

## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000

SAN FRANCISCO, CA 94105-2219

PHONE AND TDD (415) 904-5200



January 13, 1997

Tu 8b

TO: Coastal Commission and Interested Parties

FROM: PETER M. DOUGLAS, Executive Director  
JAMES W. BURNS, Chief Deputy Director

SUBJECT: Orange County Affordable Housing Program

STAFF RECOMMENDATION

Staff recommends that the Commission authorize the Executive Director to amend the memorandum of understanding (MOU) with the Civic Center Barrio Housing Corporation (CCBHC) to provide for the CCBHC's continued administration of the Affordable Housing Program to provide owner-occupied units for low and moderate income households in the Coastal Zone of Orange County. The amended MOU would provide that the CCBHC would continue to manage the program for an additional 6 years (from February 16, 1997 through February 15, 2003), at no cost to the Coastal Commission.

STAFF ANALYSIS

On December 11, 1991, the Commission authorized the Executive Director to enter into a MOU with the CCBHC to continue administering the Orange County Affordable Housing Program for an additional 2 years, through February 15, 1994. (A copy of the 1991 staff report is attached which provides background on this program).

On May 13, 1992, the Commission authorized the Executive Director to amend the MOU to extend CCBHC's administration of the program through February 15, 1997. (A copy of the amended MOU is attached).

CCBHC has been successfully administering the program since July 1990, and wishes to extend the contract. Therefore, staff recommends that the MOU be amended to provide for the CCBHC's administration of the Affordable Housing Program through February 15, 2003. Ms. Helen Brown, President of the CCBHC, will make an oral report to the Coastal Commission on the Status of the Orange County Affordable Housing Program at the Commission's April 1997 meeting in Huntington Beach.

## Attachments:

December 1, 1991 Staff Report - Orange County Affordable Housing Program - approved December 11, 1991  
June 23, 1992 MOU between the Coastal Commission and the CCBHC  
January 8, 1997 Letter from CCBHC President, Helen R. Brown

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200



December 1, 1991

TO: Coastal Commission and Interested Parties

FROM: Peter Douglas, Executive Director  
James W. Burns, Chief Deputy Director

SUBJECT: Orange County Affordable Housing Program

**STAFF RECOMMENDATION**

Staff recommends that the Commission authorize the Executive Director to enter into a memorandum of understanding (MOU) with the Civic Center Barrio Housing Corporation (CCBHC) to continue administering the Affordable Housing Program to provide owner-occupied units for low and moderate income households in the Coastal Zone of Orange County. The MOU would provide that CCBHC would continue to manage the program for an additional 24 months (February 16, 1992 through February 15, 1994) at no cost to the Coastal Commission.

**STAFF ANALYSIS**

From 1977 through 1982, the California Coastal Act contained specific policies requiring the provision of affordable housing within the Coastal Zone. Under that authority, the Commission required the dedication of units for low and moderate income housing as a condition of development. Almost 600 affordable housing units were developed in the unincorporated areas of the Orange County Coastal Zone.

In order to ensure continued affordability of these units, a resale program was established with the Orange County Housing Authority (OCHA). The OCHA had the option of purchasing a unit at a controlled price and in turn, assigning that option to an eligible low to moderate income purchaser. If the OCHA did not exercise the option, then the seller could then sell the unit at the current market price. Certain units contained a recapture provision that dedicated the difference between the controlled price and the market price to the maintenance and enhancement of affordable housing opportunities in Orange County.

In August 1983, the OCHA withdrew from the Commission's Affordable Housing Program. The OCHA was succeeded by Community Housing Enterprise (CHE). CHE terminated its participation in the Commission's Affordable Housing Program in 1987.

After the CHE's withdrawal, the Program did not have a full-time administrator, other than the Commission's staff in Long Beach. The Commission considered releasing owners of affordable units from the resale requirements; however, the Attorney General offered an opinion that sale of units without any recapture provisions would be a "gift of public funds",

which is constitutionally prohibited. Based on this advice from the Attorney General, the Commission allowed sale of restricted units and the release of units from the Affordable Housing Program only if the funds representing the difference between the selling price and the deed restricted price were deposited into an escrow account (the Orange County Affordable Housing Recapture Fund) under the jurisdiction of the Commission.

