2016 City of Berkeley Inclusionary/Below-Market Rate (BMR) Rental Training

Anjanette Scott
Community Development Project Coordinator
Guiding Documents

- Notice of Limitation-Recorded agreement for your property
- Administrative Regulations

In case of a conflict, go with Notice of Limitation
Owner’s Responsibilities

- Know the Notice of Limitation and Administrative Regulations
- Train staff or property management staff on BMR requirements
- Certify initial tenants and Recertify annually
- Explain BMR program to interested applicants
- Manage waitlist and choose people from waitlist
- Complete online annual monitoring reports
- Participate in occasional on-site monitoring and resolve issues in a timely manner
City’s Responsibilities

- Provide Administrative Regulations
- Release new incomes and rents (approx. June/July)
- Final approval of applicants at initial certification and annual recertifications
- Review and approve annual online monitorings
- Conduct on-site monitorings
- Explain BMR program to interested applicants and general public
- Provide data on BMR program to the City Council, City Manager, Mayor, and other City leadership
Head of Household Eligibility and Requirements

- Meet the income limits
- Can’t own another property-primary or investment
- Be at least 18 and legally able to execute contracts
- Be financially independent: can’t be claimed on another person’s tax returns
- Can’t be employed by owner or property manager
- Move into BMR unit within 60 days of lease execution
- Reside in BMR unit for at least 10 months out of the year as permanent, sole residence
  - Can sublet, with the City’s permission, for up to 12 months for extreme circumstances
Household eligibility Example 1

- BMR applicant scenario
  - James Rey works as the owner’s accountant earning $50K/year (current income limit is $60K)

Is this applicant eligible?
Household Eligibility Example 1 Answer

NO!

Applicant works for the owner
Household Eligibility Example 2

- Jane Myers and John Scott are co-applicants with the following situation
  - Both are UC Berkeley students
  - Jane receives student loans and cannot be claimed on another person’s tax returns
  - John just moved out of his parents’ house and is still being claimed on their taxes because his parents support him financially
  - Jane’s loans and the money John’s parents give him total $48K (current limit is $60K)

Are Jane and John eligible for a BMR unit?
Household Eligibility Example 2 Answer

NO!

John, who is one of the heads of household, is not financially independent.
Still being claimed on someone else’s tax returns
Household Eligibility Example 3

- BMR applicants Amy and Paul Lee have the following situation:
  - They recently moved out of their house in Georgia and moved to the Bay Area. They are currently renting their house.
  - They have 2 kids, one is 19 and a student at Cal. The student is still being claimed on Amy and Paul’s taxes.
  - Amy and Paul earn $65K from their jobs. Their child gets $10K of financial aid that is not for tuition and fees. Therefore, the total income is $75K (income limit is $83K).

Is this household eligible?
NO!

Cannot own a property.
Dependent student OK because not Head of Household
Still must count Cal student’s financial aid in the income
Timing for Certifications/Recertifications

- Initially and annually.
- Full income documentation due: Initial, 2nd year they sign lease, every 5th anniversary they sign lease
  - e.g. If they first signed lease in 2010, full income documentation is required in 2010, 2011, 2015, 2020, 2025, etc.
- All other years, Self Certification form
Submission Process for Certifications/Recertifications

- 30 days prior to lease execution/renewal: collect Self Certification form or income documentation from applicant/tenant
- Calculate income and determine eligibility based on City rent and income limits
- If eligible, submit to City with Tenant Approval Form
- Await City’s approval prior to signing or renewing lease
- City’s decision is final as of date of approval-no changes unless City error
Submittal Requirements for Full Documentation

- 3 most recent pay stubs
- Statements for non-wage income: unemployment, Social Security, disability, financial aid
- Most recent W-2
- Most recent tax return
- 2 months of bank statements
- If applicant was recently claimed on another’s person’s tax returns, submit a signed statement from that other person stating the amount of financial assistance in the last 12 months and how much will be provided within the next 12 months
- If 18 and over and no income, provide a signed statement of no income
- Letters of explanation
- Additional documentation, as requested, to clarify or confirm information
Submittal Requirements - All Documents

Submit everything at one time!!!

