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Honorable Members of the City Council  
C/o City Clerk  
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Attention: John White, Legislative Assistant

**COUNCIL REPORT BACK: REGARDING PROACTIVE ACTIONS TAKEN TO PRESERVE, EXTEND, AMEND, AND MONITOR AT-RISK AFFORDABLE HOUSING COVENANTS EXPIRING IN THE NEXT FIVE YEARS**

**SUMMARY**

On December 13, 2016, Councilmembers Jose Huizar, Council District 14, and Gilbert A. Cedillo Council District 1, introduced a motion (Council File No. #16-1443) instructing the Los Angeles Housing + Community Investment Department (HCIDLA) to report back on various proactive actions, strategies and funding needs for protecting existing at-risk affordable housing covenants, including those in Council Districts 4 and 14 which are at-risk of expiring in the next five years.

HCIDLA respectfully submits this report outlining actions taken to preserve at-risk affordable housing in 2016 and 2017, and actions HCIDLA will undertake to continue efforts for preservation. This report addresses the status of HCIDLA's preservation program, the tracking and prioritizing of at-risk affordable housing, outreach and education initiatives, financial and non-financial efforts, and recommendations that will enhance and continue the forward movement of HCIDLA's preservation initiatives.

**RECOMMENDATIONS**

The General Manager of HCIDLA respectfully requests that:

- I. Your office schedule this report back at the next available meeting(s) of the appropriate City Council committee(s) and forward it to City Council for review and approval immediately thereafter; and,
- II. The City Council receive and file this report.

## **REPORT BACK**

As the City faces a prolonged affordable housing crisis, the preservation of vulnerable and restricted at-risk housing is critical in preventing the displacement of low income residents. To respond to this issue, HCIDLA early in 2016 established a preservation program (Program) with the sole purpose of integrating non-financial and policy components with financial initiatives in order to preserve at-risk restricted affordable housing. The Program staff (Team) consists of two dedicated staff members who leverage HCIDLA resources and work with consultants on an as needed basis. This report contains a summary of the proactive actions and strategies that are crucial to protecting existing affordable housing covenants throughout the City, and funding requirements needed to support preservation functions.

### **Financial and Non-Financial Preservation Efforts**

During Calendar Year 2016 to present, HCIDLA assisted in the preservation of 800 units of at-risk affordable housing within 16 properties. These preservation efforts are a combination of financial and non-financial initiatives. Over that same period, 11 properties with a total of 337 affordable housing covenants were terminated. Current financial and non-financial preservation efforts are detailed in Table 1 below.

**Table 1 - 2016 to Current, Financial and Non-Financial Preservation Efforts**

<b>Primary Program/Initiative</b>	<b>Type</b>	<b>Properties</b>	<b>Affordable Units</b>	<b>Council Districts</b>
HUD Rental Assistance Contract Renewals - Outreach	Non-Financial	8	331	2, 6, 10, 12, 13, 14
Affordable Housing Trust Fund (Acquisition Rehab) & Bond Issuance to HUD At-Risk Preservation Properties	Financial	6	434	1, 4, 8, 13, 15
CRA Properties Debt Restructure and Extension	Financial	2	35	1, 7
<b>Total Properties and Affordable Units</b>		<b>16</b>	<b>800</b>	

### **Potential Financial Preservation Transactions**

HCIDLA is working with property owners that have indicated an interest in preserving affordability as a result of the Teams outreach efforts, and through HCIDLA's financing programs. Once completed, these transactions will yield Community Redevelopment Agency of Los Angeles (CRA/LA) covenant extensions, and/or renewal of long-term Housing and Urban Development (HUD) Project-based Section 8 contracts through the use of Tax Exempt Bond financing and Low-Income Housing Tax Credits (LIHTC). Current projects in the preservation process are listed in Table 2 below.

**Table 2 – Current Preservation Transactions**

	Property Name	Project Type	Units	Transaction	Status	Max. Term	Council District
1	Bartlett Hill Manor	CRA	65	Bond financing and restructuring	In Process	55 Years	1
2	Pleasant Hills Homes	CRA/HUD Section 8	20	Loan workout and HAP renewal	Pending Negotiation	TBD	14
3&4	Normandie Portfolio I & II	HUD Section 8	151	Bond financing and extension of HAP contract	Pending Application	20-55 Years	8
<b>Total Units = 236</b>							

### Tracking Existing At-Risk Affordable Housing Inventory

HCIDLA manages an internal database that tracks and analyzes expiring Federal, State and local covenants, and rental subsidy contracts in the City. HCIDLA estimates that the City currently has an inventory of more than 69,000 affordable units, located in more than 1,900 affordable properties. In January 2017, the Team estimated that the City currently has 11,771 housing units at risk of losing rental subsidies or affordability restrictions in the next five years. Projections of units at risk are detailed in Table 3 below.

