Institute for Community Economics

# CLT Financing in California
# Working Paper #3

# Inclusionary Housing

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*This is one in a series of working papers designed to assist Community Land Trusts (CLTs) in California in accessing statewide financing resources to produce permanently affordable homeownership opportunities for low and moderate income families. CLTs are community based nonprofit organizations that hold title to land as a means to stabilize communities and preserve investment in affordable housing for the benefit of future generations. CLTs generally sell the homes that sit on the land to eligible homebuyers and enter into long term ground leases which offer the residents the benefits traditionally associated with homeownership while limiting the resale price of the home so that it remains affordable to future low or moderate income buyers.*

# I. Inclusionary Housing

Many California Jurisdictions have established inclusionary housing programs which require developers of new housing to make a percentage of new units affordable to low or moderate income residents. Increasingly, these programs provide a significant share of the new affordable housing development throughout the state. However, little attention has been paid to the ways that these programs maintain (or fail to maintain) affordability over time. CLTs looking to create permanently affordable housing need to understand how inclusionary housing programs work, how they vary from jurisdiction to jurisdiction, and how they can take advantage of these programs as a source of support for CLT development.

Inclusionary housing ordinances require (or encourage) a portion of market-rate housing developments to be set aside as affordable for lower and moderate-income households. In California, it is each jurisdiction's choice whether or not to have an inclusionary housing program. It is also up to each jurisdiction to craft their program to suit their needs. Key policy considerations include:

- How to define "affordability" and target income levels,
- The percentage of units in each new housing development that must be made affordable,
- Whether alternatives to on-site construction will be allowed, and what those alternatives will be,
- What incentives will be given to the developer, and
- The length of affordability that will be required.

Inclusionary housing policies have been around in California for about 30 years. In that time, over 100 jurisdictions have created programs resulting in over 34,000 affordable housing units. Most programs require developers of market rate rental housing to produce affordable rentals and developers of market for-sale housing to produce affordable for-sale units. A recent study by the Non-profit Housing Association and California Coalition for Rural Housing summarized the results of these programs.[1]

[1] California Coalition for Rural Housing and the Non-Profit Housing of Northern California. 2003. *Inclusionary Housing in California: 30 Years of Innovation.*

For these inclusionary programs, the study found that:

- For-sale units are most frequently targeted to moderate-income households (80 to 120 percent of the area median income).
- Generally**,** developments above 5 or 10 units are required to provide between 10% and 25% of units as affordable housing. The average inclusionary rate is 13%.
- Alternates to on-site construction include in-lieu fees, off-site construction, and land dedication.
- Cities often provide incentives to developers to ensure that the provision of inclusionary housing does not eliminate the profitability of a housing development. These incentives include density bonuses which allow developers who provide affordable units to build more total units on a given site, fast-track permit processing, and fee reductions/waivers and/or deferrals. These are relatively low-cost to the jurisdiction, especially relative to direct subsidies.
- Affordability is generally maintained through deed restrictions for set terms and resale controls that determine how much homes can sell for, and to whom they can be sold. The average length of affordability is 34 years, with 20% reporting that their inclusionary programs require permanent affordability.

## II. CLTs and Inclusionary Housing

Inclusionary housing policies require market rate housing developers to become involved in the business of developing affordable housing. Beyond the financial impact of the affordability requirements, many developers are resistant to these programs, in part, because they recognize that they are not well equipped to market affordable homes, to screen buyers for eligibility under various government programs, and to educate buyers on the complex resale restrictions. An effective CLT can make inclusionary development easier for the developer by taking on these functions and, where possible, by bringing additional subsidies, downpayment assistance, homebuyer counseling and other resources to the project. Often these additional resources are not available to for-profit developers. More importantly, the CLT provides local government with a more effective mechanism for ongoing monitoring and support to the buyers of affordable units. The CLT ground lease provides a very strong means of insuring the ongoing affordability of the units while balancing the needs of the current owners with the interest of future generations of buyers.

CLTs can benefit from inclusionary housing programs in a number of ways. These programs not only promote the development of affordable housing, they often include explicit mechanisms to maintain this affordability over time. Because these programs vary significantly from jurisdiction to jurisdiction, each CLT will need to research their local programs. However, it is valuable to explore some of the most common ways in which inclusionary housing programs maintain housing affordability – and the ways CLTs can navigate these programs to maintain this affordability permanently.

