

APPENDIX H

Douglas County Moderate Income Housing Program
Approvals and Regulations

DOUGLAS COUNTY BOARD OF COMMISSIONERS
MEETING OF DECEMBER 6 & 7, 2006

MOTION by Johnson/Brady to adopt Resolution 2006R-106 amending Resolution 2004R-041; carried unanimously.

COUNTY MANAGER

DISCUSSION AND POSSIBLE ACTION ON APPROVAL OF A MODERATE INCOME HOUSING PROGRAM FOR TAHOE TOWNSHIP.

Dan Holler, county manager, explained the program. There are a couple of projects that have been looking at utilizing an affordable housing program, moderate housing program. The county has not had one in place, which makes it difficult for them to go forward. It is tied to HUD guidelines of fifty years that it has to be in the program. The program has been forwarded to TRPA for their review.

Commissioner Smith said Placer County and the City of South Lake Tahoe already have programs. He does not anticipate any substantive changes to what is being submitted. This is not an arbitrary document. The TRPA has been working on guidelines for a moderate income housing program. If a jurisdiction does not have a recognized moderate income housing program, than developers do not have the ability to get bonus densities. There are abilities for developers to do things with the program that they cannot do without a program.

No public comment.

MOTION by Smith/Kite to approve a moderate income housing program for Tahoe Township subject to final review and approval by the TRPA with any major changes to be considered by the Board of County Commissioners; carried unanimously.

***RECESS AS COUNTY COMMISSIONERS
CONVENE AS LIQUOR LICENSE BOARD & GAMING LICENSE BOARD***

Discussion and possible action on request by Karin Allen & Bobby Robertson, co-owners/operators, to apply for a Dining Full Alcohol (service bar) Liquor License for Paradise Café located at 1483 Highway 395, Gardnerville, Nevada

Sgt. Tom Mezzetta, DCSO, recommended approval of the license.

No public comment.

MOTION by Kite/Johnson to approve request by Karin Allen & Bobby Robertson, co-owners/operators, to apply for a Dining Full Alcohol

TAHOE REGIONAL PLANNING AGENCY (TRPA)
AND TRPA COMMITTEE MEETINGS

NOTICE IS HEREBY GIVEN that on **Wednesday, July 25, 2007**, commencing at **9:30 a.m.**, the **Governing Board** of the Tahoe Regional Planning Agency will conduct its regular meeting. The meeting will take place at Montbleu Resort, Cosmopolitan B Conference Room, 55 Highway 50, Stateline, NV. The meeting will continue on **Thursday, July 26, 2007** at **9:30 a.m** at the same location. The agenda is attached hereto and made a part of this notice.

NOTICE IS FURTHER GIVEN that on **Wednesday, July 25, 2007**, commencing at **8:00 a.m.**, at the Montbleu Resort Board Room, the TRPA **Legal Committee** will meet. The meeting will continue on **Thursday, July 26, 2007** at **8:00 a.m** at the same location. The agenda will be as follows: **1)** Public Interest Comments; **2)** Closed Session with Counsel to Discuss Existing and Potential Litigation; **3)** Potential Direction Regarding Agenda Item 4; **4)** Resolution of Enforcement Action, Reynaldo and Dianne Martinez, Unauthorized Grading, 1545 Vivian Lane, Washoe County, Nevada, APN 130-245-15 AND Resolution of Enforcement Action, Robert Lawrence, Unauthorized Disposal of Soil from Construction Site, 409 Valerie, Washoe County, Nevada, APN 125-141-10; **(Page 177)** **5)** Resolution of Enforcement Action, Todd and Patrice Kinion, Unauthorized Construction of a Sun Deck below the High Water Line of Lake Tahoe, 8387 Meeks Bay Avenue, El Dorado County, California, Assessor's Parcel Number (APN) 016-081-37;**(Page 173)** **6)** Discussion of Compact Article III(d) Regarding Open Meeting Requirement; **7)** Unit of Use Regulation Discussion; **8)** Update on Airport Tree Violation; **9)** Member Comments (Committee: Chair – Waldie, Vice Chair – Aldean, Biaggi, Motamedi, Swobe, Bresnick, Yount)

