

**REPORT TO REDEVELOPMENT AGENCY CHAIR
AND AGENCY BOARD**

**TO THE HONORABLE REDEVELOPMENT AGENCY CHAIR
AND AGENCY BOARD:**

DATE: November 17, 2008

**SUBJECT: CANCELLATION OF RESALE RESTRICTIONS ON SIXTEEN UNITS AT 1771
BROADWAY**

Report in Brief

Staff recommends that the Agency Board adopt Redevelopment Agency Resolution 08-725 authorizing the removal of the Resale Restrictions and Qualifications of Purchasers from deed-restricted affordable units at 1771 Broadway Street. Homeowners attempting to sell condominium units in this Redevelopment project, first marketed in the mid-1980s, are experiencing undue hardship caused by the affordability restrictions and market prices dropping below the restricted resale prices of the affordable units. The restrictions placed on the units exceeded affordability regulations required at the time. Having them remain in place under the current declining housing market is no longer feasible.

Background

1771 Broadway is an eighty-seven (87) unit condominium complex (the Project) constructed in the mid-1980s in accordance with the Central Concord Redevelopment Plan, originally dated October 28, 1974, and amended from time to time. The Concord Redevelopment Agency provided financial assistance to the developer of the Project in the form of a write down of land costs using Redevelopment Low and Moderate Income Housing Funds. The project originally envisioned that twenty-two (22) of the condominiums would be affordable at the moderate income level. When the developer experienced difficulty selling a number of the units, the Agency Board, through Resolution Number 86-366, released six (6) of the units from the affordability restrictions. A total of sixteen (16) units were sold as affordable and thereby incurred the restriction on resale price for a period of approximately 60 years. In the case of unit 107 the Resale Restriction does not expire until January 1, 2044. Redevelopment Law at the time only required a minimum resale restriction term of ten years for housing units assisted with Redevelopment Low and Moderate Income Housing funds.

City staff became aware of the severity of the problem while working with one of the owners who was attempting to sell her condominium. The original owner of unit 107 has been attempting to sell her unit since April 2008 with no offers despite reducing the price well below even the restricted resale price. As a result, staff has begun looking into the viability of the resale restrictions on this and similar projects in the current housing market downturn.

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Discussion

The City of Concord provides ownership of affordable housing units through such programs as the First Time Home Buyer Program and the Inclusionary Housing Ordinance requirements. There have been many success stories of the City assisting individuals and families to acquire a primary residence at below market rates.

When Redevelopment funds are used, State law requires long term affordability to be maintained. Historically the City's programs have accomplished this requirement by imposing a recorded Resale Restriction of forty-five (45) year duration, requiring that the unit be sold at a price that, in a normal market, would lag well behind the appreciation enjoyed by a dwelling unit that was not so restricted. However, with the dramatic downturn in the housing market, the market rate selling prices in some projects and neighborhoods have dropped below the restricted prices making it nearly impossible to sell a unit with a Resale Restriction. In the case of the project at 1771 Broadway, the affordability restriction was for sixty (60) years.

Unit 107 of the condominium project located at 1771 Broadway can be used as an example of this phenomenon. The original owner closed escrow on this unit on May 2, 1986 at a price of \$52,838 with a resale restriction running until January 1, 2044. In the spring of 2008, the owner decided to undertake a change of lifestyle with regard to her primary residence and thus purchased a mobile home. She anticipated being able to easily sell the condominium since there had been other non-restricted units in the complex selling for above \$160,000. After consultation between the Interim Housing Manager and the City's legal counsel, and calculating the permissible price under the resale restriction agreement, a resale price of \$140,000 was established in April of 2008 for unit 107. The owner then entered into contract with a real estate agent to conduct the sale.

In spite of working with the City Housing program to do targeted mailing to potential clients of the First Time Home Buyer interest list, marketing to the general population, and conducting multiple open house events, there have been no offers. As the market continued to decline and time continued to pass, the seller reduced the price steadily from the restricted price of \$140,000 to below \$100,000. The remaining time of the resale restriction is a major contributing factor of the lack of offers. The situation has become a hardship for the seller.

During most of the same time period, another restricted price unit in the complex was on the market for \$125,000. Housing staff worked with the realtor on that case to mail information to all persons on the First Time Home Buyer interest list. That unit did not sell either and has since been taken off the market.

