

Caring for Our Coast

Gary Jones

Amy M. Caves Chief Deputy Director

> Carol Baker Deputy Director

LaTayvius R. Alberty Deputy Director

AGENDA FOR THE SPECIAL MEETING OF THE SMALL CRAFT HARBOR COMMISSION Tuesday, August 29, 2023
10:00 A.M.

BURTON W. CHACE PARK COMMUNITY ROOM 13650 MINDANAO WAY MARINA DEL REY, CA 90292

## **NOTICE**

Members of the public may attend in person or via a two-way audiovisual platform on Zoom:

#### REMOTE PARTICIPATION

To observe and provide verbal public comment for the record during the meeting, go to <a href="https://bh-lacounty\_gov.zom.us/j/81668899344">https://bh-lacounty\_gov.zom.us/j/81668899344</a> (Webinar ID: 816 6889 9344) and staff will assist you via the Zoom chat feature.

#### OBSERVING THE MEETING

To observe the meeting without public comment for the record, go to <a href="https://bh-lacounty-gov.zom.us/j/81668899344">https://bh-lacounty-gov.zom.us/j/81668899344</a> (Webinar ID: 816 6889 9344) or dial (669) 900-6833 or (669)444-9171.

#### PROVIDING PUBLIC COMMENT BEFORE THE MEETING

To provide verbal public comment for the record before the meeting, send an email to <a href="DSCHCSecretary@bh.lacounty.gov">DSCHCSecretary@bh.lacounty.gov</a> or dial (424) 526-7778 and leave a message with your comment, and the agenda item number, you may also include your first and last name, email address, and phone number. Public comments submitted prior to 5 p.m. on Monday, August 28, 2023, will be transcribed and provided to the Small Craft Harbor Commission. Verbal public comments submitted after 5 p.m. on Monday, August 28, 2023, will not be provided to the Small Craft Harbor Commission but will be transcribed and added to the public record.

#### **Audio**

#### 1. (a)) CALL TO ORDER, LAND ACKNOWLEDGEMENT AND PLEDGE OF ALLEGIANCE

#### 2. **APPROVAL OF MINUTES**

Small Craft Harbor Commission Meeting of July 25, 2023.

#### 3. (iii) COMMUNICATION FROM THE PUBLIC

This is the opportunity for members of the public to address the Commission on items that are not on the posted agenda, provided that the subject matter is within the jurisdiction of the Commission. Speakers are reminded of the three-minute time limitation.

#### 4. **COMMUNICATION WITH THE COMMISSIONERS**

This is the opportunity for members of the Commission to provide notification to the public regarding any communication received by the Commissioners from the public, lessees, or other interested parties regarding business of Marina del Rey.

#### 5. (1) REGULAR REPORTS

a. Marina Sheriff

(VERBAL REPORTS)

- Crime Statistics

 Enforcement of Seaworthy & Liveaboard Sections of the Harbor Ordinance with Liveaboard Permit Percentages

b. Marina del Rey and Beach Special Events

(VERBAL REPORT)

)) c. Marina Boating Section Report

(VERBAL REPORT)

)) d. Marina del Rey Maintenance Report

(VERBAL REPORT)

#### 6. **OLD BUSINESS**

None

#### 7.(1)) NEW BUSINESS

a. Marina del Rey Affordable Housing Policy Update

(ENDORSEMENT)

#### 8. (s) STAFF REPORTS

Ongoing Activities

(VERBAL REPORTS)

- Board Actions on Items Relating to Marina del Rey
- Regional Planning Commission Calendar
- California Coastal Commission Calendar
- Redevelopment Project Status Report
- Design Control Board Minutes
- Marina del Rey Slip Report
- California Coastal Commission Slip Report
- Illegal Boat Charter Enforcement

#### 9. **ADJOURNMENT**

#### Small Craft Harbor Commission Agenda for August 29, 2023, Page 3

#### **PLEASE NOTE**

- 1. The Los Angeles County Board of Supervisors adopted Chapter 2.160 of the Los Angeles Code (Ord. 93-0031 ~ 2 (part), 1993, relating to lobbyists. Any person who seeks support or endorsement from the Small Craft Harbor Commission on any official action must certify that he/she is familiar with the requirements of this ordinance. A copy of the ordinance can be provided prior to the meeting and certification is to be made before or at the meeting.
- The agenda will be posted on the internet and displayed at the following locations at least 72 Hours preceding the meeting date:

Department of Beaches and Harbors Website Address: http://marinadelrey.lacounty.gov

Department of Beaches and Harbors Administration Building 13837 Fiji Way Marina del Rey, CA 90292 MdR Visitors & Information Center 4701 Admiralty Way Marina del Rey, CA 90292

Burton Chace Park Community Room 13650 Mindanao Way Marina del Rey, CA 90292 Lloyd Taber-Marina del Rey Library 4533 Admiralty Way Marina del Rey, CA 90292

3. The entire agenda package and any meeting related writings or documents provided to a Majority of the Commissioners (Board members) after distribution of the agenda package, unless exempt from disclosure Pursuant to California Law, are available at the Department of Beaches and Harbors and at <a href="http://marinadelrey.lacounty.gov">http://marinadelrey.lacounty.gov</a>

Si necesita asistencia para interpreter esta informacion llame al (424) 526-7777.

ADA ACCOMODATIONS: If you require reasonable accommodations or auxiliary aids and services such as material in alternate format or a sign language interpreter, please contact the ADA (Americans with Disabilities Act) Coordinator at (424) 526-7752 (Voice) or (TTY/TDD) users, please call the California Relay Service at 711. The ADA Coordinator may be reached by email at rstassi@bh.lacounty.gov

#### SMALL CRAFT HARBOR COMMISSION MINUTES SPECIAL MEETING July 25, 2023

**Commissioners:** Nathaniel Salazar, Chair; Gregory Gorman, Vice Chair; Bernard Kozacik; Allyn Rifkin (participated remotely); Richard Montgomery

**Department of Beaches and Harbors (DBH):** Amy Caves; Chief Deputy Director; LaTayvius Alberty (participated remotely), Deputy Director; Steve Penn, Chief of Asset Management Division; Ivy Bordenave-Priestly, Lease Specialist; Amir Tadros, Senior Real Property Agent

**County Counsel:** Sevanna Hartonians (participated remotely), Parjack Ghaderi (participated remotely)

#### Item 1 - Call to Order and Pledge of Allegiance

Chair Salazar called the meeting to order at 10:00 am, followed by a roll call for commissioners' attendance in person and motion to approve Commissioner Rifkin to participate remotely, followed by the Land Acknowledgement Statement and the Pledge of Allegiance. Ivy Bordenave-Priestly read the hybrid meeting procedures.

#### Item 2 - Approval of Minutes

Motion to approve April 20, 2023, and May 10, 2023, Meeting Minutes by Vice Chair Gorman, seconded by Mr. Kozacik.

Ayes: 4, Chair Salazar, Vice Chair Gorman, Mr. Kozacik and Mr. Rifkin Abstain: 1, Mr. Montgomery (April Minutes)

#### Item 3 – Communication from the Public

Denise George spoke of the need to mark the north entrance to the channel for safety.

#### Item 4 - Communication with the Commissioners

Mr. Rifkin and Mr. Gorman disclosed communication from COMCA.

Mr. Kozacik disclosed communication from COMCA, boat charters, and Lessees regarding Marina del Rey Affordable Housing Policy Updates.

Chair Salazar disclosed communication from COMCA.

#### Item 5a – Marina Sheriff

Sheriff submitted the report on file without oral presentation.

#### Item 5b - MdR and Beach Special Events

Catrina Love reported on the Fire Works Show on July 4<sup>th</sup>, Summer Concerts, MdR for All, and the return of Marina Movie Night.

Vice Chair Gorman praised the concerts and encouraged everyone to attend.

#### Item 5c – Marina Boating Section Report

Michael Blenk reported that Anchorage 47 has four 34-feet, three 30-feet, four 28-feet, nine 24-feet, five 27-feet, and six 22-feet vacant slips available. Parcel 77 powerboat storage is full, and Mast-Up storage has 39 spaces available.

#### Item 5d - Marina del Rey Maintenance Report

Jose Bedolla reported on the U.S. Army Corps of Engineers' maintenance dredging efforts and mentioned that DBH will deliver a dredging presentation at a future commission meeting.

# Item 7a – Parcel 132 (California Yacht Club) Lease Assignment and Lease Amendment No. 14

Arnulfo Delgado presented this item.

Vice Chair Gorman asked the assignee to address the commissioners.

Colin Shepard and Jeffrey Weiss introduced themselves.

Vice Chair Gorman expressed his disappointment with the previous lessee and their refusal to open the promenade as required by their lease. He asked if the proposed assignee is prepared to open the promenade.

Mr. Shepard replied that they are fully committed to opening the promenade.

Vice Chair Gorman requested that they provide a timeline, plans, and regular updates regarding the promenade within 90 days.

Steve Penn advised that there is a timeline as part of the lease amendment and staff would return to provide a status of the project at the Commission's request.

Mr. Montgomery inquired as to why there was no extension or participation fee.

Amy Caves replied that the 1965 lease does not provide for these fees.

Motion to endorse this item and for staff to provide the plan and timeline for the updates regarding the progress of opening up the promenade for public access by Vice Chair Gorman, seconded by Mr. Kozacik.

Ayes: 5, Chair Salazar, Vice Chair Gorman, Mr. Kozacik, Mr. Rifkin, and Mr. Montgomery

**Item 7b – April Special Night Meeting Public Comments Summary**Steve Penn presented the staff report.

#### Item 8 - Staff Reports

Steve Penn presented the staff report.

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Lori Klaidman objected to the increased landing fee due to the hardship it will cause her charter business.

Pam Gore spoke of the landing fee and how it is unreasonable for the Dock 55 charter operators.

Gustavo Santi spoke about his financial hardship due to the increase in the landing fee.

Captain John spoke of Pacific Ocean Management's conflict of interest with managing Dock 55 and Fisherman's Village docks.

Mr. Montgomery requested the Sheriff attend the next meeting to explain the liveaboard report.

Mr. Penn replied affirmatively.

Chair Salazar addressed the landing fee issue and requested a water safety video.

Mr. Penn encouraged the public to continue to voice their concerns, suggestions, and comments at the Small Craft Harbor Commission meetings.

#### **Adjournment**

Chair Salazar adjourned the meeting at 11:01 am.



# LOS ANGELES COUNTY SHERIFF'S DEPARTMENT MARINA DEL REY STATION PART I CRIMES JULY 2023



	West	East	Lost	Marina	Upper	County	Lower	Windsor	View		
	Marina	Marina	R.D.	Water	Ladera	Area	Ladera	Hills	Park	Parks	TOTALS
	2760	2761	2762	2763	2764	2765	2766	2767	2768	2791	
Homicide											0
Rape											0
Robbery: Weapon		1									1
Robbery: Strong-Arm							1	1			2
Aggravated Assault	4	2				1		1	3		11
Burglary: Residence	4						1	2	3		10
Burglary: Other Structure	3					3	2	3	1		12
Grand Theft	10	4	1	2	1	2	10		2		32
Grand Theft Auto	4	1				1	5	3	5		19
Arson											0
Boat Theft											0
Vehicle Burglary		2					1		1	1	5
Boat Burglary											0
Petty Theft	3	4		1		1	5		3		17
REPORTING											
DISTRICTS	28	14	1	3	1	8	25	10	18	1	109
TOTALS											

**Note**- The above numbers may change due to late reports and adjustments to previously reported crimes.

# LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

## **MARINA DEL REY STATION**

## **PART 2 CRIMES - JULY 2023**





Community	Upper	Lower
Advisory	Ladera	Ladera
Committee	2764	2766
Homicide	0	0
Rape	0	0
Robbery: Weapon	0	0
Robbery: Strong-Arm	0	1
Aggravated Assault	0	0
Burglary: Residence	0	1
Burglary: Other Structure	0	2
Grand Theft	1	10
Grand Theft Auto	0	5
Arson	0	0
Boat Theft	0	0
Vehicle Burglary	0	1
Boat Burglary	0	0
Petty Theft	0	5
Total	1	25

**Note-** The above numbers may change due to late reports and adjustments to previously reported crimes.

**Source-** LARCIS, **Date Prepared August 1, 2023** CRIME INFORMATION REPORT - OPTION 5A

## LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

### **MARINA DEL REY STATION**

## PART 3 CRIMES-JULY 2023





	MARINA AREA (RD'S 2760-	EAST END (RD'S 2764-	
Part I Crimes	2763)	2791)	
Homicide	0	0	
Rape	0	0	
Robbery: Weapon	1	0	
Robbery: Strong-Arm	0	2	
Aggravated Assault	6	5	
Burglary: Residence	4	6	
Burglary: Other Structure	3	9	
Grand Theft	17	15	
Grand Theft Auto	5	14	
Arson	0	0	
Boat Theft	0	0	
Vehicle Burglary	2	3	
Boat Burglary	0	0	
Petty Theft	8	9	
	40		
Total	46	63	

**Note-** The above numbers may change due to late reports and adjustments to previously reported crimes.

**Source**- LARCIS, **Date Prepared – August 1, 2023** CRIME INFORMATION REPORT - OPTION 5A



# Marina del Rey Harbor Liveaboard Compliance Report 2023



## Liveaboard Permits Issued

Liveubouru I cimus Issueu			
	<u>January- July</u>		
New permits Issued:	21		
Renewal Issued:	44		
Total:	65		
<b>Notices to Comply Issued:</b>	2		

## **Total**

Liveaboards:	259
<b>Current Permits:</b>	114
Exnired Permits/ No Permit:	145



August 29, 2023

Caring for Our Coast

Gary Jones

Amy M. Caves Chief Deputy Director

> Carol Baker Deputy Director

LaTayvius R. Alberty Deputy Director

TO: Small Craft Harbor Commission

FROM: Gary Jones, Director

SUBJECT: ITEM 5B - MARINA DEL REY SPECIAL EVENTS

## **MARINA DEL REY EVENTS**

#### **RIDE CIRCUIT**

Daily 12:30 p.m. – 9:00 p.m.

Catch affordable, on-demand rides around Marina del Rey and Venice aboard Circuit's five-passenger electric micro-shuttles. Circuit's local route includes stops at restaurants, shops, and attractions such as Fisherman's Village, Burton Chace Park, Waterside Shopping Center, and Mother's Beach, as well as Venice Beach, Venice Pier, and Abbot Kinney Blvd.

To request an on-demand ride, download the "Ride Circuit" app (Apple or Android) and allow 10–15 minutes for pick-up. Kids must be at least 8 years old or 4'9", as child-safety seats are not provided. Pets are allowed at the discretion of the driver and passengers.

For more information: Call (424) 526-7900 or visit <a href="www.ridecircuit.com/venice-marina-del-rey">www.ridecircuit.com/venice-marina-del-rey</a>

#### BURTON CHACE PARK YOGA CLASS

Burton Chace Park ♦ 13650 Mindanao Way ♦ Marina del Rey Sundays 9:30 a.m. – 10:30 a.m.

Join the Department of Beaches and Harbors (Department) and instructor Anastasia for a yoga session at the water's edge to connect with nature and community. Classes are offered to all, regardless of age or ability for \$10 per class. Children should be able to follow along or sit quietly with a parent or quardian. Students must bring their own mats.



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water, and sunscreen. Please pre-register for each class by emailing chacepark@bh.lacounty.gov

For more information: Call (424) 526-7910 or visit marinadelrey.lacounty.gov

#### **BURTON CHACE PARK WALKING CLUB**

Burton Chace Park ♦ Lobby ♦ 13650 Mindanao Way ♦ Marina del Rey Tuesdays and Thursdays 10:30 a.m. – 11:30 a.m.

Looking for a new way to exercise? Join the Department's weekly walking group to increase your heart rate and daily step count while taking in beautiful views of the Marina del Rey harbor. Registration is required by emailing chacepark@bh.lacounty.gov

For more information: Call (424) 526-7910 or visit marinadelrey.lacounty.gov

#### DRAWING & PAINTING CLASS

Burton Chace Park ◆ 13650 Mindanao Way ◆ Marina del Rey Wednesdays 5:00 p.m. – 6:30 p.m.

The Department offers a free drawing and watercolor art class for beginners (ages 14 years and older). Classes are limited to 15 people and supplies are provided. Preregistration is required for each class by emailing chacepark@bh.lacounty.gov.

For more information: Call (424) 526-7910 or visit marinadelrey.lacounty.gov

#### **SUNSET SERIES REGATTAS**

Marina del Rey Harbor Wednesdays through September 6, 2023 6:00 p.m. – 8:00 p.m.

Enjoy an exciting series of sailing races while taking in stunning sunset views of the Marina del Rey harbor on Wednesday evenings between 6:00 p.m. (sailboats leaving the harbor) and 8:00 p.m. (race finishes at California Yacht Club). For spectators, Fisherman's Village and Burton Chace Park are prime viewing spots. Sailboats begin returning to the harbor's main channel around 7:30 p.m.