NOTICE IS FURTHER GIVEN that on **Wednesday, July 25, 2007**, commencing at **8:00 a.m.**, at the same location. The meeting will take place at Montbleu Resort, Cosmopolitan B Conference Room, the TRPA **Operations Committee** will meet. The agenda will be as follows: **1)** Public Interest Comments; **2)** Acceptance of May Monthly Financial Statement; **(Page 35)** **3)** Adoption of Agency's 5-Year Strategic Plan and FY 07/08 Work Program; **(Page 71)** **4)** Adoption of Agency's FY 07/08 Budget; **(Page 89)** **5)** Application Filing Fee Schedule Inflationary Adjustment;**(Page 115)** **6)** Amendment of Tahoe Regional Planning Agency's Fiscal Purchasing Policies and Procedures Manual Sections 1, 3, 7 and 8;**(Page 135)** **7)** Resolution Allocating an Additional \$21,045 in FY 2006-2007 Local Transportation Funds (LTF) to El Dorado County for South Shore Transit Services;**(Page 185)** **8)** Transfer of Previously Released Placer County Water Quality Mitigation Funds in the Amount of \$75,000 to the Tahoe Pines Erosion Control Project and \$62,000 to the Beaver Street Erosion Control Project; **(Page 189)** **9)** Member Comments; (Committee: Chair – Merrill, Vice Chair – Ruthe, Weber, Kranz, McDermid, Santiago)

July 18, 2007



John Singlaub Executive Director

Executive Director Singlaub presented the Heavenly Mountain Resort North Bowl Ski Lift and North Bowl Ski Trails project.

No Public Comment

Ms. Santiago moved approval of the findings.

Motion carried unanimously.

Ms. Santiago moved approval of the project.

Motion carried unanimously.

XIII. PLANNING MATTERS

- A. **Joint Workshop with the Governing Board and Advisory Planning Commission**, Discussion and Review of Regional Plan Vision and Guiding Principles

No Action Item.

- B. Certification of Douglas County Moderate Income Housing Program

Staff member Neil Crescenti presented the proposed certification of the Douglas County Moderate Income Housing Program.

No Public Comment

Ms. McDermid moved certification of the program.

Motion carried unanimously.

- C. Board Director on Options to Move Forward on Shorezone Ordinances and EIS

This item was continued to the June Governing Board meeting.

XIV. CLOSED SESSION

- A. Closed session to discuss potential Shorezone litigation (if needed)

No closed session was held.

XV. COMMITTEE REPORTS

- A. Legal Committee – no additional report.

- B. Operations Committee – no additional report

XVI. ADJOURNMENT

TAHOE REGIONAL PLANNING AGENCY

128 Market Street
Stateline, Nevada
www.trpa.org

P.O. Box 5310
Stateline, Nevada 89449-5310

Phone: (775) 588-4547
Fax (775) 588-4527
Email: trpa@trpa.org

May 23, 2007

MEMORANDUM

To: TRPA Governing Board

From: TRPA Staff

Subject: Certification of Douglas County's Local Government Moderate Income Housing Program

Proposed Action:

Governing Board certification of Douglas County's Moderate Income Housing Program.

Staff Recommendation:

Staff Recommends the Governing Board review the proposed housing Plan and certify the program.

Background: In April of 2004, TRPA Staff amended the Regional Plan in an effort to encourage the development of moderate-income housing units for residents of the Basin. The amendments made multi-residential bonus units available to moderate-income housing projects. Additionally, these moderate-income projects to receive residential allocations from a separate allocation pool, that is in addition to the annual allotment granted to each local jurisdiction. These allocations are held in a pool, originally intended to support the retirement of sensitive lands (refer to Code subsection 33.2.B (4)). In order to maintain viability of the sensitive land retirement program, allocations for moderate-income projects are only available if more than 100 allocations remain in the pool (once below 100, residential allocations may not be received from this moderate-income housing program pool). 200 multi-residential bonus units and 200 residential allocations are available for moderate-income projects.