In March 1989, the Commission contracted with the Fair Housing Council of Orange County (FHCOC) to conduct a study to obtain needed information on the status of the Affordable Housing Program. The FHCOC's study was completed in December 1989. The FHCOC found that 416 units were still in the Program and subject to resale controls, and that in most cases the market value of these remaining units exceeded the controlled price, hence, the units were still capable of providing affordable housing opportunities. The FHCOC also found that the total value of the public's interest in the remaining housing units was nearly \$15 million. Therefore, the FHCOC recommended that an on-site administrative agency be selected to aggressively market the units and operate the Program.

In January 1990, the Commission invited nonprofit and local public entities to submit proposals to administer the Affordable Housing Program on a pilot basis for 18 months (August 15, 1991 through February 15, 1992). In July 1990, the Commission selected the Civic Center Barrio Housing Corporation (CCBHC) of Santa Ana to operate the Affordable Housing Program for 18 months and awarded the CCBHC \$150,000 from the Orange County Affordable Housing Recapture Fund.

The CCBHC was chosen because it is a public benefit non-profit organization with many years of experience in managing affordable housing projects in Orange County. The CCBHC is organized with a Board of Directors, some of whom are low income residents and representatives of the project sites, and some of whom are community participants and leaders from the banking industry, the public relations field, public agencies, and other business organizations. The CCBHC was founded in 1975 in Santa Ana, California by a group of 400 community residents in response to dislocation activities of a redevelopment program. CCBHC has a history of commitment to the provision of housing for low income persons through the rehabilitation of units, new construction, and owner-built housing in the Orange County area.

For the past 16 months, the CCBHC -- under the direction of Ms. Helen Brown, President and General Manager of the Corporation -- has successfully administered the Commission's Affordable Housing Program in Orange County. The CCBHC has established contact with current owners of units under the Program, verified current occupancy of all restricted units (to determine which units were being rented illegally), created a pool of eligible low to moderate income buyers, arranged buyer and program administration financing, ensured compliance with resale provisions and assigned option interests. Additionally, the CCBHC is working on restructuring the attachment to grant deed and seeking resolution of illegal rentals and sales. Ms. Helen Brown will report on the CCBHC's progress and desire to continue administering the Commission's Affordable Housing Program during the Commission's discussion of this agenda item at its December 1991 meeting.

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
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MEMORANDUM OF UNDERSTANDING  
BETWEEN  
CALIFORNIA COASTAL COMMISSION  
AND  
CIVIC CENTER BARRIO HOUSING CORPORATION

This memorandum sets forth the understanding between the CALIFORNIA COASTAL COMMISSION (hereinafter, the "Commission"), and the CIVIC CENTER BARRIO HOUSING CORPORATION, a California public benefit, nonprofit corporation (hereinafter, "CCBHC"), with respect to enabling the CCBHC to continue to administer the Commission's Affordable Housing Program in Orange County through February 15, 1997.

RECITALS

WHEREAS, from 1977 through 1982, the California Coastal Act contained specific policies requiring the provision of affordable housing opportunities within the coastal zone and under that authority, the Commission required, as conditions to coastal development permits, the dedication of units for low and moderate income housing; and

WHEREAS, as a result of these conditions almost 600 affordable housing units were developed in the unincorporated areas of the Orange County Coastal Zone; and

WHEREAS, in order to assure the continued affordability of these units, the Commission established a resale control program (hereinafter, "the program") to implement the permit conditions' provisions; and

WHEREAS, the program has been administered first by the Orange County Housing Authority and then, after the Housing Authority's February 1984 withdrawal as implementing agency, by Community Housing Enterprises, Inc., which withdrew as implementing agency in July 1987; and

WHEREAS, from July 1987 to September 1990 the program was without an entity to administer it and thus was not functioning as originally planned; and

WHEREAS, on advice from the Attorney General in 1988, the Commission allowed sales of restricted units and the release of units from the affordable housing program only if the funds representing the difference between the selling price and deed restricted price were deposited into an escrow account (the Orange County Affordable Housing Recapture Fund) under the jurisdiction of the Commission; and

WHEREAS, in March 1989 the Commission contracted with the Fair Housing Council of Orange County, Inc. ("FHCOC") to conduct a study to obtain needed information on the status of the program; and

WHEREAS, the FHCOC study, completed in December 1989, found that 416 housing units were still in the program and subject to resale controls, and that in most cases the market value of these remaining units exceeded the controlled price and that therefore these units were still capable of providing affordable housing opportunities; and

WHEREAS, the FHCOC found that the total value of the public's interest in the remaining housing units was nearly \$15 million; and