For more information: Visit calyachtclub.com/regattas

Marina Special Events August 29, 2023 Page 3 of 7

#### SOUND RELAXATION WITH MEDITATION

Burton Chace Park ◆ 13650 Mindanao Way ◆ Marina del Rey Wednesdays through October 11, 2023 6:00 p.m. – 7:30 p.m.

Join the Department and instructor Jaspal for relaxation and meditation to sound at the north pergola in Burton Chace Park. Classes are offered to all for \$15 per class and are limited to 15 people. Children should be able to follow along or sit quietly with a parent or guardian. Students must bring their own mats, water, and light blanket. Pre-registration is required for each class by emailing chacepark@bh.lacounty.gov.

For more information: Call (424) 526-7910 or visit marinadelrey.lacounty.gov

#### **BURTON CHACE PARK ZUMBA CLASS**

Burton Chace Park ◆ 13650 Mindanao Way ◆ Marina del Rey Thursdays 3:30 p.m. – 4:30 p.m.

Ditch your boring workout and join the Department's free outdoor Zumba class at Burton Chace Park to get cardio-fit while moving to the rhythms of Latin-inspired dance and music! Each class is limited to 15 people. Pre-registration is required for each class by emailing chacepark@bh.lacounty.gov.

For more information: Call (424) 526-7910 or visit marinadelrey.lacounty.gov

#### 2023 MARINA DEL REY SUMMER CONCERT SERIES

Burton Chace Park ♦ 13650 Mindanao Way ♦ Marina del Rey Concert start time: 7:00 p.m.

The Department presents free Symphonic and Pop Concerts at Burton Chace Park on select Thursday and Saturday evenings. Bring a lawn chair, snacks, and a blanket to the park to enjoy a musical outing under the stars.

**Symphonic Concerts** 

**Pop Concerts** 

Thursday, August 10
JazzAntigua
Dance and Music Ensemble

Saturday, August 19
Gregory Porter
Jazz, Blues, Soul, Gospel

For more information: Call (424) 526-7900 or visit marinadelrey.lacounty.gov

Marina Special Events August 29, 2023 Page 4 of 7

#### **BEACH EATS - GOURMET FOOD TRUCK EVENT**

Lot #11 ♦ 14101 Panay Way ♦ Marina del Rey Thursdays, through October 26, 2023 5:00 p.m. – 9:00 p.m.

Grab a bite at Beach Eats, the Department's gourmet food truck event in Marina del Rey that offers a variety of delectable savory foods and desserts. Food trucks rotate each week along with the assortment of menu options, including burgers, hot dogs, tacos, lobster rolls, and more. Paid parking is available for 50 cents for every 15 minutes.

For more information: Call (424) 526-7900 or marinadelrey.lacounty.gov

#### **SUNSET YOGA BY THE MARINA**

Burton Chace Park ◆ 13650 Mindanao Way ◆ Marina del Rey Fridays through October 13, 2023 6:00 p.m. – 7:00 p.m.

Join the Department and instructor Aimee for an evening yoga session at the north pergola in Burton Chace Park. Classes are offered to all, regardless of age or ability for \$10 per class. Children should be able to follow along or sit quietly with a parent or guardian. Students must bring their own mats, water, and sunscreen. Please pre-register for each class by emailing chacepark@bh.lacounty.gov

For more information: Call (424) 526-7910 or visit marinadelrey.lacounty.gov

#### MARINA DEL REY FARMERS' MARKET

Lot #11 ♦ 14101 Panay Way ♦ Marina del Rey Saturdays 9:00 a.m. – 2:00 p.m.

Each Saturday, the Department and Southland Farmers' Market Association present the Marina del Rey Farmers' Market, offering fresh, locally grown fruits and veggies (organic and conventional). Also, enjoy delicious prepared and prepackaged foods, and shop for artisanal crafts from local small vendors. Paid parking is available for 50 cents for every 15 minutes.

For more information: Call (424) 526-7900 or visit marinadelrey.lacounty.gov

#### **BEACH SHUTTLE**

Through September 24, 2023
Saturdays from 10:00 a.m. – 10:00 p.m.
Sundays and Labor Day from 10:00 a.m. – 8:00 p.m.

Marina Special Events August 29, 2023 Page 5 of 7

Catch a free ride on the Beach Shuttle to and from Playa Vista, Marina del Rey and the Venice Beach Pier, and enjoy the surf, sand and surroundings of Marina del Rey. The Beach Shuttle operates on weekends and select holidays during the spring and summer months.

For more information: Call (424) 526-7900 or visit marinadelrey.lacounty.gov

#### FREE MARINA MOVIE NIGHTS

Burton Chace Park ♦ 13650 Mindanao Way ♦ Marina del Rey Saturdays, through September 30, 2023

Movie start time: 8:00 p.m.

The Department presents Free Marina Movie Nights at Burton Chace Park. This summer pack your picnic baskets and bring the family out to the park on Saturday nights to enjoy our outdoor movie screening under the stars.

#### Movie Lineup:

August 12 *Grease (1978)* 

August 26 Beverly Hills Cop (1984)
September 2 Thor: Love & Thunder (2022)
September 9 Love & Basketball (2000)

September 16 Indiana Jones: Raiders of the Lost Ark (1981)

September 23 Top Gun: Maverick (2022)

September 30 Creature from the Back Lagoon (1954)

For more information: Call (424) 526-7900 or visit marinadelrey.lacounty.gov

#### FISHERMAN'S VILLAGE WEEKEND CONCERT SERIES

13755 Fiji Way ♦ Marina del Rey Sponsored by Pacific Ocean Management, LLC Saturday and Sundays 2:00 p.m. – 5:00 p.m.

> August 12 Pop Vision (Top 40/Pop)

August 13
Illunis Music (Alternative/Folk/Rock)

August 19
Catfish and the Hollywood Hound Dogs (Blues/Swing)

Marina Special Events August 29, 2023 Page 6 of 7

August 20
In The Red (Classic Rock)

August 26
Sugarlips (Top 40 Dance Music)

August 27
Pedro Reis Band (Top 40/Ballads)

For more information: Call Pacific Ocean Management at (310) 306-0400

#### **MARINA DRUM CIRCLE**

Burton Chace Park ♦ 13640 Mindanao Way ♦ Marina del Rey Sundays August 13 - October 15, 2023 Sessions: 11:30 a.m. and 1:30 p.m.

Discover the excitement of interactive group drumming at the water's edge! Drums and other percussion instruments will be provided. Choose from one of two free 60-minute sessions that are available for enthusiasts of all ages and skill levels.

For more information: Call (424) 526-7900 or visit <u>marinadelrey.com</u>

#### **KILLER RIDES**

Killer Shrimp Restaurant ♦ 4211 Admiralty Way ♦ Marina del Rey August 27, 2023 10:00 a.m. – 1:00 p.m.

Killer Shrimp Restaurant opens its parking lot to hot rod, classic car, and motorcycle displays. Admission to the event is free.

For more information: Visit <u>visitmdr.com</u>

#### **MARINA DEL REY WATERBUS**

Through September 4, 2023

Park your car and ride the WaterBus for a water's-eye view of Marina del Rey. Hop aboard one of eight boarding stops including Burton Chace Park, Fisherman's Village and Mothers Beach to shop, dine, and recreate. Bikes and strollers are welcome on board. No pets allowed. Please notify the dock attendant if you have a wheelchair, limited mobility, or need assistance. The fare is \$1 per person, for a one-way ticket. Paid parking is available at nearby Los Angeles County lots.

Marina Special Events August 29, 2023 Page 7 of 7 WaterBus Schedule:

Fridays and Saturdays 11:00 a.m. – 11:00 p.m. Sundays 11:00 a.m. – 9:00 p.m.

Special Dates:

Symphonic Thursday Concerts

Dance MDR Fridays

Labor Day

5:00 p.m. – 10:00 p.m.

5:00 p.m. – 11:00 p.m.

11:00 a.m. – 9:00 p.m.

For more information: Call (310) 984-7337 or visit marinawaterbus.com

#### DANCE MDR

Burton Chace Park ◆ 13640 Mindanao Way ◆ Marina del Rey Fridays September 1 – 29, 2023 7:00 – 10:00 p.m.

Dance the night away under the stars at Burton Chace Park to live music from some of L.A.'s top DJs and local bands. Learn new dance moves in different styles at this free event.

September 1 Disco
September 8 Samba
September 15 Hip-Hop
September 22 Line Dancing
September 29 Bachata

For more information: Call (424) 526-7900 or visit marinadelrey.com

GJ:CML:da



Caring for Our Coast

Gary Jones
Director

Amy M. Caves Chief Deputy Director

> Carol Baker Deputy Director

August 29, 2023

LaTayvius R. Alberty
Deputy Director

TO: Small Craft Harbor Commission

FROM: Gary Jones, Director

SUBJECT: ITEM 7A - MARINA DEL REY AFFORDABLE HOUSING POLICY

**UPDATE** 

On March 10, 2020, the County of Los Angeles Board of Supervisors adopted a motion that instructed the Department of Beaches and Harbors (DBH), Department of Regional Planning, County Counsel, and the Los Angeles County Development Authority to report back with proposed amendments to the Marina del Rey Affordable Housing Policy (Policy) as well as other recommendations to expedite development of and administer affordable housing in Marina del Rey. On December 7, 2020, the workgroup submitted a final report to the Board with recommendations on Policy revisions and indicated that an updated Policy would be forthcoming. Enclosed is a draft of the proposed revised Policy, a copy of the current Policy, and comments recently received from Marina del Rey lessees.

At the meeting, staff will present an overview of the proposed changes. The Small Craft Harbor Commission is invited to share any feedback on the Policy revisions, which will be considered while finalizing the document.

GJ:WO:pn

Attachments (3)



September 12, 2023

The Honorable Board of Supervisors County of Los Angeles 383 Kenneth Hahn Hall of Administration 500 West Temple Street Los Angeles, California 90012

The Honorable Board of Commissioners Los Angeles County Development Authority 383 Kenneth Hahn Hall of Administration 500 West Temple Street Los Angeles, California 90012

Dear Supervisors/Commissioners:

# APPROVAL OF REVISED MARINA DEL REY AFFORDABLE HOUSING POLICY (SECOND DISTRICT) (3 VOTES)

#### **SUBJECT**

Approve the revised Marina del Rey Affordable Housing Policy consistent with the changes requested in the Board's adopted motion dated March 10, 2020, and authorize related activities required for implementation of the revised Housing Policy.

#### IT IS RECOMMENDED THAT THE BOARD OF SUPERVISORS:

- 1. Find that the proposed actions are exempt from the California Environmental Quality Act (CEQA) for the reasons stated in this Board Letter.
- Approve the revised Marina del Rey Affordable Housing Policy (Policy).
- Instruct the Department of Beaches and Harbors, Department of Regional Planning, and the Los Angeles County Development Authority (LACDA) to implement the revised Policy in accordance with their respective responsibilities as set forth in the Policy.
- 4. Authorize the Director of Beaches and Harbor, or designee, to execute a Memorandum of Understanding (MOU) between the County of Los Angeles and LACDA for up to \$200,000 for administrative costs related to the Policy.

Caring for Our Coast

Gary Jones
Director

Amy M. Caves Chief Deputy Director

> Carol Baker Deputy Director

LaTayvius R. Alberty
Deputy Director

# IT IS RECOMMENDED THAT THE BOARD OF COMMISSIONERS OF THE LOS ANGELES COUNTY DEVELOPMENT AUTHORITY:

- 1. Find that the proposed actions are exempt from the CEQA for the reasons stated in this Board Letter.
- 2. Authorize the LACDA to assist in the implementation and monitoring of the affordable units subject to the Policy.
- 3. Authorize the LACDA to collect fees of up to \$22,000 per project from lessees for the preparation and execution of regulatory and monitoring agreements, affordable housing plans, tenant income surveys, project feasibility analyses, and associated legal fees. This fee may be adjusted annually according to CPI.
- 4. Authorize the LACDA to collect fees of up to \$170 per unit for annual compliance monitoring for all Marina del Rey affordable units. This fee may be adjusted annually according to Consumer Price Index (CPI).
- 5. Authorize the Executive Director or designee to execute a MOU between the County of Los Angeles and LACDA to accept up to \$200,000 for costs related to the Policy, and to incorporate these funds into LACDA's approved Fiscal Year 2023-2024 budget.

#### PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The Mello Act (California Government Code section 65590, et seq.), adopted by the California State Legislature in 1982, mandates that each local government, whose jurisdiction falls, in whole or in part, within the California Coastal Zone (Coastal Zone) require: (a) the replacement of housing units occupied by low or moderate income households when it approves the conversion or demolition of those existing units, and (b) the provision of housing units for low or moderate income households when it approves new housing developments in the Coastal Zone.

In 2002, the County of Los Angeles (County) adopted a policy to implement the Mello Act in Marina del Rey, which required the preservation and inclusion of affordable housing in new developments and redevelopments. In 2008, following a demand letter from affordable housing advocates, the Board directed County staff to negotiate policy revisions and a settlement agreement with People Organized for Westside Renewal (POWER). On November 18, 2008, the County adopted a further refined Affordable Housing Policy for Marina del Rey (Policy). This updated Policy established new standards for preserving existing affordable housing (replacement units) and creating new affordable housing units (inclusionary units), where feasible.

On September 28, 2017, the Department of Beaches and Harbors (DBH) submitted a report to your Board which analyzed the efficacy of the current policy in creating and

maintaining affordable units in the Marina. The report also compared how neighboring jurisdictions responded to the requirements of the Mello Act to create and preserve affordable housing within the Coastal Zone. The analysis included how various public financing methods could further encourage affordable development, how the existing Policy could be revised to increase the number and level of affordable housing units in Marina del Rey, and how the County monitors and determines compliance with the Policy.

On March 10, 2020, your Board adopted a motion that instructed DBH, Department of Regional Planning (DRP), County Counsel, and LACDA to present recommendations and modifications to the 2008 Marina del Rey Affordable Housing Policy. On September 3, 2020 and December 7, 2020, DBH submitted reports to your Board, outlining the efforts to date, and requesting additional time to solicit feedback from a variety of Marina stakeholders on proposed recommendations to the Policy. Directives from this motion related to Policy amendments included the following: (a) proposed amendments to the Policy that would redefine "Substantial Rehabilitation" to include major renovation projects within that definition, and ensure that such projects include affordable units in order to preserve coastal housing for all residents of California; (b) proposed amendments to the Policy that would increase the percentage of affordable units from the current 15% goal to 20%, applicable to both new construction and Substantial Rehabilitation, with recommendations on the percentage of units at different affordability levels; and (c) proposed amendments that would require all properties in unincorporated Marina del Rev with affordable units under covenant to change their current wait list and affordable unit leasing procedures to conform with the development and implementation of a Centralized Wait List registration and referral system.

The motion also instructed the Acting Executive Director of LACDA, in collaboration with the aforementioned departments, to identify any priorities or preferences that could help prevent economic displacement of existing Marina del Rey residents and support the goals of County housing and homelessness prevention initiatives, in addition to recommendations related to tenant income surveys and proposed changes to fees charged by LACDA for review and monitoring of affordable housing units required in Marina del Rey. Recommendations and options to expedite lease negotiations and entitlements pertaining to development of a 100% affordable housing project on Marina del Rey Lease Parcel 147 (OT) were also requested.

In response to the motion, DBH worked with DRP, County Counsel, and LACDA to develop a revised draft Policy. Attached for the Board's consideration is the revised Policy.

### IMPLEMENTATION OF STRATEGIC PLAN GOALS

The revised Policy supports the County's Strategic Plan Goal I: Make Investments That Transform Lives; Objective I.1.5: Increase Affordable Housing Throughout L.A. County by increasing affordable housing options available to low and moderate-income households in the unincorporated community of Marina del Rey.

#### FISCAL IMPACT/FINANCING

Approval of the proposed revised Policy is anticipated to result in reduced rent revenue to the County in cases where market rate units are being converted to affordable units, due to lower rents collected from tenants in affordable units and the potential need for the County to provide rent credits or other subsidies to the lessees to compensate them for the loss in value associated with providing the affordable units on site. On the other hand, for new projects that convert non-residential to residential uses or develop residential units on land that is currently under-utilized, there would be a net increase in rent revenue from the new units created. The proposed Policy will not itself directly result in any new development; all proposed projects involving affordable housing will be subject to individual approval and fiscal impact analysis by the County.

The revised Policy includes fees that are intended to recover the full cost for services provided by LACDA for the implementation of the Policy up to \$200,000. LACDA services include, but are not limited to: drafting or assisting with the creation of implementation guidelines; creating templates for affordable housing plans; creating templates for affordability covenants, conditions and restrictions; establishing policies and procedures for conducting and evaluating tenant income surveys; creating policies and procedures for evaluating project feasibility analyses; and researching, planning, bidding out, and implementing the creation of the centralized waiting list.