For projects to take advantage of the multi-residential bonus units and allocations, the local jurisdiction for which the project is located must establish and have certified by the TRPA Governing Board a Moderate Income Housing Program.

Discussion: Pursuant to Code subsection 35.2.G, TRPA may certify a local moderate-income housing program. This Code subsection requires four elements within the program: 1) an adopted Housing Element from the local jurisdiction which includes the housing needs and issues facing that jurisdiction; 2) standards which guide the development of projects consistent with the principals of transit-oriented development; 3) A mechanism for conveying the requirements of the program concerning income limitations and associated rent and/or sale limitations, in addition to occupancy requirements; and 4) a monitoring program which reports to

TRPA on an annual basis all program activities. Additional information may be contained in the program, although not required.

It is very important for anyone that might be interested in the moderate-income program to understand that once in the program, the unit is forever in the program. The program is not intended to be an interim measure for obtaining a residential construction permit under which the deed restriction can be relieved in the future once an allocation and/or development right, or a unit of residential use is obtained. The deed restriction has no end date and there will be no substitution of market commodities to relieve the deed restriction. This program is strictly voluntary.

Douglas County has developed their proposed plan in conjunction with TRPA Staff. If certified by the Governing Board (via Resolution, refer to attachment A), the plan will be effective immediately. Refer to Exhibit 1 for Douglas County's proposed Local Government Moderate-Income Housing Program.

The conditions, under which multi-residential bonus units can be used, substituted, converted, subdivided, or any other action shall be in accordance with the appropriate sections of the Code of Ordinances. This plan does not supersede the regulations contained in any portion of the Regional Plan package. If an inconsistency between this Moderate-Income Housing Program and the Regional Plan package arises, the Regional Plan prevails. There is no delegation of authority via this plan.

Effect on TRPA Staff Work Program: The bulk of the work required for this plan has been accomplished in getting to this point. There will be an annual monitoring report to review and it is anticipated that no action will be required further than reviewing and filing the report. Some additional projects resulting from this program may be permitted via the local jurisdiction MOUs. These projects, like all MOU projects will be subject to the annual MOU audits. This may increase the level of effort required for the MOU audits. Alternatively, the program may also initiate projects for which TRPA will have to issue permits. This may increase the workload for TRPA Environmental Review Services staff.

Please contact Neil Crescenti, (775) 589-5216, or ncrescenti@trpa.org, if you have any questions regarding this agenda item.

Attachments – A, Certifying Resolution
 Exhibit 1, Douglas County's Local Government Moderate-
 income Housing Program

**TAHOE REGIONAL PLANNING AGENCY
RESOLUTION NO. _____**

This **Resolution** was passed on the ___ day of May, 2007, by the Tahoe Regional Planning Agency (hereinafter referred to as the "TRPA").

WHEREAS, The Douglas County Moderate-income Housing Program Regulations (the Plan) between TRPA and Douglas County is intended to promote moderate-income residential development; and

WHEREAS, the impetus for this Plan can be traced back to the efforts of the TRPA Local Government Committee; and

WHEREAS, the subject provisions of the TRPA Regional Plan Package provide for residential allocations and multi-residential bonus units for those projects which qualify when a Local Government Moderate-income Housing Plan can be certified to meet the intent of Code subsection 35.2.G; and

WHEREAS, as set forth in the Plan, Douglas County does hereby agree to provide timely annual monitoring reports consistent with the provisions of the Plan; and

WHEREAS, as set forth in the Plan, Moderate-income residential units shall be occupied by residents of the Tahoe basin on a full-time basis; and

WHEREAS, as forth in the Plan, Moderate-income residential units shall feature on-site amenities and appropriate proximity to land uses that promote transit oriented design which reduces the dependency of personal automobiles; and