WHEREAS, the FHCOC therefore recommended that an on-site administrative agency be selected to aggressively market the units and operate the program; and

WHEREAS, in January 1990, with the Recapture Fund's balance sufficient for the Commission to contract with an agency to administer the program, the Commission authorized the Executive Director to invite nonprofit and local public entities to submit proposals for an 18-month (August 15, 1990 through February 15, 1992) pilot basis, Orange County Affordable Housing Program (hereinafter, "the Program"); and

WHEREAS, the Civic Center Barrio Housing Corporation (CCBHC) of Santa Ana is a nonprofit organization existing under the provisions of Section 501(c)(3) of the United States Internal Revenue Code, which organization has among its principal charitable purposes the provision and management of affordable housing projects in Orange County; and

WHEREAS, in May 1990 the CCBHC submitted to the Commission a proposal to manage the Program to provide owner-occupied units for low and moderate income households and to demonstrate the feasibility of continuing the Program under contract; and

WHEREAS, in July 1990 the Commission selected the CCBHC to operate the Program for eighteen months and awarded the CCBHC \$150,000 from the Recapture Fund; and

WHEREAS, for the past 21 months, the CCBHC has successfully administered the Commission's Affordable Housing Program in Orange County, by establishing contact with current owners of units under the Program, verifying current occupancy of all restricted units (to determine which units were being rented illegally), creating a pool of eligible low to moderate income buyers, arranging buyer and program administration financing, ensuring compliance with resale provisions and assigning option interests; and

WHEREAS, additionally, the CCBHC is working on restructuring the attachment to grant deed and seeking resolution of illegal rentals and sales; and

WHEREAS, in December 1991 the Commission authorized the Executive Director to enter into a Memorandum of Understanding with CCBHC to continue administering the Program to provide owner-occupied units for low and moderate income households in the Coastal Zone of Orange County; and

WHEREAS, on January 31, 1992, the Commission and CCBHC executed a Memorandum of Understanding that enables CCBHC to continue administering the Program from February 16, 1992 through February 15, 1994; and

WHEREAS, in May 1992 the Commission authorized the Executive Director to enter into a Memorandum of Understanding (MOU) with CCBHC to extend CCBHC's administration of the Program an additional three years (through February 15, 1997).

#### UNDERSTANDING

NOW THEREFORE, the Commission and the CCBHC agree to the following:

1. PROGRAM CONTINUATION. Upon execution of this MOU, CCBHC will continue to administer the Orange County Affordable Housing Program through February 15, 1997.
2. MANAGEMENT. The CCBHC agrees to continue to manage the Program in accordance with the standards and procedures set forth in the attachment to grant deeds. Such administration shall include accomplishment of Work Program Tasks 5.A through 5.D (below).
3. PROGRAM ADMINISTRATION FINANCING. CCBHC management of the Program through February 15, 1997 will involve no cost to the Coastal Commission. Program administrative financing will be sustained on Program resale fees; i.e., an amount specified in each respective attachment to grant deed, generally three (3) percent of a sale price, is collected for the Program's management fund.
4. REPORTING REQUIREMENTS. CCBHC agrees to submit progress reports every six months to the Commission's Executive Director. The reports will be submitted in the middle of the months of February and August; a total of ten reports will be submitted, with the first report due on August 15, 1992 and the last report due on February 15, 1997.

Each report will describe progress made toward carrying out the Work Program's tasks.

5. WORK PROGRAM. CCBHC agrees to carry out the four following tasks, within the time frames noted:
  - A. Continue Marketing. CCBHC will continue to implement the Program marketing procedures established previously (during the 18-month pilot Program ending February 15, 1992). Marketing efforts will be repeated each quarter for two

consecutive weeks; a total of eighteen (18) marketing efforts will be made between June 1, 1992 and February 15, 1997.

