



## BLAINE COUNTY HOUSING AUTHORITY

### BOARD MEETING AGENDA MEMO

Meeting Date:  Staff Member:

Agenda Item:

Recommended Action:

"I move to deny Exception Request to rent a for-sale unit"

Or

"I move to Approve to rent a for-sale unit, conditional upon #...of staff report"

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

The Community Homeowner has requested an exception to long-term rent their ownership unit. The request derives from they homeowner wanting the unit to sell more quickly, having a financial burden due to having purchased a home before selling the community unit, and mental stress.

#### Background

On June 7<sup>th</sup>, the community homeowner ("owner") stated that they were "starting to consider selling my condo." On July 18<sup>th</sup>, staff received their Notice of Intent to Sell and \$500 check, which when staff starts the sales process. At that time, the owner had already made an offer on a new home. On August 1<sup>st</sup>, they closed on their new home, meaning that they were able to qualify to pay the two mortgages simultaneously. That new sale did not include a contingency that the current home had to be sold in order to close on the new home, and the owner did not seek to understand BCHA's sale process or timeline before that. At this point, the homeowner became non-compliant with the deed covenant and the Policies:

*"4.1 Owner shall use the Property as the Owner's primary place of residence. For purposes of the preceding sentence, the Property shall be deemed the Owner's primary place of residents if the Owner...(d) does not own other residential property in Blaine County."*

During the July 18<sup>th</sup> exchange, staff reiterated key policies, such as the occupancy standard and income level of those units. Staff began creating the waitlist per selection process in the Community Housing Policies. On July 29<sup>th</sup>, staff responded to a request for the owner to short-term rent, directing the owner to the policies and deed restriction and reiterating that that is not allowed. On August 1<sup>st</sup>, staff began outreach to waitlisted households. BCHA's real estate representative viewed the unit and recommended cleaning the carpets. The owner refused to do so until September 4.

On August 21, 2024, the owner communicated that they believe they are facing an undue hardship and financial burden that is unique to their circumstances, due to the new occupancy standards, income designation and paying two mortgages and HOA dues. In response, the Director kindly requested that homeowner refrain from telling friends that they are qualified and able to purchase the home. She also,

- reiterated the applicable policies regarding income and occupancy standards
- explained the applicable policies and why they exist
- explained in greater depth the exception request
- requested more information about why their burden or hardship is unique, and explained that without a clear, valid justification for waiving these policies that it puts BCHA at risk of violating Fair Housing Law.

Director did not receive the information requested so did not process the exception request.

Throughout September, more applicants were contacted – including those at higher and lower income levels in case their current income placed them at the unit’s income level. Facebook and Instagram posts about the opportunity and open houses were published.

On October 4, 2024, the owner submitted an exception request. Director confirmed receipt after returning from vacation on October 8. The homeowner requesting this exception characterizes their undue hardship or burden as the following:

*“On July 17/18, 2024, I submitted my Notice of Intent to Sell my deed-restricted home along with a \$500 fee. My family, friends, lender, and real estate agent were confident that my condo would sell quickly, which is why I didn’t submit my intent to sell earlier—I wanted to ensure I wouldn’t be left without a home. It is with regret that I didn’t seek BCHA’s advice on this earlier. I was unprepared for how the BCHA’s strict policies regarding income, occupancy, and net worth would hinder potential buyers, especially locals, working for this community, who need housing.*

*I appreciate the BCHA’s goals for diverse community housing, yet I struggle to understand how such policies can lead to empty homes while locals face housing insecurities. With this in mind, I respectfully request an exception to the application of these policies, as the ongoing ownership of my unit is becoming a financial burden and causing significant mental stress. Managing the sale process and the associated responsibilities takes time away from my work with the students at BCSD. Currently, I am paying approximately \$1,500 per month to maintain the unit, which is now vacant, and this has forced me to seek a second job to cover both mortgages. I am exhausted.”*

On October 5, 2024, the full waitlist of 800 applicants contact, in case a current review of their income levels would change their income category.

**Sales price + non-compliance:**

On October 17, 2024 an offer was made on this unit. On October 29, this offer was pulled because the HOA fees increased by \$50 per month. Staff then asked the homeowner if they still wanted the exception request to rent reviewed by the board, explained that they were out of compliance, and recommended dropping the price by at least \$10,000 so that the online systems triggered a price drop and notified interested parties.

Staff reminded the homeowner that the maximum sales price is by no means guaranteed, and that the market specific to that unit essentially determines what it is willing to pay. The affordable rate for this income level is \$149,000. The homeowner purchased the unit for \$209,514 and their maximum sales price (which includes \$7,502 of capital improvements) is \$261,265. The deed covenant states,

*“5.7...the limitation on resale price shall not be construed to limit the Owner to accept a sale price at which reasonable costs of sale and improvements, together with the original purchase price, are not recovered.”*

Given this, the homeowner would not be expected to sell the unit for less than \$217,016 + 3% of the sale price to cover BCHA’s administration fee (\$223,526). Staff have not recommended such an extensive drop, but any drop would both be more marketable and mean successive resales would have a lower starting point for appreciation – thus keeping the unit closer to the affordable rate. After this exchange, the homeowner agreed to drop the price in December.

On November 1, 2024, the homeowner became out of compliance with a second provision of the deed-covenant:

*“4.1 Owner shall use the Property as the Owner’s primary place of residence. For purposes of the preceding sentence, the Property shall be deemed the Owner’s primary place of residents if the Owner... (b) is physically present and residing on the Property for not less than nine (9) months in every twelve (12) month period”*

When a homeowner is out of compliance for these above deed covenant terms and does not “cure” their non-compliance, BCHA forces the sale of the unit. Once staff deliver a written notice of default on the deed covenant, the homeowner has 30 days to cure. If that period passes and the defaulting party is not diligently working to remedy the default (such as by dropping the asking price), BCHA requires the immediate sale of the property to a Qualified Buyer. (Section 11.1 and 12.1.d of the deed covenant).

Staff have not yet delivered this written letter of default but plan to. A forced sale could include a mandatory reduction in the sale price. One potential hiccup to a forced sale at this time would be lenders’ use of Condotek, whereby this unit and the complex are deemed unwarrantable by this new, third-party entity.

Similarly, having a renter in the unit would make it more difficult to enforce compliance. The reason it can be more difficult to sell the unit is that, with a renter, there is less control of presentation of the property and tenants don’t always give access. While this depends on the tenant, there can also be reluctance from the buyers to buy a unit knowing that the lease term must be adhered to. Given the urgency that the owner feels selling the unit, staff believe approving such a request would be counterproductive to sellers’ and buyers’ interests and staff’s time allocation and do not recommend approving this request.