WHEREAS, Agency staff has recommended certification of the Douglas County Moderate-income Housing Program Regulations; and

WHEREAS, said Plan does not supersede any provision of the Regional Plan Package documents; and

NOW THEREFORE BE IT RESOLVED, by the Governing Board of the Tahoe Regional Planning Agency, in consideration of these premises, the Douglas County Moderate-income Housing Program Regulations (Exhibit 1, May 23, 2007) is certified.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held May __, 2007, by the following vote:

Ayes:

Nays:

Abstentions:

Absent:

Julie Motamedi, Chair
TRPA Governing Board

May 23rd

Resolution __-07
AGENDA ITEM XIII.B
Attachment A, Exhibit 1



Douglas County

Moderate-Income Housing Program Regulations

For Presentation to the Tahoe Regional Planning Agency Governing Board

May 23, 2007

Table of Contents

- 1.0 Introduction
- 2.0 Definitions
 - 2.1 Moderate Income Housing
 - 2.2 Median Family Income
 - 2.3 Transit Oriented Development
- 3.0 Property Eligibility
 - 3.1 Unit Characteristics
 - 3.2 Location
 - 3.3 Transit-Oriented Development Standards
 - 3.4 Assignment of Multi-Family Residential Bonus Units
 - 3.5 Assignment of Building Allocations
 - 3.6 Approval of Douglas County Board of Commissioners
- 4.0 Deed Restrictions
 - 4.1 General
 - 4.2 Limited Use
 - 4.3 Occupancy
 - 4.4 Compliance
 - 4.5 Term
 - 4.6 Scope of Deed Restriction
 - 4.7 County Rules, Regulations and Procedures
 - 4.8 Certification as a Condition to Lease Execution or Close of Escrow
 - 4.9 Related Party Transfers Permitted
 - 4.10 Foreclosure by Mortgagee or Lien Holder
 - 4.11 Acquisition of Title by Non Profit Entity through Gift or Purchase
- 5.0 Owner-Occupant and Tenant-Occupant Eligibility
 - 5.1 Definition of Income Limits
 - 5.2 Determination of Income
 - 5.3 Verification of Income
- 6.0 Affordable Housing Costs for Moderate-Income Households and Appropriate Unit Size
 - 6.1 Affordable Moderate Income Housing Costs for Initial Owner-Occupants of a Specific Moderate Income Housing Unit on its Initial Sale
 - 6.2 Affordable Moderate Income Housing Costs for Initial Owner-Occupants of a Specific Moderate Income Housing Unit on its Resale
 - 6.3 Moderate Income Housing Costs for Tenants
 - 6.4 Family Size Appropriate to the Unit
- 7.0 Recordation of Deed Restriction
- 8.0 Fees
- 9.0 Annual Report/Monitoring

1.0 INTRODUCTION: MODERATE INCOME HOUSING NEEDS

In 2004 the Tahoe Regional Planning Agency (TRPA) amended its Regional Plan to facilitate the development of new moderate income housing, requiring local jurisdictions to submit adopted Moderate Income Housing Programs to the TRPA for certification. This plan describes the policies and programs put in place by Douglas County ("County") to implement, manage, and monitor a Moderate Income Housing Program ("Program").

Goal #2 of the Land Use Element (Chapter II) of the TRPA Goals and Policies provides in part that, to the extent feasible, "moderate income housing will be encouraged in suitable locations for the residents of the region." The County shares this goal and desires to further assist in its achievement.

The Legislature of the State of Nevada has found and declared in Nevada Revised Statutes (NRS) 319.020 that there exists a serious shortage of decent, safe and sanitary housing in this state available to persons and families of low and moderate income; that many other persons and families are unable to secure or afford, without assistance, decent, safe and sanitary housing; and that each county with a population of more than 40,000 shall adopt a master plan that must address these subjects.

