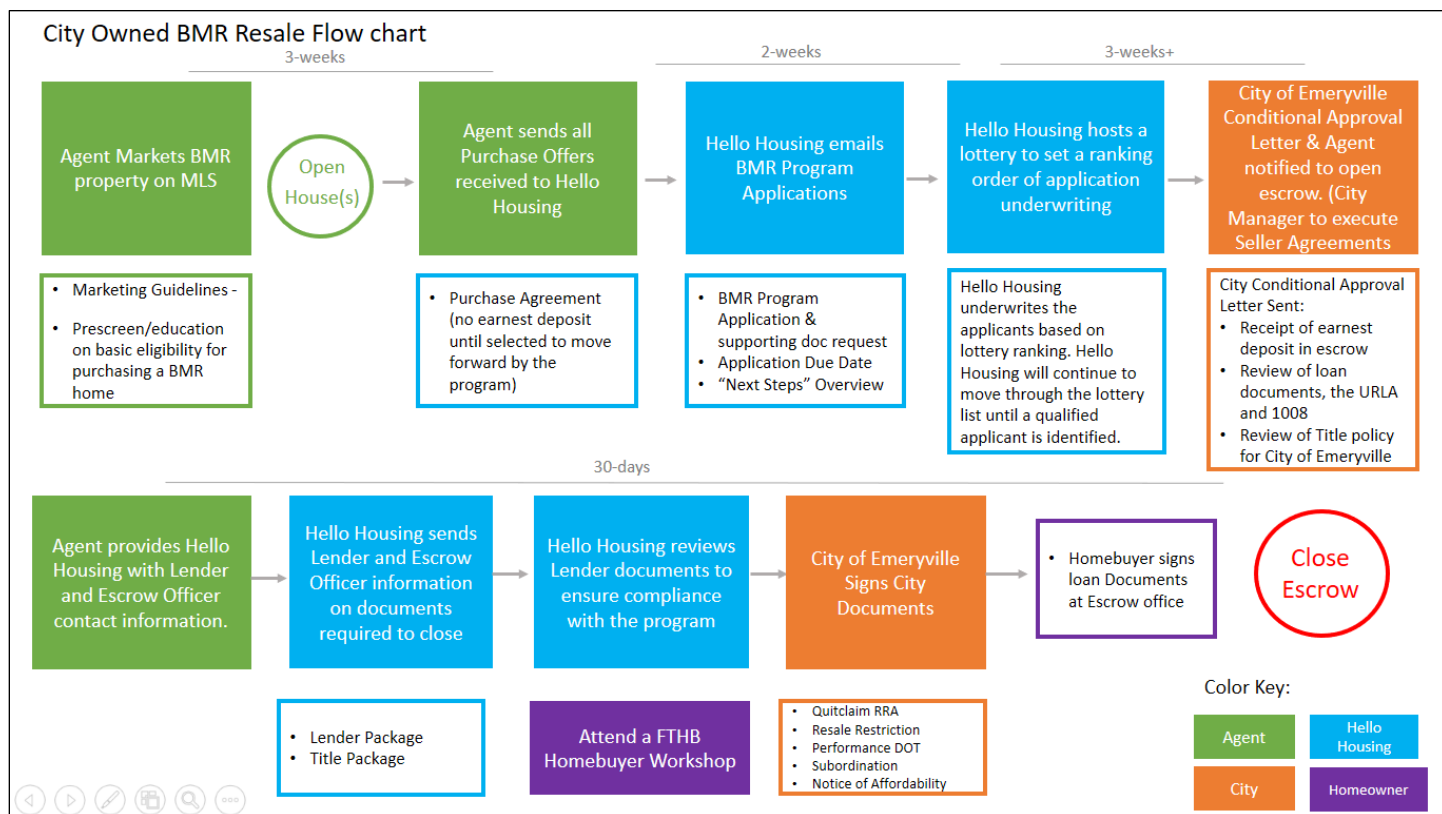
1. Fair market appraised value, if there is a substantial chance that the fair market appraised value is less than method # 2.
2. Acquisition price plus the cost of living increase as measured by the Consumer Price Index plus the depreciated value of capital improvements made by the Owner minus the cost of any deferred maintenance remaining at close of escrow.

