

**HOUSING AUTHORITY OF THE CITY OF SAN DIEGO
REGULAR MEETING MINUTES
TUESDAY, MARCH 15, 2022
CITY COUNCIL CHAMBERS – 12TH FLOOR**

VIRTUAL MEETING

The Regular Meeting of the Housing Authority of the City of San Diego was called to order at 3:54 p.m.

ATTENDANCE

Present:

Council President Sean Elo-Rivera, District 9
Councilmember Joe LaCava, District 1
Councilmember Jennifer Campbell, District 2
Councilmember Stephen Whitburn, District 3
Council President Pro Tem Monica Montgomery Steppe, District 4
Councilmember Chris Cate, District 6
Councilmember Raul Campillo, District 7
Councilmember Vivian Moreno, District 8

Not present:

Councilmember Marni von Wilpert, District 5

APPROVAL OF HOUSING AUTHORITY MINUTES

Motion by Councilmember Campillo to approve the minutes of March 1, 2022. Seconded by Councilmember Campbell and passed by a vote of 8-0.

NON-AGENDA PUBLIC COMMENT

Joy Sunyata commented on San Diego Housing Commission President & CEO Richard C. Gentry.
Tristan Buds commented on low-income housing.
Yvette Renee commented on Airbnb rentals.

DISCUSSION AGENDA:

ITEM 2: HAR22-011 Appointment of an Interim President and Chief Executive Officer for the San Diego Housing Commission, Who Also Serves as the Interim Executive Director of the Housing Authority of the City of San Diego

Council President Sean Elo-Rivera recessed the meeting at 4:15 p.m. Council President Sean Elo-Rivera reconvened the meeting at 4:21 p.m.

Motion by Councilmember Campillo, to take the following staff-recommended actions as amended. Add \$300,000 as the salary in the last whereas clause of the resolution and add “Jeff Davis” and the word “interim” before “President and Chief Executive Officer” and before “Executive Director of the Housing Authority” in the resolution. Seconded by Councilmember LaCava, and passed by a vote of 8-0.

That the Housing Authority of the City of San Diego (Housing Authority) approve the appointment of an Interim President & Chief Executive Officer for the San Diego Housing Commission, who also serves as the Interim Executive Director of the Housing Authority of the City of San Diego (Housing Authority).

ITEM 1: HAR22-001 Approval of a San Diego Housing Commission Administrative Regulation Regarding Retention of Real Estate Brokers, Operating Procedures for Brokers, and Peer or Desk Review of Appraisals

Emily S. Jacobs, Executive Vice President, Real Estate, San Diego Housing Commission, presented the request for approval.

Council President Sean Elo-Rivera recessed the meeting at 4:54p.m. Council President Sean Elo-Rivera reconvened the meeting at 4:59 p.m.

Motion by Councilmember LaCava, to take the following staff-recommended actions with the following amendments to the Administrative Regulations:

5. Recommendation of Brokers from Other Governmental Entities. In addition to the processes set forth in the Procurement Policy, the Housing Commission ~~will~~ shall seek recommendations from other governmental entities that have worked with the potential brokers. ~~If possible, p~~Potential brokers shall provide the Housing Commission with three recommendations, preferably from governmental entities.
6. Required Contractual Provisions: Any contract between the Housing Commission and a retained real estate broker shall include terms and conditions that accomplish the following:

A. Conflicts of Interest

- i. **Compliance with all applicable conflict laws.** Brokers and agents shall comply with any and all local, state, and federal conflict of interest laws, rules and regulations, as they shall hereafter be amended from time to time.

All brokers retained by the Housing Commission shall avoid any and all appearances of impropriety in fulfilling their duties under the terms of their contract. In addition, each broker shall comply with all terms and conditions of City Council Policy 000-04, and specifically shall comply with the terms of the Code of Conduct set forth within the City Council Policy 000-04, to assure that in addition to not violating any and all applicable laws, that there be no appearance of an impropriety in the performance of their real estate broker services for the Housing Commission.

Brokers and agents are solely responsible for compliance with all applicable conflict laws, rules and regulations.

- ii. **Statement of Economic Interest Disclosure Form (Form 700).** Any real estate brokers or agents representing the Housing Commission which are defined by the Fair Political Practices Act Commission (FPPC) as

“consultants” of the Housing Commission shall be required to file a Form 700 disclosure form at all times required by the state and local law, and in addition, prior to the execution of any contract the “consultant” shall provide an executed paper Form 700 for Housing Commission review to ensure that at the date of execution of the contract that no known conflicts of interest exist. Brokers and agents are solely responsible for ensuring their filed Form 700 remains is current and shall notify the Housing Commission within three business days of filing of any amendment to a Form 700s amendment.