Completely fill out Tenant Approval Form

Double check the list and make sure everything’s included

Avoid delays and work for you, me, and tenant
Section 8 Special Requirements

- **Initial Certification**
  - Tenant Approval Form
  - Units less than 80% AMI - require income and asset documentation
  - Most recent tax return
  - Housing Authority approval letter with tenant and Housing Authority portion

- **Recertification**
  - Tenant Approval Form
  - Housing Authority approval letter with tenant and Housing Authority portion
  - Most recent tax return
Submission of Participation Agreement and Lease

- Participation Agreement requires tenant to acknowledge BMR rules. Attachment to lease
- Upload signed Lease and Participation Agreement
Calculating Wage Income

- Income from work is based on current income projected out for a year
- Collect wages for all jobs
- Use gross pay before any deductions
- Use the average of last 3 pay stubs to determine wages per period
- To get yearly number perform calculations based on how many pay periods are expected throughout year.
  - If they get paid every 2 weeks, multiply pay by 26
  - If they get paid every week, multiply by 52
  - If they get paid monthly, multiply by 12
  - Adjust for special circumstances such as seasonal employment, teachers, etc
Calculation Wage Income Example

- BMR applicant James Downey has the following scenario
  - Has 3 pay stubs from Safeway with gross wages of $1,000, $850, and $1,200
  - Works at Safeway 12 months out of the year and gets paid every 2 weeks
  - Has no other job

- Answer
  - Average of 3 pay stubs: $1,017
  - Receives 26 pay checks: $1,017 x 26 = $26,433 annual income
Calculation of Wage Income 2nd Example

- BMR applicant, Candace Porter, has the following situation

  - She is a Berkeley High teacher and does not work during the summer. She gets paid biweekly and gets paid 18 times (doesn’t get paid for half of June, all of July and August)
  - Her 3 pay stubs show gross wages of $3,000, $3,000, and $3,000
  - She has a side job as an UBER driver where she works the whole year. She gets paid weekly. Her 3 pay stubs show gross wages of $800, $225, and $315.
Calculation of Wage Income 2\textsuperscript{nd} Answer

- Berkeley High job
  - Average pay per period is $3,000
  - Gets paid 18 times in a year or $3,000 \times 18 = $54,000

- UBER job
  - Average pay per period is $447
  - Gets paid 52 times a year or $447 \times 52 = $23,227

Total Income=$77,227
Other Income Calculations

- Regular payments from non-wage sources
  - Financial aid (everything except what is for tuition and fees)
  - Social Security
  - Disability including Veterans money
  - Unemployment
  - Life insurance
  - Trusts
  - Gifts
Asset Income

- Something of value that can generate income even though it’s not regular income
- If over $5K, income from assets or a percentage of assets must be counted and added to other income
- Types of assets include:
  - Stocks, bonds, equities
  - Bank accounts
  - Trusts
  - Life insurance policies
  - Retirement accounts that the household has access to
  - One-time lump sum payments such as gifts or inheritances
Difference between Other Income and Assets

- Other Income is regular payments
- Assets are irregular withdrawal/distributions
Calculating Income from an Asset

- Applicable only if assets are worth more than $5,000
- Use the greater of the actual income or HUD passbook value (currently .06%)

How much of these assets should be counted as income?

- Household has a stock portfolio worth $300K. Based on taxes and the financial statement for the last year, they have received $10K and the first 6 months of this year they received $3500.
  - $8,500-average of $10K and projected $7K for this year. Higher than $180 passbook
- Household has $100K in a savings account, doesn’t receive regular income
  - $60 based on passbook value
Determining Correct Rent/Incomes Limits and Utility Allowance

- Rents, income limits and utility allowances are released by the City annually (June/July)
- Income limits double at recertification
- Utility Allowance based on Section 8 figures and based on bedroom size
- If tenants pay utilities, utility allowance must be subtracted from gross rent
- Initial income limits for new applicants are based on the unit affordability (unless Notice of Limitation says something else).
  - 50% units use 50% limits
  - 60% units use 60% AMI limits
  - 80% units use 80% AMI limits
Extra Fees

- Extra Fees may not be charged above maximum rent. Must subtract required parking and renter’s insurance from gross rent.

- Optional fees such as parking can be charged above rent—must clearly be separated in lease.
Rent Increases and Changes in Limits

- Except for Section 8 tenants, all rent increases must be approved by the City.
- Tenant cannot pay more than current rent limits minus utility allowance.
- Exception is for Hold Harmless clause-do not have to lower rents if they decrease. 2012 only year where rents decreased year after.
- State law requires at least 30-day notice for rent increases.
- Can’t increase rent more than 10% in any one year.
Income and Rents for Different types of BMR units

- Density Bonus-State Requirements (Bedroom/Household size)
- City Mitigation Fee Units (Bedroom/Household size)
- City Inclusionary Units-square footage
Determining Incomes and Rents for Density Bonus/Mitigation Fee Units

- Based on State Requirements for bedroom size and household size
- Each bedroom size is assigned a household size, which is used to determine AMI limit. Shown in Notice of Limitation