LACDA requires up to \$22,000 per project for drafting and reviewing an affordable housing plan; drafting affordability covenants, conditions, and restrictions; providing enhanced legal review of affordability covenants, conditions, and restrictions as needed; drafting monitoring agreements; conducting and evaluating tenant income surveys; and completing or auditing project feasibility analyses. This fee may be adjusted annually according to CPI.

Additionally, LACDA requires up to \$170 per unit for annual compliance monitoring for all Marina del Rey affordable units. This fee may be adjusted annually according to CPI.

The County Rent Stabilization Ordinance requires that every Marina del Rey property pay a Rental Registry fee between \$30 to \$90 per unit for the entire property.

#### FACTS AND PROVISIONS/LEGAL REQUIREMENTS

#### **Background**

The Mello Act requires that each local government, whose jurisdiction is situated in whole or in part within the Coastal Zone, has the responsibility to require the replacement of housing units when affordable housing is converted or demolished, and support the creation of affordable housing units in new construction in a manner consistent with the Mello Act. Compliance is required for that portion of a jurisdiction that is located within the Coastal Zone. Marina del Rey is located within the Coastal Zone and, therefore, is subject to Mello Act requirements for affordable housing. The revised Policy complies with the

Mello Act and also includes provisions specific to the needs of the County, including setting a 30% affordable housing goal and affordability requirements for substantially rehabilitated units.

The Mello Act is intended to provide local jurisdictions with discretion in imposing housing requirements in the Coastal Zone because each situation presents some unique facts and public policy considerations. The Mello Act must be implemented in conjunction with various other state mandates, such as the California Coastal Act, CEQA, and statewide Density Bonus and Housing Element laws. As a local government entity, the County must reconcile these often-conflicting state mandates when approving housing developments within the Coastal Zone on a project-by-project basis. The situation in the Marina is complicated by the fact that the County is also the landowner and acts in a proprietary manner regarding leaseholds. This revised Policy applies prospectively to new leases and new development projects, and substantial rehabilitation projects under existing leases, as appropriate, where the lessee seeks a lease amendment requiring the County's discretionary approval, or as otherwise permitted by law.

#### Revised Policy

In compliance with the Mello Act, the recommended revised Policy provides for construction of replacement affordable housing units in redevelopment projects where existing housing units occupied by low- or moderate-income households are slated for demolition, and construction of inclusionary affordable housing units as part of any new development or redevelopment.

#### Substantial Rehabilitation

The revised Policy redefines "Substantial Rehabilitation" to include major renovation projects and ensures that such projects include affordable units in order to preserve coastal housing for residents of California. Substantial rehabilitation shall mean (1) the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit pursuant to State or local laws that cannot be reasonably accomplished in a safe manner with the tenant in place, and (2) requires the tenant to vacate the rental unit for at least fifteen (15) days, and (3) lessee seeks a lease amendment requiring the County's discretionary approval. Cosmetic improvements alone, including painting, decorating, and minor maintenance repairs, or other work that can be performed safely without having the tenant vacate the rental unit, do not qualify as substantial rehabilitation.

The current Policy does not address standards that would apply to the rehabilitation of an existing residential building. Therefore, rehabilitation of existing structures has not required preservation or creation of affordable units. Many of the major renovation projects that have occurred in the Marina since 2008 would have been required to include affordable units if substantial renovation was defined as shown in the revised Policy.

#### 30% Affordable Housing Goal

The 2020 Board Motion called for proposed amendments to the Policy that would increase the percentage of affordable units from the current 15% goal to 20%, applicable to both new construction and Substantial Rehabilitation projects. In an effort to provide more affordable housing in the Marina, the revised Policy states that the County's goal is to ensure that, at a minimum, 30% of all residential housing units in Marina del Rey are affordable housing units.

To achieve this goal, new development and Substantial Rehabilitation projects must set aside 30% of the total residential units that would exist at the property after construction is complete, as affordable housing units, with 2/3 reserved for very low-income households and an additional 1/3 reserved for a mix of low- and moderate- income households. The inclusionary housing obligation in the current Policy is calculated based on the net new incremental units to be constructed as part of any project, whereas in the revised Policy, the inclusionary housing obligation is calculated based on the total number of residential units that would exist at the property after construction is complete. The replacement housing obligation will continue to be based on the results of an income survey to be completed on a project-by-project basis. The rental levels of the replacement units identified as part of the income survey will be equivalent to the income level of the existing tenant whose income level triggers the replacement requirement (i.e., replacement units must be set aside on a like for-like basis).

If a project's replacement housing obligation is equal to or greater than 30% of the total units that would exist after construction is completed, then no additional affordable housing units are required under the inclusionary and substantial rehabilitation obligations. If the replacement housing obligation amounts to less than 30% of the total units, then the project must provide additional affordable housing units to meet the overall 30% affordable housing requirement.

#### Additional Changes

The revised Policy also contains proposed amendments that would require all properties in the Marina with affordable units under covenant to change their current wait list and affordable unit leasing procedures to conform with the development and implementation of a Centralized Wait List registration and referral system that would simplify and improve the process for prospective tenants applying for available affordable units in Marina del Rey. The revised Policy also includes a new definitions section. In addition, several implementation related provisions of the current Policy were removed and will be included in the forthcoming Implementation Guidelines (Guidelines). The Guidelines shall be developed by County staff in consultation with the LACDA, the Marina del Rey Lessees' Association and housing advocate groups, and may be updated from time to time, with reasonable notice and opportunity to comment by each of these groups. The Guidelines will include additional information regarding tenant income survey and feasibility study requirements.

#### Notice of Revised Policy

Pursuant to a settlement agreement with People Organized for Westside Renewal (POWER), dated November 18, 2008, a 60-day notice of the County's intent to modify the Policy and a revised draft Policy were provided to POWER, Legal Aid Foundation of Los Angeles, and the Western Center on Law & Poverty via certified mail on June 9, 2023.

#### ENVIRONMENTAL DOCUMENTATION

In accordance with the requirements of the California Environmental Quality Act (CEQA), the proposed revised Policy has been analyzed and it has been determined to be Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The amendments to the Policy do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that revised Policy may have a significant adverse effect on the environment, and thus the adoption of this revised Policy is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

#### **IMPACT ON CURRENT SERVICES (OR PROJECTS)**

Approval and implementation of the revised Policy will not directly impact County services. However, the approval and implementation of the revised Policy has an impact on County leases that are subject to future negotiation and will provide additional affordable housing units for very low-, low-, and moderate-income families within Marina del Rey.

#### **CONCLUSION**

It is requested that the Executive Officer, Board of Supervisors send one copy of the adopted Board Letter to DBH, DRP, LACDA, and County Counsel.

Respectfully submitted,

GARY JONES, Director Department of Beaches and Harbors

EMILIO SALAS, Executive Director Los Angeles County Development Authority

GJ:AC:MT:pn

Enclosures (1)

c: Chief Executive Officer
County Counsel
Los Angeles Community Development Authority
Regional Planning

# COUNTY OF LOS ANGELES - MARINA DEL REY AFFORDABLE HOUSING POLICY (2023 Draft)

The County of Los Angeles (County) is the owner of all real property in the unincorporated territory of Marina del Rey, which includes a small craft harbor and adjacent lands, all within the Coastal Zone. The County Department of Beaches and Harbors (DBH) leases landside and waterside parcels in Marina del Rey for development on behalf of the County. The County Department of Regional Planning (DRP) serves as the primary land use regulatory authority for Marina del Rey through the Marina del Rey Local Coastal Program (LCP), including the Marina del Rey Specific Plan. The LCP, through the Specific Plan, establishes land use policy, development standards, and guidelines, which are the principal regulatory basis for future development, preservation, and reconstruction efforts in Marina del Rey. The Los Angeles County Development Authority (LACDA) monitors the compliance of affordable housing units for the County.

The Mello Act mandates that each local government, whose jurisdiction is situated in whole or in part within the Coastal Zone, require (1) replacement affordable housing units when it approves the conversion or demolition of those units in the Coastal Zone; and (2) new affordable housing units, where feasible, when it approves new housing developments in the Coastal Zone.

The purpose of the County's Marina del Rey Affordable Housing Policy (Policy) described herein, is to ensure that all new and existing residential rental development in Marina del Rey complies with the Mello Act, State and local laws, as well as the County Code, to further preserve and create new affordable housing in the Coastal Zone<sup>1</sup>. This is done by preserving existing affordable housing stock (replacement housing units), creating new affordable housing units from new residential developments (inclusionary housing units, where feasible), and from substantial rehabilitation projects (substantially rehabilitated set-aside units) while balancing the County's ability to generate revenues from its Marina del Rey ground leases for Countywide public benefit programs<sup>2</sup>.

Due to the County's unique position as the owner and land use regulator for all of unincorporated Marina del Rey, it is the County's intention to adopt and implement a Policy that is ambitious in scope for these publicly-owned lands.

#### **EXECUTIVE SUMMARY**

Since the County is the fee owner of all land in unincorporated Marina del Rey, the County has an opportunity to implement this Policy that serves to further address County affordable housing needs, while complying with Mello Act requirements for affordable housing. The County's overall goal is to ensure that, at a minimum, 30% of all residential housing units in Marina del Rey are affordable housing units. The following are requirements for all housing development in unincorporated Marina del Rey.

All replacement housing, inclusionary housing, and substantial rehabilitation set-aside affordable housing units shall: 1) be reasonably disbursed throughout the housing development; 2) be comparable in size and design to the market-rate units in the housing development; 3) include a land use covenant guaranteeing that the restricted affordable income and rent requirements for each unit will be observed for the term designated in the land use covenant; and 4) be monitored

<sup>&</sup>lt;sup>1</sup> This Policy applies to the unincorporated territory of Marina del Rey. The County of Los Angeles Inclusionary Housing Ordinance [Los Angeles County Code Chapter 22.121] does not apply to unincorporated Marina del Rey.

<sup>&</sup>lt;sup>2</sup> To the extent that this Policy exceeds the requirements of the Mello Act, such provisions apply prospectively to new leases and new development projects, and substantial rehabilitation projects under existing leases, as appropriate, where the lessee seeks a lease amendment requiring the County's discretionary approval, or as otherwise permitted by law.

annually for compliance with income and rents by the LACDA. The LACDA may impose fees to offset administrative costs incurred to monitor compliance of the affordable housing units.

No in-lieu fee program will be available to comply with any affordable housing obligations provided herein.

Mello Act and any other applicable obligations in Marina del Rey will be determined by the Director of DRP or the Regional Planning Commission (RPC) based upon a joint recommendation by DRP, LACDA, and DBH, consistent with this adopted Policy.

Guidelines for the implementation of this Policy shall be developed by County staff in consultation with the LACDA, the Marina del Rey Lessees' Association and Housing Advocates, and may be updated from time to time (Guidelines), with reasonable notice and opportunity to comment by each of these groups.

#### **DEFINITIONS**

**Affordable Rent** means the definition set forth in California Health and Safety Code (HSC) section 50053, adjusted for unit size and as further defined in California Code of Regulations Title 25 Section 6918. DRP shall publish affordable rents on an annual basis.

**Affordable Housing Unit** means a residential unit occupied by persons or households of low or moderate income, as specified in HSC section 50093, inclusive of very low, extremely low, low, and moderate income.

Coastal Zone as defined in California Public Resources Code section 30000, et seg.

**Conversion** means (i) a change of one or more existing residential units to a condominium; cooperative or similar form of ownership; or a non-residential use, or (ii) a reduction in the number or size of existing residential units.

**Demolition** means the complete destruction or removal of a structure or the removal of more than 50 percent of the perimeter walls of a structure, consistent with the Mello Act.

**Feasible or Feasibility** means as defined in California Government Code section 65590, capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors.

**Inclusionary Housing Unit** means a unit with an affordable rent required to be provided in a new residential development.

#### Income:

"Area Median Income" or "AMI". The median annual household income for the County, as adjusted for household size and as defined, and periodically adjusted by the California Department of Housing and Community Development when determining Affordable Rent(s) and if such agencies no longer publish such information then a successor publication as determined by LACDA.

"Extremely Low Income". An annual income for a household which does not exceed 30 percent (30%) of the AMI, as specified by HSC section 50106.

"Very Low Income". An annual income for a household which does not exceed 50 percent (50%) of the AMI, as specified by HSC section 50105.

"Lower Income". An annual income for a household which does not exceed 80 percent (80%) of the AMI, as specified by HSC section 50079.5.

"Moderate Income". An annual income for a household which does not exceed 120 percent (120%) of the AMI, as specified by HSC section 50093.

**Mello Act** means California Government Code sections 65590 – 65590.1.

**Replacement Affordable Housing Unit** means an existing Affordable Housing Unit that shall be replaced with another Affordable Housing Unit at the same or lower affordability level.

**Residential Unit** means a unit, either an Affordable Housing Unit or market rate unit, which consists of one or more rooms, one of which will include a kitchen, designed for occupancy by one family for living and sleeping purposes.

#### Substantial rehabilitation means the:

- (1) replacement or substantial modification of any structural, electrical, plumbing, or mechanical systems that require a permit pursuant to State or local laws that cannot be reasonably accomplished in a safe manner with the tenant in place; **and**
- (2) requires the tenant to vacate the rental unit for at least fifteen (15) days.
- (3) lessee seeks a lease amendment requiring the County's discretionary approval.

#### Exceptions:

- (1) Cosmetic improvements alone, including painting, decorating, and minor maintenance repairs, or other work that can be performed safely without having the tenant vacate the rental unit, do not qualify as substantial rehabilitation.
- (2) Rehabilitation work that is required due to government code mandated changes (e.g., Building Code changes); repairs or restoration in connection with a natural disaster, fire, casualty, act of God, etc; repairs or replacements due to compliance with capital improvement or reserve fund obligations of leases; and/or like for like replacements do not qualify as substantial rehabilitation.

**Utility Allowance** shall mean the applicable utility allowance listed in the utility allowance schedule published by LACDA on an annual basis.

#### REPLACEMENT HOUSING

This Policy requires all projects involving the demolition and conversion, or substantial rehabilitation of existing Affordable Housing Units within Marina del Rey, to provide Replacement Affordable Housing Units. The number of Replacement Affordable Housing Units, the level of affordability, and the number of bedrooms to be constructed shall be determined by LACDA based on the results of a tenant income survey (if appropriate) on a project-by-project basis.

#### **Replacement Affordable Housing Unit Determination**

LACDA will determine the number of required Replacement Affordable Housing Units, the level of affordability, and the number of bedrooms for each Replacement Affordable Housing Unit, based on the results of a tenant income survey, if appropriate.

It is the burden of the developer to prove, with substantial evidence, that an existing Residential Unit is not an existing Affordable Housing Unit. LACDA will review all claims provided by the developer and make the final determination for the number of Replacement Affordable Housing Units.

Developers of projects requiring Replacement Affordable Housing Units shall be obligated, at their sole cost, to assist LACDA and/or its designee to complete a tenant income survey (if required).

Following completion of the tenant income survey, as well as the calculation of Replacement Affordable Housing Units, LACDA shall submit to DRP the following information for each project involving the demolition, substantial rehabilitation, or conversion of Residential Units within Marina del Rey:

- a. Total number of required Replacement Affordable Housing Units based upon the results of the tenant income survey;
- b. Total number of bedrooms for each Replacement Affordable Housing Unit; and
- c. Appropriate affordability level for each Replacement Affordable Housing Unit.

#### **Replacement Affordable Housing Unit Requirements**

The Replacement Affordable Housing Units must adhere to the following requirements:

- a. The Replacement Affordable Housing Units must be of comparable size and design to the market-rate Residential Units at the site.
- b. The Replacement Affordable Housing Units obligation may be satisfied, in whole or in part, by an affordable housing set aside required as a condition of receiving a density bonus, and shall not be imposed in addition to any such set aside, except to the extent the density bonus set aside does not fully satisfy the Affordable Housing Unit obligations set forth in this Policy.

The rental levels of the Replacement Affordable Housing Units shall be set on a like-for-like basis as determined by the income level of the existing tenant whose income level triggers the Replacement Affordable Housing Units requirement or, if income information is not available, by comparison of the average of the previous year's monthly rent compared to the average affordable monthly rental rates for the same year.

All Replacement Affordable Housing Units shall be provided on-site or elsewhere within the Coastal Zone. If location within the Coastal Zone is not Feasible, the Replacement Affordable Housing Units shall be located within three miles of the Coastal Zone. In all circumstances, Replacement Affordable Housing Units shall be within the unincorporated County.

#### **INCLUSIONARY HOUSING**

This Policy requires new residential development constructed within unincorporated Marina del Rey to provide Affordable Housing Units, where Feasible. If not Feasible to provide Affordable Housing Units in a proposed new housing development, the developer must provide such Affordable Housing Units at another location within the County, either within the Coastal Zone or within three miles thereof. The County will require projects to meet the following standards:

1. The project must set aside 30% of the total Residential Units that would exist at the property after construction is complete, as Affordable Housing Units with 2/3 of those reserved for very low-income households and an additional 1/3 reserved for a mix of low- and moderate- income households.

