



Procedures for the Resale of a Moderate Income Housing Unit

Purpose

The purpose of these procedures is to set forth the processes for the resale of a Moderate Income Housing Unit (MIHU).

Scope

These procedures apply to individuals or families participating in the MIHU Program who are interested in selling their MIHU.

Background

The Moderate Income Housing Unit Program is an inclusionary zoning program that requires developers of new housing in certain zoning districts to sell or rent a certain percentage (generally 10%-15%) of the dwelling units built to households of moderate income at affordable prices and rents.

MIHUs are sold or rented through the County's housing department (hereinafter referred to as the "Department"), according to procedures and standards set forth in the MIHU Law (Section 13.400 et seq. of the Howard County Code) and regulations established under it. The resale of an MIHU is governed by the MIHU Law and the MIHU Declaration of Covenant and Restrictions that is recorded on the property. The program requires that the owner offer the home for resale, through the Department, to an eligible moderate income buyer at the current MIHU price for a period of at least 120 days (the "Priority Period").

Notice of Intent to Sell

The resale process begins when the owner notifies the Department in writing of (a) the owner's intent to sell, (b) the date upon which the owner would like the 120-day Priority Period to begin, which may not be earlier than 15 days after the notice is sent, and (c) the owner's request for an MIHU price.

Inspection

Upon receipt of the owner's notice, the Department will contact the owner and schedule an inspection of the unit. The Department will endeavor to schedule the inspection within 15 days after receipt of the notice. The scope of the inspection will be to determine if the original dimensions and amenities remain and whether the unit is in good and salable condition.

MIHU Pricing

The MIHU price for a resale unit is determined in the same manner as a new unit – that is, based upon the affordability formula contained in the MIHU Law that uses the median household income, prevailing interest rates, taxes, insurance, and HOA/condo fees. The same adjustments in price that were made initially — for unit size, number of bedrooms, amenities, etc. — are made for the resale price. The Department may adjust the price if the inspection reveals that the original dimensions and amenities have changed or the unit is not in good and salable condition.

Once the Department has received the notice to sell and the unit is inspected, the Department will determine and send the resale price in writing to the owner. This notice will also specify the date upon which the 120-day Priority Period begins. Owners may be required to paint the interior of the unit, replace carpet or flooring, and make repairs to all non-working items before the home can be offered for sale to prospective buyers.

Marketing of the Unit

From this point, the sales process is handled by Department staff. Staff will contact applicants from the MIHU database who are likely to be able to qualify for financing and rank them in order of priority points. Staff will then contact the owner to schedule visits by potential buyers at pre-determined dates and times. Staff will assist in the scheduling of the visit(s) and will attend the visit(s).

Those pre-qualified applicants expressing an interest in purchasing the unit will be placed in a lottery drawing, and one applicant (and one or more alternates) will be selected to enter into a sales agreement with the owner.

Sales Contract

Once a qualified buyer has been identified by the Department, the Department will notify the owner to begin the process of entering into a sales contract with the selected buyer. The owner must make a good faith effort to enter into a contract in a timely manner.

The owner may prepare a contract with the buyer or use a form provided by the Department; however the following statement must be included:

***MODERATE INCOME HOUSING UNIT.** The Buyer acknowledges that the property is a Moderate Income Housing Unit subject to property restrictions set forth in a Moderate Income Housing Unit Declaration of Covenants and Restrictions, recorded among the Land Records of Howard County, Maryland in liber____, folio____ that runs with the property in perpetuity; that the restriction includes a provision which requires the property be transferred in accordance with section 13.400 et, seq. of the Howard County Code; and that said Property cannot be mortgaged for more than one hundred percent (100%) of the consideration stated in this Contract.*

The contract must also contain a financing contingency clause that allows the buyer to obtain a bona fide financing commitment in an amount sufficient to enable the individual to purchase the property.

The buyer must agree to occupy the MIHU as the principal place of residence and abide by the resale restrictions of the MIHU Program.

Upon completion and execution of the sales contract, the owner must provide a copy of the contract to the Department. The Department will review the contract for compliance with MIHU program guidelines.

If the selected buyer fails to enter into a contract or cannot obtain financing, the Department may substitute an alternate eligible buyer within the Priority Period.

Lapse of Priority/Extension Periods

If the Department fails to provide a buyer within the Priority or extension periods or the buyer does not settle, the owner may put the unit on the market and sell it at market price. When the owner sells the unit,



the seller must pay the Department 50% of the difference between the market sales price (less the owner's cost of sale at 7% and reasonable and actual carrying costs) and the MIHU price.

If the selected buyer enters into a contract but fails to settle, the Department may choose (within 5 business days) to extend the Priority Period for an additional 60 days in order to find another eligible buyer. If the Department exercises this one-time extension, it will pay the owner its reasonable and actual carrying costs for that period (such as interest, insurance, taxes, utilities, homeowner association fees, and maintenance costs).

In certain circumstances, the Department may offer the unit for sale to the Howard County Housing Commission. If the Commission decides to buy the unit, it must enter into a contract within the Priority Period or any extension period.

Owner's Responsibility

It is the owner's responsibility to provide the following to the buyer at time of contract:

- MIHU Declaration of Covenants and Restrictions
- Condo Association documents and other pertinent information related to the unit

Settlement

Settlement on the sale of the MIHU property must occur within a reasonable time as provided in the contract. The owner must notify the buyer at least 10 days prior to the settlement date. The owner must make a good faith effort to settle with the buyer within the time set forth in the owner's notice.

The deed conveying title to the property must contain the following provision:

BE IT ALSO KNOWN that there is a property restriction set forth in a moderate income unit declaration of covenants and restrictions, recorded among the Land Records of Howard County, Maryland in Liber No. xxxx, folio xxx and Liber No. xxxx, folio xxx that runs with the property in perpetuity; that the restriction includes a provision which requires the property be transferred in accordance with section 13.400 et. seq. of the Howard County Code; that said property cannot be mortgaged for more than one hundred percent (100%) of the consideration stated in this deed.

All liens must be paid in full at the time of settlement in order to provide clear title to the new MIHU buyer. If the unit is sold to an eligible MIHU buyer through the Department, the owner is not required to share any of his/her proceeds with the Department.