**“Long-Term Rental Options during *Board-Approved Long-term Absences (Policies, Section 4.E.)***

- 1. If an owner of a Category 1 through 6 Community Home desires to rent the Home during a BCHA Board approved absence, the owner must include the reason for renting in the Exception Request for permission to rent the home at least thirty (30) days prior to leaving (see Section 8. For Exception Requests).*

2. *If approved by the BCHA Board, the leave of absence may be for up to one year.*
  
3. *The Rental Rate charged must be approved by BCHA and must be within the published monthly affordability for the Income Category enumerated on the Deed Covenant and in no event may exceed the published Affordability of Income Category 6. Category Local Rental rate is determined by the submarket of potential tenants.*
  - (a) *The Community Home must be rented in accordance with the Policies during the authorized period so long as other Deed Covenants covering the home permit the rental. Any prospective Tenant must be qualified by BCHA **prior** to execution of a lease.*
  - (b) *Should the owner re-occupy the home again as the owner's Primary Residence, then the owner must give the Tenant a minimum of thirty (30) days' notice prior to the conclusion of any lease.*
  - (c) *No initial lease term may be for fewer than 90 days and no more than 1 year. The lease is non-renewable. If – within 10 months of the lease - an exemption is approved by the Board to extend the rental beyond one year, the tenant must first be provided a buy-out option not to exceed the Maximum Sale Price."*

**Criteria that must be met to approve the exception request:**

*"The Board may approve, approve with conditions or alterations, or deny a request for an Exception. A decision to approve a request for an Exception must be based on the request and any supplemental documents or information considered meeting following requirements:*

- (a) *The strict application of the Policies to the Applicant, Tenant, or Owner causes an undue hardship or burden, and not merely an inconvenience or issue of preference, which is unique to the person and circumstances for which the request is made.*
- (b) *The strict application of the Policies to the Applicant, Tenant, Owner is the primary cause of the undue hardship or burden, such that the remedy of any other contributing factors would not relieve the Applicant, Tenant, or Owner of the undue hardship or burden.*
- (c) *Approval would be consistent with the spirit, purpose, and intent of the Policies.*
- (d) *Approval will not give the person requesting the Exception an undue or unfair advantage over another person, but will merely relieve them of the undue hardship or burden;*
- (e) *Approval would not conflict with any provisions of the BCHA Deed Covenant on the property subject to the request.*
- (f) *Approval is the only reasonably available remedy to the undue hardship or burden, and the exception is not overly broad in its scope. (Section 6.A.4.)"*

**Staff recommendation:** Without accounting for unwarrantability nor a price drop, whereby the Homeowner would be diligently working to cure their noncompliance and meet their own desire to sell, the Policies and Exception Request could be applied as follows:

CRITERIA	STAFF RECOMMENDATION
<p><b>undue hardship or burden on BCHA</b> refers to the idea that an accommodation or modification would be unreasonable to provide. When determining if an accommodation is reasonable, courts consider a number of factors, including:</p> <ul style="list-style-type: none"> <li>- <b>Resources:</b> The resources of the entity that would be providing the accommodation</li> <li>- <b>Purpose:</b> Whether the accommodation would undermine the purpose of the requirement</li> <li>- <b>Nexus:</b> Whether there is a clear connection between the requested accommodation and the individual's circumstances</li> <li>- <b>Fair housing laws:</b> Whether the accommodation would violate fair housing laws</li> </ul>	<p><b>Resources:</b> The resources of the entity would be both doubling efforts on this unit - to rent and sell simultaneously - and risk the sale more difficult, more prolonged, more time in exchanges with the owner, buyer, renter, etc.</p> <p><b>Purpose:</b> the accommodation <i>potentially</i> undermines the purpose of the requirement by placing a renter in a for sale unit, potentially lengthening time before owner can inhabit the unit and inhibiting staff's ability to enforce compliance on a program participant that now owns two homes.</p>
<p>The strict application of the Policies to the Applicant, Tenant, or Owner causes <b>an undue hardship or burden</b>, and not merely an inconvenience or issue of preference, which is unique to the person and circumstances for which the request is made.</p>	<p><b>NO</b> - The individual requesting the exception states that the situation is causing a financial hardship. The lender on their new home, who inherently underwrites conservatively, would not have approved the individual to borrow a second mortgage if they believed that it would create a financial hardship.</p> <p>Similarly, program participant requested assistance from Blaine County Charitable Fund. BCCF's mission and programs provide emergency financial assistance to persons in need. BCCF denied the participants' request due to a savings or investment account that they were not using.</p>
<p>The strict application of the Policies to the Applicant, Tenant, or Owner causes an undue hardship or burden, and not merely an inconvenience or issue of preference, <b>which is unique to the person and circumstances for which the request is made.</b></p>	<p><b>YES</b> - the owner has already vacated their unit because they purchased a new home. This is a unique circumstance.</p>
<p>The strict application of the Policies to the Applicant, Tenant, Owner <b>is the primary cause of the undue hardship or burden</b>, such that the remedy of any other contributing factors would not relieve the Applicant, Tenant, or Owner of the undue hardship or burden.</p>	<p><b>NO</b> - the primary cause is not the regulation but the voluntary purchase of a new unit before putting the current one up for sale, with no contingency on the new purchase or consideration for one as the seller of the community home.</p>

Approval would be <b>consistent with the spirit, purpose, and intent of the Policies.</b>	<b>MAYBE</b> - the Board did not approve this extended absence. BCHA’s mission is to provide safe, stable housing. Dependent on the timeline of resolving this Condotek challenge, it might be prudent to approve the exception request with a specific timeline and a requirement to reduce the resale price by \$10,000 at certain intervals.
Approval <b>will not give the person requesting the Exception an undue or unfair advantage over another person</b> , but will merely relieve them of the undue hardship or burden	<b>NO</b> (if not a negative) - waiving this rule for this owner sets precedent for all owners wanting to sell their unit, and set the assumption that BCHA will take the administrative burden and approve an absence that is the result of the owner making an ill-advised decision.
Approval would <b>not conflict with any provisions of the BCHA Deed Covenant</b> on the property subject to the request.	<b>MAYBE</b> (if not negative) - the deed covenant states that the unit can be rented, but in accordance with the Policies.
Approval is <b>the only reasonably available remedy</b> to the undue hardship or burden, and the exception is not overly broad in its scope	<b>NO</b> - Owner could accommodate the market for this unit and lower the price.

In this scenario, staff would recommend denying the exception request. However, if the price drops and the condo still doesn’t sell, and/or the warrantability of condos continues to be a barrier, then the analysis below would apply. Therefore, staff recommend **conditionally approving the exception request.**

**Condo warrantability:**

FNMA (Fannie Mae) has criteria that are applied when financing a condo. Generally, lenders underwriting departments perform the evaluation based on a condo questionnaire that is sent out. Recently IHFA has contracted with CondoTek to do all the certifications, and Zion’s uses them too. Some lenders use their own underwriters to evaluate the condo certification.

Criteria included maintenance, insurance, ownership, bills getting paid on time. (See a list of some of the main criteria described in the attached article Warrantable vs Non-warrantable.) For the North Valley in particular where there are a high number of seasonal/short-term rentals and, in Elkhorn, Sun Valley Company owns many units, we also run into the following issues with warrantability: (1) No single entity owns more than 10% of the units in a project, including the developer and (2) At least 51% of the units are owner-occupied.