<table>
<thead>
<tr>
<th>Unit Size</th>
<th>AMI to Determine Income/Rent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Studio unit</td>
<td>AMI for a one person household</td>
</tr>
<tr>
<td>One-bedroom unit</td>
<td>AMI for a two person household</td>
</tr>
<tr>
<td>Two-bedroom unit</td>
<td>AMI for a three person household</td>
</tr>
<tr>
<td>Three-bedroom unit</td>
<td>AMI for a four person household</td>
</tr>
<tr>
<td>Four-bedroom unit</td>
<td>AMI for a five person household</td>
</tr>
</tbody>
</table>

- City chart calculates figures for bedroom sizes
- Doesn’t matter how many people are actually living in the unit
- Recertification incomes are double
Examples Incomes and Rents for Density Bonus/Mitigation Fee Units

Based on the 2015 City chart, what are the answers to the following scenarios:

- Initial income for a 3-BR 80% unit
  - $74,320

- Recertification income limit for a 500 sq.ft studio at 60%
  - $78,120 (sq.ft doesn’t matter)

- Initial income for 1-BR 50% unit with 1 person living in the unit
  - $37,200 (Household size doesn’t matter when determining income/rent)

- Gross rent for a 2-BR 81% unit with 4 people
  - $1,695 (Household size doesn’t matter when determining income/rent)
Determining Incomes and Rents for City Units

- Based on square footage in the following ranges
  - less than 400 sq. ft
  - 400-599 sq.ft
  - 600-699 sq.ft
  - 700-849 sq.ft
  - 850-999 sq.ft
  - 1,000-1,199 sq.ft
  - 1,200+ sq.ft
Examples Incomes and Rents for City Units

Based on the 2015 City chart, what are the answers to the following scenarios:

- Recertification income limit for a 500 sq.ft studio at 60%
  - $80,910

- Initial income for a 800 sq.ft 3-BR at 80%
  - $59,520

- Initial income for 675 sq.ft 1-BR at 50%
  - $34,875

- Net rent after utility allowance 1,000 sq.ft 2-BR 81% unit with 4 people (tenants pay electric heating, gas cooking, other electric, and water)
  - $1,881-83=$1,798 (utility allowances based on bedroom size not sq.ft, $25, $6, $31, $21)
Occupancy Requirements-Based on Berkeley Housing Authority Section 8

Per ordinance, below are minimum number people required to live in BMR unit

- Studio - 1 person
- 1 BR - 1 person
- 2 BR - 2 people
- 3 BR - 4 people
- 4 BR - 5 people
- 5 BR - 7 people

Exception is live-aide or other special circumstances-allows household to have bigger unit
How to Treat Over-Income Tenants

Recently changed policy to the following

- If over-income at recertification, provide 60-days notice to vacate
- Rent unit to BMR-eligible household on waitlist
Changing Household Members

- Process for adding new members to household
  - If a new Household member has not been approved for the BMR program is being added, the income and asset documents must be submitted for all members of the household.
  - Entire Household (including existing BMR tenants) must meet the current, initial income limits for the BMR program.
  - Submit Tenant Approval Form
Moving BMR Tenants/Switching Units

- Process for switching BMR tenants to different unit
  - Submit Tenant Approval Form
  - Use recertification income limits
  - Let me know in the email that you are switching units

- Process for switching market-rate and BMR units
  - Avoid if possible-hard to track
  - Must be comparable in size and amenities
  - Let me know in the email that you are switching units
  - Add new unit in CDS and make a note in former unit
Record Keeping of BMR Units

- Must keep all records for current tenants
- Must keep 2 years’ of records for previous tenants
Reporting in CDS

Compliance reports are to be submitted through CDS and are due annually on February 15th. You will access CDS by logging onto www.citydataservices.net. Anyone who needs a login and password may contact CDS by emailing them at citydataservices@yahoo.com or by contacting Chris Davidson at 415.572.4572. There are two components to the online report: the narrative and the occupancy report that updates the unit/tenant information. Below are instructions on how to submit the report.

To submit the narrative Annual Compliance Report:

- Go to www.citydataservices.net to log in using your assigned LOGIN and User Password
- Click on Multifamily Tab under headings
- Click on your specific Property Name/Address on left column, i.e. “ARTech Building”
- Click on Go To Reports tab
- Under Reports Currently Due, click on “Click To Complete”
- Fill in empty fields and answer questions regarding the property
- When completed, click on Submit to Berkeley Program Manager
To submit the occupancy report:

- Return to Main Page, where the property listing resides
- Click on your specific Property Name/Address on left column, i.e. “ARTech Building”
- Click on Project Info
- On far left column, click on unit number
- Fill in empty fields and update information for the specific unit
- When completed, click on Submit Data
QUESTIONS?