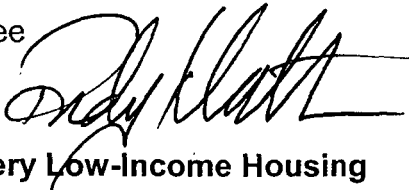




RECEIVED  
CITY CLERK  
LONG BEACH, CALIF.

**C-9**

04 DEC 15 PM 3: 58

**Date:** December 21, 2004  
**To:** Members of the Housing and Neighborhoods Committee  
**From:** Fady Mattar, Acting Director of Planning and Building   
**Subject:** Voluntary Incentive Program to Create Low- and Very Low-Income Housing

DISCUSSION

At a prior Housing and Neighborhoods Committee meeting, staff was asked to provide information regarding the voluntary incentive program enabling the creation of low- and very low-income housing. This program is codified in Title 21 of the Long Beach Municipal Code.

Chapter 21.60.410 of the Long Beach Municipal Code states: "The purpose of this Division IV is to provide additional housing opportunities in the City of Long Beach for very-low and low-income households, as defined by HUD for the Los Angeles/Long Beach Standard Metropolitan Statistical District, through a voluntary program offering incentives and bonuses to private developers..."

The incentive program basically provides a density bonus to private developers of twenty-five percent over the number of units otherwise allowed on the site. For units affordable to very-low income persons, at least twenty-five percent of the bonus units must be dedicated, and for low-income persons, at least fifty percent of the bonus units must be dedicated. These units must be provided to very-low and low-income persons in the following manner:

- on-site;
- through the payment of an in-lieu fee;
- by providing the units off-site; or
- by rehabilitating existing units.

At the developer's request, the City may agree to fulfill the requirement by any combination of the above stated methods.

Affordable "for sale" units shall remain affordable to low or very-low income households by deed restriction for at least ten years, while affordable units "for rent" shall remain affordable to low or very-low income households by deed restrictions for at least thirty years.

In addition to the voluntary incentive program discussed above, the Southern California Association of Governments (SCAG) allocates to each municipality in the region a fair share number of affordable units that should be created in each City. This allocation is called the Regional Housing Needs Assessment (RHNA).

December 21, 2004

Page 2

Attached as reference is a memorandum dated December 8, 2004, that was sent to the Mayor and City Council members explaining what the RHNA numbers for Long Beach are and a progress report on what the City has achieved in regards to providing affordable housing units.

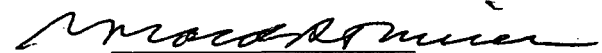
IT IS RECOMMENDED THAT THE COMMITTEE:

Receive and file.

Attachment

Low-income housing incentive  
FM:AR

APPROVED:



GERALD R. MILLER  
CITY MANAGER



Date: December 8, 2004  
To: Gerald R. Miller, City Manager  
From: Fady Mattar, Acting Director of Planning and Building  
Melanie Fallon, Director of Community Development  
For: Mayor and Members of the City Council  
Subject: Meeting Regional Housing Needs – Information Requested by City Council

During the November 16, 2004 City Council study session on housing, several Councilmembers requested additional information on the following topics:

- Q1. Why did the City of Long Beach accept more than its original Regional Housing Needs Assessment (RHNA) "fair share" assignment?
- Q2. What does accepting this assignment, or these targets, mean?
- Q3. How is the City doing in meeting our RHNA targets for new construction?
- Q4. How are the Southern California Association of Governments (SCAG) region and our Gateway Cities subregion doing?
- Q5. When can the City expect new RHNA assignments?

Following are the responses to the above questions.

A1. Page II-37 of the 2000-2005 Housing Element of the City's General Plan, adopted by the City Council on April 17, 2001 states in general terms:

*Initially, SCAG assigned Long Beach a minimum construction need of 517 new units for the planning period of 1998 through 2005. However, because the market had not improved as markedly in the Gateway Cities subregion as in Long Beach, the City voluntarily assumed an additional 946 housing units from these 27 cities for a total RHNA of 1,464 units.*

In previous years the 5-year RHNA assessments were significantly higher than the 1998-2005 assignment. Expecting to be assigned more units, we agreed to accept more than the City's share of RHNA housing allocation. We made that decision with the confidence that we will meet and possibly exceed these target goals based on the volume of ongoing residential construction in the City. In addition, acceptance of the additional numbers would assist the region in meeting its obligation for the development of new housing.

A2. Accepting SCAG's RHNA targets simply means that the city is agreeing to provide the capacity to build the subscribed numbers of units for each housing affordability category for very low, low, moderate and upper income households. Cities are asked to demonstrate in their General Plan Housing Element that they have provided reasonable opportunities for new housing to be constructed for all income levels in their city. State housing legislation does not oblige cities to see that this housing is constructed; cities are merely obligated to provide the land use plan and development rules that allow for-profit and not-for-profit developers to construct such housing.

A3. Long Beach has exceeded its 1998-2005 overall RHNA target, producing more than double the total number of units assigned by RHNA. Indicated below are the City's numbers of newly constructed housing units as shown in the *2003-2004 Housing Element Annual Report*, which is scheduled to be reviewed by the City Council on December 14, 2004.

<u>LB - RHNA Assigned Units</u>	<u>New Units Produced</u>	<u>Difference</u>
Very Low Income 411	14 (3%)	(397)
Low Income 251	14 (5%)	(237)
Moderate Income 296	25 (8%)	(271)
Upper Income 506	3,170 (626%)	2,664
1,464	3,223	1,759

In regards to affordable housing units (very low income, low income, and moderate income), it is important to note that the numbers shown above include only newly constructed units accomplished by the Community Development Department. The City's analysis does not include rehabilitated units because when the City's 2000-2005 Housing Element was written and adopted, new housing units were the only type that could be counted towards fulfillment of the RHNA allocation. SCAG counts RHNA differently. It includes rehabilitated units towards the attainment of RHNA goals. Thus, if Long Beach follows the SCAG method of reporting RHNA attainment, we have accomplished the following since 1998:

- Over 1,000 affordable units have been rehabilitated
- 253 affordable units have been constructed; 53 of these units were completed by the Community Development Department and the remaining 200 were constructed by non-profit housing developers.

This means that over 1,253 dedicated affordable housing units have been produced since 1998. Our RHNA assignment for this period is 958 units.

December 8, 2004

Page 3

A4. In September of 2004, SCAG produced its *Annual Housing Element Compliance and Building Permit Issuance in the SCAG Region* report. This report concludes:

*In terms of the percent of the subregional RHNA affordable housing needs being met, the top four subregions are Gateway Cities (68.5%), Coachella Valley (48.4%), San Gabriel Valley (47.8%), and City of Los Angeles (43.1%).... For the region as a whole, the Low Income Housing Tax Credit-affordable housing units met about one quarter of the RHNA affordable housing need.*

This report finds that for the SCAG region, the total 1998-2005 RHNA construction need of 438,000 units is 93% met, with the region reporting a 2004 figure of 406,000 new units since 1998. "New units" include existing units that have been rehabilitated.

A5. New RHNA assignments will probably be produced for the Southern California communities in the SCAG region in mid to late 2005 (SCAG is the regional planning agency that calculates and assigns these numbers). Once the new RHNA numbers are assigned, the City is then required to incorporate them in its Housing Element of the General Plan. The State requires that Housing Elements be updated every five years, making the City's update due to the State on June 30, 2006. The City's new RHNA assignment will be included in this update.

Please call me at 8-7713 or Angela Reynolds, Advance/Environmental/Community Planning Officer, at 8-6357 if you have any additional questions or concerns.

Cc: Christine Shippey, Assistant City Manager  
Reginald Harrison, Deputy City Manager  
Jyl Marden, City Council Liaison

FM:AR  
RHNA



# CITY OF LONG BEACH

THE CITY PLANNING COMMISSION

333 WEST OCEAN BOULEVARD, 5TH FLOOR • LONG BEACH, CALIFORNIA 90802

(310) 570-6321  
FAX (310) 570-6068

97 JUN 11 PM 12:10

June 17, 1997

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

SUBJECT: Voluntary Incentive Program to Create Housing for Very Low and Low Income  
Households (Citywide)

COST: None

It is recommended that the City Council implement the recommendation of the Planning Commission to eliminate the Voluntary Incentive Program (VIP) for affordable housing, and eliminate the associated Housing Coalition Oversight Committee.

## **BACKGROUND**

One of the goals of the *Housing Element* (1989) is "to protect and preserve those housing units which are currently affordable to low income households" (Goal III, page 171). The Element identifies several ways of achieving the objective of preserving the existing housing stock, including the protection of federally subsidized housing, the one-for-one replacement of affordable housing in the Coastal Zone, the one-for-one replacement of affordable housing throughout the city, condominium conversion regulations, rezoning affordable neighborhoods to protect them from speculative demolition, and the conservation of mobile home parks.

Many of these recommendations were implemented and continue to be executed. One-for-one replacement of affordable housing in the coastal zone is implemented through new construction, rehabilitation or by contribution of an in-lieu fee. Regulations concerning the replacement of affordable units lost as a result of condominium conversions are in place. Many neighborhood rezonings were implemented to reduce permitted development densities to coincide with existing development, so as to discourage speculative purchase and demolition of affordable units.

The *General Plan* policy to execute a one-for-one replacement of affordable housing outside of the coastal zone was ultimately realized through the Voluntary Incentive Program (VIP). The VIP program offers density bonuses to developers providing a certain number of affordable units within a development project.

HONORABLE MAYOR AND CITY COUNCIL

June 17, 1997

page 2

Chapter 21.60 of the Long Beach Zoning Code identifies the Voluntary Incentive Program (VIP) as an innovative means of creating affordable housing, and stipulates that a mandatory inclusionary program should be substituted if the number of affordable units lost exceeds the number being created. The mandatory inclusionary program requires that ten percent of units in all multi-family projects of ten units or more be set-aside as affordable to households of low income, or five percent affordable to households of very low income. The requirements may be satisfied on-site, off-site, or through an in-lieu fee payment.

The performance of the VIP program was hindered by the timing of its adoption. Effective in 1991, it was implemented at the cusp of the economic recession in California. Few residential units have been created in Long Beach during the past six years, either through or outside of the VIP program. The ordinance has proved to be ineffective in increasing the number of affordable units in the city. By the same token, it appears that the stock of affordable housing has remained relatively stable during that same period.

On March 7, 1995, the City Council voted to continue the program for another year, and to then refer it to the Planning Commission for a Study Session with the members of the Housing Coalition Oversight Committee. The Oversight Committee consists of the Apartment Association of Southern California Cities, the Legal Aid Foundation of Long Beach, the Long Beach Area Chamber of Commerce, Long Beach Area Citizens Involved, the Long Beach District Board of Realtors, and the Long Beach Housing Action Association. Representatives of these groups were instrumental in the drafting the VIP ordinance in 1991. The Study Session was initiated on February 15th, 1996, and continued to April 4, 1996, May 2, 1996, April 17, 1997, and May 15, 1997.

The testimony at the Planning Commission meetings recollected the original purpose of the Voluntary Incentive Program, and the various compromises that were made between housing advocates and development industry representatives at that time. The intent of the ordinance was to protect the existing stock of affordable housing in the City by using a "carrot" approach of density bonus incentives, rather than a "stick" approach of mandatory inclusionary zoning, or a mandatory "one-for-one" replacement of affordable housing whenever an affordable unit is demolished.

The VIP ordinance requires that relocation benefits be provided to very low and low income households which are permanently displaced through demolition, remodeling as a result of code enforcement action, or condominium conversion. Mr. Dennis Rockway of the Housing Action Association testified at the Planning Commission meeting of April 4, 1996, that the concerns that relocation requirements could act as a disincentive to development were handled at the time the ordinance was drafted by including logical exceptions to the requirements.

HONORABLE MAYOR AND CITY COUNCIL

June 17, 1997

page 3

Most of the units which were demolished between 1991 and 1997 did not come under the domain of the VIP program. Many of the units had never been classified as "affordable" and therefore did not result in a loss of affordable units. Others had been vacant for six months or more, and therefore, although they may have been affordable at one time, were not subject to the relocation requirements of the VIP nor did they "count" in the statistics of VIP affordable units gained or lost.

The VIP program is one of many programs administered through the Community Development Department to provide for the needs of the very low and low income residents of Long Beach. It can be argued that diminishing federal, state and local funding for housing has created a large gap between the need for affordable housing and the availability of affordable housing in our community. One indication of unfilled need is the fact that the Section 8 waiting list has been closed since March, 1991.

An argument can also be made that the City of Long Beach is a large, urban city with numerous older housing units which create a "natural" pool of affordable housing. Several studies conducted in 1981 recognized that housing in Long Beach was less expensive than comparable regional and nearby costs, and that the private sector was continuing to be the City's largest provider of affordable existing housing in Long Beach. This conclusion was one of the principal reasons why Southern California Association of Governments acknowledged Long Beach as a housing "impacted" community at that time, inasmuch as Long Beach was meeting more than its regional fair share burden of providing affordable housing. Recent anecdotal information concerning vacancy rates and average rents continue to support this conclusion.

Southern California cities had been scheduled to update their *Housing Elements* of the *General Plan* in 1996. The lack of state funding for the SCAG to do the regional housing needs analysis (RHNA) resulted in the granting of a two year time extension for the *Housing Element* update by the state legislature. The Housing Element Update is currently due June 30, 1998. Some organizations are lobbying for an additional time extension for two reasons: 1) Funding for the RHNA analysis has still not been forthcoming, and, 2) there is a drive to implement housing legislation reform whereby housing rehabilitation of low cost units will be counted toward a municipality's fair share of new affordable units.

The Planning Commission concluded that the Voluntary Incentive Program is ineffective at best, and possibly acts as a disincentive to investment in the City. Commissioner Otto expressed concerns regarding the importance of the *Housing Element*, the need for the City to attract a full range of housing options, and the need for public discussion about directing the future of Long Beach in a positive direction. The Commission voted (5:1, Munger absent) to recommend elimination of the Voluntary Incentive Program and the Oversight Committee.



HONORABLE MAYOR AND CITY COUNCIL

June 17, 1997

page 4

IT IS RECOMMENDED THAT THE CITY COUNCIL:

Implement the recommendation of the City Planning Commission and direct staff to prepare a Code Amendment to eliminate the Voluntary Incentive Housing Program and the Housing Coalition Oversight Committee.

Respectfully submitted,

LESLIE MUNGER  
CHAIR, CITY PLANNING COMMISSION

BY: \_\_\_\_\_  
EUGENE J. ZELLER  
DIRECTOR OF PLANNING AND BUILDING

LM:EJZ:MMD  
Attachments

**ATTACHMENT**

**Memorandum from Deputy City Attorney Michael Mais**

**May 15, 1997**



Date: May 15, 1997

To: Mona McGuire De Leon, AICP

From: Michael J. Mais, Deputy City Attorney *hjm*

Subject: Voluntary Incentive Program

You have recently requested our advice in regard to the effect on the General Plan of a decision to repeal the City's existing Voluntary Incentive Program (VIP) as set forth at Long Beach Municipal Code §21.60.410. More specifically, you inquired in regard to whether or not such a repeal would call into question the adequacy of the General Plan's Housing Element.

Your inquiry actually raises two issues: (1) whether or not the City is required to have a VIP ordinance in the first instance and (2) whether a successful challenge to the Housing Element could be made if the VIP were repealed.

**THE GOVERNMENT CODE REQUIRES THE CITY TO ADOPT AN ORDINANCE PROVIDING INCENTIVES TO BUILDERS IN CONNECTION WITH LOWER AND VERY LOW INCOME HOUSING DEVELOPMENTS.**

California Government Code Section 65915 states, in pertinent part, as follows:

When a developer of housing proposes a housing development within the jurisdiction of the local government, the city . . . shall provide the developer incentives for the production of lower income housing units within the development if the developer meets the requirements set forth in subdivisions (b) and (c). **The city . . . shall adopt an ordinance which shall specify the method of providing developer incentives.** (Emphasis added)

When Government Code Section 65915 was first passed by the Legislature, there was no requirement for a city to adopt an ordinance specifying a method for providing developer incentives. However, since its original enactment in 1979, the section has been amended in several respects, including the requirement for the adoption of an ordinance. Therefore, regardless of the effect on the Housing Element, the City is still obligated to have an ordinance establishing procedures and providing incentives in connection with the development of lower and very low income housing developments.

In response to the ordinance requirement of Government Code §65915, the City enacted Chapter 21.63 of the Municipal Code which is entitled "Incentives for Affordable Housing". The Chapter establishes a system of incentives to encourage developers to provide housing for very low and low income households. In other words, the City actually has two separate incentive programs, both of which, were designed to provide additional housing opportunities in the City. Chapter 21.63 and Section 21.60.410 (VIP) of the Municipal Code are similar. Both provide a 25% density bonus, and both require that the units remain affordable for 30 years (with the exception that the VIP requires for-sale units to remain affordable for 10 years). The chapters differ in the percentage of the bonus units required to be affordable. Chapter 21.63 requires 10% of the bonus units for a very low income project and 20% of the bonus units for a low income project to be dedicated affordable units. The percentage under the VIP program is higher, 25% and 50%, respectively. (Attached to this memorandum please find a table that you prepared which highlights the similarities and differences between the two incentive programs.) Both of the City's incentive programs comply with the mandate of California Government Code §65915 in regard to providing builder incentives.