### A. How CLTs Engage Inclusionary Housing Programs

CLTs engage in inclusionary housing programs in either of two ways. First, the CLT may buy newly constructed homes (and the land beneath them) directly from the developer, and then resell the homes (and lease the land) to eligible buyers. Second, the developer may cede a portion of the development to the CLT, who will develop the units themselves or in partnership with another

affordable housing developer. There are advantages to each approach. For CLTs with limited development experience, having the market rate developer build CLT homes can be much more efficient. These homes can be included within a single general contract, under the developer's insurance, etc. This economy of scale can lower the cost of construction. Some inclusionary programs require that affordable units be built at the same time as (or before) the market rate units. In these places, the market rate developer may worry that allowing the CLT to build the affordable units separately could delay the sale of the market rate units.

However, many developers will prefer to turn over production of the affordable units to someone with experience with affordable housing. The developer's need for profit and their concerns about the potential risks related to the affordable units may also mean that, in spite of the economies of scale, the CLT can have the units built more affordably on their own.

CLTs also need to engage the jurisdictions directly to ensure that the CLT will be allowed to own the land. Most inclusionary housing ordinances explicitly define the characteristics of eligible buyers. But CLTs are not individual homebuyers and existing regulations may not anticipate the use of land leases. From a legal and logistical standpoint, the best solution is for jurisdictions to codify in policy how their inclusionary housing programs can work with CLT ground leases. However, until that time, CLTs will need to emphasize that they are in conformance with the spirit of inclusionary housing programs, if not the exact letter.

### B. Mechanisms Used to Maintain Affordability

Cities and counties have a range of techniques with which to maintain the affordability of inclusionary housing. However, the preponderance of inclusionary housing programs maintain housing affordability through deed restrictions or resale controls. These provide clear legal mechanisms to maintain affordability, as well as structured formulas for determining maximum resale prices and the eligibility of potential homeowners.

The length of affordability maintained by these programs will vary greatly, from a few years to permanence, with the average being 34 years. Jurisdictions that require permanent affordability are obviously the most compatible with CLT goals. Others set a minimum length for which the units must stay affordable. For CLTs, this flexibility can be used to create permanent affordability even where it may not be required by the inclusionary ordinance.

Many cities also have a clause that restarts the affordability clock each time the home is sold.[2] Although such clauses may cause a unit to remain affordable permanently, there is no guarantee that this will be the case. In fact, there is a strong incentive for the homeowner to keep the home for the allotted time and then sell at full market value.

In jurisdictions where permanence of inclusionary housing is not guaranteed, CLTs have several options. The CLT can negotiate with the jurisdiction to ensure that affordability *can* be made permanent. The potential success of this strategy will vary from place to place, as some jurisdictions

[2] For example, in a city with a 30-year affordability clause, if the original homeowner sells after 20 years, the home must remain affordable for another 30. But if the original homeowner holds onto the house for 30 years, they are free to sell it for full market value.

will stick closely to the letter of the law (and thereby enable the expiration of affordability at a certain time), while others will be more flexible. As discussed in the sidebar on California's Housing Element law, the fact that there are incentives for cities and counties to maintain their affordable housing stock should work to the advantage of CLTs.

### C. Alternatives to On-Site Construction

Most, but not all, jurisdictions with inclusionary ordinances allow developers some alternatives to building the affordable units on-site with their market rate units. The alternatives include in-lieu fees, land dedication, and off-site construction. Often, these options may actually be more conducive to the CLTs goal of permanently affordable housing.

1. *In-lieu fees* – In-lieu fees enable a developer to pay into a local fund instead of developing the affordable units required in their inclusionary housing program. In turn, CLTs can negotiate with the jurisdiction to utilize these fees to build permanently affordable housing. According to a recent study, 81% of jurisdictions with inclusionary housing programs enable in-lieu fees as an alternative to direct construction.[3] One concern is that often the in-lieu fees are much lower than the actual cost of constructing affordable housing.