- 2. If a project's replacement housing obligation is equal to or greater than 30% of the total units that would exist after construction is completed, then no additional Inclusionary Housing Units are required. If the replacement housing obligation amounts to less than 30% of the total units that would exist after construction is completed, then the project must provide additional Inclusionary Housing Units to meet the 30% inclusionary housing requirement.
- 3. The Inclusionary Housing Units must be reasonably distributed throughout the residential component of the project, and the Residential Unit sizes and design must be comparable to market rate Residential Units included in the project.
- 4. The mix of Inclusionary Housing Unit types (i.e., studio, one bedroom, two bedroom, etc.; varying floorplans with the same number of bedrooms will be treated as different Residential Unit types) must be provided in the same proportion to the mix of Residential Unit types proposed for the entire development (Total Unit Type Ratio). The total unit type ratio for each Residential Unit type will be multiplied by the Product of the Inclusionary Housing Unit calculation to determine the number of each Residential Unit type to be distributed amongst the various affordable income levels.
- 5. The inclusionary housing obligation may be satisfied, in whole or in part, by an affordable housing set aside required as a condition of receiving a density bonus, and shall not be imposed in addition to any such set aside, except to the extent the density bonus set aside does not fully satisfy the affordable housing obligations listed in this Policy.

#### SUBSTANTIAL REHABILITATION

This Policy requires all housing developments to set aside 30% Affordable Housing Units, when a property is Substantially Rehabilitated. Subject to a Project Feasibility Analysis, as referenced below, the 30% affordable housing requirement shall be calculated based on the total Residential Units that would exist after construction is completed, with 2/3 of the Affordable Housing Units reserved for very low-income households and an additional 1/3 reserved for a mix of low- and moderate- income households.

If the property has already set aside 30% of the total proposed Residential Units as Affordable Housing Units, no additional Affordable Housing Units shall be required. If the property has set aside less than 30% of the total Residential Units as Affordable Housing Units, then the project must provide additional Affordable Housing Units to meet the 30% affordable housing requirement. For example, if the project has set aside 18% of the total Residential Units as Affordable Housing Units, then the project must provide an additional 12%.

For partial Substantial Rehabilitations of a site, the developer must set aside 30% of all Substantially Rehabilitated Residential Units as Affordable Housing Units. If the property has already set aside 30% of the existing Residential Units as Affordable Housing Units before initiating the Substantial Rehabilitation project, no additional Affordable Housing Units shall be required. This policy shall not be triggered by repair or improvement projects affecting fewer than three units that are not part of a larger phased improvement project intended to renovate all or substantially all of the units on a property.

Affordable Housing Units for Substantial Rehabilitation projects shall be provided upon vacancy of the next comparable Residential Unit to prevent the permanent displacement of existing tenants. No existing tenant shall be displaced for purposes of complying with this policy.

#### **CONVERSION TO NON-RESIDENTIAL USES**

In accordance with Mello Act requirements, the County will evaluate proposals to demolish or convert residential structures for the subsequent development of commercial uses that are not coastal dependent or coastal related (as defined in California Public Resources Code sections 30101 and 30101.3, respectively). No project will be approved unless the County determines that a residential use is no longer feasible at the proposed location. All such projects shall fully comply with the replacement affordable housing obligations as set forth above.

#### **ADDITIONAL PROVISIONS**

- 1. The affordable income and rent requirements for Replacement, Inclusionary, and Substantially Rehabilitated Affordable Housing Units will be determined as follows:
  - a. The income standards for extremely low, very low, low and moderate income households will be based on California Health and Safety Code standards, as adjusted and annually published by the California Department of Housing and Community Development.
  - b. The utility allowance schedule will be published by LACDA on an annual basis.
  - c. The affordable housing rent as published by DRP, less the corresponding utility allowance, as applicable, shall be the maximum amount charged for occupancy of an Affordable Housing Unit.
  - d. Any Affordable Housing Units off-site will be the sole responsibility of the developer. The off-site Affordable Housing Units must be completed and available for occupancy prior to the issuance of the Certificate of Occupancy for the new market-rate development or within three years from the date when demolition or construction commences.
  - e. All calculations resulting in fractional numbers shall be rounded up to the next whole number.

#### **FEASIBILITY ANALYSIS**

The developer must provide a project feasibility analysis (Project Feasibility Analysis) in support of its proposed affordable housing obligation. The County will make the final determination on project feasibility, consistent with the Mello Act. The project feasibility analysis must include:

- a. An evaluation of the impacts created by incentives available to the developer such as density bonuses; development standards relief; and available state and local assistance programs. (Note: County rent adjustments to comply with the inclusionary housing requirement are subject to negotiation on a project-by-project basis).
- b. An estimate of the developer's return that would be generated by the project. This return will be compared to a feasibility factor equal to the capitalization rate for apartment sales in Los Angeles County, plus an amount not to exceed 200 basis points.
- c. An evaluation of whether or not the project can be successfully completed within a reasonable period of time, taking into account economic, environmental, social and technical factors.

#### PROHIBITED HOUSING COSTS

There shall be no separate, additional charges for use and occupancy of an Affordable Housing Unit or for housing services related thereto, including, but not limited to charges for parking spaces required to be assigned to the Affordable Housing Unit as a condition of the land use entitlement.

#### **REQUIRED COVENANTS, CONDITIONS & RESTRICTIONS**

- 1. The developer must work with LACDA to complete an Affordable Housing Plan (Plan), which shall set forth the number of Affordable Housing Units, location of Affordable Housing Units and all other details regarding provision of Affordable Housing Units as set forth in this Policy; no Building Permits will be issued for the project until the County approves the Plan.
- 2. The LACDA shall draft an affordability covenant, conditions and restrictions (Covenant) guaranteeing that the income and rent requirements for each Replacement, Inclusionary, and Affordable Housing Unit set aside due to Substantial Rehabilitation, will be observed for the term designated in the Covenant. The developer shall be responsible for sending a copy of the recorded Covenant to LACDA.
- 3. The LACDA shall draft a monitoring agreement (Agreement), and the developer will be required to comply with the monitoring requirements set forth in the Agreement annually throughout the Covenant term, which shall include a marketing plan to be approved by LACDA that will require, among other things, posting the availability of the Affordable Housing Units on the Los Angeles County Housing Resource Center Website for at least thirty (30) days prior to lease-up (http://housing.lacounty.gov/), and annual reports to LACDA with the latest updated Affordable Housing Unit waiting list.

#### **CENTRALIZED WAITLIST**

- 1. The LACDA shall maintain a Centralized Waiting List (CWL) that will provide separate waiting lists for each of the Marina del Rey properties. Households who are eligible for an Affordable Housing Unit may register to join an open waiting list for one or more Marina del Rey properties. LACDA will audit each of the waiting lists on the CWL and will continue the monitoring and compliance of the lease-ups for each Marina del Rey residential property, as well as any vacancies for existing Affordable Housing Units. Preferences for referrals, not in the order listed below, shall include but are not limited to:
  - a. Marina del Rey households that completed an income survey and triggered a Replacement Affordable Housing Unit.
  - b. Households on existing Affordable Housing Unit waitlists for operating Marina del Rey properties.
  - c. Households that currently live in Los Angeles County.
  - d. Households that currently live in Los Angeles County and are experiencing homelessness.
- 2. All households that register for the CWL shall have access to an online portal where appropriate updates can be made at any time. The LACDA shall also provide a phone number for any household in need of assistance in registering for or making updates to their information on the CWL portal.
- 3. The developer shall adhere to the CWL policies and procedures provided by LACDA at all times for initial lease-up of the Affordable Housing Units and for filling all vacancies thereafter. The developer shall be required to report screening outcomes for all households referred to available Affordable Housing Units within 48 hours of making a

- determination for denial or approval. All referrals shall have 15 days to appeal the decision and submit any further application material.
- 4. LACDA shall publish a CWL Policies and Procedures document at least 90 days prior to the launch of the CWL. This CWL Policies and Procedures shall provide further detail outlining the lease-up process for all Affordable Housing Units in Marina del Rey.
- 5. Nothing in this Policy should be construed as granting any household an entitlement to any of the Affordable Housing Units.

#### LACDA FEES

- 1. If LACDA elects to retain a consultant to perform any of its obligations under this Policy, said consultant shall be an independent third-party consultant who shall perform such work assigned to it at the sole direction of LACDA, and independent of the developer.
- LACDA will levy the following fees:
  - a. The costs incurred directly by LACDA and those costs associated with engaging a consultant to undertake, distribute, conduct and/or evaluate the tenant income survey will be funded by the developer.
  - b. The costs associated with completing or auditing the Project Feasibility Analysis will be funded by the developer.
  - c. A one-time capitalized annual fee of \$170 per Affordable Housing Unit will be charged to defray the ongoing compliance monitoring, inspection and reporting costs associated with the replacement and inclusionary units. This fee will be adjusted annually in accordance with changes in the Consumer Price Index (CPI).
  - d. The cost to establish a CWL on the Los Angeles County Housing Resource Center website (http://housing.lacounty.gov/) or on a new website created by LACDA. A document archive, and a tenant call response center shall be apportioned among the developers subject to this Policy. An annual site maintenance fee will be based upon the number of Affordable Housing Units in each development and calls made to the tenant call response center.
- 3. The LACDA fees shall only apply to development projects in Marina del Rey subject to all applicable laws for which land use entitlements have not been approved by the Regional Planning Commission and/or the Board of Supervisors as of the date of approval of this Policy by the Board of Supervisors (the Effective Date), and shall not apply to any previously approved project that must be reconsidered after the Effective Date, by order of a court of competent jurisdiction, on grounds other than compliance with all applicable laws.

# COUNTY OF LOS ANGELES - MARINA DEL REY AFFORDABLE HOUSING POLICY

The Mello Act (Government Code section 65590, et seq.) mandates that each local government whose jurisdiction is situated, in whole or in part, within the Coastal Zone, has the responsibility to require the replacement of housing units occupied by persons or families of low or moderate income when it approves the conversion or demolition of those units, and to require the provision of housing units for persons and families of low or moderate income, where feasible, when it approves new housing developments in the Coastal Zone. The County of Los Angeles (County) is the owner of all real property in the unincorporated territory of Marina del Rey, which includes a small craft harbor and adjacent lands, all within the Coastal Zone. The County leases landside and waterside parcels in Marina del Rey for development. The County is also the primary land use regulatory authority for Marina del Rey through the Marina del Rey Local Coastal Program (LCP), including the Marina del Rey Specific Plan. The LCP, through the Specific Plan, establishes land use policy, development standards and guidelines which are the principal regulatory basis for future development, preservation and reconstruction efforts in Marina del Rey.

The purpose of the County of Los Angeles - Marina del Rey Affordable Housing Policy described herein is limited to ensuring that all new residential development in Marina del Rey complies with the Mello Act by preserving existing affordable housing supplies (replacement units), and creating new affordable housing units (inclusionary units), where feasible, while balancing the County's ability to generate revenues from its Marina ground leases for Countywide public benefit programs.

#### **EXECUTIVE SUMMARY**

Mello Act obligations for new development in Marina del Rey will be determined by the Regional Planning Commission based upon a joint recommendation by the Department of Regional Planning (DRP), the Los Angeles County Community Development Commission (CDC) and the Department of Beaches and Harbors (DBH) made prior to the Regional Planning Commission's consideration of an application for a Coastal Development Permit (CDP) or any other discretionary land use entitlements or non-discretionary permits necessary to the project, based on this adopted Policy.

The number of new affordable housing units to be constructed as part of any new development within County-owned Marina del Rey shall: 1) be reasonably disbursed

throughout the project; 2) be comparable in size and design to the market-rate units being developed in the rental component of the new or converted project; and 3) include a covenant guaranteeing that the relevant affordable income and rent requirements for each replacement and inclusionary affordable housing unit will be observed for a number of years equivalent to the remaining term of the ground lease.

The number of replacement units to be constructed shall be determined based on the results of an income survey to be completed by the CDC on a project-by-project basis. The rental levels of the replacement units shall be set on a like-for-like basis as determined by the income level of the existing tenant whose income level triggers the replacement requirement or, if income information is not available, by comparison of the average of the previous year's monthly rent compared to the average affordable monthly rental rates for the same year.

Subject to an analysis of each project's feasibility, the 15% inclusionary affordable housing goal shall be calculated on the net new incremental units to be constructed as part of the project with 1/3 reserved for very low-, 1/3 reserved for low-, and 1/3 reserved for moderate-income persons and families. In the event the product of the inclusionary unit calculation does not evenly divide by three, the remaining unit(s) will be designated as a low income unit(s).

Determining feasibility of on-site affordable housing for a project must be undertaken on a project-by-project basis. If on-site affordable housing initially appears infeasible, the potential use of density bonuses and other incentives and potential economic aid, such as tax credits and/or below market bond financing or grants should be considered as a means of making on-site affordable housing feasible. County rent adjustments to comply with the affordable housing requirement may be available and are subject to negotiation on a project-by-project basis.

If it is determined by the Regional Planning Commission after careful consideration of a joint recommendation by the DRP, the CDC and the DBH that providing the inclusionary units on-site causes the project to be infeasible by virtue of the developer being unable to successfully complete the project within a reasonable period of time, taking into account economic, environmental, social and technical factors, then construction of such affordable units may be permitted off-site in the following priority order:

1. In the Coastal Zone within unincorporated territory of Los Angeles County;

- 2. Within three miles of the Coastal Zone in the unincorporated territory of Los Angeles County;
- In the Coastal Zone within incorporated territory of Los Angeles County;
   or
- 4. Within three miles of the Coastal Zone in incorporated territory of Los Angeles County.

Replacement units must be provided on-site or within the Coastal Zone where feasible, and if infeasible on-site or within the Coastal Zone, then within three miles of the Coastal Zone with priority given to the unincorporated areas.

The obligation to construct or rehabilitate affordable replacement and/or inclusionary housing units off-site will be the sole responsibility of the developer. The off-site affordable housing units must be completed and available for occupancy prior to the issuance of the Certificate of Occupancy for the new market rate development, but in no event later than three years from the issuance of a building permit for the new development project.

No in-lieu fee program will be available to comply with either the replacement or inclusionary housing obligations.

Guidelines for the implementation of this Policy shall be developed by County staff in consultation with the CDC, the Marina del Rey Lessees' Association and Housing Advocates, and may be updated from time to time (Guidelines), with reasonable notice and opportunity to comment by each of these groups.

# MELLO ACT REQUIREMENTS

The Mello Act applies to the demolition, conversion and construction of housing within the California Coastal Zone, and is intended to preserve affordable housing for low and moderate income persons and families. The basic requirements imposed by the Mello Act are:

Replacement	Converted or demolished residential units that are occupied by
Housing:	low or moderate income persons or families must be replaced.

Inclusionary	New residential projects must provide inclusionary housing units
Housing:	affordable to low or moderate income persons or families, where feasible.
Conversion to Non-Residential Uses:	The County can only approve the demolition or conversion of residential structures for the subsequent development of commercial uses that are not coastal dependent, if it first finds that a residential use is no longer feasible at that location and otherwise requires compliance with the replacement housing requirement.

Mello Act obligations for new development in Marina del Rey will be determined by the Regional Planning Commission based upon a joint recommendation by the DRP, CDC and DBH made prior to the Regional Planning Commission's consideration of an application for a CDP under the LCP or any other discretionary land use entitlements or non-discretionary permits necessary to the project, based on this adopted Policy. Nothing in this Policy shall be interpreted as superseding the requirements of the LCP, the Mello Act or any other provisions of State law or the County Code applicable to development in Marina del Rey.

The following sections of this Policy identify the County's methodology for fulfilling the replacement and inclusionary housing obligations imposed by the Mello Act.

## REPLACEMENT HOUSING

## **Obligations**

The Mello Act requires any residential unit occupied by a low or moderate income person or family to be replaced. Therefore, applicants for discretionary and non-discretionary permits involving the demolition, conversion or construction of housing within Marina del Rey will be required to assist the CDC and/or its affordable housing consultant to complete the following activities:

- 1. Send a notice to all current tenants that includes:
- a. A description of the proposed demolition or conversion plan;

- b. An explanation of the Mello Act provisions and compliance review process;
- c. Contact information for a County staff member who can provide additional information to the residents;
- d. An income survey to be completed by each family and individual tenant to determine the developer's replacement housing obligation for Mello Act compliance (the Income Survey and Financial Information Form will be attached to the Guidelines and may be updated periodically). Income information obtained from individual tenants specifically named on the lease, and their family members/domestic partners, will be used exclusively to determine replacement housing eligibility. Financial information obtained from resident(s) subleasing directly from the legal tenant, but not named on the original lease/rental agreement (i.e. non-family roommates), will not be considered in determining the developer's replacement housing obligation for purposes of Mello Act compliance; and
- e. Information regarding eligibility of former tenants for priority wait list status for affordable units, as set forth in sections 14 through 16, below. Notice of the availability of priority wait list status for former tenants shall be included on the income survey.