**IT IS DIFFICULT TO PREDICT WHETHER OR NOT A SUCCESSFUL CHALLENGE TO THE CITY'S GENERAL PLAN COULD BE MOUNTED IF THE VIP PROGRAM, AS IT PRESENTLY EXISTS, WERE ABOLISHED.**

As you know, Housing Elements are a required part of local General Plans. The existing Housing Element was approved by the State Department of Housing and Community Development in 1993, and the Housing Element is currently required to be updated by June 30, 1998. The content of the housing element of a general plan is governed by California Government Code Section 65583. The Government Code requires both a statement of a community's goals as well as a five-year program of proposed actions to implement those goals. The City's Housing Element meets both requirements. One of the required "actions" specifically mentioned in the Government Code is a program that would provide "incentives" (Cal. Govt. Code § 65583(b)). Although the Code does not specify the type of "incentives" required, the incentives would necessarily have to foster the State-wide goal of providing adequate low and lower income housing units.

The City's approved "Housing Element" does not specifically mention the Voluntary Incentive Program contained at LBMC §21.60.410. Rather, the Housing Element (see page 176 of Housing Element) indicates that the City offers three levels of density bonus as incentives for private developers: 25% bonus for low-cost housing; 100% bonus for senior citizen and handicapped housing; 200% bonus for low-income senior citizen and handicapped housing. The "25% bonus for low-cost housing" is, actually, a reference to

the City's incentive program that is contained in the Municipal Code at Chapter 21.63 rather than a reference to the VIP program at LBMC §21.60.420.

The City's Housing Element has adopted seven major goals to guide its housing strategy. In connection with the seven major goals, the City has adopted policies or programs to implement those goals. The VIP Program and the incentive program described in Chapter 21.63 of the Municipal Code are only two of the many program policies the City has adopted in connection with the implementation of its seven major goals.

There are surprisingly few case law interpretations in regard to the precise types of programs/policies that a city must have in order to implement its Housing Element. Generally, a reviewing court would look to see whether or not there are adequate programs listed in the housing element to meet the needs of low and moderate income households. Because of differences from locale to locale, the term "adequate" must be analyzed on a case-by-case basis. As a general statement, a city's judgment as to what types of programs/policies should be included in its housing element will not be set aside by a court unless the city has acted arbitrarily, capriciously or without any evidentiary basis in establishing (or omitting) implementing policies/programs. The court would look to see if the Housing Element, as a whole, substantially complies with the minimum requirements of a Housing Element as set forth in Government Code Section 65583.

In our situation, a court would be required to review all of the implementing programs/policies of the City to determine whether or not its Housing Element has met minimum compliance. As I understand it, the VIP program was adopted when the City elected not to enact the City-wide "one-for-one" replacement program" that is mentioned in the approved Housing Element. (See Housing Element, pg. 172) A repeal of the VIP would only effect one program of many that have been adopted by the City to implement the Housing Element. Such a repeal would still leave intact the incentive program contained in Chapter 21.63 of the Municipal Code (as previously stated, this incentive program is specifically referred to in the approved Housing Element).

A court would undoubtedly look to see whether or not the repeal of the VIP program would sufficiently undermine the overall goals and objectives of the Housing Element so as to render it ineffective. In its analysis, a court would likely consider the fact that the incentive program which is specifically mentioned in the Housing Element would still be available for use by developers interested in seeking density bonuses. A court would also likely consider the fact that the City currently does not have a "one-for-one replacement program" city-wide even though the

approved Housing Element indicated that the City "intends to create a new program which will extend the essential elements of the Coastal Zone Program to a city-wide program." (See Housing Element, pg. 172) The lack of one-for-one replacement housing city-wide coupled with a proposal to abolish the VIP might cause a court to question the overall validity of the Housing Element. Unfortunately, the lack of case law in this area precludes us from predicting with certainty how a court would react to the abolishment of the VIP.

**CONCLUSION.**

State law requires the City to have an ordinance establishing incentives for the creation of very low and low income housing units. The City currently has two such incentive programs. If the City were to abolish its current VIP program, the remaining incentive program (Chapter 21.63) would still be operative.

Given the lack of case authority, it is impossible to predict how a court would view the abolishment of the VIP. In making its analysis, a court would consider whether the abolishment of the VIP sufficiently undermines the goals and objectives of the Housing Element so as to render it ineffective.

If you require further information, please do not hesitate to contact me.

MJM:kjm

DENSITY INCENTIVES FOR AFFORDABLE HOUSING	Chapt. 21.60 VIP	Chapt. 21.63
Maximum Bonus	25% of the number of units otherwise allowed under applicable zoning regulations.	25% of the maximum density permitted in the applicable zoning district.
Conditions	Requirement for affordable units may be met by on-site units, off-site units, rehabilitated units or the payment of an in-lieu fee.	Units must be provided on site and maintained for very low and low income households for 30 years.
	25% of the bonus units set aside for 10 years, if for sale, for 30 years, if rental, for very low income. (Or)	10% of the (bonus) units shall be very low income affordable. (Or)
	50% of the bonus units are set aside for 10 years if for sale, or 30 years if for rental, to low income households	20% of the (bonus) units shall be low income affordable. (Or)
	Only applies to projects of 5 or more units on sites where zoning allows 30 RAC or greater.	50% of the (bonus) units shall be restricted to senior citizens.
Additional Incentive		The low/very low income units shall be exempt from the parks and recreation and transportation developer fees.

**ATTACHMENT**

**Letter from Legal Aid Foundation**

**April 29, 1997**



**LEGAL • AID  
FOUNDATION**  
OF • LONG • BEACH

110 Pine Avenue, Suite 420 • Long Beach, CA 90802-4421 • Tel: (310) 435-3501, Ext 211 • Fax: (310) 435-7118

Dennis L. Rockway  
Senior Counsel

April 29, 1997

John C. Calhoun, City Attorney  
333 West Ocean Boulevard  
Long Beach CA 90802

RE: Voluntary Incentive Program to Create Housing for Very Low and Low Income Households

Dear Mr. Calhoun:

It has come to our attention that at its meeting of April 17, 1997, the Planning Commission voted to recommend repeal of the Long Beach's Voluntary Incentive Program, subject to review by your office for implications in terms of the 1989 Housing Element of the Long Beach General Plan, and the possibility of litigation. We believe repeal of the Voluntary Incentive Program would indeed be inconsistent with the Housing Element.

As you are aware, the Housing Element recognizes that "the affordable housing stock of Long Beach is facing new threats to its continued existence," (Housing Element, p.3). It sets a goal "To Protect and Preserve Those Housing Units which are Currently Affordable to Low Income Households," (Housing Element, p.17) and in furtherance thereof, includes a specific commitment for the one-for-one replacement of lost affordable housing units throughout the city. (Housing Element, p.172). Upon repeal of the one-for-one replacement provisions in the Municipal Code, the City adopted the Voluntary Incentive Program in June, 1991. The goal of the program, and in fact the only explicit measure of its achievement per Long Beach Municipal Code Section §21.60.410B, is the one-for-one replacement of affordable housing demolished or converted.

The Voluntary Incentive Program is clearly the successor to the one-for-one replacement program. Its repeal would signify, as recognized by staff in its memo to the Planning Commission of April 17, 1997, the "absence of an implementation strategy for the above-mentioned goal in the Housing Element," referring to the goal "To protect and preserve those housing units which are currently affordable to low income households".

John C. Calhoun, City Attorney  
April 29, 1997  
Page Two

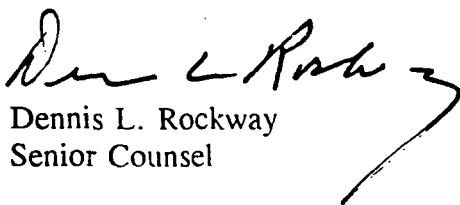
You will recall the legal challenge to Long Beach's 1984 Housing Element which alleged, inter alia, its failure to conserve existing housing affordable to lower income households. (Ad Hoc Housing Coalition et als. v. City of Long Beach et als, Los Angeles Superior Court No. C651868). The Court continued the proceedings in anticipation of adoption of the 1989 Housing Element, which introduced the one-for-one replacement program.

Therefore, we strongly believe that repeal of the Voluntary Incentive Program would be an action inconsistent with the Housing Element of the General Plan, and would be precluded by law absent the adoption of a program equally effective in assuring city-wide preservation of low income housing.

The City's history in enforcing meaningful programs to preserve affordable housing is a checkered one, even since recognizing its responsibility with adoption of the one-for-one replacement program set forth in the 1989 Housing Element. First came the repeal of the one-for-one replacement program based, we believe, on an overly broad reading of Bullock v. City and Council of San Francisco (1990) 271 Cal Rptr 44). Then came the failure of staff to recommend adoption of a mandatory inclusionary program per Long Beach Municipal Code Section 21.60.710 C.2. As you know, such recommendation is required if more covered affordable units were lost than were constructed, as has been the case. Therefore, repeal of the Voluntary Incentive Program would be viewed as even further retreat from the city's obligations under its Housing Element. Surely, the need to preserve affordable housing for the people in our community is not one likely to diminish in the foreseeable future.

We appreciate your consideration.

Sincerely,

  
Dennis L. Rockway  
Senior Counsel

DLR: bb

cc: Jack Humphrey, Advance Planning Officer

**ATTACHMENT**

**Planning Commission Staff Report**

**May 15, 1997**



# CITY OF LONG BEACH

DEPARTMENT OF PLANNING & BUILDING

333 WEST OCEAN BOULEVARD • LONG BEACH, CALIFORNIA 90802

(310) 570-6651  
FAX (310) 570-6751  
TDD (310) 570-6791

## STUDY SESSION

May 15, 1997

CHAIRMAN AND PLANNING COMMISSIONERS  
City of Long Beach  
California

SUBJECT: Voluntary Incentive Program to Create Housing for Very Low and Low  
Income Households

### SUMMARY

On April 17, 1997, the Planning Commission discussed a recommendation to the City Council regarding the continuation of the Voluntary Incentive Program (VIP). This program is intended to foster the development of low- and very low-income housing through the provision of density bonuses. Members of the Commission agreed that this program had not achieved its intended result, having only had minor impact on the supply of suitable housing, and that it may needlessly duplicate other similar programs. The Commission discussed recommending to City Council that it consider the possibility of eliminating the Voluntary Incentive Program if it was determined that it was redundant and ineffectual, provided its elimination would not be detrimental to the goals and policies of the City's *Housing Element*. It was subsequently decided that a final recommendation should be made at the Commission's meeting on May 15, 1997, when an analysis would be available by the City Attorney's Office as to whether the elimination of the VIP would compromise the City's *Housing Element* or result in litigation.

Attached please find additional information as researched by the City Attorney's Office (Attachment 1), as well as comments received from Dennis Rockway of the Legal Aid Foundation (Attachment 2).

### RECOMMENDATION

It is requested that the Planning Commission recommend to the City Council that the Voluntary Incentive Program continue to be made available to developers in Long Beach,

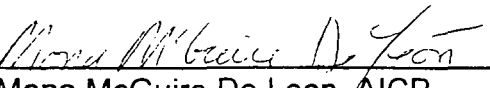
May 15, 1997

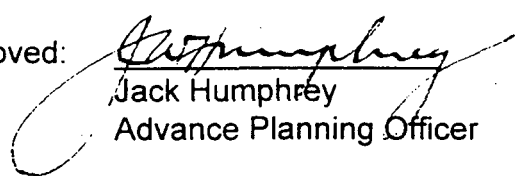
2

and that the Program be re-evaluated as part of the *Housing Element* revision process currently scheduled to be completed by June 30, 1998.

Respectfully submitted,

EUGENE J. ZELLER,  
DIRECTOR OF PLANNING AND BUILDING

By:   
Mona McGuire De Leon, AICP  
Planner

Approved:   
Jack Humphrey  
Advance Planning Officer

Attachments

ATTACHMENT 1



Date: April 30, 1997

To: Mona McGuire De Leon, AICP

From: Michael J. Mais, Deputy City Attorney *MPM*

Subject: Voluntary Incentive Program

You have recently requested our advice in regard to the effect on the General Plan of a decision to repeal the City's existing Voluntary Incentive Program (VIP). More specifically, you inquired in regard to whether or not such a repeal would call into question the adequacy of the General Plan's Housing Element.

Your inquiry actually raises two issues: (1) whether or not the City is required to have a VIP ordinance in the first instance and (2) whether a successful challenge to the Housing Element could be made if the VIP were repealed.

**THE GOVERNMENT CODE REQUIRES THE CITY TO ADOPT AN ORDINANCE PROVIDING INCENTIVES TO BUILDERS IN CONNECTION WITH LOWER AND VERY LOW INCOME HOUSING DEVELOPMENTS.**

California Government Code Section 65915 states, in pertinent part, as follows:

When a developer of housing proposes a housing development within the jurisdiction of the local government, the city . . . shall provide the developer incentives for the production of lower income housing units within the development if the developer meets the requirements set forth in subdivisions (b) and (c). The city . . . shall adopt an ordinance which shall specify the method of providing developer incentives. (Emphasis added)

When Government Code Section 65915 was first passed by the Legislature, there was no requirement for a city to adopt an ordinance specifying a method for providing developer incentives. However, since its original enactment in 1979, the section has been amended in several respects, including the requirement for the adoption of an ordinance. Therefore, regardless of the effect on the Housing Element, the City is still obligated to have an ordinance establishing procedures and providing incentives in connection with the development of lower and very low income housing developments. The City's current VIP, as contained in LBMC Section 21.60.410 et seq., does comply with the mandate of California Government Code Section 65915 in regard to providing builder incentives. It should

be noted that there is nothing in the Government Code that requires the City to have the type of "Oversight Committee" that is currently required in LBMC Section 21.60.510 et seq. The City could repeal the Oversight Committee requirement and still be in compliance with Government Code Section 65915.

**IT IS DIFFICULT TO PREDICT WHETHER OR NOT A SUCCESSFUL CHALLENGE TO THE CITY'S GENERAL PLAN COULD BE MOUNTED IF THE VIP PROGRAM, AS IT PRESENTLY EXISTS, WERE ABOLISHED.**

As you know, Housing Elements are a required part of local General Plans. The existing Housing Element was approved by the State Department of Housing and Community Development in 1993, and the Housing Element is currently required to be updated by June 30, 1998. The content of the housing element of a general plan is governed by California Government Code Section 65583. The Government Code requires both a statement of a community's goals as well as a five-year program of proposed actions to implement those goals. The City's Housing Element meets both requirements. One of the required "actions" specifically mentioned in the Government Code is a program that would provide "incentives" (Cal. Govt. Code § 65583(b)). Although the Code does not specify the type of "incentives" required, the incentives would necessarily have to foster the State-wide goal of providing adequate low and lower income housing units.

The City's "approved" Housing Element does not specifically mention the Voluntary Incentive Program contained in LBMC Section 21.60.410. Rather, the Housing Element (see pg. 176 of Housing Element) indicates that the City offers three levels of density bonus as incentives for private developers: 25% bonus for low-cost housing; 100% bonus for senior citizen and handicapped housing; and 200% bonus for low income senior citizen and handicapped housing. The "25% bonus for low-cost housing" is, in actuality, the VIP contained at LBMC Section 21.60.410. A repeal of the VIP would have no effect on either the 100% bonus for senior citizen and handicapped housing or the 200% bonus for low income senior citizen and handicapped housing. The latter two bonuses are currently provided for in LBMC Section 21.52.233.

The City's Housing Element has adopted seven major goals to guide its housing strategy. In connection with the seven major goals, the City has adopted policies or programs to implement those goals. The VIP (25% bonus for low-cost housing) is only one of the many programs the City has adopted for the implementation of its seven major goals.

There are surprisingly few case law interpretations in regard to the precise types of programs/policies that a city must have in order to implement its housing element. Generally, a reviewing court would look to see whether or not there are adequate programs listed in the housing element to meet the needs of low and moderate income



households. Because of differences from locale to locale, the term "adequate" must be analyzed on a case-by-case basis. As a general statement, a city's judgment as to what types of programs/policies should be included in its housing element will not be set aside by a court unless the city has acted arbitrarily, capriciously or without any evidentiary basis in establishing (or omitting) implementing policies/programs. The court will look to see if the housing element, as a whole, substantially complies with the minimum requirements of a housing element as set forth in Government Code Section 65583.

In our situation, a court would be required to review all of the programs/policies of the City's Housing Element to determine whether or not the City has met minimum compliance. As mentioned previously, a repeal of the VIP would only affect one program of many that have been adopted by the City to implement its Housing Element. A court would undoubtedly look to see whether or not the removal of this one program would sufficiently undermine the overall goals and objectives of the Housing Element so as to render it ineffective. In its analysis, a court would likely consider the fact that the City currently does not have a "one-for-one replacement program" City-wide even though the approved Housing Element indicated that the City "intends to create a new program which will extend the essential elements of the Coastal Zone Program to a City wide program." (See Housing Element, pg. 172) The lack of one-for-one replacement housing City-wide coupled with a proposal to abolish the VIP could cause a court to question the overall validity of the Housing Element. Unfortunately, the lack of case law in this area precludes us from predicting with certainty how a court would react to the abolishment of the VIP.

