


CITY COUNCIL ACTION REQUEST

Department(s): Housing	CEQA: Not a Project, File No. PP10-069, City	Coordination: CAO	Dept. Approval: /s/ Leslye Corsiglia
Council District(s): 3	Organizational and Administrative Activities		CMO Approval: 

SUBJECT: APPROVE AND ACCEPT A LOAN PAYOFF AND RELEASE OF AFFORDABILITY RESTRICTIONS ON A CITY LOAN MADE TO VARUN SHAH

RECOMMENDATION:

Approve the acceptance of \$143,600 as full payment of the City Loan and release the Affordability Restrictions on the property located at 383 Destino Circle.

BASIS FOR RECOMMENDATION:

Mr. Varun Shah is requesting to pay off his City loan in full despite the fact he owes more on the property than the current market value (a \$100,000 deficit). In exchange, Mr. Shah is requesting that the Affordability Restriction be released from title.

Mr. Shah purchased a new townhome at 383 Destino Circle in the Marburg Place Development in December of 2006. The unit Mr. Shah purchased was subject to the City's Inclusionary Housing Policy, which required the developer to provide developer discount down payment assistance loans to moderate-income buyers for 20% of the townhomes. The unit was purchased at the peak of the housing boom for a purchase price of \$565,000 (current market value is \$465,000). Mr. Shah received a fully deferred subordinate developer discount loan in the amount of \$143,600, which reduced the amount of the first mortgage Mr. Shah needed to purchase the townhome.

In March 2013, Mr. Shah applied for a short-sale of his townhome. He purchased another primary residence in Sunnyvale leaving the townhome vacant. In addition, his income increased to over \$200,000 annually. For these reasons, staff denied Mr. Shah's short-sale request. In May 2014, staff received a Notice of Default from the first lender's trustee. In July 2014, Mr. Shah made a formal request to the City to repay the entire balance of the City loan if the City removed the Affordability Restriction. His intention is to retain the property as an unrestricted rental investment. However, the existing Affordability Restriction prohibits this activity.

If the City does not accept this offer, the first lender will foreclose on the townhome. If the first lender forecloses on the townhome, the City will lose approximately \$100,000 that it would have received with the repayment of the Developer Discount note as well as an affordable unit. The \$100,000 represents the estimated shortfall in proceeds that a trustee sale of the property would yield. The City would recover only approximately \$43,600 in a foreclosure sale. In the light of the threat of foreclosure, staff recommends that the City accept the \$143,600 loan payoff from Mr. Shah and that the City release the Affordability Restriction.

The removal of the Affordability Restriction will create a replacement housing obligation. Staff is in the process of locating a replacement unit and the funds will be re-loaned to a new affordable buyer on a different property to satisfy this obligation. An Affordability Restriction will be recorded on the replacement unit.

COST AND FUNDING SOURCE:

This recommendation will result in an increase to the City's Inclusionary Loan Repayments, Fund 448.

FOR QUESTIONS CONTACT: Jacky Morales-Ferrand, Assistant Director, (408) 535-3855