This notice shall be given prior to completion of term sheet negotiations and is not intended to serve as or replace any notice relating to the demolition of residential dwelling units or the termination of residential tenancies required to be given pursuant to the California Civil Code or any other provision of State law, the County Code, or as an express condition of the development's CDP or other permit for entitlement.

- 2. Identify the characteristics of each unit in the project as follows:
- a. Units occupied by resident management employees will not be considered in determining the developer's replacement housing obligation for purposes of Mello Act compliance (with a limit of one management unit per seventy—five residential units).
- b. Students that are claimed as a dependent on their parent's federal income tax return or whose parent(s) are guarantors on the rental/lease agreement must include parental household income information on the tenant income survey to determine affordable housing eligibility of their unit for the purposes of Mello Act compliance.

- c. Any vacant unit identified at the commencement of term sheet negotiations with the DBH is deemed to be a market rate unit.
- d. The Mello Act requires that a residential dwelling unit be deemed occupied by a person or family of low or moderate income if the person or family was evicted from that dwelling unit within one year prior to the filing of an application to convert or demolish the unit, if the eviction was for the purpose of avoiding the requirements of the replacement housing obligation under the Mello Act. The Mello Act further requires that if a substantial number of persons or families of low or moderate income were evicted from a single residential development within one year prior to the filing of an application to convert or demolish the structure, the evictions shall be presumed to have been for the purpose of avoiding the requirements of the replacement housing obligations under the Mello Act and the developer shall bear the burden of proving the evictions were not for the purpose of avoiding said requirements. For the purposes of this Policy, the presumption period shall run one year prior to the commencement of term sheet negotiations with DBH. If the developer cannot demonstrate that the tenant(s) were evicted for cause rather than to avoid the Mello Act replacement housing obligations during that period, the unit(s) shall be deemed occupied by a low or moderate income person or family.
- e. The CDC or its designated consultant will use reasonable efforts to obtain responses to the income survey from all tenants. "Reasonable efforts" is defined as no less than two attempts (one via mail and one door-to-door) at collecting income survey information from each tenant. Affordable housing eligibility for units with tenants that return an income survey but decline to state any financial information and for tenants that do not respond to the income survey will be determined using tenant income information no more than two years old contained in the developer's files; or in the absence of such income information, using the average of the previous year's monthly rent compared to the average affordable monthly rental rates for the same year as noted below:
  - i. If the average monthly rent for the unit is less than or equal to the average monthly affordable rent for a very-low income household, the unit will be considered to be occupied by a very-low income person or family.
  - ii. If the average monthly rent for the unit is less than or equal to the average monthly affordable rent for a low income household, the

- unit will be considered to be occupied by a low income person or family.
- iii. If the average monthly rent for the unit is less than or equal to the average monthly affordable rent for a moderate income household, the unit will be considered to be occupied by a moderate income person or family.
- iv. If the average monthly rent for the unit is greater than the average monthly affordable rent for a moderate income household, the unit will be deemed to be a market-rate unit.
- f. Unmarried and unrelated tenants who wish to be treated as separate individuals rather than as a household must declare under penalty of perjury the following:
  - i. They are not registered domestic partners;
  - ii. Neither party claims employment benefits received by the other party (i.e. health insurance, etc.);
  - iii. They do not share a bank account; and
  - iv. They do not own real property together.
- 3. The CDC shall submit to the Regional Planning Commission the following information for each project involving the demolition, conversion or construction of housing within Marina del Rey:
- a. Confirmation of household income level of the persons or families in accordance with California Health and Safety Code standards.
- b. Identification of unit(s) deemed occupied by persons or families of low or moderate income pursuant to section 2.c., above.
- c. Identification of the number of bedrooms in the unit eligible for replacement pursuant to the Mello Act. When a tenant is determined to be of low or moderate income, but other tenants within the same unit are above-moderate income, the replacement obligation is limited to one bedroom.

# **Methods of Compliance**

- 4. The developer is required to replace each unit that is determined to be occupied by low or moderate income persons or families on a one-for-one basis (per number of bedrooms). The replacement units must adhere to the following requirements:
- a. The replacement unit must be of comparable size and design to the market-rate units being developed in the rental component of the new or converted project.
- b. The replacement housing obligation may be satisfied, in whole or in part, by an affordable housing set aside required as a condition of receiving a density bonus, and shall not be imposed in addition to any such set aside, except to the extent the density bonus set aside does not fully satisfy replacement and/or inclusionary housing obligations required under the Mello Act.
- 5. The rental levels of the replacement units shall be set on a like-for-like basis as determined by the income level of the existing tenant whose income level triggers the replacement requirement or, if income information is not available, by comparison of the average of the previous year's monthly rent compared to the average affordable monthly rental rates for the same year, as set forth in section 2.e., above.
- 6. Developers must provide the identified replacement housing units on-site or elsewhere within the Coastal Zone unless the developer can demonstrate that such placement is not feasible.
- a. The project feasibility analysis must include:
  - An evaluation of the impacts created by incentives available to the developer such as density bonuses; development standards relief; and available state and local assistance programs.
  - ii. An estimate of the developer's return that would be generated by the project. This return will be compared to a feasibility factor equal to the average capitalization rate for apartment sales in Los Angeles County, as published in the California Real Estate Journal, plus an amount not to exceed 200 basis points.
  - iii. An evaluation of whether or not the project can be successfully completed within a reasonable period of time, taking into account economic, environmental, social and technical factors.

- b. If on-site or Coastal Zone replacement is determined to be infeasible, the units shall be provided at an off-site location in the following priority order:
  - i. Within three miles of the Coastal Zone in the unincorporated territory of Los Angeles County; or
  - ii. Within three miles of the Coastal Zone in the incorporated territory of Los Angeles County.
- c. Off-site units can be new construction, adaptive reuse or the substantial rehabilitation of existing units. The term "substantial rehabilitation" shall mean rehabilitation in which the total cost of rehabilitation equals or exceeds 25 percent of the value of the structure after rehabilitation. The obligation to construct or rehabilitate affordable replacement housing units off-site will be the sole responsibility of the developer.
- d. No in-lieu fee program will be available to comply with the replacement housing obligations.

# **INCLUSIONARY HOUSING**

The Mello Act requires new residential development to provide affordable housing units where feasible (inclusionary units). The County will require developers to meet the following standards:

- 7. The inclusionary housing obligation will be imposed separately from any replacement housing obligations being applied to the project.
- 8. The inclusionary units must be reasonably dispersed throughout the rental unit component of the project, and the unit sizes and design must be comparable to market rate rental units included in the project.
- 9. The on-site inclusionary housing obligation will be calculated based upon the net new incremental units (fractional units under 0.5 are to be rounded down and fractional units of 0.5 and above are to be rounded up) to be constructed or converted in the following manner:
- a. The developer must set aside a percentage of the net new units to be constructed as affordable units, subject to an analysis of the project's feasibility on a project-by-project basis. The County's goal is to have each developer set aside 15% of

the net new units of which 1/3 will be reserved for very low-, 1/3 will be reserved for low-, and 1/3 will be reserved for moderate-income persons and families (Product of the Inclusionary Unit Calculation). In the event the Product of the Inclusionary Unit Calculation does not evenly divide by three, the remaining unit(s) will be designated as a low income unit(s).

- b. The mix of inclusionary unit types (i.e., studio, one bedroom, two bedroom, etc.; varying floorplans with the same number of bedrooms will be treated as different unit types) must be provided in the same proportion to the mix of unit types proposed for the entire development (Total Unit Type Ratio). The Total Unit Type Ratio for each unit type will be multiplied by the Product of the Inclusionary Unit Calculation to determine the number of each unit type to be distributed amongst the various affordable income levels. In the event the number of each unit type does not evenly divide by three, the remaining unit(s) will be designated as a low-income unit(s).
- c. If the developer requests and is eligible for a density bonus, the inclusionary unit requirement will be calculated off the pre-bonus number of units.
- d. The inclusionary housing obligation may be satisfied, in whole or in part, by an affordable housing set aside required as a condition of receiving a density bonus, and shall not be imposed in addition to any such set aside, except to the extent the density bonus set aside does not fully satisfy the replacement and/or inclusionary housing obligations required under the Mello Act.
- 10. The developer must provide a project feasibility analysis in support of its proposed inclusionary housing obligation.
- a. The project feasibility analysis must include:
  - i. An evaluation of the impacts created by incentives available to the developer such as density bonuses; development standards relief; and available state and local assistance programs. (Note: County rent adjustments to comply with the inclusionary housing requirement are subject to negotiation on a project-by-project basis).
  - ii. An estimate of the developer's return that would be generated by the project. This return will be compared to a feasibility factor equal to the capitalization rate for apartment sales in Los Angeles

- County, as published in the California Real Estate Journal, plus an amount not to exceed 200 basis points.
- iii. An evaluation of whether or not the project can be successfully completed within a reasonable period of time, taking into account economic, environmental, social and technical factors.
- b. If on-site development of the inclusionary housing units is determined to be infeasible based upon the project feasibility analysis, the units must be provided at an off-site location in the following priority order:
  - i. In the Coastal Zone within the unincorporated territory of Los Angeles County;
  - ii. Within three miles of the Coastal Zone in the unincorporated territory of Los Angeles County;
  - iii. In the Coastal Zone within the incorporated territory of Los Angeles County; or
  - iv. Within three miles of the Coastal Zone in the incorporated territory of Los Angeles County.
- c. The off-site inclusionary units can be new construction, adaptive reuse or substantial rehabilitation. The term "substantial rehabilitation" shall mean rehabilitation in which the total cost of rehabilitation equals or exceeds 25 percent of the value of the structure after rehabilitation. The obligation to construct or rehabilitate affordable housing inclusionary units off-site will be the sole responsibility of the developer.
- d. No in-lieu fee program will be available to comply with the inclusionary housing obligations.

## **CONVERSION TO NON-RESIDENTIAL USES**

In accordance with Mello Act requirements, the County will evaluate proposals to demolish or convert residential structures for the subsequent development of commercial uses that are not coastal dependent. No project will be approved unless the County determines that a residential use is no longer feasible at the proposed location. All such projects shall fully comply with the replacement housing obligations as set forth above.

## **ADDITIONAL PROVISIONS**

- 11. The affordable income and rent requirements for replacement and inclusionary units will be determined as follows:
- a. The income standards for very low, low and moderate income households will be based on California Health and Safety Code standards, as adjusted and annually published by the California Department of Housing and Community Development.
- b. The affordable rents and utility allowance schedule will be published by CDC on an annual basis.
- c. A "unit" shall consist of a group of one or more rooms, one of which will include a kitchen, designed for occupancy by one family for living and sleeping purposes, together with the land and buildings appurtenant thereto, and all housing services (services connected with the use and occupancy of a unit, including but not limited to utilities (if also provided to the market rate units) ordinary repairs or replacement, maintenance (including painting), elevator service, laundry facilities, common recreational facilities, janitor service, resident manager, refuse removal, and all privileges, benefits, furnishings and facilities supplied in connection with the use or occupancy thereof, including garage and parking facilities).
- d. The affordable rent as published by the CDC, less the corresponding utility allowance, as applicable, shall be the maximum amount charged for occupancy of a "unit". There shall be no separate, additional charges for use and occupancy of a unit or for housing services related thereto, including, but not limited to charges for parking spaces required to be assigned to the unit as a condition of the CDP or other land use entitlement permit.
- 12. The tenant survey must be approved by the CDC during lease negotiations for County owned properties. If more than one year passes after approval of the original tenant survey, the survey must be updated and resubmitted as part of the County's Regional Planning application process for a CDP. The replacement housing obligation will be set at the higher result of the two surveys.
- 13. The developer must submit to the CDC an Affordable Housing Plan, which sets forth the number of affordable units, location of affordable units and all other details regarding provision of affordable units as set forth in this Policy and the Guidelines; no Building Permits will be issued for the project until the County approves the Plan.

- 14. The CDC or its designee shall maintain a list of tenants or tenant households (collectively "tenants") eligible for priority wait list status based upon their unit qualifying as an affordable replacement unit (based upon income survey, income information or rent level). The CDC shall notify tenants, in writing, that their unit has qualified as an affordable replacement unit, and at what income level, within 60 days from the CDC's determination that the unit qualifies as an affordable replacement unit, but in no event later than 180 days from the first deadline for responses to the income survey or, if the income survey has been completed prior to this Policy's adoption, within 60 days of the adoption of this Policy. Such notification shall include a statement that it is the tenants' responsibility to provide the developer and CDC or its designee with updated contact information, including telephone number and mailing address, when such information changes, so that the tenants can receive notices from the developer and CDC pursuant to section 15, below.
- 15. Tenants who submitted an income survey that qualified a unit for replacement and were specifically named on the original lease will be eligible for priority placement in the first band on the wait list for available affordable units. Priority within the first band shall be determined by a lottery conducted by the CDC prior to tenants being placed on the wait list.

Tenants of units that qualified for replacement and were specifically named on the original lease, but did not return an income survey, will be eligible for priority placement in the second band on the wait list for available affordable units. Priority within the second band shall be determined by a lottery conducted by the CDC prior to the tenants being placed on the wait list.

The CDC or its designee shall provide at least 120 days advance written notice to each eligible tenant of the date that the CDC or its designee will conduct the lotteries described above, and each tenant will be required to submit their name prior to the date of the lotteries in order to participate in the lotteries. Tenant names must be received by the CDC at least one day prior to the lotteries in order for the tenant to participate in their respective lottery. The CDC or its designee shall initially establish the first and second bands of the wait list based upon the results of the lotteries as described above. Eligible tenants from the list established and maintained pursuant to section 14, above, who submit their names on or after the date of the lotteries shall be placed on the wait list within the first and second bands, respectively, based upon their eligibility for that band, after the lottery participants, in the order received.

The CDC or its designee shall provide written notice to each tenant of their placement on the wait list and their position within the band for which they qualify, a minimum of 60 days prior to the developer's initial lease-up of the affordable units.

Members of the general public will be eligible for placement in the third band of the wait list starting on the wait list sign-up date, after pre-qualifying with the developer for an affordable unit. The developer will provide the general public with no more than 60 days advance notice of the wait list sign-up date, which date shall in no event be prior to the date on which the lotteries described above are held.

The CDC shall establish and retain the first and second bands of the wait list as described above. The developer shall maintain the wait list for affordable units, including all three bands, and shall provide monthly updates of this list to the CDC or its designee for inspection up until the time that all of the individuals or households named on the wait list have either moved into an affordable unit or a determination has been made that they are ineligible for an affordable unit (i.e., they are not income eligible).

The developer shall not commence initial lease-up of the affordable units until a minimum of 60 days after the CDC provides written notice to each tenant of their placement on the wait list and their position within the band for which they qualify. The developer shall adhere to the wait list at all times for initial lease-up of the affordable units and for filling all vacancies thereafter, unless the wait list has been completely exhausted. Affordable units shall be offered first to those qualifying tenants from the first band in the order of their placement in the band, then to those qualifying tenants from the second band in the order of their placement in the band, and then to those qualifying members of the general public from the third band in order of their placement in the Placement in an affordable unit shall be determined by availability of an affordable unit reserved at the income level corresponding to the qualifying income of the wait listee at the time of availability of the affordable unit, household size and available affordable unit type, the wait listee's position on the wait list, and the wait listee qualifying with all other requirements for occupancy of an affordable unit as set forth in the Guidelines. Nothing in this Policy should be construed as granting any person or family an entitlement to any of the affordable units, except as provided herein.

16. CDC or its designee, upon request of a tenant, shall confirm that tenant's placement on the list of tenants eligible for priority wait list status established and maintained pursuant to section 14, above, and that tenant's position on the wait list described in section 15, above, if that tenant has submitted his or her name for placement on the wait list. CDC or its designee, upon request of a member of the general public, shall confirm that person's position on the wait list described in section

- 15, above, if that person has submitted his or her name for placement on the wait list. The CDC or its designee shall, at the same time, notify the tenant or person of the manner in which that tenant or person may confirm their initial placement and ongoing position on the wait list.
- 17. The developer shall record a covenant guaranteeing that the income and rent requirements for each replacement and inclusionary unit will be observed for a number of years equivalent to the remaining term of the ground lease at the time of the issuance of the Certificate of Occupancy.
- 18. The developer will be required to comply with the County's monitoring requirements annually throughout the covenant term which shall include a marketing plan to be approved by the CDC that will require, among other things, posting the availability of the affordable housing units on the CDC website at <a href="http://housing.lacounty.gov/">http://housing.lacounty.gov/</a>
- 19. If replacement and/or inclusionary units are provided off-site, the off-site affordable housing units must be completed and available for occupancy prior to the issuance of the Certificate of Occupancy for the new market rate development, but in no event later than three years from the issuance of a building permit for the new development project. The Certificate of Occupancy for the new market rate development project will be withheld until all on-site and off-site affordable housing units are ready for occupancy in compliance with the Affordable Housing Plan required by section 13, above.
- 20. On site affordable units shall be made available at the same time as market rate units and shall have equal access to the same amenities.

