



BLAINE COUNTY HOUSING AUTHORITY

BOARD MEETING AGENDA MEMO

Meeting Date: Staff Member:

Agenda Item:

Recommended Action:

None. Staff request feedback and direction on key topics related to amendments to the deed restrictions. Staff will bring the deed covenants for approval at a future meeting.

Policy Analysis and Background (non-consent items only):

GOAL OBJECTIVE ACTION

For the past year and a half, staff has been engaged in updating the deed restrictions and receiving feedback on templates that will be recorded on ownership and rental units in the BCHA portfolio. Deed restrictions are covenants that encumber a property and establish specific terms and allowed uses. They “run with the land” and bind current and future owners of the property to abide by the terms. Deed restrictions may also establish an administrative entity responsible for administering and enforcing the terms, as well as specific enforcement powers.

Since the creation of Ketchum’s Housing Department two years ago and identification of subsequent compliance challenges with owners and property managers of deed restricted units, staff determined that the BCHA deed restriction in use in the portfolio was lacking in adequate enforcement powers and would benefit from review and update.

It is not uncommon for housing organizations to amend deed restriction templates from time to time. Each time a property transacts, a new restriction is required to be recorded, superseding all previous deed restrictions between the parties. Recording a new deed restriction at this time resets the clock on the “term” of the restriction, ensuring long-term preservation of the unit, and offers an opportunity to apply new lessons learned and policy updates.

Grounded Solutions Deed Restriction and Subordinate Mortgage Templates

Staff turned to [Grounded Solutions Network](#), a national nonprofit membership organization focused on affordable housing solutions. In 2021, Grounded Solutions Network established [a model deed covenant \(restriction\) template](#) with explanatory commentary specifically designed for shared equity homeownership programs and for use by member organizations. The deed restriction template was developed in

partnership with Fannie Mae and Freddie Mac (Government Sponsored Enterprises or GSEs) to increase mortgage financing opportunities for participating homebuyers.

In addition to the deed restriction template, Grounded Solutions Network recommends the use of a "Subordinate Program Mortgage" to be recorded in conjunction with the deed restriction. The Subordinate Program Mortgage is a subordinate mortgage securing the obligations of the homeowner under the deed restriction in favor of the BCHA. Grounded Solutions Network recommends this approach as a backup to the deed restriction, as a mortgage is more recognizable to title companies and lenders and may be more easily enforced than the deed restriction. The Subordinate Program Mortgage was also vetted with the GSEs and takes position on title subordinate to any allowed mortgages and liens.

Staff have adapted the Grounded Solutions Network template to be used for BCHA's ownership and rental properties, incorporating existing policies and procedures and references to the Community Housing Guidelines, while maintaining the key language identified through the GSE review process to ensure viable financing.

The following addresses the key changes from the current BCHA deed restriction templates proposed in the updated deed restriction template. Versions of the proposed, new templates will be provided to the Board for review at a subsequent meeting. For now, the goal of this meeting is to familiarize the Board with the key concepts and receive any feedback or questions on the proposed changes.

Deed Restriction Term: Through discussions with Grounded Solutions Network and the City of Ketchum's legal counsel, as well as research on nationwide best practices, Staff learned that property restrictions in perpetuity face risk of legal challenges, particularly in some states including Idaho. To that end, legal counsel recommended a 70-year term for deed restrictions on properties in Idaho. Some historic restrictions in BCHA's portfolio do not explicitly state a term or the term is longer than recommended.

Best practice is to record a new restriction at time of resale or other transfer of ownership, effectively restarting the clock. Staff plan to apply this new 70-year term to all newly recorded restrictions.

Responsible Parties: Depending on the mechanism or policy for adding the deed restriction to the unit, Staff have added additional responsible parties. For example, if the deed restriction was created through Ketchum's FAR Exceedance (Density Bonus) Program, the City of Ketchum would be added. This allows for the City of Ketchum to also have enforcement powers on those units resulting from the Density Bonus program or other Planning and Zoning Commission negotiation, in the event BCHA is unable to enforce.

Clarified and Expanded Enforcement Mechanisms

Staff identified several limitations with the enforcement powers of the current BCHA deed template. The proposed template includes varied responses to non-compliance, ranging from fees to forced sale, to better align with the degree and severity of the non-compliance infraction.

- Fees for Ineligible Renters: This is applied in the event that an owner (either community homeowner or landlord of community rental) rents to someone who is not approved by BCHA. Landlord must give ineligible tenant three months' notice and provide relocation expenses in the amount of three times the tenant's monthly rent.
- Fee for unoccupied home: This fee would apply to the Owner listed on the deed restriction for homeowner units and rental units. If BCHA provides eligible tenants and the Owner does not rent

within 30 days of the exiting tenant vacating the unit, then Owner must pay BCHA the amount of Maximum Housing Cost on that unit for the duration of the violation.

- The right to void any sale, lease, conveyance or other transfer of the home
- Exercise a Purchase Option: In addition to forcing the sale of the unit, BCHA has the option to purchase the unit
- Require payment of money damages for the cost of acquiring a comparable dwelling unit for an Eligible Buyer

Updated to reflect BCHA's most recent Community Housing Guidelines: Policy change that the Owner cannot own other developed residential real estate, unless updated Community Housing Guidelines say otherwise.

Clarified role of the City / Program Administrator

This section outlines certain responsibilities of any City whose policies, programs, or negotiations created the unit and BCHA, as the Program Administrator, such as inspections, reviewing capital improvements, and annual compliance. The City of Ketchum would like to be named on deed restrictions so that they also have enforcement power. Other Cities might want the same.

Maximum Appreciation for Ownership Units

Appreciation under current BCHA deed restrictions is limited to the lesser of 4% annually (not compounded) or the change in Consumer Price Index (CPI), Wage Earners and Clerical Workers, United States City Average published by the Bureau of Labor Statistics. This approach to appreciation is intended to both afford the homeowner appreciation in their home that generally keeps pace with inflation while preventing against the rapid price acceleration of inflationary spikes to keep homes affordable to future buyers within the corresponding income category. This approach should function as long as local incomes keep pace with inflation – i.e. real incomes remain constant or grow.

Staff has found, however, that over the past 23 years Blaine County incomes, as measured by HUD's annual Area Median Income (AMI), have not kept pace with the Consumer Price Index. From 2000 to 2023, AMI grew 34% (compound annual growth rate of 1.3%) while CPI grew 77% (compound annual growth rate of 2.5%). Additionally, between 2000 and 2022, incomes only grew 19% -- a significant increase from 2022 to 2023 is responsible for nearly half of the growth in incomes in the last 23 years.

As a result of this disconnect, homes in the portfolio have been appreciating faster than incomes, essentially becoming more and more expensive for future buyers in real dollars.

Staff are considering proposing to limit the overall maximum appreciation to 3% annually from 4%. This will not entirely solve the problem of slow income growth. However, it will further limit the impacts of high inflation years (like the current era) on maximum home resale prices. Annual average CPI growth only exceeded 4% three times from 2000 to 2023. In the same period, the change in annual average CPI exceeded 3% seven times.

Staff will present examples and further analysis at the Board meeting for consideration.

Tenant Rights for Rental Units: Staff developed a lease addendum that landlords would need to add to their leases. These protections include the following:

- Limitations on rent increases in a single year
- Reiteration of maximum rent

- Clarification on 'just cause' for evictions
- In the event of rehabilitation, certain remedies for the tenant so that they aren't displaced or experience property damage during the process

Next Steps

Staff will prepare final draft templates of the updated Ownership and Rental templates and provide them for review and approval at a subsequent BCHA Board Meeting.