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INFORMATION: REPLACEMENT UNIT DETERMINATION HOUSING CRISIS ACT OF 2019, AS AMENDED BY SB 8 (2021)

The Housing Crisis Act of 2019, as amended by SB 8 (California Government Code Section 66300 et seq.), prohibits the approval of any proposed housing development project (“Project”) on a site (“Property”) that will require demolition of existing dwelling units or occupied or vacant “Protected Units” unless the Project replaces those units as specified below. The replacement requirements below apply to the following projects:

- Discretionary Housing Development Projects that receive a final approval from Los Angeles City Planning (LACP) on or after January 1, 2022,
- Ministerial On-Menu Density Bonus, SB 35 and AB 2162 Housing Development Projects that submit an application to LACP on or after January 1, 2022, and
- Ministerial Housing Development Projects that submit a complete set of plans to the Los Angeles Department of Building & Safety (LADBS) for Plan Check and permit on or after January 1, 2022.

Replacement of Existing Dwelling Units

The Project shall provide at least as many residential dwelling units as the greatest number of residential dwelling units that existed on the Property within the past 5 years.

Replacement of Existing or Demolished Protected Units

The Project must also replace all existing or demolished “Protected Units”. Protected Units are those residential dwelling units on the Property that are, or were, within the 5 years prior to the owner’s application for a SB 8 Replacement Unit Determination (SB 8 RUD): **(1)** subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income, **(2)** subject to any form of rent or price control through a public entity’s valid exercise of its police power within the 5 past years, **(3)** rented by lower or very low income households (an affordable Protected Unit), or **(4)** that were withdrawn from rent or lease per the Ellis Act, within the past 10 years.

Whether a unit qualifies as an affordable Protected Unit, is primarily measured by the INCOME level of the current or last known renter household in occupancy, if known.

For Projects with existing occupied units that are not subject to the Uniform Relocation Assistance and Real Property Acquisition Act (URA), a third party contractor will collect the income information of the occupants using the following steps:

- 1) Applicants will provide contact information of the tenants. Using this information, the contractor will prepare and send out informational packages to the property unit addresses. The tenants will have 30 days to respond.
- 2) If tenants do not respond, the contractor will follow up with at least two calls and two letters to answer any questions about the Tenant Income Certification (TIC) form, the Right to Return and eviction/future relocation payment under the Rent Stabilization Ordinance (RSO). If phone contact information is not available, the contractor will mail three letters to the unit address two weeks apart.
- 3) If tenants respond, the contractor will assist them in completing the TIC form and submit the completed form to LAHD for review.

For federally-funded projects subject to the URA, the owner/applicant must submit a Relocation Plan that includes an explanation of how the project will comply with the RSO, Ellis Act and SB 8. Where applicable, the most restrictive requirement will prevail.

- ***In the absence of renter income documentation:*** Affordability will default to the percentage of extremely low, very low or low income renters in the jurisdiction as shown in the latest HUD Comprehensive Housing Affordability Strategy (CHAS) database, which as of September 5, 2023 is at 31% extremely low income, 18% very low income and 20% low income for Transit Oriented Communities (TOC) projects and 49% very low income and 20% low income for Density Bonus projects. The remaining 31% of the units are presumed above-low income. All replacement calculations resulting in fractional units shall be rounded up to the next whole number.

Replacement of Protected Units Subject to the Rent Stabilization Ordinance (RSO), Last Occupied by Persons or Families at Moderate Income or Above

The City has the option to require that the Project provide: **(1)** replacement units affordable to low income households for a period of 55 years (rental units subject to a recorded covenant), OR **(2)** require the units to be replaced in compliance with the RSO.

Relocation, Right to Return, Right to Remain:

Any existing occupants displaced by the Project have the right to remain in their units until six (6) months before the start of construction activities with proper notice subject to Chapter 16 (Relocation Assistance) of Division 7, Title I of the California Government Code ("Chapter 16"). However, existing occupants of Protected Units that are **Lower Income Households** (as defined in California Health and Safety Code Section 50079.5) are **also** entitled to: **(a)** Relocation benefits subject to Chapter 16 (commencing with Section 7260), and **(b)** the right of first refusal ("Right to Return") to a comparable unit (same bedroom type) at the completed Project. If at the time of lease up or sale (if applicable) of a comparable unit, a returning occupant remains income eligible for an "affordable rent" (as defined in California Health and Safety Code Section 50053) or if for sale, an "affordable housing cost" (as defined in California Health and Safety Code Section 50052.5), owner must also provide the comparable unit at the "affordable rent" or "affordable housing cost", as applicable. This provision does not apply to: **(1)** a Project that consists of a Single Family Dwelling Unit on a site where a Single Family Dwelling unit is demolished, and **(2)** a Project that consists of 100% lower income units except Manager's Unit.

- **Warning: Government Code Section 66300(d)(2)(C), (D) do not tie benefits afforded to "existing occupants" with any set look back period. Therefore, "existing occupants" in place after the issuance of this RUD may also be entitled to benefits.**

Single Family Dwelling Units Replacement

For the purposes of an affordable Protected Unit that consists of Single Family Dwelling (SFD) Units, a comparable unit means:

- The affordable replacement unit(s) must contain the same number of bedrooms if the existing SFD contains three (3) or fewer bedrooms.
- The affordable replacement unit(s) must contain at least three (3) bedrooms if the existing SFD contains four (4) or more bedrooms.
- The affordable replacement unit(s) is not required to have the same or similar square footage or same number of total rooms as the existing SFD.

Application for a Replacement Unit Determination

Owners of a Project subject to the above replacement obligations must complete an application for a SB 8 RUD with LAHD. Information provided by the owner and existing tenant(s), as well as information gathered by LAHD will be used to determine whether any Protected Units exist. An SB 8 RUD can take up to 8 to 12 weeks to process upon receipt of all the required documents. Owners will be provided with the completed SB 8 RUD and a copy will be sent to LACP for discretionary projects or LADBS for ministerial (by-right) projects. For additional questions about the SB 8 RUD, please contact LAHD at LAHD-LandUse@Lacity.org.