**Table 3 - Citywide At-Risk Affordable Housing Expiring by December 31, 2021, Listed by Primary Agency/Funding Source and Year**

Primary Agency	Total Restricted Units	Percentage	2017	2018	2019	2020	2021
<b>CRA/LA</b>	1,061	9%	206	210	211	277	157
<b>HACLA</b>	624	5%	165	459			
<b>HCIDLA</b>	61	1%	14	47			
<b>HCIDLA DCP</b>	85	1%	21	11	10		43
<b>HUD</b>	8,726	74%	3,552	1,485	2,321	836	532
<b>STATE</b>	1,214	10%	34	341	326	387	126
<b>Total</b>	<b>11,771</b>	<b>100%</b>	<b>3,992</b>	<b>2,553</b>	<b>2,868</b>	<b>1,500</b>	<b>858</b>

More than half of the at-risk inventory (56%) expires in the next two years, with 74% of the at-risk units located in properties that have received assistance from HUD Project-based Section 8 rental subsidies (PBRA), mortgage insurance programs, and HUD Section 202 and Section 811 (serving elderly and/or disabled) loan subsidy programs.

HUD PBRA and Housing Authority of the City of Los Angeles (HACLA) assisted properties have mechanisms in place such as rental assistance contract renewal and tenant protections that assist and support low income tenants. Contracts that are renewed annually, are deemed high risk because a property owner may decide to terminate a rental assistance contract simply by providing a one year, and a four month notification of termination to HUD. This opportunity presents a strategic window for future preservation efforts in working with property owners, HUD and HACLA.



Between the years of 2017 and 2021, there will be approximately 1,831 City-restricted affordable units (16% of total at-risk projects) set to expire. City restrictions are a result of local funding awards from programs such as HOME Investment Partnerships Program (HOME), Community Development Block Grant (CDBG), and issuance of tax-exempt and taxable multi-family housing bonds, the now-defunct CRA/LA housing loan programs, and City land use entitlement concessions. These properties have restriction terms that allow for expiration with no renewal mechanisms or tenant protections in place.

The remaining 1,214 units (10% of total), are primarily subsidized or restricted by State loan programs such as the California Finance Agency (CalHFA) and California Department of Housing and Community Development (HCD). These properties carry similar affordability requirements to the City restricted properties.

Owners of expiring properties are required to comply with Federal and State noticing requirements. Therefore, occupancy and notification enforcement and tenant outreach initiatives are key strategies to ensuring that properties remain affordable with a minimal risk of tenant displacement. To further the goal of preservation, HCIDLA is working with the City Attorney's Office on an on-going basis in order to continue positive gains being made today. Table 4 below shows the number at-risk housing units, by Council District.

Table 4 - At-Risk Affordable Housing Expiring by December 31, 2021, Listed by Council District and Year

Council District	2017	2018	2019	2020	2021	Total Restricted Units
1	619	405	545	224	84	1,877
2	55	124		26	64	269
3	262	-	330	322	182	1,096
4	97	-	-	-	75	172
5	5	51	72	-	-	128
6	156	187	261	-	51	655
7	454	-	204	-	5	663
8	448	102	192	154	8	904
9	115	196	36	44	67	458
10	486	132	325	63		1,006
11			109	190		299
12	316	12	70	80	18	496
13	378	222	364	397	130	1,491
14	286	1,090	99		103	1,578
15	315	32	261		71	679
<b>Total</b>	<b>3,992</b>	<b>2,553</b>	<b>2,868</b>	<b>1,500</b>	<b>858</b>	<b>11,771</b>

#### Expirations & Terminations of Affordable Housing 2012 through 2016

Over the last five years, the City permanently lost approximately 2,205 restricted, affordable housing units within 156 properties through a combination of expiring covenants and/or termination of restrictions tied to covenants, including rental assistance contracts.



## **Tracking and Enforcing State Notification Requirements**

With the assistance of the Mayor and City Attorney's Offices, HCIDLA proactively tracks Notices of Intent, per California Law. Property owners of specified Federal, State and locally-assisted projects are required to provide Notices of Intent to terminate affordability covenants, rent subsidies, prepayment of a federally-assisted mortgage, when affordability restrictions expire at twelve and six months of the date of expiration.

