



MICHAEL N. FEUER  
CITY ATTORNEY

REPORT NO. R 1 3 - 0 3 6 2  
DEC 18 2013

**REPORT RE:**

**DRAFT ORDINANCE TO AMEND ARTICLE 4 OF CHAPTER 1 OF DIVISION 7 OF  
THE LOS ANGELES ADMINISTRATIVE CODE "SALES OF REAL PROPERTY  
NO LONGER REQUIRED FOR USE OF THE CITY"**

The Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, CA 90012

Council File No. 13-0442

Honorable Members:

Pursuant to your request, this Office has prepared and now transmits for your consideration, approved as to form and legality, a draft ordinance to amend Article 4 of Chapter 1 of Division 7 of the Los Angeles Administrative Code (LACC), Sales of Real Property No Longer Required for Use of the City (LAAC Section 7.21, *et seq.*). The draft ordinance would add an expedited process to be used by the Los Angeles Housing and Community Investment Department (HCIDLA) to offer for sale properties acquired by HCIDLA either by foreclosure or by direct purchase (REO properties), which are restricted for use as housing for low and moderate income households.

Background and Summary of Ordinance Provisions

HCIDLA routinely makes loans to borrowers in order to develop, construct and manage affordable housing projects of varying sizes within the City of Los Angeles, as well as smaller loans to individuals and families for the purpose of purchase assistance of homes or for home rehabilitation. Generally, the monies used to fund these loans are

from local, state or federal sources which restrict the use of the funds to housing for low and moderate income households. Traditionally, the loan agreement is secured by a Deed of Trust and Regulatory Agreement restricting the use of the REO property for affordable housing for no less than 30 years. The restrictive covenants of the Regulatory Agreement are recorded against the property.

Unfortunately, from time to time, HCIDLA is forced to foreclose on these properties due to non-performance under the terms of the loan. In the case of foreclosure, if the property does not sell at auction, the property title reverts back to HCIDLA and the property is inventoried as a REO property. Other properties subject to similar restrictions based on the funding invested may also be purchased by HCIDLA and inventoried as REO properties. As a matter of policy, HCIDLA does not engage in the rental housing business, and timely disposition of the REO properties minimizes the potential liability to HCIDLA associated with ownership and maintenance. This ordinance creates a process which serves the public interest in expediting the disposition of these REO properties by putting the properties back into private hands, and facilitating their rehabilitation and continued use as affordable housing.

#### Previous Sale Procedures

Presently under Article 4 of the LAAC, there are two methods for the sale of properties owned by the City which are no longer required for City use. Properties may be sold by auction [LAAC Sections 7.23-7.26] or by direct or private sale [LAAC Section 7.27] in which a competitive process is generally not utilized. In the case of a direct or private sale of City-owned property, Section 7.27 requires Council to make findings of public interest and necessity. HCIDLA has historically sought Council authority to utilize the private sale procedure for the sale of REO properties. The findings of public interest and necessity supporting the direct sale of the REO properties include: (1) the requirement that the funding used to acquire these properties restricts the use of these REO properties to low and moderate income affordable housing; (2) under state law, there is a legislative declaration that the provision of housing for all Californians is a concern of statewide importance [Gov't Code Section 37364]; and (3) there exists a strong public interest and need for the provision of housing for low and moderate income families within the City.

However, unlike other direct sales, a competitive process for the disposition of these REO properties is required by the conditions of federal and state funding. Therefore, HCIDLA has been utilizing a variety of competitive sales methods, including Requests for Proposals (RFP) and publicizing the sales in its Notices of Funding Availability (NOFA), as well as traditional brokerage services in order to locate qualified buyers willing and able to rehabilitate and/or use the property as affordable housing.