The City is purchasing the unit for \$338,200, so method #2 calculates to a maximum resale price of \$338,200. Based on a 2020 Real Estate Market Report provided by a local real estate company, the average sales price of a one-bedroom unit sold in Emeryville in 2020 was \$475,000. Therefore, staff has determined that there is not a substantial chance that the fair market appraised value of this Unit is less than the amount calculated via method #2 and will not order an appraisal of the Property. Thus, staff has determined that the maximum resale price for this Unit is \$338,200.

Resale and Lottery Process

Upon the acquisition of the Property, the City will engage with a licensed Realtor and Hello Housing, the City's BMR Homebuyer Consultant, to coordinate the marketing and a lottery process to identify a moderate income-eligible buyer to purchase the Property. The Property will be listed on Multiple Listing Service ("MLS") for approximately three weeks, with notification also going out to those registered through the City's Housing Notification System. Prospective buyers will be allowed to view the property virtually and through scheduled open houses. During this window, the Realtor will respond to all inquiries about the unit and will collect all purchase contract offers on the Property.

Upon the end of the marketing period, the Realtor will forward all offers received to Hello Housing. Hello Housing will contact those who submitted offers to communicate what the next steps are, including the submission of a complete BMR Program Application. Prospective buyers will have two weeks to submit the complete BMR Program Application in order to be included in the lottery. Hello Housing will host the lottery and then work with the prospective buyers in rank order to complete the underwriting process. Hello Housing will continue to work through the prospective buyers in rank order until a prospective buyer meets the underwriting requirements. The City will then execute the sales agreement with the selected buyer and request that the buyer submit earnest money into escrow in preparation for closing. It is estimated that, from the start of the marketing period until close of escrow, the entire process will take at least three months. The following flow chart depicts the estimated timeline, roles and responsibilities of each party in the marketing, lottery, and sales process.



Resale Restriction and Right of First Refusal Agreement

The Agreement is the mechanism the City utilizes to ensure that the unit remains affordably priced for a pre-determined number of years in the event of a future sale. The Agreement also outlines the mechanism and restrictions the seller must follow if they elect to sell the unit before the expiration of the Agreement. The Agreement currently recorded against the Property requires the City to determine, within 60 days of the notice of intent to sell by Owner, if the City will acquire the Property or assign its right to acquire to an income eligible homebuyer. This Agreement does not align with the Resale Restriction Agreements recorded against most of the properties within the City's BMR portfolio, as most require that the Seller market the property on the MLS and, if after 90 days they have not received an offer, the City can either purchase the property or assist with the marketing efforts for another 60 days. Upon the end of the additional 60-day marketing period, if an income eligible buyer has not been identified, the City can then elect to purchase the property within 90 days or allow the seller to sell the unit to a non-income eligible homebuyer at the affordable purchase price. Staff recommends that, upon the resale of the Property, the City Manager execute a revised Agreement that allows for the seller to market the property before the City must decide if it will acquire it, similar to the Resale Restriction Agreements recorded against most of the properties within the City's BMR portfolio, and shown in Exhibit A of the attached Resolution.

FISCAL IMPACT

In addition to authorizing the purchase of the Property, on June 1, 2021, the City Council authorized the expenditure of \$16,800 for holding costs from the Affordable Housing Fund (Fund 299) for this transaction. All seller-related real estate transactions costs (i.e. seller and buyer real estate commission, title search, title fee, recording fees, taxes, etc.) will be withheld from the proceeds of the sale. Upon the closing of escrow, the City will receive the net proceeds of the sale from the Title Company. This revenue is proposed to be receipted in the Affordable Housing Fund (299), and the attached resolution provides for the amendment of the Fiscal Year 2021-2022 budget to recognize this revenue and expenditures administered by the City. The net proceeds are proposed to be appropriated to the BMR Acquisition Program (CIP Project # H-06) for future use.

STAFF COMMUNICATION WITH THE PUBLIC

Staff has been in communication with Hello Housing and two real estate agents regarding the resale process of the Property.

CONFLICT OF INTEREST

None.

CONCLUSION

Staff recommends that the City Council approve the attached resolution authorizing the City Manager to execute all documents necessary to sell 1500 Park Avenue #322 for \$338,200; amending the Fiscal Year 2021-2022 budget to reflect the increased revenue to, and expenditures from, the Affordable Housing Fund (Fund 299); and appropriating the net proceeds to the BMR Acquisition Program.

PREPARED BY: Valerie F Bernardo, Community & 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



Christine Daniel, City Manager

ATTACHMENTS

- Draft Resolution, including Exhibit A, Resale Restriction Agreement