When a borrower has less than 10% down payment, generally a full condo review is required, when a borrower has more than 10% sometimes a limited review is acceptable.

If a condo does not pass the condo certification process, it is deemed non-warrantable (FNMA maintains an “Available” and “Unavailable” list, but only lenders can access it (i.e. not mortgage brokers or realtors). If a condo project is non-warrantable / on the unavailable list, then depending on the lender a loan may still be doable but the buyer can expect to pay a 2% premium, i.e. have an interest rate 2% higher than initially were quoted.

With the issues at Elkhorn Springs, and older condos, we are running into issues of deferred maintenance. This means we either have to overcome the unavailable/non-warrantable issue by working with the HOA,

lender, (CondoTek?) and FNMA, or buyer have to pay a premium. Many other resort communities are running into these same issues. Some local banks have their own portfolio loans that do not need to meet FNMA criteria. However, some of these banks will only lend on these with higher loan to income ratios than many of our buyers are typically capable of. In places like Aspen, where deed covenants exist on a large proportion of the housing stock and have since the 1970s, banks there are very comfortable and flexible with these scenarios. Staff will coordinate a working group of local banks and those successful in lending in these scenarios to facilitate learning and improvement of local underwriting practices.

BCHA needs to think about how to address the extra costs for non-warrantable condos:

- Monthly payment: The premium will significantly impact affordability – 2% on top of the going rate.
- Up front fees: The condo cert fees (charged by HOA, usually around \$250) and third-party condo certifying company fee (approx. \$600-\$700 CondoTek) are up front additional charges.

**Recommended conditions and reasons for conditions:**

1. Communication between homeowner and staff:
  - a. Option 1: Homeowner cannot contact staff directly unless submitting an appeal to the Board's decision on these exception requests, submitting a new exception request, or asking for a grievance hearing. All lease up and sales will be coordinated through the homeowner's real estate agent.
  - b. Option 2: Homeowner can only contact staff directly to coordinate the sale of the unit. Any critique of policy or process needs to be explicitly submitted as an exception request or grievance hearing. If the homeowner – or any of their family or other parties with a conflict of interest contact staff to critique or debate policy or process, staff will not respond.
  - c. *Homeowner and their family currently expects at least 5x the amount of staff time than any other homeowner. Homeowner and their family regularly need reassurance that staff are doing their job and expects responses to criticisms of policy and process (including re-explaining policy, process, and reasons for the policy and process).*
2. Homeowner must immediately drop the price to \$250,000 for 6 weeks. If an offer is made in this time period, homeowner must accept.
  - a. *6 weeks from November 13<sup>th</sup> would mean the unit is on the market for longer than any market-rate opportunity. Those market-rate opportunities on for an extended period of time also likely dropped their price.*
3. Staff will diligently work to appeal any unwarrantability findings on this and other BCHA units and work with lenders on their underwriting requirements. Staff will proceed with pursuing a tenant in lieu of finding an immediate buyer if the following scenarios occur:
  - a. Unwarrantability remains a barrier after 6 weeks; or,
  - b. If no offer is made on the unit within 6 weeks; or
  - c. Prior to 6 weeks, it becomes evident to staff that the rectification of unwarrantability will exceed two months.
4. The lease must be for one year to a Qualified Occupant per the Policies, with the tenant – if qualified to purchase – being the first on the waitlist for sale. Staff will begin the sales process two months prior to the end of the lease. The rental price will be set per section 5.6 of the deed covenant.
  - a. *Interest rates continue to be high compared to the market's recent memory. In the event that interest rates decrease, the unit will become more affordable to it's market. Staff expect the income levels to increase beginning May of next year (as is typical), so current Category 5 households might find themselves Category 4 and eligible for this unit under the new income ranges.*

5. Per section 12.3 of the deed covenant, the Maximum Sales Price remains the same from the date the homeowner became out of compliance on August 1, 2024.

The analysis of the Exception Request, if the above conditions are applied, are as follows:

CRITERIA	STAFF RECOMMENDATION
<p><b>undue hardship or burden on BCHA</b>  refers to the idea that an accommodation or modification would be unreasonable to provide. When determining if an accommodation is reasonable, courts consider a number of factors, including:</p> <ul style="list-style-type: none"> <li>- <b>Resources:</b> The resources of the entity that would be providing the accommodation</li> <li>- <b>Purpose:</b> Whether the accommodation would undermine the purpose of the requirement</li> <li>- <b>Nexus:</b> Whether there is a clear connection between the requested accommodation and the individual's circumstances</li> <li>- <b>Fair housing laws:</b> Whether the accommodation would violate fair housing laws</li> </ul>	<p><b>Resources:</b> The resources of the entity would be both switch from finding a buyer to a renter. Staff time spent appealing unwarrantability and local banks needs to occur regardless of this individual situation.</p>
<p>The strict application of the Policies to the Applicant, Tenant, or Owner causes <b>an undue hardship or burden</b>, and not merely an inconvenience or issue of preference, which is unique to the person and circumstances for which the request is made.</p>	<p><b>YES</b> – If the market for this unit is unwilling to pay a reduced purchase price or unwarrantability continues to make a sale infeasible, then the length of time for such a sale to occur and the continued mortgage and fee payments become an undue hardship or burden.</p>
<p>The strict application of the Policies to the Applicant, Tenant, or Owner causes an undue hardship or burden, and not merely an inconvenience or issue of preference, <b>which is unique to the person and circumstances for which the request is made.</b></p>	<p><b>YES</b> - the owner has already vacated their unit because they purchased a new home. This is a unique circumstance.</p>
<p>The strict application of the Policies to the Applicant, Tenant, Owner <b>is the primary cause of the undue hardship or burden</b>, such that the remedy of any other contributing factors would not relieve the Applicant, Tenant, or Owner of the undue hardship or burden.</p>	<p><b>YES</b> - the primary cause now extends beyond the owner’s voluntary purchase of a second home and is a broader issue related to the market and underwriting criteria.</p>
<p>Approval would be <b>consistent with the spirit, purpose, and intent of the Policies.</b></p>	<p><b>YES</b> – if the homeowner adjusts the price and the market is still not in a position to make an offer, or lender’s underwriting practices become prohibitive, then the aim needs to be to provide housing stability (1 year+) to a qualified renter.</p>
<p>Approval <b>will not give the person requesting the Exception an undue or unfair advantage over another person,</b></p>	<p><b>YES</b> (if not a negative) – BCHA will need to contact all owners in potentially unwarrantable condos regarding the situation and consider temporary exceptions for any homeowner wishing to sell or vacate.</p>



but will merely relieve them of the undue hardship or burden	
Approval would <b>not conflict with any provisions of the BCHA Deed Covenant</b> on the property subject to the request.	<b>YES</b> (if not negative) - the deed covenant states that the unit can be rented, but in accordance with the Policies.
Approval is <b>the only reasonably available remedy</b> to the undue hardship or burden, and the exception is not overly broad in its scope	<b>YES</b> – the other available remedy of reducing the price will have been tried.