- iii. No change.
- iv. **Dual Agency.** In the event the broker/agent retained by the Housing Commission represents the owner or owners of property that the broker/agent believes may be suitable for the Housing Commission’s consideration, the broker/agent shall provide the Housing Commission with a written disclosure notice stating the address of the property, the owner of the property, the names of all persons employed or otherwise working for the broker/agent with respect to the property, and any and all prior and current business or personal relationships between the broker/agent and the seller(s) of the property.

No dual agency arrangement shall be permitted.

In the event that a property has been listed by the broker that has been selected to represent the Housing Commission and the Housing Commission desires to explore potential acquisition of the listed property, the retained broker shall not represent the Housing Commission. In such event, the Housing Commission ~~may~~ shall either represent itself, or shall ~~may~~ use an alternative broker, not affiliated with the listing broker, that was a retained broker.

If a property has been listed by a broker otherwise retained by the Housing Commission, including any and all brokers employed by the retained brokerage company, the Housing Commission shall not pay any commission nor compensation of any type or kind in connection with any transaction involving the purchase of the listed property by the Housing Commission, including, without limitation, any and all portions of the listing commission, which shall be paid for solely by the seller of the property.

- v. No change.
- vi. **Abstention in the Event of Conflict.** The Housing Commission will determine in its sole discretion whether the broker/agent’s representation with respect to the acquisition of a property or interest in the property or seller is prohibited or likely prohibited by federal, state, or local law, rule or regulation. If the Housing Commission determines that such representation or other financial, business, or other interest ARE NOT PROHIBITED by any federal, state, or local law, rule or regulation, then the broker/agent shall represent the Housing Commission with respect to the potential acquisition of such a property. However, if either the Housing Commission determines that such representation or other interest ARE prohibited by any federal, state, or local law, rule or regulation or broker/agent represents any seller with respect to a property, then broker/agent shall not

represent the Housing Commission with respect to the potential acquisition and the broker/agent consents to the Housing Commission's acquisition of such property utilizing another broker/agent, or without a broker and the broker/agent waives the right to receive a commission or other compensation of any kind whatsoever with respect to the Housing Commission's acquisition of such property.

The Housing Commission's determination under this section must be in writing and signed by the designated officer of the Housing Commission.

Nothing herein shall prohibit or otherwise limit the broker/agent's right to compensation from the seller of the property which compensation of any type or kind shall be disclosed and detailed to the Housing Commission in writing prior to the execution of the purchase and sale agreement.

- vii. **Confidential Information.** The broker/agent shall not disclose to anyone any information the Housing Commission has deemed in its sole discretion to be confidential. Confidential information shall be disclosed to the Housing Authority and the City Attorney's Office.

B. i – iii. No change.

C. No change.

D. No change.

E. No change

F. No change.

G. No change.

H. Compensation. The agreement between the broker/agent and the Housing Commission will include different compensation structures as agreed upon by the parties for Listed Properties, Unlisted Properties, and Off-Market Properties. In situations where the broker/agent obtains compensation of any type or kind from a seller or co-operating brokers, the broker/agent will disclose and detail all such compensation obtained and to be obtained prior to the execution of the purchase and sale agreement for each transaction.

Seconded by Councilmember Cate and passed by a vote of 8-0.

That the Housing Authority of the City of San Diego (Housing Authority) take the following actions:

- 1) Authorize the San Diego Housing Commission (Housing Commission) to approve the Housing Commission Administrative Regulation regarding Retention of Real Estate Brokers; Operating Procedures for Brokers; and Peer or Desk Review of Appraisals, (Attachment 1), which is attached to the proposed Housing Authority resolution; and
- 2) Authorize the Housing Commission's President & Chief Executive Officer (President & CEO), or designee, to alter the Housing Commission Administrative Regulation regarding

Retention of Real Estate Brokers; Operating Procedures for Brokers; and Peer or Desk Review of Appraisals only to correct a typographical or clerical error or omission, with the written approval and concurrence of Housing Commission General Counsel, without further action by the Housing Commission Board or the Housing Authority. Housing Commission staff will notify the Housing Authority and the City Attorney's Office about any subsequent amendments or modifications to the Housing Commission Administrative Regulation regarding Retention of Real Estate Brokers; Operating Procedures for Brokers; and Peer or Desk Review of Appraisals.

Adjournment

Council President Elo-Rivera adjourned the meeting at 5:03 p.m.