#### CONCLUSION.

State law requires the City to have an ordinance establishing incentives for the creation of very low and low income housing units. This requirement is actually separate and apart from the housing element adequacy issue. If the City were to abolish its current VIP ordinance, it would have to be replaced with a substantially similar ordinance. There is no requirement in state law for the existence of an oversight committee.

Given the lack of case authority, it is impossible to predict how a court would view the abolishment of the VIP. In making its analysis, a court would likely consider the fact that the City has failed to implement a City wide "one-for-one" program even though the City's approved Housing Element indicates the City's intent to adopt such a program.

If you require further information, please do not hesitate to contact me.

MJM:vmh

ATTACHMENT 2

**LEGAL • AID**  
**FOUNDATION**  
**OF • LONG • BEACH**

110 Pine Avenue, Suite 420 • Long Beach, CA 90802-4421 • Tel: (310) 435-3501, Ext 211 • Fax: (310) 435-7118

Dennis L. Rockway  
Senior Counsel

April 29, 1997

John C. Calhoun, City Attorney  
333 West Ocean Boulevard  
Long Beach CA 90802

RE: Voluntary Incentive Program to Create Housing for Very Low and Low Income Households

Dear Mr. Calhoun:

It has come to our attention that at its meeting of April 17, 1997, the Planning Commission voted to recommend repeal of the Long Beach's Voluntary Incentive Program, subject to review by your office for implications in terms of the 1989 Housing Element of the Long Beach General Plan, and the possibility of litigation. We believe repeal of the Voluntary Incentive Program would indeed be inconsistent with the Housing Element.

As you are aware, the Housing Element recognizes that "the affordable housing stock of Long Beach is facing new threats to its continued existence," (Housing Element, p.3). It sets a goal "To Protect and Preserve Those Housing Units which are Currently Affordable to Low Income Households," (Housing Element, p.17) and in furtherance thereof, includes a specific commitment for the one-for-one replacement of lost affordable housing units throughout the city. (Housing Element, p.172). Upon repeal of the one-for-one replacement provisions in the Municipal Code, the City adopted the Voluntary Incentive Program in June, 1991. The goal of the program, and in fact the only explicit measure of its achievement per Long Beach Municipal Code Section §21.60.410B, is the one-for-one replacement of affordable housing demolished or converted.

The Voluntary Incentive Program is clearly the successor to the one-for-one replacement program. Its repeal would signify, as recognized by staff in its memo to the Planning Commission of April 17, 1997, the "absence of an implementation strategy for the above-mentioned goal in the Housing Element," referring to the goal "To protect and preserve those housing units which are currently affordable to low income households".

John C. Calhoun, City Attorney  
April 29, 1997  
Page Two

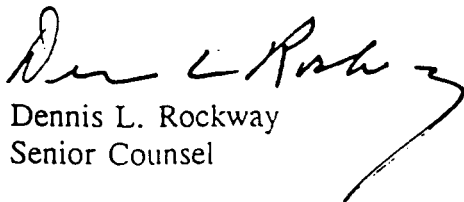
You will recall the legal challenge to Long Beach's 1984 Housing Element which alleged, inter alia, its failure to conserve existing housing affordable to lower income households. (Ad Hoc Housing Coalition et als. v. City of Long Beach et als, Los Angeles Superior Court No. C651868). The Court continued the proceedings in anticipation of adoption of the 1989 Housing Element, which introduced the one-for-one replacement program.

Therefore, we strongly believe that repeal of the Voluntary Incentive Program would be an action inconsistent with the Housing Element of the General Plan, and would be precluded by law absent the adoption of a program equally effective in assuring city-wide preservation of low income housing.

The City's history in enforcing meaningful programs to preserve affordable housing is a checkered one, even since recognizing its responsibility with adoption of the one-for-one replacement program set forth in the 1989 Housing Element. First came the repeal of the one-for-one replacement program based, we believe, on an overly broad reading of Bullock v. City and Council of San Francisco (1990) 271 Cal Rptr 44). Then came the failure of staff to recommend adoption of a mandatory inclusionary program per Long Beach Municipal Code Section 21.60.710 C.2. As you know, such recommendation is required if more covered affordable units were lost than were constructed, as has been the case. Therefore, repeal of the Voluntary Incentive Program would be viewed as even further retreat from the city's obligations under its Housing Element. Surely, the need to preserve affordable housing for the people in our community is not one likely to diminish in the foreseeable future.

We appreciate your consideration.

Sincerely,



Dennis L. Rockway  
Senior Counsel

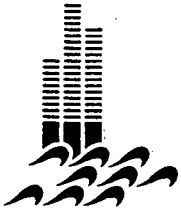
DLR: bb

cc: Jack Humphrey, Advance Planning Officer

ATTACHMENT

Planning Commission Staff Report

April 17, 1997



# CITY OF LONG BEACH

DEPARTMENT OF PLANNING & BUILDING

333 WEST OCEAN BOULEVARD • LONG BEACH, CALIFORNIA 90802

(310) 570-6655  
FAX (310) 570-6755  
TDD (310) 570-6755

## STUDY SESSION - CONTINUED

April 17, 1997

CHAIRMAN AND PLANNING COMMISSIONERS  
City of Long Beach  
California

SUBJECT: Voluntary Incentive Program to Create Housing for Very Low and Low  
Income Households

### **BACKGROUND**

The Planning Commission discussed the Voluntary Incentive Program at least five times between February and July of last year. No recommendation was formulated at that time. At the meeting of April 3, 1997, the Planning Commission voted to continue the item to the meeting of April 17th in order to allow additional time to consider the need for the VIP ordinance and the need for an Oversight Committee.

The *Housing Element* is a required Element of local General Plans. The most recently adopted *Housing Element* for the City of Long Beach (1989) includes a wide variety of housing policies to preserve and increase the number of low income housing units, including a policy calling for a one-for-one replacement program of affordable housing throughout the City. The one-for-one replacement program was instituted for the coastal zone, and the Voluntary Incentive Program (VIP) was substituted for the remainder of the City.

The VIP offers density bonus incentives to developers who build affordable housing. The ordinance adopting the VIP stipulates that a mandatory inclusionary program be substituted if the number of affordable units lost exceeds the number being created. Annual reports by the Department of Planning and Building on the number of units lost and created reflect the fact that there has been little housing activity in the time since the VIP ordinance took effect.

The dilemma facing the Planning Commission is whether or not to recommend that the VIP be continued, modified, or eliminated in favor of a mandatory inclusionary program. The predicament is how to best meet the variety of housing needs in our community, without discouraging new development and property investment. The staff reports from last year are attached. The reports exemplify the lack of easily obtainable and verifiable facts when looking at overall housing and population factors, especially at a point seven years forward since the last Census and still several years shy of the next decennial Census. A summary of testimony at Planning Commission meetings was prepared last year and is also attached for your review.

The need for affordable housing continues to be a significant issue in Southern California, where housing prices remain among the highest in the nation and many of our citizens have been seriously affected by the recession of the 1990's. The City of Long Beach works diligently for it's citizens through a number of housing programs (see attached staff reports), including Section 8 Certificates, Section 8 Vouchers, rental assistance, rehabilitation loans, and assistance for property and neighborhood beautification. Funding for these and other programs comes from the Department of Housing and Urban Development, the federal HOME program, state rehabilitation funds, and Community Development Block Grant (CDBG) entitlement funds. The Long Beach Housing Development Company (LBHDC), a non-profit organization formed by the City to maintain and create affordable housing, owns several multi-family buildings in the City. The Department of Planning and Building protects the existing housing stock through its Code Enforcement program, including the new "Fresh Start" program where a Code Enforcement Inspector is teamed with a Police Officer for problem locations. Progress has been made in the last year toward the provision of a multi-service center for homeless in the City, and towards the creation of a housing center with associated services at the former Navy housing site north of Pacific Coast Highway.

### **ALTERNATIVE RECOMMENDATIONS**

There are several possible courses of action that the Planning Commission may wish to consider in making its recommendation to the City Council:

- 1) Recommend that the Voluntary Incentive Program be eliminated and a mandatory inclusionary program be substituted, as called for in the subject ordinance. This would require that developers of housing projects over a certain size include a percentage of affordable units within each project. By eliminating the program, the City would be recognizing that the VIP has resulted in neither a noticeable gain nor a noticeable loss of affordable units over the past several years. The concern regarding this strategy in the past has been the potential disincentive for new multi-family development. It has also been argued that there are only limited opportunities for multi-family development in Long Beach as a result of the built-out nature of the city and the neighborhood down-zonings that have occurred in the past.

- 2) Recommend that the Voluntary Incentive Program be eliminated and a one-for-one replacement of affordable housing program be implemented throughout the city (this program currently exists in the coastal zone). Goal III of the *Housing Element* states: "To protect and preserve those housing units which are currently affordable to low income households."

The *Housing Element*, as approved by the State Department of Housing and Community Development (HCD), calls for the implementation of the "one-for-one" program throughout the city. The VIP was considered a more friendly alternative to implementing the intent of not depleting the supply of affordable housing at the time older housing is recycled or redeveloped. The one-for-one program city-wide would require the implementation of an in-lieu fee program by the Housing Division of the Department of Community Development.

- 3) Recommend that the Voluntary Incentive Program be eliminated and nothing be substituted. The absence of an implementation strategy for the above mentioned goal in the *Housing Element* requires review by, but may not be approved by, HCD, in which case the validity of the *Element* could come into question.
- 4) Recommend that the Voluntary Incentive Program be continued and that the development incentives remain available, until such time as the *Housing Element* is updated.

The *Housing Elements* for Southern California cities are scheduled to be updated by June 30, 1998. The VIP program is an implementation measure of a Goal in the 1989 *Housing Element*. A comprehensive review of the *Element* will allow staff, the citizenry and the Planning Commission to systematically assess the changes that have occurred in the housing arena since 1989 when making a recommendation to the City Council concerning the VIP. Some of the changes that will be reviewed as part of the *Housing Element* revision are changes in demographic conditions and trends, the successes and failures in other implementation strategies recommended in 1989, programs currently offered by the City, State and other governmental entities, changes in Housing-related laws, etc. The VIP has been one piece of a larger housing puzzle, and the *Housing Element* update will provide the opportunity to review it in the context of the larger picture.

It has also been suggested that the function of the Housing Coalition Oversight Committee is redundant to the roles of the Planning Commission and City Council. Any of the above-mentioned recommendations could include a recommendation to eliminate the Oversight Committee as described in sections 21.60.510 through 21.60.530 of the Zoning Code. It is noted that the Committee members have been diligent in their capacity to review and comment on the City's direction with regard to VIP. Regardless of the decision to continue, change or eliminate the VIP, the active members of the Oversight Committee will be invited and encouraged to participate in the *Housing Element* update process.



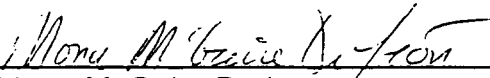
**RECOMMENDATION**


It is requested that the Planning Commission:

Recommend that the City Council continue the VIP program until such time as the *Housing Element* is revised.

Respectfully submitted,

EUGENE J. ZELLER,  
DIRECTOR OF PLANNING AND BUILDING

By:   
Mona McGuire De Leon  
Planner

Approved:   
Jack Humphrey  
Advance Planning Officer

EJZ:JWH:MMD  
Attachments

wp.vip97.re2



# CITY OF LONG BEACH

DEPARTMENT OF PLANNING & BUILDING

333 WEST OCEAN BOULEVARD • LONG BEACH, CALIFORNIA 90802

(310) 570-66  
FAX (310) 570-67  
TDD (310) 570-67

## STUDY SESSION - CONTINUED

April 17, 1997

CHAIRMAN AND PLANNING COMMISSIONERS  
City of Long Beach  
California

SUBJECT: Voluntary Incentive Program to Create Housing for Very Low and Low  
Income Households

### **BACKGROUND**

The Planning Commission discussed the Voluntary Incentive Program at least five times between February and July of last year. No recommendation was formulated at that time. At the meeting of April 3, 1997, the Planning Commission voted to continue the item to the meeting of April 17th in order to allow additional time to consider the need for the VIP ordinance and the need for an Oversight Committee.

The *Housing Element* is a required Element of local General Plans. The most recently adopted *Housing Element* for the City of Long Beach (1989) includes a wide variety of housing policies to preserve and increase the number of low income housing units, including a policy calling for a one-for-one replacement program of affordable housing throughout the City. The one-for-one replacement program was instituted for the coastal zone, and the Voluntary Incentive Program (VIP) was substituted for the remainder of the City.

The VIP offers density bonus incentives to developers who build affordable housing. The ordinance adopting the VIP stipulates that a mandatory inclusionary program be substituted if the number of affordable units lost exceeds the number being created. Annual reports by the Department of Planning and Building on the number of units lost and created reflect the fact that there has been little housing activity in the time since the VIP ordinance took effect.

The dilemma facing the Planning Commission is whether or not to recommend that the VIP be continued, modified, or eliminated in favor of a mandatory inclusionary program. The predicament is how to best meet the variety of housing needs in our community, without discouraging new development and property investment. The staff reports from last year are attached. The reports exemplify the lack of easily obtainable and verifiable facts when looking at overall housing and population factors, especially at a point seven years forward since the last Census and still several years shy of the next decennial Census. A summary of testimony at Planning Commission meetings was prepared last year and is also attached for your review.

The need for affordable housing continues to be a significant issue in Southern California, where housing prices remain among the highest in the nation and many of our citizens have been seriously affected by the recession of the 1990's. The City of Long Beach works diligently for it's citizens through a number of housing programs (see attached staff reports), including Section 8 Certificates, Section 8 Vouchers, rental assistance, rehabilitation loans, and assistance for property and neighborhood beautification. Funding for these and other programs comes from the Department of Housing and Urban Development, the federal HOME program, state rehabilitation funds, and Community Development Block Grant (CDBG) entitlement funds. The Long Beach Housing Development Company (LBHDC), a non-profit organization formed by the City to maintain and create affordable housing, owns several multi-family buildings in the City. The Department of Planning and Building protects the existing housing stock through its Code Enforcement program, including the new "Fresh Start" program where a Code Enforcement Inspector is teamed with a Police Officer for problem locations. Progress has been made in the last year toward the provision of a multi-service center for homeless in the City, and towards the creation of a housing center with associated services at the former Navy housing site north of Pacific Coast Highway.

### ALTERNATIVE RECOMMENDATIONS

There are several possible courses of action that the Planning Commission may wish to consider in making its recommendation to the City Council:

- 1) Recommend that the Voluntary Incentive Program be eliminated and a mandatory inclusionary program be substituted, as called for in the subject ordinance. This would require that developers of housing projects over a certain size include a percentage of affordable units within each project. By eliminating the program, the City would be recognizing that the VIP has resulted in neither a noticeable gain nor a noticeable loss of affordable units over the past several years. The concern regarding this strategy in the past has been the potential disincentive for new multi-family development. It has also been argued that there are only limited opportunities for multi-family development in Long Beach as a result of the built-out nature of the city and the neighborhood down-zonings that have occurred in the past.

- 2) Recommend that the Voluntary Incentive Program be eliminated and a one-for-one replacement of affordable housing program be implemented throughout the city (this program currently exists in the coastal zone). Goal III of the *Housing Element* states: "To protect and preserve those housing units which are currently affordable to low income households."

The *Housing Element*, as approved by the State Department of Housing and Community Development (HCD), calls for the implementation of the "one-for-one" program throughout the city. The VIP was considered a more friendly alternative to implementing the intent of not depleting the supply of affordable housing at the time older housing is recycled or redeveloped. The one-for-one program city-wide would require the implementation of an in-lieu fee program by the Housing Division of the Department of Community Development.

- 3) Recommend that the Voluntary Incentive Program be eliminated and nothing be substituted. The absence of an implementation strategy for the above mentioned goal in the *Housing Element* requires review by, but may not be approved by, HCD, in which case the validity of the *Element* could come into question.
- 4) Recommend that the Voluntary Incentive Program be continued and that the development incentives remain available, until such time as the *Housing Element* is updated.

The *Housing Elements* for Southern California cities are scheduled to be updated by June 30, 1998. The VIP program is an implementation measure of a Goal in the 1989 *Housing Element*. A comprehensive review of the *Element* will allow staff, the citizenry and the Planning Commission to systematically assess the changes that have occurred in the housing arena since 1989 when making a recommendation to the City Council concerning the VIP. Some of the changes that will be reviewed as part of the *Housing Element* revision are changes in demographic conditions and trends, the successes and failures in other implementation strategies recommended in 1989, programs currently offered by the City, State and other governmental entities, changes in Housing-related laws, etc. The VIP has been one piece of a larger housing puzzle, and the *Housing Element* update will provide the opportunity to review it in the context of the larger picture.