**STAFF RECOMMENDATION: Conditionally approve the request, per the conditions outlined above.**

Attachments:

- |   |
|---|
| <ol style="list-style-type: none"> <li>1. Resolution 2024-30</li> <li>2. Warrantable vs. Non-Warrantable Condos, overview</li> <li>3. Staff report, October 16, 2024</li> </ol> |
|---|

RESOLUTION 2024-30  
BEFORE THE BOARD OF COMMISSIONERS  
OF THE BLAINE COUNTY HOUSING AUTHORITY  
BLAINE COUNTY, IDAHO

A RESOLUTION OF THE BLAINE COUNTY HOUSING AUTHORITY BOARD OF COMMISSIONERS DENY AN  
EXCEPTION REQUEST

WHEREAS, a current BCHA owner is seeking to sell their unit and entered into a contract to purchase a new home before notifying BCHA of their intent to sell; and

WHEREAS, owner is requesting that BCHA provide exceptions to allow for rentals; and

WHEREAS, the BCHA Board and administrative staff agree with the justifications set forth in the Exception Requests, and believe that the owner's circumstances are not unique; and

WHEREAS, the BCHA Board and administrative staff agree that the strict application of the policies are not the primary cause of the undue hardship or burden; and

NOW, THEREFORE, be it resolved by the Board of Commissioners of the Blaine County Housing Authority, Blaine County, Idaho, as follows:

The Blaine County Housing Authority Board of Commissioners denies the Exception Request filed by Community Homeowner \_\_\_\_\_, attached and incorporated herein.

*[This space left intentionally blank]*

DATED this \_\_\_\_ day of \_\_\_\_\_, 2024

ATTEST:

BLAINE COUNTY HOUSING AUTHORITY  
BOARD OF COMMISSIONERS

\_\_\_\_\_

\_\_\_\_\_

Executive Director

Chair

## ***Warrantable vs. Non-Warrantable Condos***

### **Mortgages For Condo Owners**

When you're buying a condo, lenders impose a different set of rules on you, and may sometimes change your interest rate. With condos, you have to remember, it's not just your creditworthiness the lender has to worry about. It also has to worry about the fiscal and physical health of the entire development into which you're buying.

### **Conventional Mortgage Rules For Condos**

The majority of home buyers use what's known as "conventional" mortgage financing. This means that their loan is backed by one of two government entities -- Fannie Mae or Freddie Mac -- and that the loan meets the two group's minimum standards.

With respect to condominiums, Fannie Mae and Freddie Mac use the term "warrantable" to describe projects and properties against which they'll allow a mortgage.

Condo projects and properties which *don't* meet Fannie Mae and Freddie Mac warrantability standards are known as *non-warrantable*.

Non-warrantable condos are more challenging to borrow against.

Typically, a condo is considered warrantable if:

- No single entity owns more than 10% of the units in a project, including the developer
- At least 51% of the units are owner-occupied
- Fewer than 15% of the units are in arrears with their association dues
- There is no litigation in which the homeowners association (HOA) is named
- Commercial space accounts for 25 percent or less of the total building square footage

Because of these rules, some of the common property types which fall into the non-warrantable category include condotels, time shares, fractional ownership properties, and other projects which require owners to join an organization, such as a golf club.

A warrantable condo will get you access to lower mortgage rates than a non-warrantable condo because warrantable condos are lower risk to the bank.

### **FHA And VA Mortgage Rules For Condos**

While conventional mortgages account for approximately half of all loans made, the next 35% of loans are attributed to FHA and VA lending. Both loan types are known for their more flexible lending guidelines as compared to conventional mortgage financing; and loans are available in all 50 states.

### **Mortgages For Non-Warrantable Condos**

For buyers of non-warrantable condos, mortgage financing is a more of a challenge. There are fewer lenders available from which to get a loan. To get a non-warrantable condo mortgage, you'll need to talk with a specialty lender. Ask me about local lenders who understand the resort market and can finance non-warrantable condos.



## BLAINE COUNTY HOUSING AUTHORITY

### BOARD MEETING AGENDA MEMO

Meeting Date:  Staff Member:

Agenda Item:

#### Recommended Action:

"I move to deny Exception Request to Occupancy Standards"

"I move to deny Exception Request to unit's designated income"

"I move to deny Exception Request to rent a for-sale unit"

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

The Community Housing Policies, last updated on May 8, 2024, state: "A decision to approve a request for an Exception must be based on the request and any supplemental documents or information considered meeting the following requirements:

- (a) The strict application of the Policies to the Applicant, Tenant, or Owner causes an undue hardship or burden, and not merely an inconvenience or issue of preference, which is unique to the person and circumstances for which the request is made.
- (b) The strict application of the Policies to the Applicant, Tenant, or Owner is the primary cause of the undue hardship or burden, such that the remedy of any other contributing factors would not relieve the Applicant, Tenant, or Owner of the undue hardship or burden.
- (c) Approval would be consistent with the spirit, purpose, and intent of the Policies.
- (d) Approval will not give the person requesting the Exception an undue or unfair advantage over another person, but will merely relieve them of the undue hardship or burden;
- (e) Approval would not conflict with any provisions of the BCHA Deed Covenant on the property subject to the request.
- (f) Approval is the only reasonably available remedy to the undue hardship or burden, and the exception is not overly broad in its scope. (Section 6.A.4.)"

The Community Homeowner has requested an exception to two policies – occupancy standards and renting a community home - and one exception to a deed covenant – the income designation. This report will break down each request separately. The request derives from the homeowner wanting the unit to sell more quickly, having a financial burden due to having purchased a home before selling the community unit, and mental stress.

## Background

On June 7<sup>th</sup>, the community homeowner (“owner”) stated that they were “starting to consider selling my condo.” On July 18<sup>th</sup>, staff received their Notice of Intent to Sell and \$500 check, which when staff starts the sales process. At that time, the owner had already made an offer on a new home. On August 1<sup>st</sup>, they closed on their new home. That new sale did not include a contingency that the current home had to be sold in order to close on the new home, and the owner did not seek to understand BCHA’s sale process or timeline before that.

During the July 18<sup>th</sup> exchange, staff reiterated key policies, such as the occupancy standard and income level of those units. Staff began creating the waitlist per selection process in the Community Housing Policies. On July 29<sup>th</sup>, staff responded to a request for the owner to short-term rent, directing the owner to the policies and deed restriction and reiterating that that is not allowed. On August 1<sup>st</sup>, staff began outreach to waitlisted households. BCHA’s real estate representative viewed the unit and recommended cleaning the carpets. The owner refused to do so until September 4.