Agency staff and legal counsel have reviewed the 1983 Disposition and Development Agreement (DDA) and other legal documents for the project at 1771 Broadway Street, as well as applicable state law, and determined that the Agency Board may legally remove the resale restrictions on units in this project. It has further been determined that these units were never counted or eligible to be counted for purposes of regional fair share or Redevelopment affordable housing production credits.

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Staff recommends that the Agency Board remove the Resale Restriction and Qualifications of Purchaser from affordability restricted units at 1771 Broadway. Staff is currently undertaking a review of the City's affordable home ownership programs and the associated resale restrictions to determine if the programs are achieving desired results in a fair and reasonable manner. With the assistance of a consultant, staff will research programs that are being successfully administered by other California cities and will bring back recommendations of possible changes to the design of the City's ownership programs for affordable housing.

Fiscal Impact

There is no direct fiscal impact to the City.

Public Contact

The agenda for this meeting was posted.

Recommendation for Action

Staff recommends that the Agency Board adopt Redevelopment Agency Resolution 08-725 authorizing the removal of the Resale Restrictions and Qualifications of Purchasers from deed-restricted affordable units at 1771 Broadway Street, thereby immediately cancelling the resale restriction on unit 107 at 1771 Broadway and approving the cancellation of the restrictions on the remaining fifteen (15) restricted units in this complex.



Daniel E. Keen
Executive Director
Dan.keen@ci.concord.ca.us

Reviewed by: James Forsberg
Director of Planning and
Economic Development
Jim.forsberg@ci.concord.ca.us

Attachment 1 - Redevelopment Agency Resolution No. 08-725

**BEFORE THE REDEVELOPMENT AGENCY OF THE CITY OF CONCORD
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A Resolution Releasing the Resale Restrictions on
Restricted Units at 1771 Broadway**

Resolution No. 08-725

WHEREAS, on June 14, 1983, the Redevelopment Agency of the City of Concord entered into a Disposition and Development Agreement (DDA) with Wieting, Confer, and Nance for the development of eighty-seven (87) condominium units at 1771 Broadway Street; and

WHEREAS, per section 3.4(a) of the DDA, twenty-two (22) of the units at 1771 Broadway Street were initially reserved for low- and moderate-income households (the Reserved Units); and

WHEREAS, in order to ensure that the Reserved Units remained affordable to subsequent purchasers, title to each Reserved Unit was burdened with a Resale Restriction and Qualification that set a ceiling on the resale price of each Reserved Unit for a period of sixty (60) years; and

WHEREAS, by Resolution No. 86-366, the Redevelopment Agency of the City of Concord released six (6) of the Reserved Units from the Resale Restriction and Qualification requirements of the DDA, leaving only sixteen (16) units subject to said requirements; and

WHEREAS, the Redevelopment Agency of the City of Concord has determined that the sixty (60) year duration of the Resale Restriction and Qualification was not required by any applicable local, state, or federal housing or other law in effect at the time said requirements were included in the DDA; and

WHEREAS, the housing market in Concord, as in the rest of the state and indeed the nation, is in the midst of an economic downturn.

**NOW, THEREFORE, THE REDEVELOPMENT AGENCY OF THE CITY OF
CONCORD DOES RESOLVE AS FOLLOWS:**

Section 1. Based upon the foregoing, the Redevelopment Agency of the City Council hereby approves the release of the Resale Restriction and Qualification requirements set forth in section 3.4(a) of the DDA on the remaining sixteen (16) Reserved Units.

Section 2. This resolution shall become effective immediately upon its passage and adoption.

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PASSED AND ADOPTED by the Redevelopment Agency of the City of Concord on
November 17, 2008, by the following vote:

- AYES:** Agency members -
- NOES:** Agency members -
- ABSTAIN:** Agency members -
- ABSENT:** Agency members -

I HEREBY CERTIFY that the foregoing Resolution No. 08-725 was duly and regularly
adopted at a regular joint meeting of the City Council and the Redevelopment Agency of the City of
Concord on November 17, 2008.

Mary Rae Lehman
Agency Secretary

APPROVED AS TO FORM:

Craig Labadie
City Attorney