2. *Land dedication* – Instead of developing the affordable units required in their inclusionary housing program, land dedications enable a developer to substitute a gift of land large enough to accommodate the required units. In turn, CLTs can negotiate with the jurisdiction for the rights to this land, upon which the CLT can build permanently affordable units. According to a recent study, 43% of jurisdictions with inclusionary housing programs enable land dedication as an alternative to direct construction.[4]

3. *Off-site construction* – Off-site construction enables the developer to build the required units at a different site than the market-rate units. However, issues related to purchasing the units from the developer would not be mitigated by this approach. According to a recent study, 67% of jurisdictions with inclusionary housing programs enable off-site construction as an alternative to direct construction.[5]

### D. Ongoing Monitoring and Administration

For the most part, California's inclusionary housing programs assign responsibility for ensuring that homeowners comply with the program rules to local government. The deed restrictions are executed by the developer at the time of sale to the first buyer. From that point on, it is generally the local jurisdiction's responsibility to ensure that when the unit resells, that it is sold for no more than the affordable price. In addition, the deed restrictions generally require that homeowners occupy the unit as their primary place of residence and prohibit subletting. Some local governments have dedicated staff assigned to monitor resales and occupancy for their stock of inclusionary units. Many do not. The inclusionary programs themselves generally provide no special source of revenue for these

[3] See footnote 1.
[4] See footnote 1.
[5] See footnote 1.

services which means that the more inclusionary units a city produces, the greater their ongoing administrative cost.

This can be especially expensive when homeowners attempt to fight affordability restrictions. At the time of sale, many homeowners do not remember that they agreed to limit their resale price or to share a portion of their equity with the local jurisdiction. Some claim that they never understood these restrictions. No doubt some never did. The process of resolving these disputes can be time consuming and result in bad publicity for these programs. While developers are theoretically no longer involved, these misunderstandings pose a risk for the developers as well because they are often named in the resulting lawsuits and newspaper articles. A CLT can help a jurisdiction (and the developer) avoid these problems by providing thorough education to buyers at the time of sale and through an ongoing relationship with CLT homeowners including regular reminders of the terms of their ground lease and resale restriction. It is easy to forget that you signed a deed restriction but few homeowners forget that they do not own the land under their home! The CLT ground lease provides a monthly administrative fee which makes it easier to staff this relationship with homeowners over time.

However, to take full advantage of this CLT function the local inclusionary housing program may need to be modified to explicitly acknowledge the role of the CLT. Otherwise the local government staff and the CLT will duplicate effort. Rather than monitoring individual homeowners, the jurisdiction can now regulate and monitor the CLT – ensuring that they have the necessary systems in place to monitor the homes and manage the resales.

## III. Inclusionary Housing and State Law

Although the State of California does not generally require local jurisdictions to have inclusionary ordinances a number of state laws impact local inclusionary housing programs. To help promote permanently affordable housing, it is important for CLTs to understand how these laws influence local inclusionary housing programs. There are numerous laws that tangentially affect inclusionary housing programs (e.g., Housing Element Law, the California Environmental Quality Act, and the Coastal Act). However, the two that most directly impact inclusionary housing programs are Density Bonus Law and Redevelopment Law.

**Density Bonus Law (Government Code Section 65915-65918)**
Density bonus law works in concert with inclusionary housing law, and does not preempt local ordinances that promote inclusionary housing. Density bonus law directly promotes the development of affordable housing. It requires cities to grant a density bonus to developers that provide affordable housing to low- or middle-income residents.[6] A density bonus is the right to develop at a rate higher than that allowed by the local zoning ordinance, with the bonus increasing with the percentage of units that are affordable and the relative affordability of the units (i.e., very-low, low, or moderate).[7]

Density bonus law provides separate affordability requirements, based on a unit's affordability. Units affordable to very-low and low-income households must be placed under a deed restriction to maintain their affordability for at least 30 years (65915(c)(1)). Units developed for moderate-income households are not faced with such a requirement. Instead, the law provides a formula that determines the sales price (65915(c)(2)). Upon resale of moderate-income units, the local government is required to recapture its proportionate share of appreciation, which is equal to the percentage by which the initial sale price to the moderate-income household was less than the fair market value of the home at the time of initial sale. The seller is entitled to the rest of the appreciation, the value of any improvements, and the down payment. Because of this formula, the home may not remain affordable in areas where appreciation is more rapid than the increase in area median income. Since such appreciation has been the norm in California for many years, CLTs and jurisdictions seeking to promote long-term affordability may find enabling the construction of moderate-income units under Density Bonus Law conflicts with their goals

Cities may allow the developer to dedicate land in lieu of building affordable housing on site. The transferred land shall be put under a deed restriction ensuring affordability for at least 30 years (65915(h)(4)).