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- reiterated the applicable policies regarding income and occupancy standards
- explained the applicable policies and why they exist
- explained in greater depth the exception request
- requested more information about why their burden or hardship is unique, and explained that without a clear, valid justification for waiving these policies that it puts BCHA at risk of violating Fair Housing Law.

Director did not receive the information requested so did not process the exception request.

Throughout September, more applicants were contacted – including those at higher and lower income levels in case their current income placed them at the unit’s income level. Facebook and Instagram posts about the opportunity and open houses were published.

On October 4, 2024, the owner submitted an exception request. Director confirmed receipt after returning from vacation on October 8. The homeowner requesting this exception characterizes their undue hardship or burden as the following:

*“On July 17/18, 2024, I submitted my Notice of Intent to Sell my deed-restricted home along with a \$500 fee. My family, friends, lender, and real estate agent were confident that my condo would sell quickly, which is why I didn’t submit my intent to sell earlier—I wanted to ensure I wouldn’t be left without a home. It is with regret that I didn’t seek BCHA’s advice on this earlier. I was unprepared for how the BCHA’s strict policies regarding income, occupancy, and net worth would hinder potential buyers, especially locals, working for this community, who need housing.*

*I appreciate the BCHA’s goals for diverse community housing, yet I struggle to understand how such policies can lead to empty homes while locals face housing insecurities. With this in mind, I respectfully request an exception to the application of these policies, as the ongoing ownership of my unit is becoming a financial burden and causing significant mental stress. Managing the sale process and the associated responsibilities takes time away from my work with the students at BCSD. Currently, I am paying approximately \$1,500 per month to maintain the unit, which is now vacant, and this has forced me to seek a second job to cover both*

*mortgages. I am exhausted.”*

On October 5, 2024, the full waitlist of 800 applicants contact, in case a current review of their income levels would change their income category

**Staff recommendation:** Staff recommend denial of all three exception requests for a few common reasons, as well as some unique to the policy that are described below:

1. Section 6.A.4.(a) states that approval of such a request must be based on, “The strict application of the Policies to the Applicant, Tenant, or Owner *causes an undue hardship or burden*, and not merely an inconvenience or issue of preference, *which is unique to the person and circumstances for which the request is made.*” Staff do not believe that the homeowner is experiencing a unique circumstance – particularly not one that is caused by the policy.
2. Section 6.A.4.(b) states that approval of such a request must be based on, “The strict application of the Policies to the Applicant, Tenant, Owner is *the primary cause of the undue hardship or burden*, such that the remedy of any other contributing factors would not relieve the Applicant, Tenant, or Owner of the undue hardship or burden.” The circumstance that they are experiencing is primarily due to their own, voluntary actions.
  - The owner assumed a short sale period without requesting information from BCHA or understanding the state of the local housing market and entered into an agreement on a new home before noticing their intent to sell to BCHA. The average days on the market for unrestricted sales in Blaine County for units up to \$500,000 is 81 days and there are five months of inventory for sale. This is for market units without a deed-restriction. As of October 16th, it will have been 90 days since the owner submitted their intent to sell. Five months would be December 18, 2024.
  - Owner did not include a contingency clause in the Purchase & Sale Agreement on a new home, as is common practice, which states that the closing on a new unit would be contingent on the sale of the buyer’s current unit (i.e. the Community Home).
  - BCHA staff and contractors, on numerous occasions, recommended carpet cleaning. During August, some of the potential buyers explicitly stated that they couldn’t tell if the carpet needed to be replaced because it was not clean.
3. Section 6.A.4.(c) states that approval of such a request must be, “*consistent with the spirit, purpose, and intent of the Policies.*” These policies and deed covenants are meant to protect the income levels of the property and application of best practice – which includes occupancy standards.
4. Section 6.A.4.(c) states that approval of such a request must, “*not give the person requesting the Exception an undue or unfair advantage over another person, but will merely relieve them of the undue hardship or burden.*” Allowing such exceptions to one homeowner without the other criteria being met would mean that every homeowner should be eligible for such exceptions of changing the income level and ignoring the occupancy standards.
5. Section 6.A.4.(e) states that approval of such a request must, “*not conflict with any provisions of the BCHA Deed Covenant on the property subject to the request.*” Changing the income designation directly conflicts with the deed covenant.

### **1. Occupancy standards**

The community homeowner is requesting an exception to Section 2.A.2.II, on Applicant Selection Process. It states, “(a) BCHA will contact Applicant if an opportunity arises that meet the following:…II. The Applicant’s household size for Categories 1 through 6. These units must be filled by Applicants that meet the following Occupancy Standards:

# of bedrooms	# of people in the Applicant household
studio	1 person
1 bedroom	1 to 3 people
2 bedroom	2 to 5 people
3 bedroom	3 to 7 people
4 bedroom	4 to 9 people

This exception request would also be an exception to 2.6 of the deed covenant: *“A “Qualified Buyer” is a person or group of people meeting and in full compliance with the qualifications and conditions set forth in the Guidelines in effect at the date a contract between an Owner and a Qualified Buyer is entered into for the sale of the property...”*

Every housing program that restricts by income and price that staff know of, nationwide, applies these occupancy standards. The maximum number of people is derived from HUD’s definition of under-housed, essentially meaning that the occupants of the unit are determined to be overcrowded and not have enough housing for their household size. The minimum is also industry standard, in that if there isn’t at least one person per bedroom, then the household is over-housed in that they have more housing than they need.

Since the purpose of these programs are to provide safe, stable, affordable housing to the most number of people, this policy was adopted by the Board on May 8, 2024. These updated policies were emailed to all Community Homeowners, Renters, and Applicants on June 11, 2024. We did not receive a response from the complainant voicing concerns at that time.

Staff do not believe that this is a unique circumstance to the homeowner, and such a policy is a primary mechanism for meeting BCHA’s mission. Approval would *not* be (c) “consistent with the spirit, purpose, and intent of the Policies.” Changing this policy for one homeowner, or all, puts the entire program at risk. There is already extreme scrutiny of BCHA’s management and oversight of these units. Continuing to over-house program participants puts BCHA’s funding sources at risk – not just from current funders like the County and the City of Ketchum – but the potential to receive funding from other jurisdictions.

*Recommendation: Deny exception request.*

**2. Income designation**

The community homeowner is requesting an exception to Section 2.A.2.II, on Applicant Selection Process. It states, *“(a) BCHA will contact Applicant if an opportunity arises that meet the following: I. The Applicant’s income category. Maximum housing costs for rentals are based on the unit’s income category and are available on BCHA’s website. Maximum sale prices are dependent on the unit’s restrictions”* And 2.6 of the deed covenant, *“A “Qualified Buyer” is a person or group of people meeting and in full compliance with the qualifications and conditions set forth in the Guidelines in effect at the date a contract between an Owner and a Qualified Buyer is entered into for the sale of the property, including, without limitation, the income requirements applicable...”*

Each unit in BCHA’s portfolio has a designated income level, set at the time of development or when entering the program by planning and zoning commissions, councils, or BCHA. This unit’s initial restriction was recorded in 2008, with the condominiumization in 2006 which specified that these units are restricted as workforce. Staff have requested information from the City of Sun Valley about whether the income

designation was determined during entitlement review, which could affect the Board's authority to review such a request.