It has also been suggested that the function of the Housing Coalition Oversight Committee is redundant to the roles of the Planning Commission and City Council. Any of the above-mentioned recommendations could include a recommendation to eliminate the Oversight Committee as described in sections 21.60.510 through 21.60.530 of the Zoning Code. It is noted that the Committee members have been diligent in their capacity to review and comment on the City's direction with regard to VIP. Regardless of the decision to continue, change or eliminate the VIP, the active members of the Oversight Committee will be invited and encouraged to participate in the *Housing Element* update process.

**RECOMMENDATION**

It is requested that the Planning Commission:

Recommend that the City Council continue the VIP program until such time as the *Housing Element* is revised.

Respectfully submitted,

EUGENE J. ZELLER,  
DIRECTOR OF PLANNING AND BUILDING

By: *Mona McGuire De Leon*  
Mona McGuire De Leon  
Planner

Approved: *Jack Humphrey*  
Jack Humphrey  
Advance Planning Officer

EJZ:JWH:MMD  
Attachments

wp.vip97.re2

## ATTACHMENT A

### April 4, 1996 Planning Commission Report

Includes:

- 1990 Median Rents for Long Beach and Other Cities
- Previous Years' Council Letters
- VIP Ordinance (Chapter 21.60 of the Zoning Code, "Relocation Assistance For, and Meeting Housing Needs of, Persons of Very Low and Low Income Households)



# CITY OF LONG BEACH

DEPARTMENT OF PLANNING & BUILDING

333 WEST OCEAN BOULEVARD • LONG BEACH, CALIFORNIA 90802

(310) 570-6651  
FAX (310) 570-6753  
TDD (310) 570-6793

## STUDY SESSION - CONTINUED

April 4, 1996

CHAIRMAN AND PLANNING COMMISSIONERS  
City of Long Beach  
California

SUBJECT: Voluntary Incentive Program to Create Housing for Very Low and Low Income Households

### SUMMARY

The Voluntary Incentive Program (VIP), adopted in June 1991, is intended to preserve or increase the housing supply in the City for very low- and low-income households, as defined by the Department of Housing and Urban Development (HUD). The effectiveness of the program is to be measured by determining whether the number of housing units created through the program is equal to or greater than the number of affordable housing units that were demolished or otherwise removed from the pool of affordable housing. The ordinance calls for a mandatory inclusionary program to be substituted if the number of affordable units lost through the VIP program exceeds the number being created.

### BACKGROUND

One of the goals of the *Housing Element* (1989) is "to protect and preserve those housing units which are currently affordable to low income households." There are several ways of achieving the objective of preserving an existing housing stock. In some cities, a "one-for-one" replacement of affordable housing is instituted throughout the city to ensure that the pool of affordable housing does not diminish over time. One-for-one programs require that builders demolishing units affordable to low income and very low income households replace them or pay an in-lieu fee. In lieu fees are collected and earmarked for projects which result in new affordable housing.

Chapter 21.60 of the Long Beach Zoning Code identifies the Voluntary Incentive Program (VIP) as an innovative means of creating affordable housing, and stipulates that a

mandatory inclusionary program should be substituted if the number of affordable units lost exceeds the number being created. The VIP program offers density bonuses to developers providing a certain number of affordable units within a development project. The mandatory inclusionary program requires that ten percent of units in all multi-family projects of ten units or more be set-aside as affordable to households of low income, or five percent affordable to households of very low income. The requirements may be satisfied on-site, off-site, or through an in-lieu fee payment.

### **VOLUNTARY INCENTIVE PROGRAM**

The Voluntary Incentive Program offers incentives and bonuses to private developers to create new affordable housing. Specifically, any development project of five or more housing units on sites with zoning permitting 30 units per acre or greater, are entitled to a density bonus up to 25% of the number of units otherwise allowed if a minimum percent of the bonus units are set aside for affordable housing. The minimum percentages of set-aside units are twenty-five percent affordable to very low-income households, or at least fifty percent affordable to low income households. The requirement of affordable units may be met by the provision of on-site units, off-site units, rehabilitated units, the payment of an in-lieu fee, or an acceptable combination.

The Voluntary Incentive Program was instituted at the cusp of the California economic recession. Few residential units have been created in Long Beach during that time period, either through or outside of the VIP program. For example, in 1992 there was a net loss of eight affordable housing units during a period when a total of 1300 units were created outside of the VIP program. Construction activity was substantially reduced in 1993, when no VIP units were created and none were lost, during a year when 61 residential units outside of the VIP program were demolished and 29 new units were created. Again in 1994, no new VIP units were created and none were lost. Outside of the VIP program for the same time period, 65 residential units were constructed and 63 were demolished. In 1995, there were no affordable units gained or lost through the VIP program. Building permits were issued for 151 new units and 91 demolished units in 1995. The recently completed Pine Terrace project at 838 Pine Avenue (83 units) received a density bonus through the VIP program in 1992.

The City Council reviews the progress and status of the VIP program each year. Previous Council reports are attached for your information.

On March 7, 1994, the City Council voted to continue the program for another year, and to then refer it to the Planning Commission for a Study Session with the members of the Housing Coalition Oversight Committee. The Oversight Committee consists of the Apartment Association of Southern California Cities, the Legal Aid Foundation of Long Beach, the Long Beach Area Chamber of Commerce, Long Beach Area Citizens Involved, the Long Beach District Board of Realtors, and the Long Beach Housing Action Association. The Study Session was initiated on February 15th, and continued to April 4, 1996 to allow for the gathering of additional information regarding rent prices and housing



## HOUSING NEEDS

The federal Department of Housing and Urban Development (HUD) defines a household spending more than 30% of its gross income on housing as having a "cost burden". Households paying more than 50% are defined as having a "severe cost burden." Home owners are considered to have more options than renters when dealing with cost burden issues, such as selling the home, refinancing or using equity to obtain a loan, and therefore there is a greater emphasis placed on cost burden by rental households.

Severe cost burden affects extremely-low-income renter households most critically because of the danger of losing shelter due to limited resources. Any unforeseen emergency expense may cause the household to be unable to pay rent. This group is therefore highly vulnerable to becoming homeless.

The *1995 - 2000 Consolidated Plan* prepared by the Department of Community Development, identifies the following incidence of cost burden (including severe cost burden) among renter and owner households:

### **PERCENTAGE OF RENTER HOUSEHOLDS EXPERIENCING COST BURDEN**

Extremely-Low-Income	84%
Low-Income Households	79%
Moderate-Income Households	51%
Middle-Income Households	29%
Households below the 95% Median Family Income	53%

### **PERCENTAGE OF OWNER HOUSEHOLDS EXPERIENCING COST BURDEN**

Extremely-Low-Income	78%
Low-Income Households	38%
Moderate-Income Households	33%
Middle-Income Households	34%
Households below the 95% Median Family Income	15%

The gross median rent in Long Beach, according to the U.S. Census, was \$605. The maximum rental amount that a household earning 30% or less of the area median income could afford without being cost burdened is \$293. In 1990, 23% of the total renter households in Long Beach were categorized as being extremely low-income. Nearly 18% of all renter households were low-income, which would require monthly housing expenses of no more than \$487. On the whole, cost burden is much more common among renter households (53%) than owner households (15%) for households with incomes below 95% of the Median Family Income (MFI).

### **REGIONAL FAIR SHARE**

Traditionally, the Southern California Association of Governments (SCAG) has had the responsibility of preparing regional housing needs allocations for Southern California cities. Several studies conducted in 1981 recognized that housing in Long Beach was less expensive than comparable regional and nearby costs, and that the private sector was continuing to be the City's largest provider of affordable existing housing in Long Beach.

This conclusion was one of the principal reasons why SCAG acknowledged Long Beach as a housing "impacted" community at that time, inasmuch as Long Beach was meeting more than its regional fair share burden of providing affordable housing.

The 1989 Long Beach *Housing Element* of the *General Plan* projected an average annual construction rate of over 2,000 housing units per year, or a total of 11,650 new units in five years. This projection fell short of the 13,400 housing unit need projected by SCAG. Permits were issued for a total of approximately 2,888 units during the subject five year time period (between fiscal year 1989-1990 and fiscal year 1994-1995). The State did not allocate funds for the Councils of Governments and Regional Planning Associations to conduct the regional housing needs model in 1996, and hence, no updated regional allocation figures are available.

### **RENTS**

There were 93,858 occupied rental units in the City in 1990, and only 7,500 vacant-for-rent units. "Contract rent" is rent which is paid under some type of contractual agreement with the landlord. It does not include units for which no rent is paid, or for which another means of payment is made, such as in-kind services, labor, etc. The median contract rent of all rental units in Long Beach in 1990 was \$551 per month.

"Gross rent" includes rent paid by a tenant plus utilities and/or garage rentals to correct for differences between rental agreements. In 1990, the median monthly gross rent in Long Beach was \$605.

Staff compared the 1990 median contract rent in Long Beach of \$551 with that of 22 other selected California cities (Source: "California Cities, Towns and Counties, 1990. Edith R. Horner, Editor). Several cities reported lower rents in 1990, including Fresno (\$369), Compton (\$477), Huntington Park (\$482) and Los Angeles (\$544). Sixteen other

cities and Los Angeles County reported higher contract median rents (see Attachment A). For example, the median rent in Downey was \$602, in Santa Ana was \$679, and in Redondo Beach was \$828. The highest reported rents of the selected cities were in Manhattan Beach and Cerritos, both at \$1001. Planning staff telephoned each of these cities for information on rent trends since 1990, but found that the local governments did not track this type of data.

In a *Press-Telegram* article dated July 19, 1993, the Apartment Owners Association of Southern California reported a comparison of average rents by unit size in the South Bay area overall, and in Long Beach. For each category, the Long Beach rents were lower, with the weighted average overall reported at an average rent of \$630 in the South Bay area, but only \$560 in Long Beach. When the Association compared average apartment rents in Long Beach with subregions in Los Angeles County, only the Central Eastern portion of L.A. County reported lower average monthly rents (\$546) than Long Beach.

AREA	PERCENT OF VACANCY	AVERAGE RENT/MONTH
Central Eastern	14.9%	\$546
San Fernando Valley	11.3%	\$645
San Gabriel Valley	11.3%	\$645
South Bay	11.9%	\$630
Western	11.4%	\$694
Long Beach	15.0%	\$560

(Source, *Press-Telegram* July 19, 1993, as reported by the Apartment Owners Association of Southern California)

### **HOUSING PROGRAMS**

There are a number of housing assistance programs administered through the City's Department of Community Development. For example, the City's Housing Authority had the ability to provide rental assistance to 5,357 households as of January 1995 through Section 8 Certificates, Section 8 Vouchers, new construction and rehabilitation. The City of Long Beach currently has over 3,700 housing units that were developed with the assistance of public subsidies.

The City's 1995 *Consolidated Plan* for housing states that the Section 8 waiting list is currently closed, and numbers 4,604 households. Also, in the next five years, as many as 1,400 of the units built with public assistance may be taken out of the affordable housing pool as deed restrictions and other limitations expire.

The Community Development Department administers other programs that offer rental assistance, rehabilitation loans, and aids for property and neighborhood beautification. The HOME Tenant-Based Rental Assistance Program offers assistance to qualified Section 8 households which remain on the waiting list for rental assistance. The units are required to meet Section 8 Housing Quality Standards, and the family is required to pay 30% of their adjusted gross income towards rent.

Federal HOME Program funds were also being utilized for rental rehabilitation loans. The program targets extremely low- and low-income renters of all family types. Not less than 90% of HOME funds are invested in units which are occupied by households at 60% of area median income or below, and the remaining 10% of HOME funds may be invested in units housing persons with incomes up to 80% of the area median income.

Another assistance program uses a combination of the City's Redevelopment Agency's tax increment housing set-aside monies, federal HOME funds, State rehabilitation funds and conventional financing to assist developers in acquiring and rehabilitating existing rental buildings in Long Beach. A portion of the units thus acquired are deed restricted for occupancy by low- and moderate-income households for a period of not less than 15 years. To date, the Long Beach Housing Development Company (LBHDC), a nonprofit organization created by the City to maintain and create affordable housing, has acquired four multi-family buildings with a total of 105 units.

There are several housing programs targeting to low-income homeowners. The Homeowner Rehabilitation Program assists both first-time homebuyers requiring rehabilitation and existing owners on a citywide basis using CDBG funds. Although moderate-income homeowners may be assisted, a higher priority is given to those of lower incomes. Loans to extremely low-income homeowners are made at 3% simple interest and repayments are generally deferred until sale or transfer of the property. For low-income homeowners, amortized loans are made at 3% interest for 15 years. Additional assistance to low- and moderate-income owner-occupied households include the Paint Rebate, Home Security, Home Improvement, Tool Rental Assistance, Neighborhood Beautification and Clean-Up, and Graffiti Abatement programs. These programs are funded with the City's CDBG entitlement funds.

#### **CURRENT ACTION REQUESTED**

It is requested that the Planning Commission:

Direct the Director of Planning and Building to report on the testimony presented at the Study Session regarding the Voluntary Incentive Program to the City Council.

Respectfully submitted,

EUGENE J. ZELLER,  
DIRECTOR OF PLANNING AND BUILDING

By: \_\_\_\_\_  
Jack Humphrey  
Advance Planning Officer

EJZ:JWH:MMD  
Attachments

wp.vip.rep.rev 3.24.97

Attachment A

## 1990 MEDIAN RENT

Fresno	\$369
Compton	\$477
Huntington Park	\$482
Los Angeles	\$544
<b>Long Beach</b>	<b>\$551</b>
Los Angeles County	\$570
Bellflower	\$581
Whittier	\$583
Signal Hill	\$590
Downey	\$602
Artesia	\$639
Norwalk	\$642
Anaheim	\$661
Santa Ana	\$679
San Jose	\$692
Torrance	\$740
Los Alamitos	\$780
Seal Beach	\$790
Huntington Beach	\$808
Redondo Beach	\$828
Manhattan Beach	\$1001
Cerritos	\$1001

Source: California Cities, Towns, and Counties, 1990. Edith R. Horner, Editor.

Attachment B





# CITY OF LONG BEACH

DEPARTMENT OF PLANNING & BUILDING

333 WEST OCEAN BOULEVARD • LONG BEACH, CALIFORNIA 90802

(310) 570-61  
FAX (310) 570-61  
TDD (310) 570-51

January 24, 1995

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

SUBJECT: Report on Achievement of the Voluntary Incentive Program to Create Housing for Very Low- and Low-income Households (Citywide)

It is recommended that the City Council receive and file this report on the achievement of the Voluntary Incentive Program to create housing for very low- and low-income households and continue the program for an additional year.

## BACKGROUND

Chapter 21.60.530.B of the Long Beach Municipal Code requires the Director of Planning and Building to report in writing to the Mayor and City Council whether or not the housing goals set forth in Subsection 21.60.410.B of Division IV, Voluntary Incentive Program (VIP) have been met for the twelve months immediately preceding the report. Division IV is intended to provide additional housing opportunities for very low- and low-income households through a program offering incentives and bonuses to private developers.

The Voluntary Incentive Program (VIP), adopted in June 1991, is intended to increase the housing supply in the City for very low- and low-income households, as defined by HUD. The effectiveness of the VIP is to be measured by determining whether the number of affordable housing units constructed, under construction, rehabilitated or provided for through payment of in-lieu fees under this program are equal to or greater than the number of affordable housing units that were demolished or converted to condominiums.

Chapter 21.60 specifies that the initial period for judging the Voluntary Incentive Program's effectiveness was April 9, 1991, to October 9, 1992. On December 21, 1992, the Director of Planning and Building reported that during this evaluation period there had been a net loss of eight affordable units in

HONORABLE MAYOR AND CITY COUNCIL

January 24, 1995

Page 2

the City. Section 21.60.710.C.2, states that if the goals have not been met, "then the Director shall include in his/her report a recommendation that the City Council make immediately operative the provisions of Division VI of this Chapter 21.60" requiring inclusionary zoning.

On March 2, 1993, the Long Beach City Council voted to extend the Voluntary Incentive Program for an additional year due to the unusually low level of residential construction during this period. The Director of Planning and Building was required to report in writing to the City Council on January 4, 1994, whether or not the housing goals set forth in Section 21.60.410.B had been met. At the January 4, 1994, meeting, the Director reported that from January 1, 1994, to November 30, 1994, the level of construction activity remained low and no new Voluntary Incentive Program units were constructed and no affordable units were demolished. Subsequently, the City Council again voted to extend the Voluntary Incentive Program and instructed the Director to submit another progress report in writing on January 3, 1995.

#### ACHIEVEMENT REPORT

Reports from the Housing Authority and the Zoning Administrator, indicate that during the period from January 1, 1994, to November 30, 1994, there were no Voluntary Incentive Program units constructed and no affordable units were demolished. As the attached Table A indicates, residential construction in the City continued to be limited during this trial period, affording fewer opportunities for the creation of VIP units. There were, however, a total of 1,490 new affordable housing units created under other programs during the period from April 9, 1991 through November 30, 1994 (See attached Table B).

#### CURRENT ACTION REQUESTED

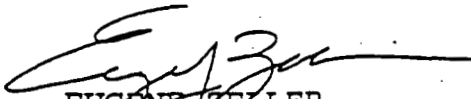
The City Council should consider the report by the Director of Planning and Building that there was no net change in the number of affordable units during the past year and extend the Voluntary Incentive Program for an additional year.