# 21. Ownership Units

- a. If a developer is proposing to develop a project that includes rental and ownership units, the replacement and inclusionary units may all be provided in the rental component.
- b. If a developer is proposing to develop a 100% ownership unit project, the developer may provide rental units on-site to fulfill the replacement and inclusionary obligations.

- 22. If CDC elects to retain a consultant to perform any of its obligations under this Policy, said consultant shall be an independent third party consultant who shall perform such work assigned to it at the sole direction of CDC, and independent of the developer.
- 23. The CDC will levy the following fees:
- a. The costs incurred directly by the CDC and those costs associated with engaging a consultant to undertake, distribute, conduct and/or evaluate the tenant survey will be funded by the developer.
- b. The costs associated with completing or auditing the project feasibility analysis will be funded by the developer.
- c. An annual fee of \$145 per affordable unit will be charged to defray the ongoing compliance, inspection and reporting costs associated with the replacement and inclusionary units. This fee will be adjusted annually in accord with changes in the Consumer Price Index (CPI).
- d. The cost to establish waiting lists on the <a href="http://housing.lacounty.gov/">http://housing.lacounty.gov/</a> website, a document archive and tenant call response center shall be apportioned among the developers subject to this Policy. An annual site maintenance fee will be based upon the number of affordable units in each development and calls made to the tenant call response center.
- 24. This Policy shall only apply to development projects in Marina del Rey subject to the Mello Act for which land use entitlements have not been approved by the Regional Planning Commission and/or the Board of Supervisors as of the date of approval of this Policy by the Board of Supervisors (the Effective Date), and shall not apply to any previously approved project that must be reconsidered after the Effective Date, by order of a court of competent jurisdiction, on grounds other than compliance with the Mello Act.

# MARINA DEL REY LESSEES ASSOCIATION

# PRIMARY CONCERNS – JUNE 2023 MARINA DEL REY DRAFT AFFORDABLE HOUSING POLICY

#### **EXECUTIVE SUMMARY**

The Marina del Rey Lessees Association (the "Association") has long expressed its willingness to work collaboratively with the Los Angeles County Board of Supervisors and with the County's multiple relevant departments to address the County's priority to create additional affordable housing in Marina del Rey. We believe the County of Los Angeles currently has the opportunity and authority, in its proprietary capacity, to negotiate <u>mutually acceptable</u> affordable housing requirements in connection with lease extensions negotiated with individual Marina del Rey lessees for redevelopment on leased parcels constituting demolition and reconstruction as contemplated by the Mello Act, or for substantial "like new" rehabilitation of existing improvements, if it is economically feasible for the lessee considering the additional affordable housing component, the increased cost of construction materials, the increase in interest rates for financing and the requirement for payment of prevailing wages in connection with construction. Notwithstanding and in addition to the foregoing, there are many aspects of the Marina del Rey Draft Affordable Housing Policy (the "Draft AHP") that should be reconsidered.

Further, we understand that one of the goals for the ongoing "MdR For All" planning process focused on creating a more inclusive Marina del Rey is to "create generational community benefits, including affordable housing options" as stated on the MdR For All website. The promulgation of an affordable housing policy in advance of the key benchmarks in the MdR For All planning process is premature. The MdR For All planning process is anticipated to highlight specific principles and means to increase the amount of affordable housing as part of the overall strategic plan to implement the County's goals for a more inclusive Marina del Rey in the context of a comprehensive Land Use Plan. The Association and its members look forward to participating in the MdR For All process and strongly believe that consideration of a revised and final Affordable Housing Policy (a "Final AHP") be deferred until the completion of the MdR For All process.

The Association has many concerns about the Draft AHP. The Draft AHP inappropriately, in many ways, permits a unilateral modification of the existing affordable housing contractual covenants or addition of affordable housing covenants, with no clear indication of the necessary and appropriate modification to the economic structure of the Marina del Rey ground leases (the "Leases" and individually a "Lease"). This would occur in situations that would not constitute "substantial rehabilitation" as commonly understood and would simply constitute compliance with Lease loan document maintenance and repair obligations. As such, the proposed Draft AHP is unreasonable, unfair, and impractical, especially with respect to those leaseholds which are already subject to existing affordable housing obligations, or which Lease economics have already been negotiated and approved by the Board of Supervisors and for which lenders have made loans based on the net operating income generated by the project at the time of loan closing. Additionally, such action may well constitute an unconstitutional taking.

If the County's policy goal is to increase the number of affordable housing units in Marina del Rey, the County already has many options at its disposal to accomplish its policy goal. But one thing it should not do is make building any housing economically infeasible. The most obvious means to create affordable housing is to increase the housing supply. Yet the County has failed to build any affordable housing on underutilized Marina del Rey parcels over which the County has control and can permit the development of multifamily projects. Certainly, it would appear that Proposition HHH funds should have already been made available to construct additional affordable housing Marina del Rey. Intuitively it seems to the Association, the County should first seriously explore additional Marina del Rey affordable housing units on unencumbered parcels controlled by the County, rather than compelling existing Lessees to eliminate the number of market-rate apartments which have already been built or renovated to "like new" under County approved contracts and permits. Increasing the supply of market-rate units is also a County-wide need.

The County has also failed to set aside any of the millions of dollars of ground rent generated annually by the market-rate apartment projects built and managed by the current Lessees to fund affordable housing in Marina del Rey and/or elsewhere in the unincorporated County. The County could certainly dedicate a substantial amount of its revenues from the Leases to subsidize rents for qualified residents, for example via a voucher system or subsidy/reimbursement of market-rate rents based upon the "Housing is Key" model used by the State of California and the County during the recent pandemic. This approach would provide immediate affordable housing opportunities for those in the lower socioeconomic categories without impacting the financial viability of Marina del Rey multifamily projects. It is also a likely result that a County-sponsored subsidy of market-rate rents would be a more cost-effective, prudent, and immediate means to increase the number of very low-income residents in Marina del Rey. At the very least, why would this approach not be evaluated, and the results discussed with stakeholders, including the Association and its Lessees?

Engaging in a meaningful dialogue with the Association and its Lessees concerning a voucher type system would be more productive than attempting to force a 30% affordable housing obligation on the Lessees for doing nothing more than obtaining a building permit to repair a major system in order to comply with the repair and maintenance terms of a Lease already in effect, without a clear consideration of the economic impact on a Lessee. This is especially the case where Lessees (and their lenders) have invested hundreds of millions of dollars implementing redevelopment and substantial ("like new") rehabilitation as a result of County-approved Leases, California Coastal Commission Coastal Development Permits, and Affordable Housing Covenants. Existing lenders and investors made their investment decisions based on the existing Lease obligations and the actual and anticipated net operating income of each project. If the Draft AHP is implemented, the County will have made refinancing existing loans as they mature impossible.

The Draft AHP creates an unacceptable Catch-22 for each Lessee. Maintenance and repair obligations are required by its Lease and its loan documents. Should the Lessee desire to perform such obligations, and the work is the replacement of a listed system, and a building permit is required, the Draft AHP prevents the work from being commenced. As a result, a Lessee who does not agree to the affordable housing obligation – which it most certainly cannot do without the consent of its lender - will be in default under its Lease and its loan. Further, under projects

governed by the Rent Stabilization Ordinance, no existing residential tenancy may be terminated without just cause. The bottom line is that this aspect of the Draft AHP cannot and will not work.

Another overriding concern is that the Draft AHP attempts to revise affordable housing requirements by "policy" statement, rather than the more appropriate ordinance process pursuant to which the California Environmental Quality Act and other laws applicable to the Coastal Zone must be considered and complied with. This would be inconsistent with the goal of the "MDR For All" planning process and the development of a comprehensive Land Use Plan, as noted above.

Moreover, many of the terms of the Draft AHP impose obligations far in excess of the Affordable Housing requirements in place for projects in other unincorporated areas of the County, including by the County's own ordinance enacted on November 10, 2020 (effective December 10, 2020) (the "Inclusionary Housing Ordinance") applicable to multifamily developments in certain areas of the unincorporated County, as well as the draft affordable housing policy previously distributed by the County and on which the Association provided comments in 2021 (more on that below as well). We note that as recently as October 12, 2022, the Department of Beaches and Harbors reported to the County's "Community Services Cluster" meeting that a new affordable housing policy would set a goal of 20% affordable units, not the 30% as stated in the Draft AHP.

By way of contrast, San Francisco is embarking on a consideration to reduce its affordable housing requirements in order to boost new housing construction generally, which has otherwise been dormant due to economic infeasibility.

The Draft AHP requires a vague Feasibility Analysis to be conducted which makes no sense for Marina del Rey properties operating on existing Leases with less than sufficient time remaining on their Leases to provide appropriate consideration for the loss of income by the Lessee. The Association questions whether the County has ever conducted any kind of Feasibility Analysis to test the impact of the Draft AHP in the real world setting of the existing Leases, because no such analysis has been shared with the Association. If this analysis has been done it should be shared with the Association and its Lessees for consideration before the adoption of a Final AHP.

The Association is also concerned about the potential delays between a Lessee decision, on the one hand, to perform work required by its Lease and existing maintenance and repair conditions for which a non-discretionary building permit is required and, on the other hand to comply with the Draft AHP, which would seem to require a negotiated agreement on a restructure of the Lease rents, a potentially time-consuming process and potentially with the failure to reach such an agreement. Simply stated, this will not work where compliance with Lease covenants and loan document obligations is required, and a Lessee is prepared to complete the required work. And what if there is no agreement on the restructure of the Lease rents?

It is especially disappointing to the Marina del Rey Lessees that virtually all comments and observations made in 2021 to the prior draft of the Affordable Housing Policy were ignored, and the current Draft AHP is even worse from our perspective. It puts each Lessee between a rock and a hard place, with Lease obligations to maintain improvements or even a desire to enhance a project, while efforts to do so could trigger a new or additional affordable housing obligation. No Lessee will want (or will be able to afford) to comply with its Lease if to do so will trigger such

an obligation. Additionally, these requirements may make it impossible to sell or finance any of the leaseholds. Certainly, no lender will make a loan without a complete understanding of what will be the uncertain economic implications of a Final AHP based on the Draft AHP, with the result that existing loans may mature with no basis for refinancing.

As written, the Draft AHP is unfair and infeasible—and possibly unconstitutional—to those Lessees who have already negotiated lease extensions and Coastal Development Permits and Affordable Housing Covenants and who would now be compelled to displace market-rate units with affordable units without due process and full compensation. The Los Angeles County Board of Supervisors has already approved those projects, and the County should not abrogate those existing agreements, and unilaterally abuse the County's power and authority to issue unrelated nondiscretionary building permits to accomplish its policy goal.

The Marina del Rey Lessees Association is anxious and willing to collaborate with the County to put together a more reasonable and realistic comprehensive approach to increase affordable housing in Marina del Rey. For all the reasons we discuss in these pages, the Draft AHP may well have the unintended effect of undermining the County's policy goals. We urge the County to delay consideration of a new Affordable Housing Policy until the "MdR for All" planning process is completed, and the Association looks forward to engaging with substantive discussions on the most practical and feasible means to accomplish the County's policy goals.

# **PRIMARY CONCERNS**

The following is a list of the primary concerns of the Association with the Draft AHP:

- 1. Adoption of an Affordable Housing Policy By Policy is Inappropriate
  - (a) Other jurisdictions have followed or are following appropriate procedures for the adoption of a Mello Act affordable housing policy through an ordinance process, which, among other things, requires compliance with the California Environmental Quality Act (CEQA). The County of Los Angeles enacted the County's Inclusionary Housing Ordinance applicable to multifamily developments in certain areas of the unincorporated County. We note, again, that the County Inclusionary Housing Ordinance applies "to eligible housing developments, including projects to substantially rehabilitate and convert an existing multi-family dwelling.... where the result of the rehabilitation would be a net increase in available dwelling units."
  - (b) The Draft AHP imposition of an affordable housing program to the Marina del Rey leaseholds by policy fiat as opposed to through the enactment of an ordinance and compliance with CEQA, and not the result of mutual Lease negotiations, is an action by the County in furtherance of its proprietary capacity as opposed to its governmental capacity. As such adoption of a Final AHP based on the Draft AHP would constitute an extracontractual unilateral action and should not be acceptable absent agreement by each Marina del Rey Lessee.

# 2. Inclusionary Housing.

(a) The Inclusionary Housing Unit requirement should be based on the number of Net New Units provided (see the County Inclusionary Housing Ordinance which applies "to eligible housing developments, including projects to substantially rehabilitate and convert an existing multi-family dwelling.... where the result of the rehabilitation would be a net increase in available dwelling units.") Why would the rules be different for Marina del Rey?

# 3. "Substantial Rehabilitation"

- (a) The Draft AHP "requires that all housing developments set aside 30% Affordable Housing Units, when a property is Substantially Rehabilitated." The 30% affordable housing requirement is calculated based on the total Residential Units that would exist after the construction is completed. Under the Draft AHP, the affordable housing requirement is applied both to projects that have no Affordable Housing Units and those that have some Affordable Housing Units, but less than the 30% required by the Draft AHP.
- (b) As defined in the Draft AHP,
  - "Substantial rehabilitation means the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit pursuant to State or local laws, or the abatement of hazardous materials, such as lead-based paint, mold, or asbestos, in accordance with applicable federal, State, and local laws, that cannot be reasonably accomplished in a safe manner with the tenant in place and that requires the tenant to vacate the rental unit for at least seven (7) days."
- (c) This definition covers many capital expenditures that are ordinary and routine in the operation and upkeep of a multifamily project in order to extend its economic life. This may very well include building systems as contemplated by this definition. The thought that removal of mold, lead-based paint, etc. that could result in a tenant vacating its unit for seven (7) days could in any way conceivably constitute a "substantial rehabilitation" makes no sense. Is a Lessee supposed to wait for the imposition of an affordable housing obligation before it can do the work?
- (d) The Substantial Rehabilitation threshold is so low that certain improvements to a single unit may trigger the requirement to set aside 30% of all the units in the project for affordable housing even if the improvements are required by the terms of the Lease or federal, state or County laws. Each Lease is subject to a general repair and maintenance obligation. Many Leases are subject to an obligation to reserve for permitted or required capital improvements and subsequent renovations. The County is also intent on imposing a reserve study requirement whereby a Lessee will be obligated to replace systems and components at the expiration of their useful lives.

By way of example, if there was a fire in a unit and the repair work affected the unit's structure, plumbing, electrical or other building systems and required the tenant to vacate for more than seven days to affect the repair, under the Draft AHP the project owner must set aside 30% of the total units as affordable housing. Similarly, if a water pipe broke and the mold abatement and plumbing repairs required a tenant to vacate the unit for seven days, the 30% set aside would be triggered. If repairs or improvements were required under the terms of the Lease that affected building systems and one or more tenants had to vacate the unit for more than seven days, the project would immediately be required to set aside 30% of the units for affordable housing.

None of these activities should result in an affordable housing obligation, or an increase in an affordable housing obligation, whether or not constituting a replacement or substantial repair of a major system as proposed in the Draft AHP.

- (e) The Draft AHP is schizophrenic, defining "Inclusionary Housing Unit" with reference to a "new residential development." Yet the exact same requirements appear to be imposed on a "substantially rehabilitated" project. A "substantially rehabilitated" project, however defined, adds no new units to available housing stock and does not completely replace any existing residential units.
- (f) As we have stated previously, nothing in the Mello Act requires the imposition of an affordable housing requirement in connection with "substantial rehabilitation" especially where there is no expansion of or additions to the units and there is no long-term displacement of current occupants. As stated in the preamble to the Draft AHP, the Mello Act requires the imposition of affordable housing in connection with "conversion or demolition of units in the Coastal Zone" with respect to existing apartment projects. So, let's be clear. The Draft AHP is not a Mello Act implementation. The Association firmly believes that the imposition of an affordable housing requirement in connection with "substantial rehabilitation," as defined in the Draft AHP should not be required, but if it is to be required, at a minimum it should not apply to previously renovated or substantially rehabilitated ("like new") projects which are already subject to an affordable housing obligation set forth in the Lease with the County, or, in the case of the substantially rehabilitated ("like new") projects which were not required to provide affordable housing under the terms agreed to in connection with the extension of those leases. And it should not apply if only a non-discretionary building permit is required for project improvements.