The unit's Maximum Sales Price is \$261,265. If this were a new development, the Maximum Sales Price for this income category and unit size would be \$148,997. At previous Board meetings, staff have described the impact of using appreciation caps based on the consumer price index and a set percentage. These numbers are a direct result of that – rather than maintaining the affordability of the unit for that income level. It is a way for sellers to receive more equity, but risks pricing out the households that qualify for that unit. The Maximum Sales Price for an equivalent unit based on income category 6 would be \$250,336 and category Local for \$301,005.

Of the 58 applicants that are likely in this income category and household size, 10 responded. A few of these households didn't make an offer because of price, but most declined or were denied for other reasons, such as not being eligible, wanting a larger unit, or not wanting a restricted unit. 1 applicant was not eligible because they owned a home in Twin that they are unwilling to sell. The owner also referred a handful of households to BCHA, all of whom are over-income. There are two households working with our program administrator on their application and one who is deciding whether to make an offer (as of Monday, October 14).

It is more expensive, and difficult to require, lower income levels than higher because developers will always want a higher income level unit – one where they would have a higher resale value. When looking at purchasing deed restrictions or other types of subsidies, it is always more costly to create lower income units. For that reason alone, staff would not recommend increasing the income level on this unit.

In addition to the owner is (a) not experiencing unique circumstances, (b) the policies not being the primary cause of the hardship, and approval would (e) conflict with the deed covenant, this would also set a precedent that should be applied to all sellers and BCHA would lose most, if not all, lower income units which are more difficult to create than higher incomes. Since the Exemption Policy explicitly states that approval of such a request cannot conflict with the deed restriction, even if the Board were to approve an exception to the selection process, the deed covenant would still hold.

*Recommendation: Deny exception request. If the Board decides to approve this exception request, the Maximum Sales Price would remain the same. Allowing an increase in this price would be give the owner an "unfair advantage." Maintaining the current price would also mean that the unit is affordable to the new income category and should remain so for an extended period of time.*

### **3. Rent for-sale unit**

With the exception request submitted on October 4<sup>th</sup>, the owner also submitted a request to rent while they sell their unit. While there is one interested applicant who wouldn't be able to buy until February, staff are concerned that renting the unit would both be challenging to find a renter, take more of staff's time, and could make selling the unit more difficult. Staff have found that it is difficult to find a qualified renter for a short time period. The policies state that the tenant must have a minimum of a 90-day lease and the occupancy standards and income category still apply.

The reason it can be more difficult to sell the unit is that, with a renter, there is less control of presentation of the property and tenants don't always give access. While this depends on the tenant, there can also be reluctance from the buyers to buy a unit knowing that the lease term must be adhered to. Given the



urgency that the owner feels selling the unit, staff believe approving such a request would be counterproductive to sellers' and buyers' interests and staff's time allocation and do not recommend approving this request.

*Recommendation: Deny exception request.*

**Attachments:**

1. Resolution 2024-28
2. Exception Request submitted October 4
3. BCHA-Owner Communication Timeline
4. Exception Request, Community Housing Policies, Section 6.A.

RESOLUTION 2024-28  
BEFORE THE BOARD OF COMMISSIONERS  
OF THE BLAINE COUNTY HOUSING AUTHORITY  
BLAINE COUNTY, IDAHO

A RESOLUTION OF THE BLAINE COUNTY HOUSING AUTHORITY BOARD OF COMMISSIONERS  
AUTHORIZING AN EXCEPTION REQUEST

WHEREAS, a current BCHA owner is seeking to sell their unit and entered into a contract to purchase a new home before notifying BCHA of their intent to sell; and

WHEREAS, owner is requesting that BCHA provide exceptions to occupancy standards, income levels, and allow for rentals; and

WHEREAS, the BCHA Board and administrative staff agree with the justifications set forth in the Exception Requests, and believe that the owner's circumstances are not unique; and

WHEREAS, the BCHA Board and administrative staff agree that the strict application of the policies are not the primary cause of the undue hardship or burden; and

NOW, THEREFORE, be it resolved by the Board of Commissioners of the Blaine County Housing Authority, Blaine County, Idaho, as follows:

The Blaine County Housing Authority Board of Commissioners denies the Exception Request filed by Community Homeowner \_\_\_\_\_, attached and incorporated herein.

*[This space left intentionally blank]*

DATED this \_\_\_\_ day of \_\_\_\_\_, 2024

ATTEST:

BLAINE COUNTY HOUSING AUTHORITY  
BOARD OF COMMISSIONERS

\_\_\_\_\_

\_\_\_\_\_

Executive Director

Chair

**Date:** October 4, 2024

**To:** BCHA Board of Directors  
Carissa Connelly, BCHA Executive Director  
Bri Zak, BCHA Operations and Application Coordinator  
Anna Matthieu, Windemere Real Estate

[REDACTED]

**Subject: Exception Request for BCHA Policy on Selling Deed Restricted Housing Unit**

*First and foremost, I want to express my gratitude for your dedication to addressing the housing needs within our community. Your efforts in providing resources and solutions are truly commendable.*

[REDACTED]

[REDACTED]

*As you're aware, the real estate market has become extremely competitive, with limited inventory under \$650K. After months of searching with our friend [REDACTED], we finally found a home that fit our budget perfectly. Unfortunately, the sellers were not open to contingencies.*

*On July 17/18, 2024, I submitted my Notice of Intent to Sell my deed-restricted home along with a \$500 fee. My family, friends, lender, and real estate agent were confident that my condo would sell quickly, which is why I didn't submit my intent to sell earlier—I wanted to ensure I wouldn't be left without a home. It is with regret that I didn't seek BCHA's advice on this earlier. I was unprepared for how the BCHA's strict policies regarding income, occupancy, and net worth would hinder potential buyers, especially locals, working for this community, who need housing.*

*I appreciate the BCHA's goals for diverse community housing, yet I struggle to understand how such policies can lead to empty homes while locals face housing insecurities.*

***With this in mind, I respectfully request an exception to the application of these policies, as the ongoing ownership of my unit is becoming a financial burden and causing significant mental stress. Managing the sale process and the associated responsibilities takes time away from my work with the students at BCSD. Currently, I am paying approximately \$1,500 per month to maintain the unit, which is now vacant, and this has forced me to seek a second job to cover both mortgages. I am exhausted.***

*The specific BCHA policies that I would like to request for reconsideration are listed below.*

- 1. Applicant Selection Process/Occupancy Standards:** The current guidelines for a Category 4 unit require 2-5 people to be included in the application process. When I purchased my unit in 2019, I was a single individual and wasn't required to involve others. This change was unfamiliar to me and I had no idea the impact it would have on my ability to sell. I've had potential buyers denied due to this occupancy requirement. I kindly request a waiver for the occupancy standard.
- 2. Applicant Selection Process/Income Limits:** The current guidelines for a Category 4 unit with two bedrooms require a combined income of between \$59,041 and \$73,800. While that may work for a parent/child situation, it is unlikely two community workers in the value can sustain living here within that income range. I do not have a particular issue with the range, as I understand the ranges are developed with scientific statistics, but if no one currently qualifies because of this policy, the standard may need to be adjusted. This range may not truly reflect the realities of our local community. Also, to finance a deed restricted property, the buyer will have to put down a significant down payment (meaning they have had the ability to 'save' money for that). I would request a broader income range for this unit.
- 3. Suggested Policy Addition:** Given the desire to match available community housing to the people needing it at any given time, it seems like BCHA standards and income limits need to provide flexibility to adapt to given situations in the local market. I just wonder if this has ever been considered? For example, if we have no qualified applicants for Category 4 level housing, maybe it should be recharacterized to meet the needs of the community at the current time?