HONORABLE MAYOR AND CITY COUNCIL  
January 24, 1995  
Page 3

IT IS RECOMMENDED THAT THE CITY COUNCIL:

1. Receive and file this report
2. Continue the Voluntary Incentive Program for an additional year.

Respectfully Submitted,



EUGENE ZELLER  
ACTING DIRECTOR OF PLANNING AND BUILDING

EZ:JH:CW  
Attachments

CCVIPRPT.3

APPROVED:

---

JAMES C. HANKLA  
CITY MANAGER

TABLE A

PROGRESS UNDER THE VOLUNTARY INCENTIVE PROGRAM TO CREATE  
HOUSING FOR VERY LOW- AND LOW-INCOME HOUSEHOLDS

According to reports from the Housing Authority and the Zoning Administrator, the following activity has taken place between January 1, 1994, and November 30, 1994.

Permits Issued:

Total Residential Units <sup>1</sup>	65
Units Allowed Through VIP <sup>2</sup>	0

Demolitions<sup>3</sup>:

Residential Demolitions <sup>1</sup>	63
VIP Affordable Units <sup>2</sup>	0

Condominium Conversions:

Total Units in TM Applications <sup>1</sup>	0
Total Affordable Units <sup>2</sup>	0

In summary, no VIP units were constructed or lost during 1993.

---

<sup>1</sup>Department of Planning & Building

<sup>2</sup>Housing Bureau

<sup>3</sup>Of the 63 demolitions, some were likely affordable but had been exempted due to extended vacancy or the fact that they did not involve code enforcement actions. They were therefore not counted under the Voluntary Incentive Program.

TABLE B\*

Division	Program	Units	Amount
Housing Assistance			
	Rental Certificates	387	\$3,806,324
	Housing Vouchers	321	\$2,981,719
	HOPWA Program**	42	\$96,283
	SUBTOTAL	750	\$6,884,326
Housing Development			
	New Construction	95	\$4,280,000
	Rehabilitation***	37	\$3,907,000
	SUBTOTAL	132	\$8,187,000 #
Rehabilitation Services			
	Home Pride Program	608	\$8,364,128
	TOTAL	1,490	\$23,435,454

\*Source: City of Long Beach, Housing Services Bureau

\*\*Housing Opportunities for People with AIDS

\*\*\*LBHDC acquired and rehabilitated units using HOME funds are included with Rehabilitation Services

#Amount includes federal and local funds

~~January 4, 1994~~

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

SUBJECT: Report on Achievement of the Voluntary Incentive Program to  
Create Housing for Very Low- and Low-income Households  
(Citywide)

---

It is recommended that the City Council continue the Voluntary Incentive Program to create housing for very low- and low-income households. Chapter 21.60.530.B of the Long Beach Municipal Code requires the Director of Planning and Building to report in writing to the Mayor and City Council whether or not the housing goals set forth in Subsection 21.60.410.B of Division IV, Voluntary Incentive Program (VIP) have been met for the twelve months immediately preceding the report. Division IV is intended to provide additional housing opportunities for very low- and low-income households through a program offering incentives and bonuses to private developers.

#### BACKGROUND

The Voluntary Incentive Program, adopted in June 1991, is intended to increase the housing supply in the City for very low- and low-income households, as defined by HUD. The effectiveness of the Program is to be measured by determining whether the number of housing units constructed, under construction, rehabilitated or provided for through payment of in-lieu fees under this program are equal to or greater than the number of housing units that were demolished or converted to condominiums not affordable to such households.

Chapter 21.60 specifies that the initial period for judging the Voluntary Incentive Program's effectiveness was April 9, 1991, to October 9, 1992. On December 21, 1992, the Director of Planning and Building reported that during this evaluation period there had been a net loss of eight affordable units in the City. Section 21.60.710.C.2, states that if the goals have not been met, "then the Director shall include in his/her report a recommendation that the City Council make immediately operative the provisions of Division VI of this Chapter 21.60" requiring inclusionary zoning.

HONORABLE MAYOR AND CITY COUNCIL

January 4, 1994

Page 2

The Housing Coalition Oversight Committee (Committee), established as an ad hoc advisory committee of the City Council to review and evaluate the success of Division IV programs, discussed the report's impacts at meetings held on January 6, 1993, and January 20, 1993. While a compromise was sought, Committee members were unable to agree on the success or failure of Division IV or on recommendations to City Council.

Committee members representing the Legal Aid Foundation of Long Beach, the Long Beach Area Citizens Involved, and the Long Beach Housing Action Association supported the immediate implementation of the inclusionary zoning provisions of Division VI, while representatives of the Apartment Association of Southern California Cities, the Long Beach Chamber of Commerce, and the Long Beach District Board of Realtors recommended an immediate suspension or repeal of all but the relocation assistance provisions of Chapter 21.60, and a reevaluation of the issue during the revision of the City's Housing Element.

On March 2, 1993, the Long Beach City Council voted to extend the Voluntary Incentive Program for another year. Subsequently, the Director of Planning and Building is required to report in writing to the City Council on January 4, 1994, whether or not the housing goals set forth in Section 21.60.410.B have been met.

#### ACHIEVEMENT REPORT

Reports from the Housing Authority and the Zoning Administrator, indicate that during the period from January 1, 1993, to November 30, 1993, there were no Voluntary Incentive Program units constructed and no affordable units were demolished.

#### CURRENT ACTION REQUESTED

The City Council should consider the report by the Director of Planning and Building that there was no net change in the number of affordable units during the past year and extend the Voluntary Incentive Program for an additional year.

IT IS RECOMMENDED THAT THE CITY COUNCIL:

Continue the Voluntary Incentive Program for an additional year.

Respectfully Submitted,

HONORABLE MAYOR AND CITY COUNCIL  
January 4, 1994  
Page 3

ROBERT J. PATERNOSTER  
DIRECTOR OF PLANNING AND BUILDING

RJP:JH  
Attachments

CCVIPRPT.2

APPROVED:

---

JAMES C. HANKLA  
CITY MANAGER



PROGRESS UNDER THE VOLUNTARY INCENTIVE PROGRAM TO CREATE  
HOUSING FOR VERY LOW- AND LOW-INCOME HOUSEHOLDS

According to reports from the Housing Authority and the Zoning Administrator, the following activity has taken place between January 1, 1993, and November 30, 1993.

Permits Issued:

Total Residential Units <sup>1</sup>	29
Units Allowed Through VIP <sup>2</sup>	0

Demolitions<sup>3</sup>:

Residential Demolitions <sup>1</sup>	61
VIP Affordable Units <sup>2</sup>	0

Condominium Conversions:

Total Units in TM Applications <sup>1</sup>	245
Total Affordable Units <sup>2</sup>	0

In summary, no VIP units were constructed or lost during 1993.

---

<sup>1</sup>Department of Planning & Building

<sup>2</sup>Housing Bureau

<sup>3</sup>Of the 61 demolitions, some were likely affordable but had been exempted due to extended vacancy or the fact that they did not involve code enforcement actions. They were therefore not counted under the Voluntary Incentive Program.

~~March 2, 1992~~

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

SUBJECT: REPORT ON THE HOUSING COALITION OVERSIGHT COMMITTEE'S  
DELIBERATIONS ON THE VOLUNTARY INCENTIVE PROGRAM TO  
CREATE HOUSING FOR VERY LOW- AND LOW-INCOME HOUSEHOLDS  
(Citywide)

Chapter 21.60.530.B of the Long Beach Municipal Code requires the Housing Coalition Oversight Committee (Committee) to review the impact of the Director of Planning and Building's report to the Mayor and City Council if the goals set forth in Subsection 21.60.410.B of Division IV, Voluntary Incentive Program (VIP) have not been met. If the Committee cannot agree on the success or failure of Division IV, or cannot agree on what recommendations to the City Council should be, the Director shall submit an objective report of the Committee's deliberations to the City Council.

#### BACKGROUND

The Housing Coalition Oversight Committee was established as an ad hoc advisory committee of the City Council to review and evaluate the success of Division IV programs. The Committee consists of six members, one of each representing: the Apartment Association of Southern California, the Legal Aid Foundation of Long Beach, the Long Beach Chamber of Commerce, Long Beach Area Citizens Involved, the Long Beach District Board of Realtors, and the Long Beach Housing Action Association. Chapter 21.60, Division IV, the Voluntary Incentive Program, was adopted by the City Council in June, 1991, and is intended to increase the housing supply in the City for very low- and low-income households, as defined by HUD. Under Chapter 21.60, the period for judging the Voluntary Incentive Program's effectiveness in stimulating the production of suitable units is April 9, 1991 to October 9, 1992. During this period, the number of housing units constructed, under construction, rehabilitated or provided for through payment of in-lieu fees under this program must be equal to or greater than the number of housing

HONORABLE MAYOR AND CITY COUNCIL

March 2, 1993

Page 2

units which, during the same period, were demolished or converted to condominiums not affordable to such households.

On December 21, 1992, the Director of Planning and Building reported to the Committee that during the evaluation period there had been a net loss of eight affordable housing units in the City. Section 21.60.710.C.2, states that if the goals have not been met, "then the Director shall include in his/her report a recommendation that the City Council make immediately operative the provisions of Division VI of this Chapter 21.60" requiring inclusionary zoning.

The Committee subsequently reviewed the report's impacts at meetings held on January 6, 1993 and January 20, 1993. While a compromise was sought, Committee members were unable to agree on the success or failure of Division IV or on recommendations to the City Council.

The Housing Coalition Oversight Committee members representing the Legal Aid Foundation of Long Beach, the Long Beach Area Citizens Involved, and the Long Beach Housing Action Association cited two reasons for supporting the immediate implementation of the inclusionary zoning provisions of Division VI:

- o The clearly defined measures for evaluating the success or failure of the Voluntary Incentive Program had not been met during the trial period; and
- o Construction had occurred, as indicated by the fact that there were some 1,300 Certificates of Occupancy issued for completed units during 1991-1992, but no new affordable units had been constructed under the VIP.

Committee members representing the Apartment Association of Southern California Cities, the Long Beach Chamber of Commerce, and the Long Beach District Board of Realtors cited the following as mitigations:

- o An exceptionally severe economic recession affected Long Beach and the Nation during much of the evaluation period;

HONORABLE MAYOR AND CITY COUNCIL

March 2, 1993

Page 3

- o Although not included under the VIP, affordable housing in the City had increased during this period through other programs;
- o Increased vacancy in the City, with lower rents, had also added to the stock of affordable units; and
- o During normal conditions, the development process generally takes two years to complete.

The two sides were ultimately unable to bridge their differences. The former continued to support the position that the City Council should immediately implement Division VI, while the latter recommended an immediate suspension or repeal of all but the relocation assistance provisions of Chapter 21.60, and a reevaluation of the issue during the revision of the City's Housing Element commencing later this year.

CURRENT ACTION REQUESTED

The City Council should consider the above report on the Housing Coalition Oversight Committee's discussions in its deliberations on the recommendation by the Director of Planning and Building (see companion report on the achievement of the Voluntary Incentive Program goals) that the City Council make immediately operative the provisions of Division VI of Chapter 21.60.

IT IS RECOMMENDED THAT THE CITY COUNCIL:

Receive and file this report.

Respectfully Submitted,

ROBERT J. PATERNOSTER  
DIRECTOR OF PLANNING AND BUILDING

HONORABLE MAYOR AND CITY COUNCIL  
March 2, 1993  
Page 4

RJP:JH:pcr  
Attachments

CCHSOVST.RPT

APPROVED:

---

JAMES C. HANKLA  
CITY MANAGER

Attachment C

Chapter 21.60

RELOCATION ASSISTANCE FOR, AND MEETING HOUSING NEEDS OF,  
PERSONS OF VERY LOW AND LOW INCOME HOUSEHOLDS\*

Sections:

- Division I. Purpose, Definitions and Applicability**
- 21.60.110 Purpose.  
21.60.120 Definitions.  
21.60.130 Applicability of this chapter.
- Division II. Administration and Determinations**
- 21.60.210 Administration.
- Division III. Relocation Assistance**
- 21.60.310 Relocation benefits to be provided.  
21.60.320 Provision of relocation benefits.  
21.60.330 When benefits inapplicable.  
21.60.340 Payments and distribution of relocation benefits.
- Division IV. Voluntary Incentive Program to Create Housing for Very Low and Low  
Income Households**
- 21.60.410 Purpose and goals.  
21.60.420 Incentive program.  
21.60.430 Review of projects providing housing for very low or low income  
households and design standards.  
21.60.440 Provision of units off-site.  
21.60.445 Condominium conversion.  
21.60.450 Pricing of units furnished pursuant to or as a result of this Division IV.  
21.60.460 Eligibility requirements.  
21.60.470 Deed Restrictions.  
21.60.480 Petition for subordination.
- Division V. Housing Coalition Oversight Committee**
- 21.60.510 Housing coalition oversight committee committed.  
21.60.520 Duties of the oversight committee.  
21.60.530 Performance and continuation of oversight committee functions.
- Division VI. Program Requiring Provision of Housing Affordable to Very Low and Low  
Income Households, or Payment of Fee in Lieu Thereof**
- 21.60.610 Purpose and goals.  
21.60.620 Providing housing for households of very low and low income in market  
rate projects.  
21.60.630 Review of projects providing housing for very low and low income  
households and design standards.  
21.60.640 Provision of units off-site.

- 21.60.650 In-lieu fees.
- 21.60.660 Pricing of units furnished pursuant to or as a result of this Division VI.
- 21.60.670 Eligibility requirements.
- 21.60.680 Deed restrictions.

**Division VII. Operative Times of Division IV and Division VI**

- 21.60.710 Operative instructions.

\*Prior ordinance history: (Ord. C-6684, 1990; Ord. C-6829, 1990; Ord. C-6868, 1991.)

**21.60.110 Purpose.**

The purpose and intent of this chapter is to mitigate problems caused by displacement of very low and low income households and to implement various goals of the Long Beach general plan to provide housing opportunities affordable to very low and low income households.

(Ord. C-6894 § 1 (part), 1991)

**21.60.120 Definitions.**

In addition to the definitions set forth in chapter 21.15, the following definitions shall apply to this chapter 21.60.

- A. "Low income household" means a household earning not more than eighty percent of the county median household income.
- B. "Very low income household" means a household earning not more than fifty percent of the county median household income.
- C. "Affordable unit" means a unit with housing costs that do not exceed:
  - 1. Thirty percent of household income of a low income or very low income household for rental units; or
  - 2. Thirty-five percent of household income of a low income or very low income household for-sale units.
- D. "Housing cost" means the monthly rent for rental units or mortgage payments for-sale units.
- E. "HUD" means the United States Department of Housing and Urban Development or its successors.
- F. "Income eligibility" means the gross annual household income anticipated for the next twelve-month period received by the family head, spouse and each additional person eighteen years of age or older who will be residing in the household, regardless of source and including all net income derived from assets.
- G. "In-lieu fee" means a fee paid to the city housing development fund by developers subject to this chapter in lieu of providing affordable units required by this chapter.
- H. "Market rate unit" means a dwelling unit which is not subject to ownership or rental limitations under this chapter.
- I. "Off-site construction" means erection of very low or low income housing units on land within the city of Long Beach other than a project site for which affordable units will be provided pursuant to Division IV or Division VI.



- J. "Project" means a residential development, subdivision or similar proposal for which city permits or approvals are sought.

(Ord. C-6894 § 1 (part), 1991)

**21.60.130 Applicability of this chapter.**

This chapter applies to all areas of the city of Long Beach including the Coastal Zone, except for Divisions IV and VI which apply, when operative, to all areas of the city except for the Coastal Zone.

(Ord. C-6894 § 1 (part), 1991)

**Division II. Administration and Determinations**

**21.60.210 Administration.**

- A. The administration of the tenant relocation program and the provisions of Division IV and, when and if operative, Division VI is delegated to the housing services bureau of the department of community development. The bureau shall adopt appropriate guidelines for program administration consistent with the intent of this chapter. The bureau may charge applicants, developers, and owners for the administration of this program as reasonably necessary to recover the full costs of such administration. Applicants, developers and owners will be charged for all direct costs incurred on their behalf along with other costs of administration.
- B. A schedule of hourly and other administrative fees shall be adopted by resolution of the city council of the city of Long Beach, reviewed annually, and adjusted during the city's annual budget process.
- C. Determinations.
1. It shall be the responsibility of the housing services bureau to determine if housing units to be demolished, remodeled pursuant to code enforcement, or converted to condominiums, are affordable to and/or occupied by very low and low income households. In making this determination, the bureau shall average rental/sale levels over a twelve-month occupied period.
  2. Determinations made by the bureau shall be attached by the applicant to the building demolition permit application, building permit application, or condominium conversion application, and shall become a public record in all proceedings and hearings related to that application. The bureau shall verify the rent value history and insure that there have been no price or other changes made for the purpose of circumventing these regulations.