Consider application of the following definition of "substantial rehabilitation," if such a definition is to be included in a Final AHP – "Substantial rehabilitation generally refers to significant and extensive improvements made to a property to restore, renovate, or upgrade it to a condition that significantly exceeds its previous state. It typically involves substantial investment of time, effort, and financial resources to address major issues and enhance the overall value, functionality, and appearance of the property." Obtaining a nondiscretionary building permit to repair

- or replace one building system, or eliminating a mold situation, most definitely do not fit within the well understood definition.
- (g) To be clear, if "Substantial Rehabilitation" is to be a predicate for the imposition of an affordable housing obligation, with respect to apartment projects in Marina del Rey that are not currently subject to an affordable housing covenant, an affordable housing obligation should only be required at such time when/if a Lessee substantially rehabilitates an older project to a "like new" condition, which should be appropriately defined so that there is clear demarcation from what constitutes ongoing and required maintenance and repair of the leasehold improvements. Previously, the County's Affordable Housing Policy excluded any provision for affordable housing where the County required "like new" rehabilitation. It should be noted that the Board of Supervisors voted unanimously in support of each of those projects, including the provision for fair market percentage ground rents and other terms in the Leases.
- (h) As we have previously implored the County, if the County is intent on imposing an affordable housing component at such time as a Lessee undertakes a "Substantial Rehabilitation," the definition of "Substantial Rehabilitation" should be consistent with the expressly stated policy (in the September 28, 2017 Report to the Board of Supervisors from the Department of Beaches and Harbors ("DBH")) for requiring affordable housing, which is that the work on a project should be "so extensive as to constitute a demolition or render a building unfit for residential occupancy" which would be consistent with the Mello Act "demolition" predicate. It should most definitely <u>not</u> be tied to "the replacement or substantial modification of <u>any</u> structural, electrical, plumbing, or mechanical system that requires a permit pursuant to State or local laws." We note the following:
  - (i) The seven (7) day tenant vacation provision is not rational in any event. These are not units removed from the housing market for an extended period of time. Tenants are often provided interim housing while the work is being completed and move back into their units. Vacation of a Unit and removal from the housing market must be permanent (if a tenant is offered interim housing proximate to the project with offer to return upon completion, that should not constitute vacation of a unit for any purpose). And vacation of a unit due to casualty, force majeure occurrences, emergency situations, compliance with governmental laws or regulations or compliance with Lease obligations should not constitute vacation of a unit for any purpose.
  - (ii) Feasibility must clearly consider the fact that minimum and percentage rents are payable under each Lease and any reduction in rent, and therefore revenue, to a Lessee as a result of imposition of an affordable housing obligation will impact feasibility and must be addressed in a reestablishment of minimum and percentage rents or the provision of rent credits.

(i) Should additional affordable housing requirements be imposed on future "Substantial Rehabilitation," however defined, then the minimum and percentage ground rent should be adjusted accordingly to reflect the Lessee's reduced projected future income and valuation, or a rent credit agreement should be considered. Alternatively, direct County subsidy/rental assistance to the affordable residents based on a voucher system or otherwise should also be considered as previously noted. These economic considerations should clearly be stated in the Policy and not simply stated in a parenthetical "Note." There should be a clear direction and a formula for determining a reduction in minimum and percentage rent, rent credits or voucher system. This is especially true if the County is going to attempt to impose an affordable housing obligation on projects that have already renegotiated Leases in connection with a prior substantial rehabilitation or redevelopment and rents negotiated and established in connection therewith.

# (j) <u>Comparison to the City of Los Angeles Proposed Mello Act Ordinance:</u>

- (i) Although not yet enacted by the Los Angeles City Council though approved by the City Planning Department after several public hearings the concept of "substantial rehabilitation" was eliminated from the City's proposed Mello Act ordinance. Remaining is the concept of a "Major Remodel" as being tantamount to, and included within, the definition of "demolition." A "Major Remodel" is defined as "a project that increases the existing structure by more than 50% of existing floor area within a residential structure." Upgrading and repairing components or building systems are not a test for the imposition of an affordable housing obligation.
- (ii) It should be noted that the "substantial rehabilitation" comments by the Legal Aid Foundation of Los Angeles ("LAFLA") to the City of Los Angeles' proposed Mello Act ordinance included a \$60,000 construction cost per unit test adjusted over time by an appropriate index and the replacement of 2 or more building systems. This inclusion was rejected by the City Planning Department.
- (iii) Clearly, the City of Los Angeles, and even LAFLA, seem to understand that physical work may be tantamount to a demolition implicating the Mello Act. The County's draft definition of "Substantial Rehabilitation" does no such thing.
- (k) As alluded to previously, compliance with Lease provisions (spending from or required by Lease (Capital Improvement Funds; Subsequent Renovation Funds; and Reserve Study Funds) must not implicate a "Substantial Rehabilitation."
- (l) Clearly, rehabilitation work required due to compliance with governmental regulations, casualty, or force majeure should not implicate a "Substantial Rehabilitation."

- (m) The term "partial Substantial Rehabilitation" is used in the Section "Substantial Rehabilitation" but it is not defined. Is it a building? A unit? A minimum number of units? Contiguous units? What if a project renovation is done in phases?
- (n) Also, under the Section "Substantial Rehabilitation," Affordable Housing Units are to be provided upon vacancy. Does this override the requirement to reasonably distribute the Inclusionary Housing Units throughout the project?

# 4. <u>Unconstitutional Taking</u>

(a) The "Substantial Rehabilitation" requirement in the Draft AHP is an unconstitutional taking.

Under the Draft AHP, a project with no affordable units would suddenly be required to set aside 30% of its units at the specified levels of affordability. Projects with less than 30% affordable units (e.g., 10%) would need to set aside additional units to reach 30%.

Importantly, the 30% affordability requirement will be triggered by the County's issuance of a building permit, which in most all instances will be a ministerial action by the County Building and Safety Division.

- (b) No California court has upheld an inclusionary housing requirement imposed on the issuance of a building permit for repairs or other improvements made to an existing rental unit.<sup>1</sup>
- (c) The affordable housing requirements of the Draft AHP imposed in connection with the rehabilitation of one or more units are exactions that are subject to the limitations imposed by the Takings Clause of the Fifth Amendment of the United States Constitution. To be valid, the imposition of the affordability requirement as a condition to the issuance of a permit requires: (i) that there be a nexus (i.e., a direct relationship) between the rehabilitation work and the need for affordable

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<sup>&</sup>lt;sup>1</sup> In *California Building Industry Assn. v. City of San Jose*, 61 Cal. 4th 435 (2015), the Supreme Court upheld an inclusionary housing requirement that required new residential development projects seeking land use entitlements to sell at least 15 percent of the for-sale units at a price that is affordable to low- or moderate-income households. However, the case did not consider an inclusionary housing requirement triggered by the issuance of a building permit for repairs to an existing residential development and, as such, does not govern the proposed Draft AHP.

units,<sup>2</sup> and (ii) that there be "rough proportionality" between the affordability requirement and the impact of the necessary rehabilitation work.<sup>3</sup>

The affordability requirements imposed by the Draft AHP in connection with the rehabilitation of existing units fails both of these tests. First, the Lessee's need to obtain a building permit to rehabilitate an existing unit does not bear any relationship to the County's stated need to provide more affordable housing in Marina del Rey. This is particularly true when the rehabilitation is required by the Lease or legal requirements. Secondly, the requirement to set aside 30% of the existing units for affordable housing is grossly disproportionate to the impact of repairing or rehabilitating an existing unit. As noted above, the "substantial rehabilitation" threshold is so low that rehabilitation of a single unit will suddenly trigger a requirement to set aside 30% of all units at affordable rents.

We also note that the imposition of the requirement to every "substantially rehabilitated" building would be a violation of the federal court's interpretation of the takings clause. Several courts of appeal have held that a taking can occur when an exaction is generally applicable, i.e., it need not be imposed only as an ad hoc condition of an administrative decision. See *Ballinger v. City of Oakland*, 24 F.4th 1287, 1298-1299 (9th Cir. 2022), cert. denied, 142 S.Ct. 2777 (2022), and *Knight v. Metropolitan Government of Davidson County*, 67 F.4th 816, 828-836 (6th Cir. 2023), citing *Ballinger* at 67 F.4th 834.

# 5. <u>Impairment of Contract</u>

(a) In addition to an unconstitutional taking, to the extent that the Draft AHP may constitute a governmental action, attempting to unilaterally revise the terms of existing Leases, particularly those with existing affordable housing covenants, without appropriate compensation for the resulting diminution of value, would be subject to an impairment of contract claim under the United States Federal and California constitutions. This will also certainly be under consideration by the Association and/or individual Lessees.

# 6. Replacement Affordable Units and Tenant Survey

(a) First of all, no tenant survey and no replacement obligation should be required for current market rate units unless a project is being demolished and rebuilt (tenants in existing rebuilt or substantially rehabilitated projects are already paying market rents and by extrapolation are not income challenged to pay market rent, and therefore, what purpose would be served?).

<sup>&</sup>lt;sup>2</sup> Nollan v. California Coastal Com'n, 483 U.S. 825, 837, 107 S. Ct. 3141, 97 L. Ed. 2d 677 (1987).

<sup>&</sup>lt;sup>3</sup> Dolan v. City of Tigard, 512 U.S. 374, 398, 114 S. Ct. 2309, 129 L. Ed. 2d 304 (1994).

- (b) It cannot be that, under the Draft AHP, replacing a building system should lead to an obligation to provide Replacement Affordable Housing Units. No Housing Units are being "replaced." Only leaseholds where a project is being rebuilt, or perhaps renovated to a "like new" condition should be considered for a Replacement Affordable Housing obligation.
- (c) Also, what is the rationale for imposing an Affordable Housing obligation on an existing project that has <u>not</u> been rebuilt or renovated, with a short remaining Lease term and with a need to replace a building system in the ordinary course of operation and upkeep? Even if this were to make sense, which it does not, what purpose is served by a Lessee waiting to complete the work while going through the tenant survey process? And if the Lessee is subject to an Affordable Housing Replacement obligation, and an Inclusionary Housing Obligation, then the practical outcome is that the work will just not be done.
- (d) The relationship between an Affordable Replacement Housing Obligation and an Inclusionary Housing Obligation is unclear. Does an Affordable Housing Replacement Obligation get credited against the Inclusionary Housing Obligation, and if so, how? Section 2 under "Inclusionary Housing" is not clear as to mix of the Inclusionary Housing Requirement, so that, for example, if the Affordable Housing Replacement Requirement results in 30% moderate income replacement units based on the number of units following rebuilding or substantial rehabilitation, does that satisfy the Inclusionary Housing requirement? And if not, what will be the Inclusionary Housing requirement in light of the Replacement Affordable Housing requirement?

# 7. <u>Affordable Unit Requirements</u>

- (a) No tenant survey should be required for current market rate units (tenants are already paying market rents).
- (b) Inclusionary Unit requirement should be based on the number of Net New Units provided as provided in the 2020 County Inclusionary Housing Ordinance enacted to regulate unincorporated areas of the County.
- (c) Why is there a reference to, and definition of, "Extremely Low Income" households in the Draft AHP? There is no requirement to provide Affordable Units at that level and to reference such households confuses the Inclusionary Housing obligation.

# 8. <u>Feasibility</u>

(a) The Feasibility Analysis process described in the Draft AHP is not appropriate for assets subject to a ground lease with a declining term. We question whether there has been adequate modeling of the impact of the Draft AHP on the various leasehold situations.

The proposed use of a target return based on market cap rates plus "an amount not to exceed 200 basis points" is without meaningful context and should not be

applicable to the leaseholds in Marina del Rey for two principal reasons. First, a leasehold interest is less valuable than a fee simple interest and, as such, should earn a higher "risk premium" than "an amount not to exceed 200 basis points." Second, Marina del Rey leaseholds are entering a period of time when the declining term has an ever-greater impact on asset value. The use of a target return rate (cap rate plus risk premium) implies that feasibility will be based on capitalized net operating income. The declining Lease term as well as the potential for changes in cash flow during the Lease term due to inclusionary housing requirements means that the only way to establish value (or changes in value) is to consider a net present value of the leasehold interest for the remainder of the term. The valuation based on net present value (NPV) will be, correctly, significantly lower than a valuation based on capitalized net operating income.

(b) The economic feasibility analysis under the Draft AHP will be different for each Lessee dependent in large part on the extension status of each leasehold. There are two categories of ground leases: those that have been fully extended, and those that have some limited ability to be further extended.

For ground leases with the ability to extend the existing term, the economic feasibility can be determined on a case-by-case basis and considered along with the total package of economic deal terms, including all of the standard economic terms as well as recent County requirements such as prevailing wage and potential establishment of a reserve study requirement. Feasibility for each lessee will vary based on the cost of renovation, the County's requirements, and the likely return on investment.

Leaseholds that have been fully extended have negotiated highly specific economic terms that, by definition, are deemed to be feasible. Factors such as percentage ground rent, capital investments, lease term, and lease extension fee to the County have all been established and agreed upon by both lessor and lessee based on the specific circumstances of each leasehold. Investments (both debt and equity) have been made based on these terms. The imposition of an additional substantial affordable housing requirement will have a significant negative impact on cash flow and asset value which cannot be offset by the benefit of an additional lease term. In the absence of an additional extension of the lease term, feasibility can only be maintained by making the lessee whole for the reduction in cash flow associated with the additional affordable housing requirement.

Additionally, it is quite simply economically infeasible to offset the inclusionary housing requirements in the Draft AHP by reducing ground rent paid to the County. This is true both for extended leaseholds that have no affordable unit dedication, as well as for fully extended leases with an affordable dedication lower than the 30% inclusionary housing requirement defined in the Draft AHP.

(i) By way of example, here is a summary of the economic impact of a 30% affordable housing requirement on a hypothetical 100-unit building with all market rate units. The examples show the outcome assuming a ground rent

of 11.3%, the weighted average ground rent for Marina del Rey multifamily assets. This analysis demonstrates that there is insufficient ground rent to fully offset the reduction in revenues created by the affordable housing dedication.

Assume 100 units, average market 1 BR rent \$3,416

		100% Market	70% Market/30% Affordable (1)
Total <u>monthly</u> rent		\$341,600	\$272,825
Ground Rent to DBH	11.3%	38,530	30,773_
Net to Lessee		\$303,070	\$242,052
Revenue difference to make	Lessee whole:	\$61,018	
Total County ground rent		30,773	
Can ground rent offset VLI im	pact?	NO	

(ii) There are also several fully extended leaseholds with affordable housing covenants already in effect. Percentage ground rent for these Leases varies from lease to lease. The example below demonstrates that an existing project with a current dedication of 15% affordable units (assuming a weighted average percentage ground rent for Marina del Rey multifamily assets) can support the incremental dedication of an additional 15% of units (to the Draft AHP target of 30% dedication) but only by offsetting 100% of the ground rent obligation to make up for the loss of revenue to the Lessee.

Assume 100 units, average market 1 BR rent \$3,416; 85% of existing at market/15% of existing at Low

·		85% Market/15% Low	70% Market/30% Affordable (1)
Total <u>monthly</u> rent		\$306,755	\$272,825
Ground Rent to DBH	11.3%	34,663	30,829
Net to Lessee		\$272,092	\$241,996
Difference to make Lessee w	hole:	\$30,096	
Total County ground rent		30,829	
Can ground rent offset VLI im	pact?	<b>YES</b> 989	6 of total ground rent

Affordable housing requirements in fully extended Leases vary by individual project. Affordable housing commitments of less than 15% are "unmitigable" since the reduction in cash flow due to the incremental affordable requirement of the Draft AHP cannot be offset with a ground rent credit.

- (c) The feasibility issue is magnified by the issues discussed above related to the definition of "Substantial Rehabilitation" when the Draft AHP is triggered by merely complying with the terms of the Leases to perform capital repairs and, under several Leases, to renovate the improvements.
- (d) In addition to diminishing cash flow to the Lessee (the County will have its own policy issues to deal with concerning the reduction in ground rent due to the reduced gross receipts of a Lessee), the Draft AHP erodes asset value in two ways. First, the imposition of an additional financial burden without the ability to provide an

economic offset reduces the net operating income in excess of the revenue loss. A reduction in rental revenue does not result in a proportional reduction of operating expenses, so the diminution of asset value is greater than the incremental reduction in revenues.

- (e) Second, the County's ability to burden an existing contract virtually at will (with no meaningful consideration of true economic feasibility) creates considerable uncertainty with respect to potential buyers, investors, and lenders. In addition to a valuation based on reduced net operating income, a higher return rate will be required to compensate for the potential for unknown future obligations. The resulting reduction in asset values will likely reduce or halt new investment in Marina del Rey just when aging assets require fresh capital. And the implementation of the Draft AHP's substantial increase in the affordable housing obligation will also impact, and indeed, dramatically lower, the County's financial benefit derived from its participation in future sale proceeds.
- (f) Is it possible for a Feasibility Analysis to reflect that an Affordable Unit obligation may be less than 30%? Is it intended that a reduction in minimum and percentage rent, or providing rent credits be part of the Feasibility Analysis?
- (g) See above regarding rent adjustments.
- (h) Incentives "available" to the Lessee should not be relevant. Incentives intended to be "utilized" by the Lessee should be relevant.
- (i) The California Real Estate Journal citation referenced for the capitalization rates does not seem to exist.
- (j) The Draft AHP parenthetical note ("(Note: County rent adjustments to comply with the inclusionary housing requirement are subject to negotiation on a project-by-project basis") as commented on previously leaves a wide-open question if the rent adjustments are to be negotiated on a project-by-project basis, what happens if the negotiation ends with no agreement, which may be the case under the current "Substantial Rehabilitation"? Is the Lessee not permitted to proceed with the planned work? If not, will the County relieve a Lessee from its maintenance and repair obligation?