### **Per the Terms and Restrictions of the Deed Covenant:**

- Section 3.2 “BCHA shall notify Owner of the Maximum Sales Price....and provide Owner with Qualified Buyers.....” ~ while the sales price was provided, I was never provided a list of qualified buyers and when asked, was told this was a privacy issue and not available to me. This appears to be contrary to the Deed terms. I am not sure how I am supposed to notify you if we have exhausted the list, if I do not have access to that list.
- Section 3.3 “In the event the Owner exhausts the pool of Qualified Buyers provided by BCHA without entering into an agreement for the Sale of the Property, the Owner shall notify the BCHA” ~ It is my understanding that we have exhausted the pool of Qualified Buyers from my correspondence with Bri.
  - In an email correspondence with Anna and Bri, Bri stated that she had reached out to **39 applicants** of which 4 were potential buyers. One dropped out because it was too expensive, 1 household was not eligible, and the other applicants did not complete the BCHA steps. She then reached out to **13 new potential buyers**...I am not sure what the outcome was of this. The majority of interest has been through creating advertisements on FB and reaching out to the working class of people my age.
- Section 3.6 “Owner shall deliver BCHA a **Notice of Intent to Rent** at the Maximum Rental Amount” ~ This appears to mean I can find a short-term renter until the unit sells, as long as I don’t charge more than \$1,445 per month. Can this be confirmed?
  - Cost of Mortgage \$ 922
  - Cost of HOA Dues \$ 353 monthly
  - \$ Utilities (that will be paid by owner) \$: 150 monthly
  - Plus 20 a month (see rental pricing agreement)
  - Total Rent: 1,445

Above is my request of permission from BCHA to rent the Community Home until it is sold. I will also be scanning the notice and sending it to you.

*I know I may have been a source of frustration for Bri Zak and Carissa Connelly, and I wish we could have met in person to collaboratively address this situation. Navigating*



### 3. BCHA-Owner Communication Timeline

October 1, 2023 – Community homeowner requested approval for improvements and their Maximum Sale Price. Staff approved on October 9. Receipts were furnished on November 30. Staff provided new Maximum Sales Price on December 15.

June 7, 2024 – Community homeowner stated that they were “starting to consider selling my condo” and for the Maximum Sales Price.

June 12, 2024 - Staff responded with the Maximum Sales Price and the relevant Policy section that outlines the process. Since staff frequently get this request without follow-through, we do not take the inquiry seriously until the owner submits their Notice of Intent to Sell and a \$500 check.

June 18, 2024 – Community Homeowner asked what their mortgage balance was on their unit. Staff responded that we do not hold their mortgage so they would need to contact their lender.

July 18, 2024 – Community Homeowner sent their Notice of Intent to Sell and the check and stated that they intended to use a local real estate agent. Staff responded with the following:

- a more in-depth explanation of how the Maximum Sales Price is calculated
- any buyer needs to come through the BCHA
- that fees paid to an agent would be on top of the 3% owed to BCHA
- reiterated the occupancy standard and income level
- introduction to Bri and that she would begin filtering the waitlist for this unit, reviewing the top candidates’ full applications, and then arrange showings
- introduction to Anna who could work with the owners agent on inspections and showings, if the owner continues to use the agent

This exchange continued throughout the day, where staff highly recommended meeting with Anna before taking any steps.

Community homeowner stated that they would work directly with Anna and spoke with Anna that day, when they told Anna that they’d already made an offer on another home.

July 24, 2024 – Community homeowner asked if we have reached out to Applicants, that they had scheduled an inspection, and stating that they had bought a house.

July 27, 2024 (a Saturday) – homeowner contacted Anna expressing anxiety and asking if they can short-term rent.

July 29, 2024

- Anna emailed saying no and redirecting homeowner to the policies. She also stated that we’ll need two keys and a lock box to start showings.
- homeowner requested access to the applicant list and requested more information on process, which staff provided.

July 30, 2024 – staff notified homeowner of key next steps following a phone conversation, and via email.

August 1, 2024

- 10 potentially qualified applicants were contacted about the opportunity
- Community homeowner closed on their new home

August 6, 2024

- an additional 29 applicants were contacted
- property inspection report completed

August 7, 2024 – director reminded homeowner to work with Anna and Bri, and to cc all on emails. Homeowner and the homeowner’s mother were emailing and calling staff with similar questions and not keeping everyone up to date. Director also stated that the time we spend debating policies and responding to numerous phone calls and emails detracts from time spent on selling the unit. The Director also told the homeowner that, with the current information, they would not support an exception request because the applicant had not included a contingency on their new purchase – which is common practice in real estate if the purchase is contingent on the sale of your current home.

August 21, 2024 – community homeowner communicated that they believe they are facing an undue hardship and financial burden that is unique to their circumstances, due to the new occupancy standards, income designation and paying two mortgages and HOA dues.

August 23, 2024 – Director kindly requested that homeowner refrain from telling friends that they are qualified and able to purchase the home. She also,

- reiterated the applicable policies regarding income and occupancy standards
- explained the applicable policies and why they exist
- explained in greater depth the exception request
- requested more information about why their burden or hardship is unique, and explained that without a clear, valid justification for waiving these policies that it puts BCHA at risk of violating Fair Housing Law.

Director did not receive the information requested so did not process the exception request.