As a result, HCIDLA has engaged in a somewhat cumbersome two-step process whereby Council approval is sought prior to offering these REO properties for sale and then again after a qualified buyer is identified. Under LAAC Section 7.22, HCIDLA is also directed to offer the use of these properties to other city agencies even though the REO properties cannot be used for other City departmental needs due to the legal constraints imposed by the funding utilized, i.e., affordable housing. As a result, compliance with this particular requirement unnecessarily lengthens the process.

#### Prior Council Direction

On July 3, 2012, City Council expressed its concerns about the length of time HCIDLA has held on to these REO properties without taking action to dispose of them, and directed HCIDLA to make recommendations to expedite its disposition of these REO properties (CF 12-0018). In response, HCIDLA, in its loan portfolio report dated September 24, 2012 (CF 12-0018), requested that the City Council approve an expedited process to accelerate the disposition of properties in its REO portfolio, while at the same time maximizing the public benefit and minimizing the risks to the City. On May 22, 2013, by Motion 19A, Council requested this Office to prepare and present an ordinance, if necessary, to formalize this recommendation.

The codification of this expedited process specifically for the sale of REO properties is consistent with City Charter Section 385, whereby City property may be sold under the terms and conditions prescribed by ordinance.

Accordingly, this ordinance defines and codifies as part of the LAAC, a streamlined process for the marketing and disposition of these REO properties which serves the public interest in the timely return of these properties to the affordable housing market. The expedited process dictates two commercially reasonable methods by which HCIDLA may identify qualified and appropriate buyers for the REO properties prior to presenting the proposed sale to Council for its approval.

#### CEQA Clearance

This action is exempt from the California Environmental Quality Act (CEQA) because the approval of this ordinance has no potential for resulting in any foreseeable significant effect on the environment pursuant to California Code of Regulations, Title 4, Chapter 3 CEQA Guidelines Section 15061.

#### Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to HCIDLA. Their comments have been incorporated into the draft ordinance.

Recommended Actions

1. Determine that adoption of the ordinance is exempt from CEQA environmental review under State CEQA Guideline Section 15061; and
2. Adopt the enclosed ordinance.

If you have any questions regarding this matter, please contact Deputy City Attorney Mei-Mei Cheng at (213) 978-0055. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 

DAVID MICHAELSON  
Chief Assistant City Attorney

DM:MMC:pj  
Transmittal

**ORDINANCE NO. \_\_\_\_\_**

An ordinance adding Sections 7.33.2, 7.33.3, 7.33.4, 7.33.5, 7.33.6 and 7.33.7 to Division 7, Chapter 1, Article 4, of the Los Angeles Administrative Code to create a marketing and sale procedure to sell real property, the title of which is acquired through foreclosure or otherwise by the Los Angeles Housing and Community Investment Department and is restricted for use for the provision of housing for low and moderate income households.

**WHEREAS**, the Los Angeles Housing and Community Investment Department (HCIDLA) is the conduit for local, state and federal funding specifically for the provision of low and moderate income housing for residents of the City of Los Angeles; and

**WHEREAS**, as the result of foreclosure or otherwise, HCIDLA has title to properties in which local, state or federal funds are invested and which are restricted in their use for low and moderate income housing (REO properties); and

**WHEREAS**, it is in the public interest to expedite the disposition of these REO properties to return them to the affordable housing stock for the residents of the City of Los Angeles; and

**WHEREAS**, the sale procedures currently provided for in the Los Angeles Administrative Code (LAAC) are not adequate to accommodate the expedited marketing and sale of these particular property dispositions; and

**WHEREAS**, pursuant to Section 385 of the Los Angeles City Charter the City Council may provide for the sale of real property under terms and conditions prescribed by ordinance; and

**WHEREAS**, the City Council finds that expedited disposition of the REO properties for the provision of low and moderate income housing is in the best interest of the City, and that such real property is not surplus property or land within the meaning of Los Angeles Administrative Code or California Government Code Section 54220, *et seq.*

**NOW, THEREFORE,**

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS**

Section 1. Sections 7.33.2, 7.33.3, 7.33.4, 7.33.5, 7.33.6 and 7.33.7 are hereby added to Division 7, Chapter 1, Article 4, of the Los Angeles Administrative Code to read as follows:

**Sec. 7.33.2. Sale of REO Property – Powers of HCIDLA General Manager.**

Where the Los Angeles Housing and Community Investment Department (HCIDLA) (or any predecessor or successor City agency or department) has obtained title to real property as the result of foreclosure or purchase in which local, state or federal funds are invested and which are restricted in their use for low and moderate income housing (REO property), the HCIDLA General Manager or designee may make the determination that the REO property is to be sold and shall:

(a) Authorize and identify the competitive process set forth in Section 7.33.3 that will be used to solicit proposals from qualified buyers for the REO property offered for sale; and

(b) Direct that HCIDLA competitively seek proposals from potential buyers of REO property subject to the condition that such REO property will be the subject of a covenant or regulatory agreement restricting its use for housing for low or moderate income residents, as those respective terms are defined by the underlying source of funding HCIDLA has invested in the REO property.

**Sec. 7.33.3. Methods of Marketing.**

The REO property shall be marketed by HCIDLA in one of the two methods set forth herein.

(a) City Directed Marketing Method. HCIDLA shall comply, at a minimum, with the following requirements:

(1) HCIDLA shall direct that a Request for Proposal (RFP) or Notice of Funding Availability (NOFA) be issued that describes the REO property in a manner sufficient to inform a potential buyer of the REO property's particular location, characteristics and use restrictions such that a potential buyer may make an informed and submit competitive proposal. Prior to release, the RFP or NOFA shall be subject to the review and approval of the HCIDLA Assistant General Manager or designee; and

(2) The RFP or NOFA shall be advertised on the appropriate City website designed to reach qualified buyers.

(b) Commercial Marketing Method. HCIDLA shall comply, at a minimum, with the following requirements:

(1) HCIDLA shall engage the services of a commercial real estate broker who shall list the REO property including its location, characteristics and use restrictions on a commercially available real estate listing service commonly used in the sale and marketing of real estate properties in the Los Angeles area. Prior to publication, the listing shall be

subject to the review and approval of the HCIDLA Assistant General Manager or designee; and

(2) The REO property shall be listed on the appropriate City website designed to reach qualified buyers.

**Sec. 7.33.4. Minimum Sales Price.**

Unless otherwise approved by the City Council, the minimum sales price of an REO property shall be the full appraised value or no less than the minimum percentage of value as determined by appraisal under the requirements of the local, state or federal funds invested in the REO property.

**Sec. 7.33.5. Term of Restricted Use.**

The resulting use of the REO property after its sale shall be for housing for low or moderate income households and shall be subject to a covenant or regulatory agreement to be recorded against the REO property restricting its use for a term determined as follows:

(a) If at the time the REO property is sold or transferred pursuant to this ordinance, HCIDLA is not providing any additional public funding for the REO property, the term of affordability shall be, at a minimum, the full term consistent with the requirements of the funding previously invested in the REO property; or

(b) If additional public funding is invested in the REO property at the time of sale, the term of affordability shall be, at minimum, the term consistent with the requirements of the additional funding source; however, in the event the resulting term under the additional funding source requirements is less than the full term consistent with the requirements of the funding previously invested in the REO property, the longer term shall be applied in the covenant or regulatory agreement.

**Sec. 7.33.6. Role of City Administrative Officer.**

The City Administrative Officer shall review the proposed sale of an REO property and make recommendations to the City Council.

**Sec. 7.33.7. Approval by City Council Required.**

An REO property shall only be sold after the City Council has made the necessary findings and approved the sale by ordinance pursuant to Section 7.27 of the LAAC.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of \_\_\_\_\_.

HOLLY L. WOLCOTT, Interim City Clerk

By \_\_\_\_\_

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By \_\_\_\_\_  
MEI MELCHENG  
Deputy City Attorney

Date 12.17.13

File No.(s) \_\_\_\_\_