# 9. <u>Building Permit Timing</u>

(a) Waiting for approval of the Affordable Housing Plan before a Building Permit can be issued may be a timing issue for emergency repair work, governmental requirement improvements, materials and cost, construction contracts, etc. This would be particularly true if the draft Substantial Rehabilitation definition is not revised. Flexibility should be considered so that the work can be accomplished timely and cost-effectively.

# 10. <u>Subsidy/Voucher System.</u>

(a) As we have previously suggested, a subsidy/rental assistance program, notwithstanding the "substantial rehabilitation" trigger, would be the fastest and simplest way for the County to increase the number of affordable housing units in Marina del Rey. For example, assume that the average one-bedroom apartment in Marina del Rey rents for \$3,416 per month. The rent charged to Very Low Income (50% AMI) residents is \$911 per month. County subsidy of \$2,500 per unit per month would maintain the feasibility of the current multifamily projects, including lessee commitments to investment and rehabilitation of the current projects. The cost of the subsidy to the County would be partially offset by no diminution in the ground rent generated by that unit. The City and County are currently paying \$150 per day to certain hotels for temporary housing, or approximately \$4,500 a month. The County subsidy envisioned will also cost significantly less than the current cost of County investment in the construction of new affordable units. Why has this not been considered?

# 11. Waiting List/Monitoring.

(a) Lessees with existing Affordable Housing Covenants should be able to continue to comply with such Affordable Housing Covenants under the terms already agreed to and so implemented, including the fee arrangements and existing provisions for waiting lists. Any new monitoring and fee system should be limited to those leaseholds where new affordable units are agreed to under the Draft AHP.

# 12. <u>Examples</u>.

- (a) Given the variety of leasehold situations in Marina del Rey and the potential applicability of the Draft AHP under different scenarios, before "final" consideration, the County staff should provide examples of the applicability and economic impact on both a Lessee and the County under various scenarios, as both will be losing revenue. Is the County really in a position to reduce its general fund revenue by displacing market rent tenants, because most certainly no Lessee will agree to bear the full cost of the affordable housing requirement?
- (b) We have produced generic examples above. We would hope that the County would do the same and share those with the Association.

## **CONCLUSION**

We conclude by imploring the County to recognize the Catch-22 that the Draft AHP will put each affected Lessee in should it be adopted in its current form and applied to the Leases. The magnitude of the aggregate of the obligations imposed on a Lessee – affordable housing obligations, prevailing wages, ground rent, the Rent Stabilization Ordinance - must be considered to determine if the imposition of the Draft AHP will have its intended effect or whether there will be unintended consequences detrimental to the Lessees and the goals of the County. A Lessee simply cannot and will not agree to an affordable housing obligation in order to perform its Lease and loan document obligations, or to enhance its project and upgrade its building systems. And a Lessee may not agree to an affordable housing obligation or an increase in a current affordable

housing obligation in order to secure a lease extension unless it is determined to be feasible by its investors, existing lender, and potential lenders, in light of the Lease obligations, materials costs, interest rates, inflation, etc. – not as determined by the County.

We ask you to work with us, not against us, to foster the goal of more affordable housing.



July 10, 2023

Porsche Nauls, Department Facilities Planner II Planning Division, County of Los Angeles Department of Beaches and Harbors 13837 Fiji Way Marina del Rey, CA 90292

#### Re: PROPOSED AFFORDABLE HOUSING POLICY

Dear Ms. Nauls;

I am writing to bring your attention to the draft for the proposed Affordable Housing Policy circulated on June 9<sup>th</sup> 2023. I understand this draft will go to the Board of Supervisors for a vote on August 8<sup>th,</sup> 2023. Given the short period for review and comment, I respectfully request that the submittal of the proposal be delayed so that Lessee can thoroughly review its impact on existing Leases with the County and make comments.

As it stands, the draft could have a negative impact on the ability to operate and finance a residential asset. This is particularly concerning for Lessee, who has an existing Lease with the County for a residential property. The Lease terms currently align with lender requirements but this will not be the case if 30% affordable housing were to be implemented. This could put Lessee in default with its lender.

Furthermore, the Lease requires a subsequent major renovation to be completed at a designated time. The proposed draft was to be adopted; it would trigger the 30% affordable requirement. This would mean that the asset, which already has 10% affordable housing, would need to evict 20% of our Tenants. This is a troubling prospect.

While the need for affordable housing is certainly great, I believe changing existing terms would be wrong. I appreciate your consideration of this matter.

Sincerely,

Debra Fixen

Debra Fixen, Pacific Ocean Management Director of Property Management



Caring for Our Coast

Gary Jones

Amy M. Caves
Chief Deputy Director

Carol Baker Deputy Director

August 29, 2023

LaTayvius R. Alberty
Deputy Director

TO: Small Craft Harbor Commission

FROM: Gary Jones, Director

SUBJECT: ITEM 8 – ONGOING ACTIVITIES REPORT

# **BOARD ACTIONS ON ITEMS RELATING TO MARINA DEL REY**

No items relating to Marina del Rey were on the July 2023 Board of Supervisors agendas.

### REGIONAL PLANNING COMMISSION'S CALENDAR

No items relating to Marina del Rey were on the July 2023 Regional Planning Commission agendas.

## CALIFORNIA COASTAL COMMISSION CALENDAR

No items relating to Maria del Rey were on the July 2023 California Coastal Commission agendas.

# REDEVELOPMENT PROJECT STATUS REPORT

The updated "Marina del Rey Redevelopment Projects Report" is attached.

## **DESIGN CONTROL BOARD MINUTES**

The March 2023 Design Control Board minutes are attached.

# MARINA DEL REY SLIP REPORT

In April 2023, the overall vacancy rate across all anchorages in Marina del Rey stood at 10.5%. Adjusted to remove out-of-service slips and 50% of available double slips, the vacancy rate within Marina del Rey stood at 9.2%. The vacancy data by anchorage and slip length are provided in the document attached.

## CALIFORNIA COASTAL COMMISSION SLIP REPORT

Pursuant to certain conditions of the Coastal Development Permit (5-11-131) issued by the California Coastal Commission, the County is required to maintain certain minimum thresholds of slip sizes as a percentage of the entire Marina. A report of the percentage of each size category as a percentage of all available slips in the Marina is attached.



Small Craft Harbor Commission August 29, 2023 Item 8 Page 2 of 2

# **ILLEGAL BOAT CHARTER ENFORCEMENT**

DBH Code Enforcement Unit continues to monitor and deter illegal charter boat activities at the public launch ramp and Chace Park docks. The County Sheriff's Marina del Rey station and the US Coast Guard have an enforcement program for charter boat activities in Marina del Rey. Members of the public are encouraged to report illegal boat charters to the Harbor Master at (310) 482-6000 and USCG at (310) 521-3770 or <a href="mailto:SECLALB@uscg.mil">SECLALB@uscg.mil</a>, or to DBH at <a href="mailto:info@bh.lacounty.gov">info@bh.lacounty.gov</a>.

GJ:LA:SP:yw

# Marina del Rey Redevelopment Projects Report As of August 9, 2023

Parcel No. Project Name	Representative	Redevelopment Proposed	Massing and Parking	Status
113 Mariner's Village	Mark Wagner	* Renovation of 981 apartments * Improvements to promenade	Massing – Existing buildings to remain.  Parking – Existing parking to remain.	Proprietary – Item opened on 9/23/2013. On October 30, 2018, the Los Angeles County Board of Supervisors approved an option for an amended at restated lease. The revised project will include 20% affordable units. The Option for the Amended and Restated Lease was extended for one year, until October 29, 2023, at the October 18, 2022 Board of Supervisors Meeting.
				Regulatory – The Regional Planning Commission approved an after-the-fact Coastal Development Permit (CDP) for the previous removal of waterbird nests. The appeal of that CDP was approved by the Coastal Commission in September 8, 2021. Lessee is tentatively scheduled to present at the Marina del Rey Design Control Board meeting scheduled for January 19, 2022. Lessee's presentation at Jan 19, 2022's DCB meeting was continued to allow more time to review the proposal. Staff scheduled ex-parte meetings with Meg Coffee and Chair Cho. Lessee's design plans were approved at the March 2022 DCB meeting.

# DESIGN CONTROL BOARD MINUTES March 15, 2023

**Members Present:** Meg Rushing Coffee, Member (First District); Genelle Brooks-Petty, Member (Second District); Steven Cho, Chair (Fourth District)

**Members Absent:** Tony Wong, P.E., Vice Chair (Fifth District)

**Department Staff Present:** Amy Caves, Chief Deputy Director; Warren Ontiveros, Planning Division Chief; Porsche Nauls, Departmental Facilities Planner II; Lola Reyna, Secretary

**County Staff Present:** Parjack Ghaderi, County Counsel; Clark Taylor, Department of Regional Planning

**Guests Testifying:** Monica Solanki, Coco Beach; John Helminski, Crown Castle LLC; Mike Heffernan, Sunset Signs and Printing Inc.

- Call to Order, Land Acknowledgement, and Pledge of Allegiance
   Chair Cho called the meeting to order at 1:31 pm and led the Pledge of Allegiance.
- 2. Approval of the September 21, 2022 and December 13, 2022 Minutes

Moved by Ms. Brooks-Petty, seconded by Chair Cho. The September 21, 2022 and December 13, 2022 minutes were approved.

Ayes: 3 - Chair Cho, Ms. Cofee, Ms. Brooks-Petty Navs: 0

3. Consent Agenda

None

4. Old Business

A. Election of Officers

Chair Cho moved to elect Board Member Coffee for Chair and Board Member Brooks-Petty for Vice Chair.

Ayes: 3 - Chair Cho, Ms. Coffee, Ms. Brooks-Petty Nays: 0

- B. Parcel 95 Gold Coast West, LLC / Coco Beach Bar and Grill DCB #22-014-B Consideration of new signage
- Ms. Nauls presented the staff report.

**Board Comment** 

Design Control Board Minutes March 15, 2023 Page 2

Chair Cho asked if there were any questions from the Board. Hearing none, Chair Cho asked if there were any Applicants present.

Ms. Solanki, Operations Manager for Coco Beach Bar & Grill introduced herself and gave a summary presentation of the proposed project and presented a rendering of the signage to the Board.

Ms. Coffee asked for clarification of the proposed sign colors.

Ms. Solanki provided clarification.

# Public Comment

None

Board Member Coffee moved to approve DCB #22-014-B, seconded by Chair Cho.

Ayes: 3 - Chair Cho, Ms. Coffee, Ms. Brooks-Petty

Nays: 0

## 5. New Business

A. 2023 Design Control Board Meeting Schedule

Chair Cho moved to approve 2023 Design Control Board Meeting Schedule with deleted January and February dates, seconded by Board Member Brooks-Petty.

Ayes: 3 - Chair Cho, Ms. Coffee, Ms. Brooks- Petty

Nays: 0

B. Admiralty Way – Crown Castle, LLC – DCB #23-001 – Consideration of pole-mounted wireless telecommunications facility

Ms. Nauls presented the staff report.

#### **Board Comment**

Chair Cho asked if there were any questions from the Board.

Board Member Brooks-Petty asked if the color temperature of the new lights would be consistent with the old lights.

Ms. Nauls stated that the color temperature would be consistent and deferred to the Applicant team for additional details.

Mr. Helminski introduced himself to the Board. He stated that the luminaires would be consistent and that the approval and regulation of such would also be overseen by the Street Lighting Division of Los Angeles County.

# **Public Comment**

None

Board Member Brooks-Petty moved to approve DCB #23-001, seconded by Chair Cho.

Design Control Board Minutes March 15, 2023 Page 3

Ayes: 3 - Chair Cho, Ms. Brooks-Petty, Ms. Coffee

Nays: 0

C. Parcel 44 – Pacific Marina Venture, LLC / 12Twelve Nail Bar–DCB #23-002 – Consideration of new signage

Ms. Nauls presented the staff report.

## **Board Comment**

Chair Cho asked if there were any questions from the Board. Hearing none, he asked if there were any Applicants present.

Mr. Mike Heffernan, Permit Coordinator for the sign contractor Sunset Signs and Printing Inc., introduced himself to the Board.

# Public Comment

None

Chair Cho moved to approve DCB #23-002, seconded by Board member Coffee.

Ayes: 3 - Chair Cho, Ms. Brooks-Petty, Ms. Coffee

Nays: 0

# 6. Staff Reports

Chair Cho moved that all reports be received and filed, seconded by Board member Brooks-Petty.

Ayes: 3 - Chair Cho, Ms. Brooks-Petty, Ms. Coffee

Nays: 0

## 7. Public Comment

None

# 8. Adjournment

Moved by Chair Cho, seconded by Board Member Coffee.

Ayes: 3 - Chair Cho, Ms. Brooks-Petty, Ms. Coffee

Nays: 0

Chair Cho adjourned the meeting at 2:00 p.m.

Respectfully Submitted,

Lola Reyna Secretary for the Design Control Board

Apr-23		17-25			26-30			31-35			36-40			41-45			46-50			51+						
Marina	VAC	AVAIL	%VAC	TOTAL VACANT	TOTAL AVAILABLE	%VAC	TTL OFF- LINE	TTL including OFF-LINE																		
P1																			1	5	20.0%	1	5	20.0%		
P7	4	8	50.0%	9	80	11.3%	6	44	13.6%	1	42	2.4%		12	0.0%		7	0.0%		21	0.0%	20	214	9.3%		
P8		15	0.0%		48	0.0%	4	82	4.9%		38	0.0%		16	0.0%	2	7	28.6%		1	0.0%	6	207	2.9%		
P10	2	9	22%	30	85	35%	9	44	20%	4	22	18%										45	160	28.1%		
P12							12	30	40.0%	7	53	13.2%	8	58	13.8%	9	44	20.5%	3	31	9.7%	39	216	18.1%		]
P13	1				3	0.0%	4	33	12.1%		70	0.0%	4	36	11.1%	3	36	8.3%		8	0.0%	12		6.5%		
P15	9	113	8.0%	4	40	10.0%	8	59	13.6%		11	0.0%										21	223	9.4%		<u> </u>
P18	9	198	4.5%	4	68	5.9%		41	0.0%		39	0.0%		26	0.0%		18	0.0%		34	0.0%	13		3.1%		
P20	0	42	0.0%		59	0.0%	2	21	9.5%		9	0.0%		8	0.0%							2	139	1.4%		<u> </u>
P21	21	121	17.4%	3	٠.	5.9%					10											24		13.2%		4 1
P28	4	9	44.4%	30	121	24.8%		54	0.0%		22	0.0%	14	68	20.6%	6	24			1	0.0%	54		18.1%		<u> </u>
P30	2	8	25.0%	9		12.9%	10	51	19.6%		33	0.0%	1	26	3.8%		52	0.0%		55	0.0%	22		7.5%		4 1
P41	18	90	20.0%	1	24	4.2%	6	34	17.6%													25		16.9%		<u> </u>
P43					5	0.0%	4	63		7	48	14.6%	18		26.1%	5	37			36	0.0%	34		13.2%		4 1
P44	4	14	28.6%	18		27.3%	17	39	43.6%				5	10	50.0%		7	0.0%	1	4	25.0%	45		32.1%		<u> </u>
A47	8	96	8.3%	2		2.6%	5	28		6	28		2	10	20.0%		1	0.0%		3		23		9.5%		4 1
P53	3	23	13.0%		28	0.0%	6	35	17.1%	1	21	4.8%										10	107	9.3%		. I
P54					2	0.0%				2	26	7.7%	3	6	50.0%		7	0.0%		14	0.0%	5	55	9.1%		4 1
P111		20	0.0%	2	27	7.4%		2	0.0%		15	0.0%					8	0.0%		39	0.0%	2	111	1.8%		<u> </u>
P112	5	100	5.0%					11	0.0%		24	0.0%								40	0.0%	5	175	2.9%		4 1
P125I	2	24	8.3%	7	48	14.6%	4	93	4.3%	4	50	8.0%	2	27	7.4%	3	17	17.6%	2		11.1%			8.7%		<u> </u>
P132	2	29	6.9%		3	0.0%	8	68	11.8%	9	58	15.5%	2	45	4.4%	2	39	5.1%	1	20	5.0%	24	262	9.2%		
Total	94	919	10.2%	119	905	13.1%	105	832	12.6%	41	619	6.6%	59	417	14.1%	30	304	9.9%	8	330	2.4%	456	4326	10.5%	0	4326

## Summation

 Vacancy in 17'-25'
 10.2%

 Vacancy in 26'-30'
 13.1%

 Vacancy in 31'-35'
 12.6%

 Vacancy in 36'-40'
 6.6%

 Vacancy in 41'-45'
 14.1%

 Vacancy in 46' to 50'
 9.9%

 Vacancy in 51' and over
 2.4%

Overall Vacancy
Vacancy w/o DOUBLES, OUT OF SERVICE slips

10.5%

9.2%