September 9, 2024 – an additional 13 applicants were contacted (total of 42 to date)

September 11-12, 2024 – an additional 97 applicants were contacted from income categories above and below the unit designation, as a current review of their income levels might place them in the unit’s income category

September 18, 2024 – Purchase opportunity posted on Facebook

October 1, 2024 – Purchase opportunity posted on Instagram

October 2, 2024 – an additional 4 applicants contacted (total of 143 to date)

October 4, 2024

- new open house announcement on Facebook
- Homeowner submitted an exception request. Director confirmed receipt after returning from vacation on October 8. The homeowner requesting this exception characterizes their undue hardship or burden as the following:

*“On July 17/18, 2024, I submitted my Notice of Intent to Sell my deed-restricted home along with a \$500 fee. My family, friends, lender, and real estate agent were confident that my condo would sell quickly, which is why I didn’t submit my intent to sell earlier—I wanted to ensure I wouldn’t be left without a home. It is with regret that I didn’t seek BCHA’s advice on this earlier. I was unprepared*



*for how the BCHA's strict policies regarding income, occupancy, and net worth would hinder potential buyers, especially locals, working for this community, who need housing.*

*I appreciate the BCHA's goals for diverse community housing, yet I struggle to understand how such policies can lead to empty homes while locals face housing insecurities. With this in mind, I respectfully request an exception to the application of these policies, as the ongoing ownership of my unit is becoming a financial burden and causing significant mental stress. Managing the sale process and the associated responsibilities takes time away from my work with the students at BCSD. Currently, I am paying approximately \$1,500 per month to maintain the unit, which is now vacant, and this has forced me to seek a second job to cover both mortgages. I am exhausted."*

October 5, 2024 – full waitlist of 800 applicants contact, in case a current review of their income levels would change their income category

October 6, 2024 – Open house posted on Instagram

October 10, 2024 – homeowner requested to increase the maximum sales price. Bri reminded homeowner that she had repeatedly stated that she believed the home to be overpriced for that income level and that she could always lower the price to help her sell.

## Section 6. Procedures for Exceptions and Grievances

Situations may arise where a special review is appropriate to allow for exceptions to the application of these Policies, or to address grievances against BCHA for its actions or failure to act in accordance with these Policies. These two processes are described below:

### A. Exception Request

1. Exceptions to any provision of these Policies may be granted by the BCHA Board when, because of unique circumstances, the strict application of the policy places an undue hardship or burden on a particular Applicant, Tenant, or owner. An undue hardship or burden is not merely an inconvenience or issue of preference but must be burdensome or restrictive enough to create a significant difficulty or expense for the Applicant, Tenant, or Owner.
2. Any Applicant, Tenant, or Owner may file a request for an Exception with BCHA, in writing stating:
  - (a) The Specific BCHA Policy or Policies which the Applicant, Tenant, or Owner is requesting waiver of or alteration to;
  - (b) The circumstances constituting an undue hardship or burden which are the basis for the Exception request;
  - (c) The action requested to resolve the undue hardship or burden (i.e., partial waiver, complete waiver, or modification of the Policy or Policies); and,
  - (d) The name, address, and telephone number of the person making the request and his or her representative, if any.
3. Upon receipt of a request for Exception, the BCHA staff shall:
  - (a) Review, investigate, and prepare for the BCHA Board a report analyzing and making a recommendation on the requested Exception;
  - (b) Shall forward the report to the Board and all parties involved to hear and make a decision on the request, but in no event shall such meeting take place more than thirty (30) days after receipt by BCHA staff of the request for Exception.
4. At the meeting, the Board shall review the request and any additional information and evidence presented by the person making the request and any other person present at the meeting. Prior to deciding on the request, the Board may continue the meeting as it deems necessary to obtain additional information or for further deliberations, but in no event shall the Board delay a decision by more than thirty (30) days absent exigent circumstances.

The Board may approve, approve with conditions or alterations, or deny a request for an Exception. A decision to approve a request for an Exception must be based on the

request and any supplemental documents or information considered meeting following requirements:

- (a) The strict application of the Policies to the Applicant, Tenant, or Owner *causes an undue hardship or burden, and not merely an inconvenience or issue of preference*, which is unique to the person and circumstances for which the request is made.
  - (b) The strict application of the Policies to the Applicant, Tenant, Owner *is the primary cause of* the undue hardship or burden, such that the remedy of any other contributing factors would not relieve the Applicant, Tenant, or Owner of the undue hardship or burden.
  - (c) Approval would be consistent with the spirit, purpose, and intent of the Policies.
  - (d) Approval will not give the person requesting the Exception an undue or unfair advantage over another person, but will merely relieve them of the undue hardship or burden;
  - (e) Approval would not conflict with any provisions of the BCHA Deed Covenant on the property subject to the request.
  - (f) Approval is the only reasonably available remedy to the undue hardship or burden, and the exception is not overly broad in its scope.
5. The Board will make every effort to render a decision within sixty (60) days after the filing of the request and all requested information. The Board will provide the person making the request with its written decision and findings, to all parties involved. Applicants to whom a request for Exception is denied may appeal the decision by submitting a formal Grievance in accordance with the procedure described below.

## **B. Filing a Grievance**

1. A Grievance may be filed by any Applicant, Tenant, or Owner as a means of appealing a denied request for Exception or based on an alleged violation by BCHA of one or more provision of this Policy.
2. Any Applicant, Tenant, or Owner may appeal the denial of a request for Exception by filing a Grievance with BCHA, in writing, stating:
  - a) Which request for Exception is being appealed;
  - b) Evidence demonstrating that the findings necessary to approve a request for Exception, as described in 8.A.5, are present, and that denial was therefore improper;

- c) The action requested to cure the allegedly improper denial; and
  - d) The name, address, telephone number, and email of the grievant and his or her representative, if any.
- 3. Any Applicant, Tenant, or Owner may file a general Grievance with BCHA, in writing, stating:
  - (a) The specific provision of this Policy which the Applicant, Tenant, or Owner alleges BCHA to be in violation of;
  - (b) The specific BCHA action or omission which the Applicant, Tenant, or Owner alleges to be the violation;
  - (c) The action requested to cure the violation; and
  - (d) The name, address, telephone number, and email of the grievant and his or her representative, if any.
- 4. An appeal of the denied request for Exception shall be heard in the same manner described in 8.A.3. If the request is again denied on appeal, the grievant may submit a final appeal to the Blaine County Board of Commissioners, in writing, within thirty (30) days after the date the decision is rendered.

### C. Grievance Hearing procedure

- 1. Upon receipt of a written Grievance, a public hearing before the BCHA Board of Commissioners must be scheduled. The grievant must be afforded a fair hearing providing the basic safeguards of due process, including notice and an opportunity to be heard in a timely, reasonable manner, and to present evidence. In the event that this grievance procedure is not an appropriate or reasonably achievable means of resolving the matter, any of the following alternative methods for dispute resolution may be utilized:
  - (a) Use of a certified mediator in Blaine County, or as nearby as reasonably practical;
  - (b) Through the Idaho Human Rights Commission;
  - (c) Through a civil court proceeding;
  - (d) The grievant may be eligible for pro bono legal assistance through Idaho Legal Aid; or,
  - (a) If a Fair Housing violation is suspected, the local jurisdiction may be contacted to conduct an investigation. If the grievant disagrees with the findings of that investigation, they may appeal to the Idaho Human Right's Commission.
- 2. Notice of the public hearing shall be provided to the Board, the grievant, and any other parties involved, to be held as soon as practicable and convenient to the Board and the grievant, but in no event shall such hearing take place more than thirty (30) days after receipt by BCHA staff of the grievance.