**Community Redevelopment Law (Health and Safety Code Section 33000-33753)**

Community Redevelopment Law authorizes cities and counties to create redevelopment agencies as a vehicle for addressing "blight" and economic distress in specified geographic areas. All redevelopment agencies in California are subject to inclusionary housing requirements. Redevelopment agencies are required to set aside at least 20% of their tax increment funds for low and moderate income housing (33334.2(a)). Under state law, at least 15% of the housing developed within redevelopment project areas must be affordable to low or moderate income households (33413.(2)(A)(i)). Affordable housing that is created outside of the redevelopment project area may be counted towards an agency's inclusionary requirement, but the agency must provide two affordable units produced outside of the project area for each one that would have been required within the project area (33413.(2)(A)(ii)).

All housing assisted with set-aside funds or counted towards an agency's housing production goals must have long-term affordability restrictions. Ownership housing must be restricted for at least 45

[6] Cities are also required to provide incentives to developers who provide affordable housing. These may be ways to economically increase density, such as reduced setbacks or parking requirements, or financial incentives, such as expedited review or subsidies.
[7] For the exact formula for determining allowable bonuses, see http://www.leginfo.ca.gov/cgi-bin/waisgate?WAISdocID=22834628181+0+0+0&WAISaction=retrieve

years (3334.3(f)(1)(B)). However, redevelopment law allows ownership housing to be released from the restrictions if the agency's assistance is repaid and the lost unit is replaced by another affordable unit (3334.3(f)(1)(B)).

For a more complete analysis of the relationship between redevelopment law and CLTs, see *CLT Financing in California, Working Paper #2: California Redevelopment Law.*

## Appendix: Relevant Excerpts from State Laws

### Density Bonus Law (Government Code Section 65915-65918)

***To Whom the Law Applies***
**65915.(a)**. When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall provide the applicant incentives or concessions for the production of housing units and child care facilities as prescribed in this section. All cities, counties, or cities and counties shall adopt an ordinance that specifies how compliance with this section will be implemented.

***Density Bonus Thresholds***
**65915.(b)**. A city, county, or city and county shall grant a density bonus and incentives or concessions described in subdivision (d) when the applicant for the housing development seeks and agrees to construct at least any one of the following: (1) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code. (2) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code. (3) A senior citizen housing development as defined in Sections 51.3 and 51.12 of the Civil Code. (4) Ten percent of the total dwelling units in a condominium project as defined in subdivision (f) of, or in a planned development as defined in subdivision (k) of, Section 1351 of the Civil Code, for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code.

**65915.(n)**. Nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

***Definition of Affordability***
**65915.(c)(1)** Those units targeted for lower income households, as defined in Section 50079.5 of the Health and Safety Code, shall be affordable at a rent that does not exceed 30 percent of 60 percent of area median income. Those units targeted for very low income households, as defined in Section 50105 of the Health and Safety Code, shall be affordable at a rent that does not exceed 30 percent of 50 percent of area median income.

**65915.(c)(2)**. An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of the moderate-income units that are directly related to the receipt of the density bonus in the condominium project as defined in subdivision (f) of, or in the planned unit development as defined in subdivision (k) of, Section 1351 of the Civil Code, are persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code.

***Duration of Affordability***
**65915.(c)(1).** An applicant shall agree to, and the city, county, or city and county shall ensure, continued affordability of all lower income density bonus units for 30 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

***Resale***
**65915.(c)(2).** Upon resale, the seller of the (moderate-income) unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture its proportionate share of appreciation, which shall then be used within three years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote homeownership. For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the percentage by which the initial sale price to the moderate-income household was less than the fair market value of the home at the time of initial sale.

***Incentives***
**65915.(d)(2).** The applicant shall receive the following number of incentives or concessions: (A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent

for very low income households, or at least 10 percent for persons and families of moderate income in a condominium or planned development. (B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a condominium or planned development. (C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a condominium or planned development.