HCIDLA utilizes the law as a tool to provide sufficient time to create strategies that minimize impacts to residents, while HCIDLA seeks alternatives to preserve affordability and educate impacted property owners about the Notice of Intent and its requirements. In addition, the Notice of Intent requirements are used by HCIDLA as an anti-displacement tool to enable and conduct tenant outreach and provide residents time to seek alternative housing if needed. Currently, HCIDLA is tracking 14 properties with a total of 887 units of at-risk housing. The 887 units include properties with HUD rental subsidy contracts and City covenants expiring 2017 and early 2018.

Utilizing the States' notification outreach system, the Team has also contacted a large number of properties inherited in 2013 through the transfer of assets from the former CRA/LA to the City. Many of these former CRA/LA properties were not in compliance with HCIDLA occupancy requirements, however, since 2013 HCIDLA has made much positive progress with several owners that now are willing to discuss preservation options, including the extension of covenants.

## **Proposed Notice of Intent Ordinance**

HCIDLA has recommended adopting an ordinance that mirrors State law and establishes a local enforcement mechanism that will strengthen its affordable housing preservation efforts. HCIDLA is currently working with City Council to get the Ordinance passed (C.F. No. #16-1443).

## **Tenant Outreach and Education**

Communication with residents of at-risk affordable properties has proven to be a core element of HCIDLA's overall preservation efforts. Utilizing a consultant, tenant outreach and education has been conducted regularly since 2004 and will continue to be conducted to residents living in at-risk housing. Such outreach efforts allow HCIDLA to monitor properties, prevent potential tenant displacement, coordinate efforts with owners and residents through the termination of affordability covenants, and stabilize rents that had been adjusted to market rate, post covenant expiration.

Between 2015 and 2016, tenant outreach and education activities have been conducted citywide to 2,785 units of at-risk affordable housing, located in 92 properties. Fifty-two of the 92 properties, or 1,706 units of at-risk housing has been outreached to by the Team during the 2016 Calendar Year. Thirty-four of these properties are currently pending HUD contract renewals; nine properties are pending expiration/termination; five properties are pending a preservation transaction; and, four properties have expired or terminated without extending or renewing their covenants.

To continue providing tenant outreach and education services, HCIDLA issued a Request for Proposals (RFP) on May 9, 2017 for At-Risk Affordable Housing Tenant Outreach and Education Services (AAHTOES; C.F. No. #17-0027). HCIDLA anticipates to select and execute a contract with a consultant no later than December 1, 2017. The maximum contract term will be three years.

## Outreach to Identified Property Owners

In 2016, HCIDLA engaged in a proactive work to identify and outreach to owners of properties with expiring affordable housing restrictions with the goal of determining owner's future plans for their properties, and if it would be necessary to incentivize HCIDLA buy-down of affordability, debt restructuring or other catalysts that would result in covenant extensions and rental subsidy renewals. Seventy property owners and/or management companies, with a total of 2,064 at-risk housing units were contacted by the Team in 2016. Table 5 below shows property owner outreach efforts, by Council District.

**Table 5 - Property Owners Contacted in 2016, Listed by Council District**

Council District	No. of Properties	No. of Restricted Units	Contact Method:	By Letter	By Conference Call	By Meeting	By Email	No. of Interested Owners
1	20	788		13	30	1	47	4
2	2	41		1	3	-	4	-
3	2	38		2	3	-	3	1
4	1	66		-	1	-	-	1
5	-	-		-	-	-	-	-
6	-	-		-	-	-	-	-
7	1	15				1	-	1
8	9	140		17	5	1	8	1
9	10	150		11	6	-	4	3
10	2	9			3		10	-
11	-	-		-	-	-	-	-
12	-	-		-	-	-	-	-
13	1	94			1	-	-	
14	20	708		26	25	5	96	7
15	2	15		2	1	-	-	-
<b>Total</b>	<b>70</b>	<b>2,064</b>		<b>72</b>	<b>78</b>	<b>8</b>	<b>172</b>	<b>18</b>

## Financial Strategies

The preservation of at-risk covenants is an owner driven process based on criteria that includes ownership type (i.e., for profit vs. non-profit, legacy issues, etc.), an owner's plans for the property, remaining term of affordability restrictions, compliance with occupancy restrictions, location, and current market rent conditions. HCIDLA employs financial strategies to incentivize property owners to extend affordability based on, 1) properties with existing City debt; and, 2) properties with no debt.