Under NRS 278.160, the master plan must include a housing plan which (i) determines the present and prospective need for affordable housing in the community; (ii) analyzes any impediments to the development of affordable housing and the development of policies to mitigate those impediments; and (iii) outlines a plan for maintaining and developing affordable housing to meet the housing needs of the community. NRS 278.230 (1) (a) requires the local governing body in putting the adopted master plan into effect to ". . . ensure an adequate supply of housing, including affordable housing . . ."

The Douglas County Master Plan and this Program are implementation tools to address the Nevada state law requirements outlined above.

The Housing & Population Element of the Douglas County Master Plan establishes goals and policies to encourage the provision of affordable housing for its current and future residents. This includes the County working to address housing needs that may be regional in nature through coordination with neighboring jurisdictions, including TRPA, the City of South Lake Tahoe (the "City"), and Eldorado County.

The County supports the private sector in constructing a variety of affordable housing, including Moderate Income Housing (as defined in this Program), and supports housing affordability programs designed to fill in gaps left by current housing programs at the state and federal level. Actual or potential impediments to affordable housing include the fact that the construction or provision of affordable housing is often unprofitable unless subsidies or incentives are provided. Other impediments include additional constraints or costs associated with the specific regulatory controls, environmental protections, and the limited amount of privately owned land in the Lake Tahoe portion of the County (the "Tahoe Township of Douglas County"). The Program is targeted to the Tahoe Township which includes all of the area within Douglas County under the jurisdiction of the Tahoe Regional Planning Agency within the Lake Tahoe Basin.

Presently, a limited range of housing is available to middle-income families in the Douglas County Tahoe Township, causing many middle income residents to seek housing outside of the Lake Tahoe Basin and to commute to work inside the Basin (to the detriment of the environment, the community, and the local economy). Substantial increases in housing costs will continue this trend.

While limited low-income housing is presently being supported through government subsidy, no government subsidized program exists for the development of moderate income housing. Due to limitations in public funding sources and to the lack of economic incentive for the private sector to develop Moderate Income Housing, middle-income residents are being squeezed out of a home ownership opportunity in the Lake Tahoe Basin (a problem which also affects residents elsewhere in Douglas County).

The creation of Moderate Income Housing can be assisted by certain incentive programs, such as the Multi-residential Bonus Unit Incentive Program offered by the TRPA. Private parties should be provided incentives to create Moderate Income Housing by being automatically eligible for the multi-residential bonus unit incentive program, if their parcel is already zoned “multi-family”, encouraging private parties to create moderate income, deed-restricted housing as a component of new home developments (which in the Lake Tahoe Basin typically consist primarily of market rate housing units, absent a housing mitigation/replacement requirement imposed on a specific project by TRPA)) or conversion of existing market rate units to deed restricted Moderate Income Housing.

Accordingly, what follows describes the policies and programs put in place by the County to implement, manage and monitor a Moderate Income Housing Program in conformance with the County’s Master Plan Housing & Population Element, Nevada State Law, and TRPA Code of Ordinances.

2.0 DEFINITIONS

2.1 Moderate Income Housing

Chapter 2 of the TRPA Code of Ordinances defines “Moderate Income Housing” as follows:

“Residential housing, deed restricted to be used exclusively as a residential dwelling by permanent residents with an income not in excess of 120 percent of the respective county’s median income. Such housing units shall be made available for rental or sale at a cost that does not exceed the recommended state and federal standards. Each county’s median income will be determined according to the income limits published annually by the Department of Housing and Urban Development.”

As a result of TRPA’s definition of “Moderate Income Housing” and the County’s desire that this Program be consistent with the applicable provisions of the TRPA Code of Ordinances, Moderate Income Housing is defined solely for purposes of this Program in the Douglas County Tahoe Township as “Affordable” (as defined herein) residential

housing, deed restricted to be used exclusively as a residential dwelling by permanent residents with an income not in excess of 120% of the County's Median Family Income (as defined herein). Such housing units shall be made available for rental or sale at a cost that does not exceed the Affordability standards set forth in Section 6 of the Program.