(Ord. C-6894 § 1 (part), 1991)

## Division III. Relocation Assistance

21.60.310 Relocation benefits to be provided.

## A. Notification of Intended Displacement.

1. Unless otherwise provided in this Chapter 21.60, very low or low income households shall not be displaced from housing due to demolition, condominium conversion or rehabilitation for code enforcement as provided in this chapter unless first given prior written notice of the intended displacement, on a form provided or approved by the housing services bureau, at least eighteen months prior to the intended date of displacement.
2. A household otherwise eligible for eighteen-month notification hereunder may voluntarily waive such notification, provided that such waiver shall be in writing and shall, among other things, clearly and legibly set forth the nature of the notification and the relocation benefit created herein to which the household is entitled. Any person signing such a waiver may rescind it within seventy-two hours for any reason whatsoever, and upon such timely rescission, the waiver shall be of no further force and effect. Notification need only be given once and any rescission of waiver shall not result in commencing of a new eighteen-month notice period as to the person so rescinding.
3. A household occupying a unit to which notification of displacement has been previously given, or for which a waiver was filed by another household, shall not be entitled to additional notification if, but only if, it is given a true, accurate and legible copy of the previously given notice or waiver prior to the time of its entry into a rental agreement for the unit or, if no such agreement is signed, prior to taking occupancy. Notification need only be given once, and any rescission shall not result in commencement of a new eighteen-month notice period.
4. Notwithstanding any other provision of this subsection 21.60.310.A, very low or low income households displaced by the following classes of project need only be given prior written notice of the intended displacement at least three months prior to the intended date of displacement for the following types of projects:
  - a. A project consisting of the demolition of a unit or units the purpose of which is to construct a residential project of four or less dwelling units; or
  - b. A project consisting of the demolition of less than twenty existing dwelling units for the purpose of constructing a non-residential project; or
  - c. A project subject to the housing replacement provision of Chapter 21.61 of the Long Beach Municipal Code for the Coastal Zone; or
  - d. Any project providing at least ten percent of its units affordable to low income households or five percent of its units affordable to very low income households pursuant to the provisions of this Division IV.

## B. Monetary Assistance.

1. Very low and low income households displaced due to demolition, condominium conversion or rehabilitation for code enforcement as provided in this chapter shall be entitled to two thousand five hundred dollars in relocation costs.
2. Very low and low income households with a handicapped member displaced under this chapter shall be entitled to a replacement of structural modifications that the household previously paid for at the vacated premises up to a maximum value of an additional two thousand five hundred dollars.

3. The housing services bureau of the department of community development shall increase these amounts on a percentage basis as determined by the change in the Consumer Price Index between January 1, 1991 and January 1 of the year in which the application for demolition or remodeling permit, or final tract map, is filed with the city.

(Ord. C-7064 § 6, 1992; Ord. C-6894 § 1 (part), 1991).

**21.60.320 Provision of relocation benefits.**

Applicants for demolition permits, remodeling building permits pursuant to code enforcement action, and tract maps for condominium conversion, shall be responsible for providing relocation assistance to very low and low income households which are permanently displaced under one of the following circumstances:

- A. The demolition permit will result in the loss of a unit which is affordable by a very low or low income household, and will result in the permanent displacement of such a household which has been a lawful tenant for at least ninety days prior to the application for demolition.
- B. The remodeling building permit is the result of code enforcement action by the city of Long Beach and will permanently displace a very low or low income household which has been a lawful tenant for at least ninety days prior to the application for remodeling.
- C. The tract map is for the conversion to condominium units of apartment units which are affordable to very low or low income households, and will result in the permanent displacement of such households which were lawful tenants at the time of approval of the tentative tract map, or who rented a unit in such a project after the first notice of intention to convert was given without being notified of the intended conversion and who continued to rent or lease at the time as specified in the notice given to tenants ten days prior to approval of the final tract map as required by Section 20.32.040.F.

(Ord. C-6894 § 1 (part), 1991)

**21.60.330 When benefits inapplicable.**

Relocation benefits are not required to be paid or given under the following circumstances:

- A. The displacement is temporary (i.e., less than ninety days) and all of the following apply:
  1. The owner provides the tenant with a comparable unit for the displacement period; and
  2. The replacement unit has the same number of bedrooms as the unit from which the tenant is displaced; and
  3. The replacement has cooking/eating facilities and is approved by the housing services bureau of the department of community development as meeting Federal Housing Quality Standards; and
  4. The tenant pays no higher rent to the landlord for the displacement period; and
  5. The owner moves, stores, and/or protects the tenant's belongings.
- B. The director of planning and building determines that the city of Long Beach code enforcement action causing the tenant displacement directly resulted from tenant abuse or tenant action other than reporting code violations to the city of Long Beach.
- C. The applicant provides evidence to the satisfaction of the housing services bureau of the department of community development that the tenant moved voluntarily or that the unit has been continuously vacant for at least six months prior to the application, or that the unit has been occupied by a household which is not very low or low income for at least six months prior to the application, or that the unit has never been occupied prior to the application.

(Ord. C-6894 § 1 (part), 1991)

**21.60.340 Payments and distribution of relocation benefits.**

- A. Each applicant shall pay the applicable relocation fees to the housing services bureau of the department of community development to provide proof of waiver or proof that the relocation fee is not applicable, such proof to be acceptable to the housing services bureau, prior to issuance of the demolition permit, remodeling/building permit, or final tract map.
- B. The housing services bureau of the department of community development shall distribute relocation benefits to eligible very low and low income households as follows:
  - 1. To the displaced household, relocation benefits shall be paid to the tenant upon receipt of verification that the tenant has vacated the unit.
  - 2. To a new landlord, prior to the tenant's vacating the unit and at the request of the tenant, all or a portion of the relocation benefit may be paid upon presentation of a signed lease or rental agreement for the household's new residential unit.
  - 3. To a licensed household mover or rental company prior to the tenant's vacating the unit and at the request of the tenant, all or a portion of the relocation benefits may be paid upon presentation of an estimate for moving and/or rental of moving equipment.
- C. In instances where relocation benefits are requested prior to unit vacation, the housing services bureau of the department of community development will ensure that checks are jointly payable to two parties. The two parties to whom the checks shall be payable are as follows:
  - 1. The household; and
  - 2. Either the landlord, moving company, or rental company as applicable.

All remaining funds due the displaced tenant shall be disbursed to the tenant only upon verification of unit vacation.
- D. In cases where lawful possession is being litigated, the housing services bureau of the department of community development will not release the relocation benefits until and unless the litigation is finally resolved through settlement, adjudication or otherwise.
- E. In cases where the landlord has prematurely paid the eligible tenant or tenants all or part of the relocation benefit, the landlord shall be exempt from paying the commensurate amount to the housing services bureau of the department of community development, provided that the landlord must first provide documentary evidence that such funds were paid to the tenant, tenants or any authorized agent thereof.

(Ord. C-6894 § 1 (part), 1991)

**Division IV. Voluntary Incentive Program to Create Housing for Very Low and Low Income Households**

**21.60.410 Purpose and goals.**

- A. The purpose of this Division IV is to provide additional housing opportunities in the city of Long Beach for very low and low income households, as defined by HUD for the Los Angeles/Long Beach Standard Metropolitan Statistical District (SMSA), through a voluntary program offering incentives and bonuses to private developers, representatives of which private developers and certain business associations in Long Beach have assured the city of Long Beach will stimulate the production of such housing.

- B. The effectiveness of the voluntary incentive program set forth in this Division IV in stimulating the production of housing shall be measured by determining whether during the period of April 9, 1991 to October 9, 1992, and during annual periods thereafter as set forth hereunder, the number of housing units affordable to low and very low income households constructed, under construction, rehabilitated as defined herein or provided for through payment of an in-lieu fee, under this voluntary incentive program are equal to or greater than the number of housing units affordable to very low or low income households which, during the same period, were demolished or converted to condominiums not affordable to such households. Consideration shall also be given to the extent which the units produced are comparable in size to those demolished or converted and/or meet the highest priority needs as expressed in the Housing Element.
- C. Affordable units demolished and affordable units produced as a direct result of government programs other than those of the city, including its housing authority, department of community development, and the Long Beach housing development company, shall count as units demolished or produced under this Division IV.

(Ord. C-6894 § 1 (part), 1991).

**21.60.420 Incentive program.**

- A. Every development project of five or more housing units in the city of Long Beach, on any site where zoning permits development to densities of thirty units per acre or greater, shall be entitled to a density bonus not to exceed twenty-five percent of the number of units otherwise allowed under applicable zoning regulations if, but only if:
  - 1. At least twenty-five percent of the bonus units granted are set aside, for ten years for sale units and thirty years for rental units, to be housing affordable to very low income households; or
  - 2. At least fifty percent of the bonus units granted are set aside for ten years for sale units and thirty years for rental units, to be housing affordable to low income households.
- B.
  - 1. The requirement of affordable units may be met by the provision of on-site units, off-site units, rehabilitated units, or the payment of an in-lieu fee, all as set forth in this Division. At the request of the property owner, the city may agree to fulfilling the requirement for affordable units by a combination of these provisions.
  - 2. The in-lieu fee payable under this Division IV shall be twenty-seven thousand, eight hundred dollars, as adjusted annually to reflect the Construction Cost Index for the Los Angeles/Long Beach Statistical area, times the number of bonus density units granted. The fee shall be paid prior to issuance of a building permit for the property subject to the fee.
- C. Upon application by a developer, a density bonus of less than twenty-five percent may be granted to a developer of housing units offering less than the percentage of new units set forth in subsection 21.60.420.A, provided that the density bonus so granted shall be reduced proportionately to the reduction of new or rehabilitated units provided.
- D. Any project proposing to utilize the incentive program of this Division IV shall be subject to site plan review as set forth in Division V of Chapter 21.25 of this Title 21.
- E.
  - 1. Affordable units for sale shall remain affordable to low or very low income households by deed restriction for at least ten years. Affordable units for rent shall remain affordable to low or very low income households by deed restrictions for at least thirty years.

2. Reasonably unforeseen increases in finance and/or operating costs, which have risen faster, as a percentage of total income received, than the percentage of increase in rental rates on affordable units, may be adjusted by appeal to and with the prior approval of the housing services bureau of the community development department at any time after three years from the recordation of the deed restriction, provided that no such adjustment shall be granted that would cause a unit to be no longer affordable to persons of very low or low income households.
- F. A project qualifying for a density bonus and actually furnishing units and/or payment of the in-lieu fee pursuant to and in full compliance with this Section 21.60.420 may reduce the notice requirement of subsection 21.60.130.B.1 to no less than three months if otherwise meeting the conditions of Section 21.60.310.A.4
- G. The density program and incentives provided in this Division IV shall be in lieu of any other such program or incentives provided by or arising under state law as an inducement for the provisions or development of affordable housing units and are not intended to be used in conjunction with incentives required to be provided under Section 65915 of the California Government Code.
- H. In determining the number of units required pursuant to this Division IV, any decimal fraction less than 0.49 shall be rounded down to the nearest whole number and any fraction of 0.5 or more shall be rounded up to the nearest whole number and any fraction of 0.5 or more shall be rounded up to the nearest whole number, provided that no less than one affordable unit shall be constructed at any site which is provided a density bonus.

(Ord. C-6933 § 38, 1991; Ord. C-6894 § 1 (part), 1991).

**21.60.430 Review of projects providing housing for very low or low income households and design standards.**

- A. At the time the plans are submitted to the department of planning and building for initial review, the project proposal shall specify the number, type, location, size and construction scheduling of any dwelling units to be developed and shall indicate which units are proposed for rental or sale for the purpose of satisfying the requirements of this Division IV.
- B. If located on the project site, such units shall, whenever reasonably possible, be distributed throughout the project. The applicant may, with the prior approval of the city through the site plan review process, reduce the size and amenities of the units so long as there are not significant identifiable differences between the units visible from the exterior of the unit and the design of the units are consistent with the rest of the development, provided that all units shall conform in all ways to the requirements of the applicable building and housing codes. Units so provided shall have at least the same number of bedrooms as the average market rate unit in the project and shall be subject to the following minimum size limits:

0 Bedrooms —	450 square feet;
1 Bedroom —	600 square feet;
2 Bedrooms —	750 square feet;
3 Bedrooms —	1,000 square feet;
4 Bedrooms —	1,200 square feet;

- C. All affordable units required by this Division IV in a project and all phases of a project shall be constructed concurrently with the construction of market rate units, and such affordable units developed on the development site shall be rental units in rental developments and for-sale units in ownership projects.
- D. If the applicant can demonstrate that the bonus density provided cannot be physically accommodated on the site, the city may waive development standards during site plan review to accommodate the increased density in accordance with Section 21.63.080 of the municipal code.

(Ord. C-6894 § 1 (part), 1991).

**21.60.440 Provision of units off-site.**

- A. Units required by this Division IV may be provided by rehabilitation or new construction at a location within the city other than the project site, subject to review and prior approval by the city. Any such off-site units shall be completed prior to the issuance of a certificate of occupancy for the market rate housing unit project and shall conform to the requirements of the applicable building and housing codes and the minimum size and bedroom provisions set forth in Section 21.60.430. The off-site units need not be in the same ownership as the project, provided that they are deed-restricted in accordance with Section 21.60.470, and provided that a record of such off-site units together with such deed restriction shall be filed with the department of planning and building at the time of the recordation of such restriction for the purpose of identifying such units for future credits. In no event may units provided off-site be credited more than once.
- B. It is the intent of the city that, in permitting developers to rehabilitate extant deteriorating off-site residential structures in lieu of constructing new affordable units on-site, such action will extend the potential useful life of the residential structure by thirty years and will insure that the unit remains affordable during that period. Therefore, rehabilitation of existing residential units may be substituted on a one-for-one basis for construction of new affordable units if the rehabilitation cost equals or exceeds twenty-five percent of the replacement cost of the unit as calculated by the city's chief building official. Rehabilitated units must conform in use and density to the current zoning, but need not conform to the current development standards. Alternately, rehabilitation to existing residential units may be substituted on a two-for-one basis for construction of new affordable units if the rehabilitation cost of each unit equals or exceeds twelve and one-half percent of the replacement cost of the units as calculated by the building official. In multi-unit buildings, the per unit cost of rehabilitation shall be calculated by dividing the total rehabilitation cost for the structure or the total replacement cost for the structure by the number of residential units in the structure.
- C. The occupancy and sale or rental prices of such off-site units shall be governed by the terms of a deed restriction similar to that used for on-site units furnished pursuant to this Division IV which shall be structured to take precedence over all other covenants, liens and encumbrances.

(Ord. C-7247 § 27, 1994; Ord. C-6933 § 39, 1991; Ord. C-6894 § 1 (part), 1991).

**21.60.445 Condominium conversion.**

- A. A developer proposing to convert to condominium units apartments which are affordable to low or very low income households may reduce the notice requirements of subsection 21.60.310.A.1 to no less than three months if at least ten percent of the affordable apartments converted to condominium units are set aside for ten years to be housing affordable to low



income households or at least five percent of the affordable apartments converted to condominium units are set aside for ten years to be housing affordable to very low income households. However, in no case shall the notice requirements be reduced below those specified in Section 20.32.040 of the subdivision regulations (Title 20 of this code). In making this calculation, a unit will not be counted as an affordable apartment if the applicant provides evidence to the satisfaction of the housing services bureau of the department of community development that it has been continuously vacant for at least six months prior to the application, or that the unit has been occupied for at least six months prior to the application by a household which is not low or very low income.

- B. The requirement for affordable units may be met by the provision of on-site units, off-site units as provided in Section 21.60.440.A, rehabilitated units as provided in 21.60.440.B, or the payment of an in-lieu fee for each affordable unit required of sixty-nine thousand five hundred dollars, as adjusted annually to reflect the Construction Cost Index for Los Angeles/Long Beach Statistical Area.
- C. Affordable units for sale shall remain affordable to low or very low income households by deed restriction for at least ten years. Affordable units for rent shall remain affordable to low or very low income households by deed restrictions for at least thirty years. Reasonably unforeseen increases in finance and/or operating costs, which have risen faster, as a percentage of total income received, than the percentage of increase in rental rates on affordable units, may be adjusted by appeal and approval of the housing services bureau of the community development department at any time after three years from the recordation of the deed restriction, providing that no such adjustment shall be granted that would cause such a unit to be no longer affordable to a person of very low or low income housing as applicable.

(Ord. C-6894 § 1 (part), 1991).

#### **21.60.450 Pricing of units furnished pursuant to or as a result of this Division IV.**

Affordable units required pursuant to this Division IV shall be priced in accordance with HUD guidelines for the Los Angeles/Long Beach SMSA which defines units affordable to low and very low income households. For the express purpose of establishing income guidelines on projects for sale, thirty-five percent of a qualifying household's gross monthly income shall be allowed. Allowable rents and sales prices will be established by city ordinance or resolution based on HUD guidelines. Such guidelines shall be re-established within thirty days after announcement of new income guidelines by HUD. Pricing of units for sale or rent shall be set at the time of closing of escrow using the most recent HUD guidelines then available. No charge or fee shall be imposed on the purchase of an affordable unit furnished pursuant to this Division IV which is in addition to or more than such charges or fees imposed upon purchases of market rate units.

(Ord. C-6894 § 1 (part), 1991).