### Projects with Existing Debt

City covenanted properties and high loan balances indicate potential leverage opportunities for HCIDLA with the goal to extend affordability. The process of identifying such properties involves reviewing the property's current debt amount and loan maturity dates.

- **Loan Extensions:** Properties with small loan balances relative to project size, can easily be repaid by refinancing. However, HCIDLA sees maturing properties with high loan balances as leverage to extend the loan term in exchange for extension of covenants.

- **Principal Repayment and Interest Forgiveness:** This method is performed on a one by one basis, and carefully crafted to gradually forgive the loan over a longer, extended period. This method provides the greatest incentive to owners by gradually reducing, and ultimately forgiving any repayment obligations (alleviating possible tax impact). In the short term, HCIDLA might relinquish income from a loan payoff, but in the long term, this method will not have a direct impact on the affordable housing budget.
- **Loan Extension & Roll Over:** Properties with existing debt can be prime candidates for a bond transaction which may involve rolling over the existing loan into a new loan with extended covenant terms and covenant extension.

#### Projects without Debt

Projects without debt provide HCIDLA with little to no leverage, except for ensuring such properties comply with HCIDLA occupancy and notification requirements. Owners of these types of properties have indicated that are very likely to consider higher rents post covenant expiration, and are less likely to engage in negotiations with HCIDLA. Properties without debt make up the vast majority of the City's expiring covenanted portfolio.

- **Affordability Buy-Downs:** Even with limited resources, HCIDLA continues to seek to extend affordability by compensating owners of projects without debt for foregone revenues over the term of the extended covenant. HCIDLA uses financial preservation modeling to evaluate potential cost of buying affordability of properties where an owner is interested on extending affordability. This model is also used when dealing with properties with existing debt.

#### **Funding Requirements for the Preservation of At-risk Affordable Housing**

On March 15, 2016, the City Council voted to allocate a total of \$7.9 million in CRA/LA non-housing Excess Bond Proceeds (EBP) to Council District 1 for the purpose of extending and preserving affordability covenants on existing affordable housing units (C.F. No. #14-1174-s1). The EBP funds can only be used to assist in the preservation of at-risk affordable housing within two Redevelopment Areas (RDA's) with available funds – the Westlake RDA (\$3.9 million), and the Pico Union II RDA (\$3.7 million). Use of the EBP funds requires a 55 year affordability period. At EBP fund commitment, the Team immediately started the outreach program for property owners. Currently, there is no owner interest in utilizing the EBP funds in either of the two areas, nor interest to extend expiring covenants. The Team believes the lack of interest is due to the 55 year requirement period as per CRA redevelopment law. The Team identified several other owner concerns and challenges during their outreach, as noted below:

- Improvement to the LA rental market has prompted many owners to seek higher rents, and terminate affordability restrictions at time of covenant expiration;
- Most property owners expressed concerns regarding new or additional City requirements as related to the Americans with Disabilities Act (ADA).
- "Mom & Pop" property investors are concerned with estate planning and other investment considerations when approached with an option to extend affordability.
- Many at-risk CRA/LA properties in HCIDLA's portfolio, such as shelters and single room occupancy (SRO) hotels, can no longer be financed under current guidelines or with existing funding.



In addition to the use of the CRA/LA EBP funds, in 2016 City Council committed two million dollars from the General Funds to the Affordable Housing Trust Fund (AHTF) with the intent of also using the General Fund dollars for the purpose of extending at-risk affordable housing covenants throughout the City. Although limited, General Fund dollars are the most flexible and could be used towards identifying preservation options, and potentially as stimulus to hesitant owners to extend affordability. HCIDLA is currently working to allocate these funds to assist in the preservation of an at-risk development

### **Next Steps**

- Identify a Citywide source of flexible funds for preservation buy-downs between 5 and 55 years.
- Develop a policy or finance model for the preservation of functionally obsolete SRO Hotels into housing.
- Creation of a City Notification Ordinance (in process).
- Explore and develop local incentives to promote the renewal of HUD rental assistance contracts for 5 or 20 years.

### **FISCAL IMPACT STATEMENT**

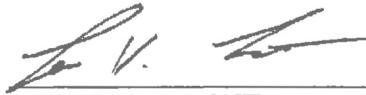
There is no impact to the General Fund.

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