**65915.(k)**. The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. This provision is declaratory of existing law. (l) For the purposes of this chapter, concession or incentive means any of the following: (1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions. (2) Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located. (3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable, financially sufficient, and actual cost reductions. This subdivision does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

***Allowed Density***
**65915. (g) (1)**. For the purposes of this chapter, except as provided in paragraph (2), "density bonus" means a density increase of at least 20 percent, unless a lesser percentage is elected by the applicant, over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date of application by the applicant to the city, county, or city and county. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b). For each 1 percent increase above 10 percent in the percentage of units affordable to lower income households, the density bonus shall be increased by 1.5 percent up to a maximum of 35 percent. For each 1 percent increase above 5 percent in the percentage of units affordable to very low income households, the density bonus shall be increased by 2.5 percent up to a maximum of 35 percent. All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. The density bonus shall not be included when determining the number of housing units that is equal to 5 or 10 percent of the total. The density bonus shall apply to housing developments consisting of five or more dwelling units.

***Land Transfer***
**65915**. (h) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county as provided for in this subdivision, the applicant shall be entitled to a 15 percent increase above the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan for the entire development. For each 1 percent increase above the minimum 10 percent land donation described in paragraph (2) of this subdivision, the density bonus shall be increased by 1 percent, up to a maximum of 35 percent. This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks both the increase required pursuant to this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met: (1) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application. (2) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10

percent of the number of residential units of the proposed development. (3) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible. No later than the date of approval of the final subdivision map, parcel map, or of the residential development, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government prior to the time of transfer. (4) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of dedication. (5) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer. (6) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

## Community Redevelopment Law (Health and Safety Code Section 33000-33753)

***Rationale for Housing Measures***
**33334.6**. (a) The Legislature finds and declares that the provision of housing is itself a fundamental purpose of the Community Redevelopment Law and that a generally inadequate statewide supply of decent, safe, and sanitary housing affordable to persons and families of low or moderate income, as defined by Section 50093, threatens the accomplishment of the primary purposes of the Community Redevelopment Law, including job creation, attracting new private investments, and creating physical, economic, social, and environmental conditions to remove and prevent the recurrence of blight.

***Financial Allocation***
**33334.2**. (a) Not less than 20 percent of all taxes that are allocated to the agency pursuant to Section 33670 shall be used by the agency for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost…

***Required Affordability***
**33413. (2) (A) (i).** Prior to the time limit on the effectiveness of the redevelopment plan established pursuant to Section 33333.2, 33333.6, and 33333.10 at least 15 percent of all new and substantially rehabilitated dwelling units developed within a project area under the jurisdiction of an agency by public or private entities or persons other than the agency shall be available at affordable housing cost to, and occupied by, persons and families of low or moderate income. Not less than 40 percent of the dwelling units required to be available at affordable housing cost to, and occupied by, persons and families of low or moderate income shall be available at affordable housing cost to, and occupied by, very low income households.

**33413. (2) (A) (ii).** To satisfy this paragraph, in whole or in part, the agency may cause, by regulation or agreement, to be available, at affordable housing cost, to, and occupied by, persons and families of low or moderate income or to very low income households, as applicable, two units outside a project area for each unit that otherwise would have been required to be available inside a project area.

***Duration of Affordability***
**3334.3(f)(1)**. The agency shall require that housing units subject to this subdivision shall remain available at affordable housing cost to, and occupied by, persons and families of low or moderate income and very low income and extremely low income households for the longest feasible time, but for not less than the following periods of time: (B) Forty-five years for owner-occupied units. However, the agency may permit sales of owner-occupied units prior to the expiration of the 45-year period for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program which protects the agency's investment of moneys from the Low and Moderate Income Housing Fund, including, but not limited to, an equity sharing program which establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds based on the length of occupancy. The remainder of the excess proceeds of the sale shall be allocated to the agency and deposited in the Low and Moderate Income Housing

Fund. Only the units originally assisted by the agency shall be counted towards the agency's obligations under Section 33413.

***Supplementary Financial Assistance***
**33334.7.** Programs to assist or develop low- and moderate-income housing pursuant to Sections 33334.2, 33334.3, 33334.6, 33413, and 33449 shall be entitled to priority consideration for assistance in housing programs administered by the California Housing Finance Agency, the Department of Housing and Community Development, and other state agencies and departments, if those agencies or departments determine that the housing is otherwise eligible for assistance under a particular program.