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PROCESSING OF LAND USE COVENANTS

The Occupancy Monitoring Unit of the Los Angeles Housing Department (LAHD) generates covenants, also known as Regulatory Agreements, when an owner receives a land use concession and benefit from the City of Los Angeles that makes building a project economically feasible or more profitable. The covenant is a recorded agreement signed by the owner, the Housing Department, the City Attorney, and the City Clerk obligating the owner to set aside a specified number and type of dwelling units for occupancy by very low, low or moderate income households. The Covenant runs with the land and is binding on all current and future owners of the site. This covenant is separate from and/or in addition to any regulatory agreement required by a city, state or federal loan program. The land use concessions that require an affordable housing covenant include:

- a) Density Bonuses, which allow more units to be built on a site than would otherwise be allowed by its zoning.
- b) Parking Variances or Reductions, which permit fewer parking spaces than the existing zoning requirement.
- c) Zone Changes, which reclassify the land use of the property.
- d) Conversion of units, which allows space originally not intended for occupancy to be legally rehabilitated for a new use, for example, a garage conversion to an apartment.
- e) Projects governed by Specific Plan affordability requirements.

This process begins at the Department of Building & Safety and/or the Planning Department. **The process does not begin at LAHD.** The Housing Department has no discretion to determine how many units are to be set aside. In order to generate and execute new covenants, the owners or their representatives must provide the following documentation:

- a) A completed *Land Use Covenant Application* form (Blank form is attached),
- b) *Application for Building Permit and Certificate of Occupancy* from the Department of Building & Safety;
- c) *Clearance Summary Worksheet* from the Department of Building & Safety;

- d) Complete Zoning Administrator determination letter (if applicable) and any other decisions, findings and/or conditions;
- e) Grant deed for the property (not a deed of trust);
- f) When the property is owned by a corporation, trust, or partnership, documentary evidence must be submitted to show that the covenant signatory(ies) is (are) authorized to sign agreements binding the property on behalf of the corporation, trust, or partnership. Acceptable documents include the Statement of Information filed with the California Secretary of State, if the entity is a California corporation or Limited Liability Corporation (LLC), Statement of Limited Partnership, Partnership Agreement, Operating Agreement of the LLC, corporate bylaws, corporate resolution, or other documentation showing who has authority to sign for the company, partnership, or corporation.

Once we have this information, the number of income-restricted units at the property can be determined based on the information provided, as follows:

- a) Density Bonus. Effective January 1, 2005, California Government Code Section 65915 the state density bonus law was significantly amended by SB 1818 and again by SB 435 effective January 1, 2006. On February 20, 2008, the Los Angeles City Council adopted an Ordinance amending Sections 12.22, 12.24, 14.00 and 19.01 of the Los Angeles Municipal code to implement a Density Bonus Program as required by State law. The number of units that must be restricted as “affordable”, and the density bonus you can receive, are based upon the “maximum allowable density” for your property, i.e. what you can build “by-right”. You should confirm the maximum allowable density with the Department of Building and Safety. If you know how many units may be built on the site by right, but need information as to how many of the units will have to be restricted as “affordable housing” to take advantage of a density bonus and/or what bonus you may be entitled to, you may contact the Planning Department at (213) 978-1372.
- b) Conversion or Legalization of Units: Usually, the dwelling units converted to legal residential use must be restricted to low-income households. City Planning or the Department of Building and Safety will determine the number of units that must be designated affordable.
- c) Parking Reduction, Zone Change, or other Planning Department conditions. The number of units required to be restricted to low-income households is determined by the Planning Department and/or the Department of Building & Safety.

Using this information, the Occupancy Monitoring Section drafts the Regulatory Agreement/covenant. Unless stated otherwise by City Planning, units restricted to low or very-low income families are designated affordable for thirty years. The draft agreement is

then sent to the Owner, or Owner's representative, for review. Once the owner has approved the draft covenant, it is sent to the City Attorney for initial review as to form. After the City Attorney has approved the Agreement for signature, the signatory(ies) to the Agreement signs four signature pages and has all signatures notarized. When these have been returned to the Occupancy Monitoring Unit, the agreement is routed to the Housing Department's General Manager and the City Attorney for signature. As soon as the Department is notified that the City Attorney has signed the covenant/regulatory agreement, the Department electronically clears the Planning condition(s) relative to the covenant or prepares a letter for the Zoning Administrator. At this point, the Department files the agreement with the City Clerk and submits it to the County for recordation. When the County sends proof of the recordation back to the Department, a copy of the fully executed and recorded document is mailed to the Owner.

Submit your Land Use Covenant Application and supporting documentation, via email as a PDF document to OccMonitor@lahd.lacity.org with **Land Use Processing** in the Subject line or FAX it to: **Attention Occupancy Monitoring Unit, Land Use Processing, at 213-808-8965.** Should you have questions relative to your application, you may contact the Occupancy Monitoring Section, Housing Department, at (213) 922-9662 or (213) 808-8806, or via email. Note that the Housing Department does not have public counter staff available to answer questions regarding land use covenants, so please make an appointment with Occupancy Monitoring staff before visiting the Department for information. **Once all required documentation has been submitted, allow four to six weeks for the covenant to be developed and executed. We welcome your calls or emails to check on the status of your covenant. Thank you.**

ATTACHMENT