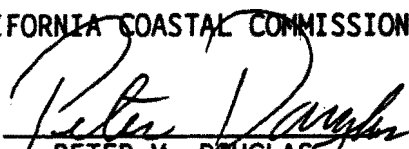
- B. Restructure Attachment to Grant Deed. Contacts with funding sources, title officers and real property attorneys will be required in order to offer valid constructive recommendations for improving and restructuring the resale contract. Any resales accomplished prior to resale contract restructuring (to occur by August 15, 1992) may be affected using the existing instruments which at a later date could be removed from the property title and be replaced with the restructured instrument by mutual agreement of both parties.
- C. Eliminate Illegal Rental Use. CCBHC will resolve the problem of illegal rentals (by August 15, 1992) through the following procedure: CCBHC will locate and notify "absentee owners" and the applicable lending institution of the illegal activity and request that the lending institution pursue action with the property owner; if after 60 days a reverification confirms continued non-compliance, CCBHC will meet with Commission staff to discuss what course of action to pursue, including whether to pursue a Breach of Contract action in court.
- D. Resolve Illegal Sales. Investigate if there have been any illegal sales. Advise the Commission on the results of the investigation and, if there is or has been a problem of illegal sales, propose resolution procedures (by August 15, 1992).
6. ABILITY TO ACT. Any action allowed or required in this MOU on the part of the Commission may be taken by the Executive Director of the Commission. Any action allowed or required in this MOU on the part of CCBHC may be taken by the President of CCBHC.
7. LIABILITY. CCBHC waives all claims and recourse against the Commission, including the right to contribution for any loss or damage arising from, growing out of, or in any way connected with or incident to this contract, except claims arising from the concurrent or sole negligence of the Commission, its officers, agents, and employees. Notwithstanding the foregoing, but without any limitation thereof, the Commission agrees to assume lead responsibility for defending any legal challenge to the substantive standards and the procedures, as set forth in the respective Attachments To Grant Deed, under which the Program operates (as distinguished from a challenge to CCBHC's implementation of the referenced standards and procedures).

CCBHC shall indemnify, hold harmless, and defend the Commission, its officers, agents, and employees, against any and all claims, demands, damages, costs, expenses, or liability arising out of acts of omission or commission by CCBHC which are, or which are alleged to be, inconsistent with the terms and provisions of an applicable Attachment To Grant Deed.

EXECUTED this 23 day of June, 1992.

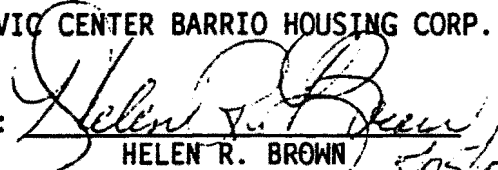
CALIFORNIA COASTAL COMMISSION

By:

  
PETER M. DOUGLAS  
Executive Director 5/24/92

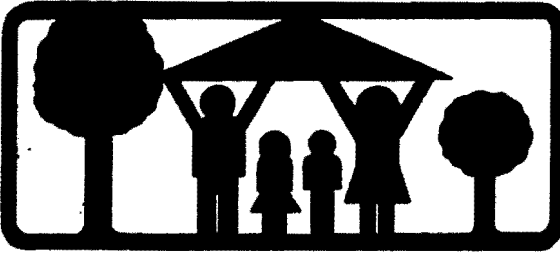
CIVIC CENTER BARRIO HOUSING CORP.

By:

  
HELEN R. BROWN  
President 5/22/92

BVB/prb/mem  
1855p





civic center barrio housing corporation

January 8, 1997

Mr. Jim Burns  
California Coastal Commission  
45 Fremont St.  
Ste. 2000  
San Francisco, CA 94105

RE: Affordable Housing Program

Dear Mr. Burns:

As you know, our contract with the Commission will end on 2/15/97.

We would like to extend our contract with you under the same terms as before. I have enclosed a report showing the total activity from the inception of our administration of the program to the present time.

We initiated three Down Payment Assistance loans over the course of the last five years. One loan was paid off in November, 1994; a second loan is being paid off this month, and the third loan is active and is paid on time.

I believe we have been successful in administering the program even though the bottom has fallen out of the Southern California market. Also, two of the complexes involved with the program (Niguel Beach Terrace and Cypress West) will lose their final option period in 2002/2003 (five years).

We hope to hear from you at your earliest convenience.

Sincerely,

CIVIC CENTER BARRIO HOUSING CORPORATION

  
Helen R. Brown  
President

Civic Center Barrio Housing Corporation  
414 West Fourth Street, Suite A  
Santa Ana, California 92701  
(714) 835-0406 FAX (714) 835-7354

COASTAL PROGRAM UNITS

TOTAL SALES CONTACTS:	146
NUMBER OF UNITS RELEASED:	47
NUMBER OF UNITS SOLD IN PROGRAM:	36
NUMBER OF UNITS PENDING RELEASE:	36
NUMBER OF UNITS "NO ACTION":	25
NUMBER OF UNITS IN PROCESS:	2