

150
2 weeks

6. Failure to Rent or Sell During Marketing Period.

If an inclusionary dwelling unit or leased residential space is not rented after having been marketed for ninety (90) days, or if there is no accepted offer to purchase after having been marketed for one hundred twenty (120) days, it may be marketed to a family with an AMI that is at or below the next greater ten percent (10%) increment of AMI than that specified in the restriction on the unit. For each additional consecutive ninety (90) or one hundred twenty (120) day period without a rental or sale, the inclusionary dwelling unit or leased residential space may be offered to a family with an AMI that is at or below an additional ten percent (10%) increment of AMI. The owner or lessor also shall provide the sale or rental price of the inclusionary dwelling unit or leased residential space and shall notify the City when the inclusionary dwelling unit or leased residential space is sold or rented. If the owner or lessor has provided notice of marketing as required in (e)2. and has marketed a rental inclusionary dwelling unit or leased residential space for one hundred eighty (180) days or an owner occupied inclusionary dwelling unit for two hundred forty (240) days, the owner or lessor may rent or sell the inclusionary dwelling unit or leased residential space at market rate. When a new family occupies the rental inclusionary dwelling unit or leased residential space, it shall be marketed to a family with an AMI at the level required for that unit. For purposes of this paragraph, other residential occupancy inclusionary dwelling units shall be treated in the same manner as rental inclusionary dwelling units.

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For all inclusionary dwelling units, marketing begins on the date when at least one (1) dwelling unit has been sold and a completed unit is available to walk through or view in a virtual presentation and the Director of Department of Planning and Development receives notice that the completed unit is available for walk through or viewing in a virtual presentation:

or rented

a. Owner-Occupied Inclusionary Dwelling Units. After one hundred eighty (180) days of marketing, a number of inclusionary dwelling units may become market rate units by one of the following mechanisms:

i.) If the percentage of market rate units in a phase of development that have sold is more than the percentage of inclusionary dwelling units in the development phase that have sold, a number of inclusionary dwelling units may become market rate units. The sum of the number of inclusionary dwelling units that become market rate dwelling units and the number of inclusionary dwelling units that have sold shall be a percentage of inclusionary dwelling units in a development phase that is no more than the percentage of market rate units in the development phase that have sold. Every ninety (90) days thereafter, owner-occupied inclusionary dwelling units may become market rate units following the above process.

or

ii.) The builder or developer has submitted a marketing plan for review and approval by the City Planning Director, or designee. Such plans shall include, but not be limited to, how marketing will be conducted and how the units will be advertised, as well as how documentation of completion will be delivered. Upon certification of the completion of the marketing plan the remaining inclusionary dwelling units may become market rate units.

Director of the Department of Planning and Development

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ii) at least 90% of the market rate units have been sold and marketing of the remaining market rate units has been halted. The reasons for halting the remaining market units will be submitted to the Planning Director upon request

If an owner-occupied inclusionary dwelling unit becomes a market rate unit, the owner shall return to the city fifty percent (50%) of the difference between the sales price as a market rate unit and the price for which it was marketed as an inclusionary dwelling unit. These funds shall be deposited in the Inclusionary Zoning Special Revenue Fund.

b. Rental, Other Residential Occupancy, and Leased Residential Space Inclusionary Dwelling Units. These units are subject to the same procedure as in a. above, except that no funds shall be returned to the City for inclusionary dwelling units that are rented or leased as market rate units and when a new family occupies such a unit, it must be offered to a family with the AMI required under the restriction for that inclusionary dwelling unit.