#### **21.60.460 Eligibility requirements.**

- A. Only very low and low income households shall be eligible to occupy affordable units provided pursuant to this Division IV. The city will use guidelines established by HUD in the Los Angeles/Long Beach SMSA determining household income minimum and maximum occupancy standards and other eligibility criteria.
- B. The following are those individuals who, by virtue of their position or relationship, shall be ineligible to purchase or rent a unit provided pursuant to this Division IV as their residence:

1. All employees and officials of the city of Long Beach or its agencies, authorities or commissions who have, by the authority of their position, policy-making authority or influence affecting city housing programs.
2. The immediate relatives of, employees of, and anyone gaining significant economic benefit from a direct business association with such public employees or officials.

- C. Prior to sale or rental of the affordable units, the owner shall be required to submit to the housing services bureau for its approval the following documents:
1. A bureau-approved income certification form signed by the owner attesting to household income; and,
  2. Satisfactory evidence of attested household income. In setting priorities among eligible households, the applicant, owner, or city shall generally give first priority to Long Beach residents, second to persons employed in Long Beach, and third to other persons.

(Ord. C-6894 § 1 (part), 1991)

**21.60.470 Deed restrictions.**

- A. Prior to issuance of a building permit for a project requesting bonus density or containing any other affordable requirement, applicant shall supply to the city for review and approval deed restrictions or other legal instruments in a form satisfactory to the city attorney, setting forth the obligations of the applicant under this program, and shall record same in the office of the Los Angeles county recorder. Such restrictions shall remain in effect for at least thirty years for rental units and at least ten years for sale-units.
- B. 1. Applicable deed restrictions, in a form satisfactory to the city attorney, shall contain provisions for enforcement of owner/developer compliance. Any default or failure to comply may result in, but is not limited to, the following actions:
- a. Revocation of conditional use permit;
  - b. Withdrawal of certificate of occupancy;
  - c. Foreclosure; or
  - d. Specific performance.
2. In any action taken pursuant to this subsection B to enforce compliance with deed restrictions, the city attorney shall, if such compliance is ordered by a court of competent jurisdiction, take all such action as may be permitted by law to recover all city's costs of such action, including the costs of legal services.
- C. Deed restrictions on affordable for-sale units shall contain provisions governing resale prices prior to expiration of the ten-year limitation period requiring the owner to use its best efforts to offer the affordable unit to low or very low income households only for a period of at least sixty days, provided that if a loan involving such unit or units is to be sold to the Federal National Mortgage Association ("FNMA") the deed restrictions shall be conformed to all then current FNMA requirements. Unless necessitated by such FNMA requirements, these units shall not be sold at a price higher than that affordable to low and very low income households prior to expiration of the deed restrictions.

(Ord. C-6894 § 1 (part), 1991)

**21.60.480 Petition for subordination.**

Upon foreclosure or similar proceeding relating to an affordable unit/units provided pursuant to this Division IV, a lienholder may petition the director of community development for relief from economically adverse impacts of the procedure on the lienholder. If the lienholder can show that the financial feasibility of the project may be lost if restrictions relating to affordability are maintained as to the unit/units subject to the proceeding, the city council may, upon recommendation

of the director of community development, authorize the city manager to agree to subordinate covenants relating to the affordability of the unit/units to the lienholder's requirements.

(Ord. C-6894 § 1 (part), 1991)

### **Division V. Housing Coalition Oversight Committee**

#### **21.60.510 Housing coalition oversight committee created.**

- A. There is hereby created the Long Beach housing coalition oversight committee as an ad hoc advisory committee of the city council of the city of Long Beach. The committee shall consist of six members one of whom shall be nominated or designated by each of the following groups or any successor organization:
1. The Apartment Association of Southern California Cities;
  2. The Legal Aid Foundation of Long Beach;
  3. The Long Beach Area Chamber of Commerce;
  4. Long Beach Area Citizens Involved;
  5. The Long Beach District Board of Realtors; and
  6. The Long Beach Housing Action Association.
- B. The city manager shall designate appropriate employees of the city's administrative departments to serve as administrative staff to the oversight committee, and the city attorney or his/her designee shall provide legal counsel and services.

(Ord. C-6894 § 1 (part), 1991)

#### **21.60.520 Duties of the oversight committee.**

- A. The duty of the housing coalition oversight committee shall be to review and evaluate the success of Division IV programs of this Chapter 21.60.
- B. To this end, the oversight committee shall first meet on December 4, 1991 and shall meet again on June 4, 1992 and shall meet again on December 4, 1992. After each such meeting, it shall file with the city clerk a report to the city council of the deliberations and actions considered at the meeting. Thereafter, it shall meet as frequently as it deems necessary to enable it to, on or before February 4, 1993, report its findings and recommendations in writing to the mayor and city council.
- C. In addition to its normal advisory activities, if the report of the director of planning and building filed pursuant to Section 21.60.710 of this Chapter 21.60 indicates non-achievement of the goals set forth in Section 21.60.410, the oversight committee shall review the impact of that report. It shall, within thirty days of the filing of the director's report, report the results of its review to the city council which report shall include, among other things, the committee's comments on the director's conclusions relating to the attainment or non-attainment of housing goals, and significant mitigating circumstances, which may include but are not limited to, failure to adopt or implement an ordinance regulating single room occupancies and "downzoning" or "moratoria" activity. The committee may also make recommendations regarding the desirability of making or not making operative the provisions of Division VI of this Chapter 21.60 in its present or revised form or any alternative plan or program for the provision of affordable housing units. If the oversight committee cannot

agree on the content of a report to the city council, the director of planning and building shall prepare an objective report of the committee's deliberations and file that report with the city council no later than February 15, 1993. In any event, the city council shall set the subject matter of the report to be heard at a public hearing conducted during its meeting of March 2, 1993.

- D. The oversight committee shall cease to exist if and when the provisions of Division IV become operative.

(Ord. C-6894 § (part), 1991)

**21.60.530 Performance and continuation of oversight committee functions.**

- A. The sole duty of the oversight committee shall be to make advisory policy recommendations and reports to the city council as specifically set forth in Section 21.60.520. Accordingly, the committee shall not sit as an adjudicatory body on any matters and shall have no authority to compel the attendance of persons before it. The committee shall neither be considered in theory nor function as a housing/tenant complaint review body. Neither the committee nor any individual member thereof shall have any administrative or operational duties, functions or responsibilities and shall have no supervisory power or any authority over any officers, agents or employees of the city or the operation or conduct of any city department.
- B. Each year following the initial report filed pursuant to Section 21.60.710, the director of planning and building shall report in writing to the city council whether or not the housing goals set forth in subsection 21.60.410.B of Division IV have been met for the twelve months immediately preceding the report. If they have not been met, then the oversight committee shall immediately meet to review the impact of the director's report and report the results of its review to the city council.
- C. Unless otherwise specifically provided in this Chapter 21.60, the housing coalition oversight committee shall be subject to the provisions of Chapter 2.18 of this code.

(Ord. C-6894 § 1 (part), 1991)

**Division VI. Program Requiring Provision of Housing Affordable to Very Low and Low Income Households, or Payment of Fee in Lieu Thereof**

**21.60.610 Purpose and goals.**

The purpose of this Division VI is to induce the private sector to provide its fair share of additional housing opportunities in the city of Long Beach for very low and low income households, as defined by HUD for the Los Angeles/Long Beach Standard Metropolitan Statistical District (SMSA), by requiring those developers of housing to include within their market-rate housing developments a response to the need for housing affordable to persons of very low and low income generated by such developments and identified in various goals and objectives of the Long Beach General Plan.

(Ord. C-6894 § 1 (part), 1991)

**21.60.620 Providing housing for households of very low and low income in market rate projects.**

- A. All multifamily residential market rate dwelling units, whether for sale or rental, resulting

from new construction or condominium/stock cooperative conversion of projects, of ten units or more, shall provide housing for households of very low and low income in accordance with the provisions of this Division VI.

- B. The construction of any multiple dwelling restricted as rental or limited equity cooperative housing for persons and families of very low or low income or for senior citizens, which is financed by any federal or state housing assistance or owned by any religious or other nonprofit organization shall be exempt from these requirements. No less than ten percent of the total number of units to be constructed pursuant to any project developed by an applicant at one location, whether at this time or in the future, designed for permanent occupancy and containing ten or more units shall be affordable to households of low income or, at least five percent, alternatively, shall be affordable to households of very low income. These requirements may be satisfied by off-site development of the required units as provided in subsection 21.60.640.A or an in-lieu fee payment pursuant to the provisions of Section 21.60.650. However, these requirements shall not apply to apartment units that were under construction on December 1, 1990 and that are only rented for the period from or after the date an application for a tentative map is filed to the date of sale of the condominium units which shall not exceed one year from the date on which the application for the tentative map is filed.
- C. In determining the number of units required pursuant to this Division VI, any decimal fraction less than 0.49 shall be rounded down to the nearest whole number, and any decimal fraction of 0.5 or more shall be rounded up to the nearest whole number, provided that no less than one affordable unit shall be constructed, or an appropriate in-lieu fee is paid, at or for any site which is required to provide affordable housing pursuant to this Division VI.

(Ord. C-6894 § 1 (part), 1991)

**21.60.630 Review of projects providing housing for very low or low income households and design standards.**

- A. At the time the plans are submitted to the department of planning and building for initial review, the project proposal shall specify the number, type, location, size and construction scheduling of any dwelling units to be developed and shall indicate which units are proposed for rental or sale for the purpose of satisfying the requirements of this Division VI.
- B. If located on the project site, such units shall, whenever reasonably possible, be distributed throughout the project. The applicant may, with the prior approval of the city through the site plan review process, reduce both the size and amenities of the units as long as there are not significant identifiable differences in the units visible from the exterior and the size and design of the units are consistent with the rest of the project, provided that all units shall conform in all ways to the requirements of the applicable building and housing codes. Units so provided shall have at least the same number of bedrooms as the average market rate unit in the project and shall be subject to the following minimum size limits:

- 0 Bedrooms - 450 square feet
- 1 Bedroom - 600 square feet
- 2 Bedrooms - 750 square feet
- 3 Bedrooms - 1,000 square feet
- 4 Bedrooms - 1,200 square feet

- C. All units required by this Division VI in a project and phases of a project shall be constructed concurrently with the construction of market rate units, and such units developed on the project site shall be rental units in rental projects and for-sale units in ownership projects.
- D. Any project subject to the requirements of this Division VI and furnishing units hereunder shall be subject to the site plan review as set forth in Division V of Chapter 21.25 of this Title 21.

(Ord. C-6894 § 1 (part), 1991).

**21.60.640 Provision of units off-site.**

- A. Units required by this Division VI may, with the prior approval of the city, be provided at a location within the city other than the project site. Any such off-site units shall be completed prior to the issuance of a certificate of occupancy for the market-rate housing units project and shall conform to the requirements of the applicable building and housing codes and the minimum size provisions set forth in Subsection 21.60.630.B. In no event may units provided off-site be credited more than once or for any other project than that in connection with which they were originally provided.
- B. It is the intent of the city that, in permitting developers to rehabilitate extant deteriorating off-site residential structures in lieu of constructing new affordable units on-site, such action will extend the potential useful life of the residential structure by thirty years and will insure that the unit remains affordable during that period. Therefore, rehabilitation of existing residential units may be substituted on a one-for-one basis for construction of new affordable units if the rehabilitation cost equals or exceeds twenty-five percent of the replacement cost of the unit as calculated by the city's chief building official. Rehabilitated units must conform in use and density to the current zoning, but need not conform to the current development standards. Alternately, rehabilitation to existing residential units may be substituted on a two-for-one basis for construction of new affordable units if the rehabilitation cost of each unit equals or exceeds twelve and one-half percent of the replacement cost of the units as calculated by the building official. In multiunit buildings, the per unit cost of rehabilitation shall be calculated by dividing the total rehabilitation cost for the structure or the total replacement cost for the structure by the number of residential units in the structure.
- C. The occupancy and sale or rental prices of such off-site units shall be governed by the terms of a deed restriction similar to that used for on-site units furnished pursuant to this Division VI which shall be structured to take precedence over all other covenants, liens and encumbrances.

(Ord. C-6933 § 40, 1991; Ord. C-6894 § 1 (part), 1991).

**21.60.650 In-lieu fees.**

- A. Fees in lieu of construction of required very low or low income units pursuant to this Division VI may be paid to the city. The in-lieu fee payable under this Division VI shall be calculated as follows:
  - 1. The in-lieu fee per dwelling unit shall equal one hundred three percent of the average price of land per dwelling unit for the subject project, which average price is calculated using the purchase price of the subject property, as verified by escrow instructions, development agreement or other legal document acceptable to the city, divided by the total number of dwelling units allowed under the existing zoning.

2. If the subject site is improved, and all or a portion of the improvements will remain on the site or be relocated to another site, the purchase price of the property may be reduced, prior to the calculation of the in-lieu fee, by the value of the improvements to remain or to be relocated. The improvement value shall reflect the value assessed in the most current Consolidated Annual Tax Bill of Los Angeles County.
  3. The total in-lieu fee due shall be the in-lieu fee per dwelling unit times the number of affordable units required under this Division VI. The fee shall be paid prior to issuance of a building permit for the property subject to the fee.
  4. If, in any case hereunder, the city has reason to believe that the price used in calculating the price of land per dwelling unit does not represent the true value of such land, it may, at its sole discretion and expense, cause an appraisal to be made relating to the land or improvements involved and, may thereafter, assign a price based on such appraisal for use in calculating the fee.
  5. In no event shall the fee be less than twenty-seven thousand, eight hundred dollars, as adjusted annually to reflect the Construction Cost Index for the Los Angeles/Long Beach Statistical area, but in no event shall it be adjusted more than five percent annually.
- B. Projects may be entitled to density bonuses or other incentives, pursuant to the requirements of state law or as provided by local ordinance if and as otherwise eligible for such bonuses. They may also, at the sole discretion of the city, be permitted certain density bonuses even for projects failing to achieve the full state established thresholds of Section 65915 of the California Government Code provided that, in such case, density bonuses shall be proportionately reduced, but only with the prior approval of the city.

(Ord. C-6894 § 1 (part), 1991).

#### **21.60.660 Pricing of units furnished pursuant to or as a result of this Division VI.**

Affordable units required pursuant to this Division VI shall be priced in accordance with HUD guidelines for the Los Angeles/Long Beach SMSA which defines units affordable to low and very low income households. For the purpose of establishing income guidelines on projects for sale, thirty-five percent of a qualifying household's gross monthly income shall be deemed available for housing to low income households. Affordable rents and sales prices will be established by city ordinance or resolution based on HUD guidelines. Such guidelines shall be re-established within thirty days after announcement of new income guidelines by HUD. Pricing of units for sale or rent shall be set at the time of the closing of escrow using the most recent HUD guidelines then available. No charge or fee shall be imposed on the purchase of an affordable unit furnished pursuant to this Division VI which is in addition to or more than charges imposed upon purchases of market rate units.

(Ord. C-6894 § 1 (part), 1991).

#### **21.60.670 Eligibility requirements.**

- A. Only very low and low income households shall be eligible to occupy affordable units provided pursuant to this Division VI. The city may establish administrative guidelines for determining household income, minimum and maximum occupancy standards and other eligibility criteria through its department of community development.
- B. Following are those individuals who, by virtue of their position or relationship, shall be ineligible to purchase or rent a unit provided pursuant to this Division VI as their residence:



1. All employees and officials of the city of Long Beach or its agencies, authorities or commissions who have, by the authority of their position, policy-making authority or influence affecting city housing programs.
  2. The immediate relatives of, employees of, and anyone gaining significant economic benefit from a direct business association with such public employees or officials.
- C. In setting priorities among eligible households, the applicant, owner or city shall generally give first priority to Long Beach residents, second to persons employed in Long Beach, and third to other parties.

(Ord. C-6894 § 1 (part), 1991)

**21.60.680 Deed restrictions.**

- A. Prior to issuance of a building permit for a project subject to the requirements of this Division VI, the applicant shall submit for city review and approval deed restrictions or other legal instruments, in form satisfactory to the city attorney, setting forth the obligations of the applicant under this program. Such restrictions shall remain in effect for at least thirty years for rental units and at least ten years for-sale units.
- B.
  1. Applicable deed restrictions, in a form satisfactory to the city attorney, shall contain provisions for enforcement of owner or developer compliance. Any default or failure to comply may result in, but is not limited to, the following action:
    - a. Revocation of a conditional use permit;
    - b. Withdrawal of certificate of occupancy;
    - c. Foreclosure; or
    - d. Specific performance.
  2. In any action taken pursuant to this subsection B to enforce compliance with deed restrictions, the city attorney shall, if such compliance is ordered by a court of competent jurisdiction, take all such action as may be permitted by law to recover all city's costs of such action, including costs of legal services.
- C. Deed restrictions on affordable for-sale units shall contain provisions governing resale prices prior to expiration of the ten-year limitation period requiring the owner to use its best efforts to offer the affordable unit to another low or very low income household for a period of at least sixty days. In no event shall these units be sold at a price higher than that affordable to low and very low income households prior to expiration of the deed restriction.

(Ord. C-6894 § 1 (part), 1991)

**Division VII. Operative Times of Division IV and Division VI**

**21.60.710 Operative instructions.**

- A. Immediately on and after the effective date of the ordinance first enacting this Division VII, Division IV as contained in that ordinance shall be operative and in full force and effect, and Division VI shall not, at that time, be operative or of any force and effect.

- B. On January 4, 1993, and subsequently as provided in Section 21.60.530.B, the director of planning and building shall report in writing to the city council whether or not the housing goals set forth in Section 21.60.410.B have been met.
- C. 1. If the director of planning and building reports that the goals have been met, Division IV shall continue to be operative and in full force and effect.
2. If the director of planning and building reports that the goals have not been met, then the director shall include in his/her report a recommendation that the city council make immediately operative the provisions of Division VI of this Chapter 21.60. The city council shall include in this report the record of its public hearing of March 2, 1993 to consider along with all other related materials and reports then before it concerning the subject of affordable housing.

(Ord. C-6894 § 1 (part), 1991)

ATTACHMENT B

Draft Council Letter Prepared per Planning Commission Direction  
May 2, 1996

## DRAFT FOR 5/2/96

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

SUBJECT: Voluntary Incentive Program to Create Housing for Very Low and Low Income Households  
COST: No Direct Costs

It is recommended that the City Council: **[TO BE DETERMINED]**

### BACKGROUND

One of the goals of the *Housing Element* (1989) is "to protect and preserve those housing units which are currently affordable to low income households." There are several ways of achieving the objective of preserving an existing housing stock. In some cities, a "one-for-one" replacement of affordable housing is instituted throughout the city to ensure that the pool of affordable housing does not diminish over time. One-for-one programs require that builders demolishing units affordable to low income and very low income households replace them or pay an in-lieu fee. In-lieu fees are collected and earmarked for projects which result in new affordable housing.

Mandatory inclusionary zoning is another means of assuring a continued supply of affordable housing. Inclusionary zoning requires that all residential developments over a certain size include a specified percentage of affordable housing units. The 1989 *Housing Element* called for a one-for-one replacement program for affordable housing throughout the City. The one-for-one replacement program was instituted for the coastal zone, and the Voluntary Incentive Program was substituted for the remainder of the City.

Chapter 21.60 of the Long Beach Zoning Code identifies the Voluntary Incentive Program (VIP) as an innovative means of creating affordable housing, and stipulates that a mandatory inclusionary program should be substituted if the number of affordable units lost exceeds the number being created. The VIP program offers density bonuses to developers providing a certain number of affordable units within a development project. The mandatory inclusionary program requires that ten percent of units in all multi-family projects of ten units or more be set-aside as affordable to households of low income, or five percent affordable to households of very low income. The requirements may be satisfied on-site, off-site, or through an in-lieu fee payment. The Voluntary Incentive Program, however, was instituted in 1991 at the cusp of the California economic recession, and comparatively few residential units have been created in Long Beach during that time period, either through or outside of the VIP program.

On March 7, 1995, the City Council voted to continue the program for another year, and to then refer it to the Planning Commission for a Study Session with the members of the Housing Coalition Oversight Committee. The Oversight Committee consists of the Apartment Association of Southern California Cities, the Legal Aid Foundation of Long Beach, the Long Beach Area Chamber of Commerce, Long Beach Area

## DRAFT COUNCIL LETTER

May 2, 1996

Page 2

Citizens Involved, the Long Beach District Board of Realtors, and the Long Beach Housing Action Association. Representatives of these groups were instrumental in the drafting the VIP ordinance in 1991. The Study Session was initiated on February 15th, and continued to April 4, 1996 and to May 2, 1996.

### ALTERNATIVE ACTIONS

There are potentially significant impacts on the City based on the alternative courses of action to be considered by the Planning Commission and City Council regarding the future of the Voluntary Incentive Program. If the City Council were to eliminate the VIP portion of Chapter 21.60 of the Zoning Code, for example, the ordinance calls for the re-institution of the mandatory one-for-one affordable housing replacement program. An amendment to the Zoning Ordinance to effectively eliminate Chapter 21.60 would also require an evaluation of the relevant policies in the *Housing Element* of the *General Plan*, which specifically call for the preservation of the existing affordable housing stock through replacement of demolished units. An amendment of the *Housing Element* would require State Department of Housing and Community Development (DHCD) review and certification.

The California Government Code (Section 65915) offers a program similar to the VIP where density incentives are given to developers choosing to build low and very-low income units. The state law remains available to builders in Long Beach, regardless of any local action regarding the Voluntary Incentive Program. Specifically, the Government Code provides that the City shall provide developers incentives for the production of lower income housing units if the developer meets certain requirements. First, the Developer must agree or propose to construct one of the following:

1. At least 20% of the total units for lower income households;
2. At least 10% of the total units for very low income households; or
3. 50% of the total dwelling units as a qualified seniors project.

Where the developer makes one of the commitments above, the City shall either 1) grant a density bonus and at least one of the other concessions which are described in the state statute, or 2) provide other incentives of the equivalent financial value based upon the land cost per dwelling unit. The statute goes on to provide that the developer shall agree to insure the continued affordability of the units for 30 years or a longer period of time under certain circumstances.

For purposes of the state statute, "density bonus" means a density increase of at least 25% over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use of the general plan as of the date of the application by the developer to the city. The density bonus is not included when determining the number of housing units which is equal to 10% or 20% of the total. The density bonus shall apply to all housing developments consisting of five or more dwelling units.

DRAFT COUNCIL LETTER

May 2, 1996

Page 3

In conclusion, if the VIP program of the City were to be repealed, the City would still have an obligation to meet the density bonus and other incentive requirements of the state statute. Therefore, repealing the VIP program may have little or no effect upon the ability of a developer to propose an increase in density in exchange for the creation of lower income units.

**STUDY SESSION COMMENTS**

During the Planning Commission study sessions, the original purpose of the Voluntary Incentive Program, and the various compromises that were made between housing advocates and development industry representatives at that time, were reviewed. The intent of the ordinance was to protect the existing stock of affordable housing in the City by using a "carrot" approach of density bonus incentives, rather than a "stick" approach of mandatory inclusionary zoning, or a mandatory "one-for-one" replacement of affordable housing whenever an affordable unit is demolished.

A summary of comments made at the Planning Commission Study Session is attached. The list includes a variety of perceptions regarding housing in Long Beach, many of which are difficult to confirm. The comments represent a broad range of views on the efficacy of the VIP program.

**CONCLUSION: CONTEXT FOR EVALUATION**

The continued application of the Voluntary Incentive Program should be considered within a broader context of striving to identify what works to make our community livable for all people. Factored into this decision are the considerations of need for affordable housing by moderate, low, and very-low income households in the City, the relative burden that Long Beach should bear in the provision of affordable housing compared with the remainder of the region, and the usefulness of an ordinance that has been largely ineffective in creating new units although, arguably, possibly effective in the minimization of the loss of affordable units, over the past five years.

Southern California cities were scheduled to update their *Housing Elements* of the *General Plan* in 1996. It appears that the lack of funding for the Southern California Association of Governments (SCAG) to do the regional housing needs analysis will result in the granting of a two year time extension for the *Housing Element* updates by the state legislature.

IT IS RECOMMENDED THAT THE CITY COUNCIL:

**[TO BE DETERMINED]**

DRAFT COUNCIL LETTER

May 2, 1996

Page 4

Respectfully submitted,

DOUGLAS W. OTTO  
CHAIRMAN, CITY PLANNING COMMISSION

BY:

\_\_\_\_\_  
EUGENE J. ZELLER  
DIRECTOR OF PLANNING AND BUILDING

DWO:EJZ:JWH:MMD

Attachments

ATTACHMENT



**SUMMARY**  
**COMMENTS RECEIVED AT PLANNING COMMISSION MEETING**

The following statements summarize opinions made by the various participants in this review. No attempt has been made to classify these as being either "pro" or "con" with regard to the Voluntary Incentive Program. The list represents comments made by a variety of participants, and have not been verified nor sanctioned by staff.

- ◆ There is anecdotal evidence that residential unit rents in Long Beach have declined over the past three or four years.
- ◆ Although rents in Long Beach may be low relative to other areas, there is still an affordability gap for the very-low and low income residents of the city and the City should actively seek ways to bridge this gap.
- ◆ Since the 1990 Census, gas and electric utility records show that rental vacancy rate of 6.7 percent has increased significantly; the State Department of Finance estimates that the City's overall vacancy rate was 8.7 percent on January 1, 1995, and private sector estimates put the figure as high as 14 percent.
- ◆ Even with increased vacancies and corresponding reductions in rents, there is a large segment of the population that can't afford the housing that is available.
- ◆ City programs currently meet only a portion of the existing need for affordable housing (the Section 8 waiting list, for example, is currently closed and numbers 4,604 households), and with a reduction in federal subsidies it will become increasingly difficult to maintain even the existing supply of suitable units.
- ◆ The City's Housing Bureau can provide evidence that affordable housing is being provided by means other than the Voluntary Incentive Program; for example, the City currently has over 3,700 housing units that were developed with the assistance of public subsidies.
- ◆ Unregulated development generally results in the elimination of low income housing stock.
- ◆ The revision of the *Housing Element*, originally scheduled for 1996, will likely be delayed until 1998, so that important housing data normally supplied by SCAG will not be forthcoming at this time.
- ◆ There is the common perception that Long Beach probably has more affordable housing than other adjacent communities in the southern Los Angeles County/northern Orange County region.
- ◆ An argument can be made that the City of Long Beach is a large, urban city with numerous older housing units that create a "natural" pool of affordable housing as residents gradually achieve higher incomes and seek better, more expensive housing.

- ◆ While Long Beach may be providing more than its "fair share" of affordable housing in the region, there remains a clear need to increase the supply of affordable housing for City residents with very-low, low, and moderate incomes.
- ◆ The Voluntary Incentive Program has been ineffective in providing new affordable housing units for very-low and low income households; however, its existence may have served to reduce the number of units demolished, converted to condominiums, or otherwise lost from the City's affordable housing supply.
- ◆ The City's changing demographic structure guarantees a growing need for affordable housing since during the next 10-15 years there will be many "new" families formed that will require housing; under available programs, there will be an inadequate supply of affordable units for these new households, thereby ensuring that overcrowding of residential units will increase, and that this problem will spread to new neighborhoods in the City.
- ◆ A large proportion (59% in 1990) of the City's households live in rental rather than owner-occupied units; this means that a majority of the City's residents do not have a personal stake in the residential unit they currently occupy.
- ◆ In 1989-90, selected Census Tracts in the City contained unacceptably high percentages of occupied residential units classified as "overcrowded" and "extremely overcrowded"; large numbers of children were being raised in poverty; and the citywide poverty rate was 16.8 percent, or nearly 70,000 persons.
- ◆ While overcrowding enables occupants to save money on housing costs so that more income is available for other household budget items or to save up for a larger residence, such conditions also contribute to severe health and social problems, including the spread of contagious diseases, neighborhood blight, traffic congestion, parking problems, overcrowding of schools, youth gangs, heightened levels of crime, etc.
- ◆ As its name clearly indicates, this is a "voluntary" program offering bonus densities to potential developers provided they agree to provide affordable residential units; no one is currently *required* to participate in the program.
- ◆ Implementation of the Voluntary Incentive Program coincided with the onset of a severe economic decline that discouraged the development of all types of residential units in Southern California and there has not been sufficient opportunity for the Program to demonstrate its ultimate success or failure.
- ◆ There is some evidence indicating that in a "built-out" city, such as Long Beach, inclusionary zoning may be a disincentive for developers planning to construct new residential units; some persons presently perceive Long Beach as being "developer unfriendly," due at least in part to the existence of the Voluntary Incentive Program.
- ◆ There is fear that Long Beach could become a "magnet" for low income households if the City actively promotes the development of affordable housing, further exacerbating problems already present in the community.

- ◆ The provision of low income housing is a government, not a private sector, responsibility; the City therefore has the responsibility of actively pursuing every reasonable avenue to ensure that its residents have adequate opportunities to secure safe, affordable housing.
- ◆ The Voluntary Incentive Program represents an important compromise among various groups seeking to find a solution to a difficult problem; while they may disagree on the effectiveness and future of this program, they do not disagree on its objective.
- ◆ The Voluntary Incentive Program is an avenue of hope for low-income people and should remain on the books.
- ◆ The issue of housing in Long Beach is so important to the City's future that it is imperative that the Planning Commission make a recommendation to the City Council.

ATTACHMENT

SUMMARY  
COMMENTS RECEIVED AT PLANNING COMMISSION MEETING

The following statements summarize opinions made by the various participants in this review. No attempt has been made to classify these as being either "pro" or "con" with regard to the Voluntary Incentive Program. The list represents comments made by a variety of participants, and have not been verified nor sanctioned by staff.

- ◆ There is anecdotal evidence that residential unit rents in Long Beach have declined over the past three or four years.
- ◆ Although rents in Long Beach may be low relative to other areas, there is still an affordability gap for the very-low and low income residents of the city and the City should actively seek ways to bridge this gap.
- ◆ Since the 1990 Census, gas and electric utility records show that rental vacancy rate of 6.7 percent has increased significantly; the State Department of Finance estimates that the City's overall vacancy rate was 8.7 percent on January 1, 1995, and private sector estimates put the figure as high as 14 percent.
- ◆ Even with increased vacancies and corresponding reductions in rents, there is a large segment of the population that can't afford the housing that is available.
- ◆ City programs currently meet only a portion of the existing need for affordable housing (the Section 8 waiting list, for example, is currently closed and numbers 4,604 households), and with a reduction in federal subsidies it will become increasingly difficult to maintain even the existing supply of suitable units.
- ◆ The City's Housing Bureau can provide evidence that affordable housing is being provided by means other than the Voluntary Incentive Program; for example, the City currently has over 3,700 housing units that were developed with the assistance of public subsidies.
- ◆ Unregulated development generally results in the elimination of low income housing stock.
- ◆ The revision of the *Housing Element*, originally scheduled for 1996, will likely be delayed until 1998, so that important housing data normally supplied by SCAG will not be forthcoming at this time.
- ◆ There is the common perception that Long Beach probably has more affordable housing than other adjacent communities in the southern Los Angeles County/northern Orange County region.
- ◆ An argument can be made that the City of Long Beach is a large, urban city with numerous older housing units that create a "natural" pool of affordable housing as residents gradually achieve higher incomes and seek better, more expensive housing.

- ◆ While Long Beach may be providing more than its "fair share" of affordable housing in the region, there remains a clear need to increase the supply of affordable housing for City residents with very-low, low, and moderate incomes.
- ◆ The Voluntary Incentive Program has been ineffective in providing new affordable housing units for very-low and low income households; however, its existence may have served to reduce the number of units demolished, converted to condominiums, or otherwise lost from the City's affordable housing supply.
- ◆ The City's changing demographic structure guarantees a growing need for affordable housing since during the next 10-15 years there will be many "new" families formed that will require housing; under available programs, there will be an inadequate supply of affordable units for these new households, thereby ensuring that overcrowding of residential units will increase, and that this problem will spread to new neighborhoods in the City.
- ◆ A large proportion (59% in 1990) of the City's households live in rental rather than owner-occupied units; this means that a majority of the City's residents do not have a personal stake in the residential unit they currently occupy.
- ◆ In 1989-90, selected Census Tracts in the City contained unacceptably high percentages of occupied residential units classified as "overcrowded" and "extremely overcrowded"; large numbers of children were being raised in poverty; and the citywide poverty rate was 16.8 percent, or nearly 70,000 persons.
- ◆ While overcrowding enables occupants to save money on housing costs so that more income is available for other household budget items or to save up for a larger residence, such conditions also contribute to severe health and social problems, including the spread of contagious diseases, neighborhood blight, traffic congestion, parking problems, overcrowding of schools, youth gangs, heightened levels of crime, etc.
- ◆ As its name clearly indicates, this is a "voluntary" program offering bonus densities to potential developers provided they agree to provide affordable residential units; no one is currently *required* to participate in the program.
- ◆ Implementation of the Voluntary Incentive Program coincided with the onset of a severe economic decline that discouraged the development of all types of residential units in Southern California and there has not been sufficient opportunity for the Program to demonstrate its ultimate success or failure.
- ◆ There is some evidence indicating that in a "built-out" city, such as Long Beach, inclusionary zoning may be a disincentive for developers planning to construct new residential units; some persons presently perceive Long Beach as being "developer unfriendly," due at least in part to the existence of the Voluntary Incentive Program.
- ◆ There is fear that Long Beach could become a "magnet" for low income households if the City actively promotes the development of affordable housing, further exacerbating problems already present in the community.

- ◆ The provision of low income housing is a government, not a private sector, responsibility; the City therefore has the responsibility of actively pursuing every reasonable avenue to ensure that its residents have adequate opportunities to secure safe, affordable housing.
- ◆ The Voluntary Incentive Program represents an important compromise among various groups seeking to find a solution to a difficult problem; while they may disagree on the effectiveness and future of this program, they do not disagree on its objective.
- ◆ The Voluntary Incentive Program is an avenue of hope for low-income people and should remain on the books.
- ◆ The issue of housing in Long Beach is so important to the City's future that it is imperative that the Planning Commission make a recommendation to the City Council.