2.2 Median Family Income

Median Family Income is Douglas County's median family income as determined according to the income limits published annually by the U.S. Department of Housing and Urban Development ("HUD"), and adjusted for Family Size Appropriate to the Unit (as defined in Section 6.3 of the Program). Median Family Income and Moderate Income Limit (as defined in Section 5.1 of the Program) will be adjusted annually based on published HUD Median Family Income levels.

2.3 Transit Oriented Development

Transit Oriented Development is a single family or multifamily residential development generally guided by the following factors or their functional equivalent:

(a) located within one-half mile of mass transit opportunities or other alternative modes of transportation; or

(b) located within one-half mile of a public transportation corridor containing accommodations for future transit operations; or

(c) located within reasonable proximity to a commercial center (such as grocery/drug stores, medical services, retail stores, or laundry facilities), employment opportunities and/or government services (such as public facilities, public schools, recreation sites, or other government services); and

(d) containing appropriate residential densities to facilitate transit use, subject to the maximum density allowed on the parcel under the applicable TRPA Plan Area Statement.

3.0 PROPERTY ELIGIBILITY

3.1 Unit Characteristics

Single-family dwellings or multi-family residential uses are eligible for the Program. Projects may involve new construction, reconstruction, conversion of or substitution for existing residential units, or conversion of existing tourist accommodation units to residential units, to the extent allowed under the TRPA Code of Ordinances and as determined by permitting action of the TRPA on a project by project basis.

3.2 Location

Eligible dwellings must be located within the Tahoe Township, wherever either single family dwellings or multiple family dwellings are permissible as allowed uses in the

parcel's TRPA Plan Area Statement and Douglas County Master Plan and zoning ordinance.

3.3 Transit Oriented Development Standards

3.3.1 Five (5) or more units

For multi-family residential projects containing five or more units, development will be consistent with the Transit Oriented Development Standards defined in Section 2.3 hereof.

3.3.2 Less than Five (5) units

For multi-family residential or single family dwelling projects containing less than 5 units, the Transit Oriented Development Standards defined in Section 2.3 hereof are not applicable.

3.4 Assignment of Multi-Residential Bonus Units

Pursuant to Chapter 35 of the TRPA Code of Ordinances, multi-residential bonus units may be approved for Moderate Income Housing Units within the jurisdiction of the County under the Program after certification of this Program by the TRPA Governing Board.

3.5 Assignment of Building Allocations

Pursuant to Chapter 33 of the TRPA Code of Ordinances, a residential allocation shall be required in order to utilize multi-residential bonus units for Moderate Income Housing Units included in the Program, which shall be eligible to receive residential allocations from TRPA as provided in the TRPA Code of Ordinances.

3.6 Approval of Douglas County Board of Commissioners

Program participants must obtain the approval of the Douglas County Board of Commissioners. Approval will be based on the proposed project satisfying the provisions of Title 20 of the Douglas County Consolidated Development Code, excluding particularly the portions of Section 20.440.020 (Density Bonus and Affordable Housing Agreements) that refer to density bonus, definition of affordability, and duration of project, and excluding generally any other provisions not in conformance with TRPA Code. This is consistent with Douglas County Code Chapter 20.700, which provides that TRPA Code controls within the Tahoe Basin portion of Douglas County.

4.0 DEED RESTRICTIONS

4.1 General

Every Moderate Income Housing Unit accepted into this Program shall have a deed restriction recorded upon it prior to the acknowledgement of the TRPA permit authorizing the project. This will enable the County to maintain each Moderate Income

Housing Unit as Moderate Income housing. The terms and conditions of the form of deed restriction to be recorded against each Moderate Income Housing Unit shall incorporate all of the requirements of this Section 4 of the Program and shall be subject to the prior approval of the County and TRPA. The conditions and restrictions contained in the deed restriction will run with the land and will be binding on all parties having or acquiring any right, title or interest in each Unit, including agents, heirs, mortgagors, trustees, and all successors in interest.

4.2 Limited Use

Moderate Income Housing Units shall be limited to the approved use and restrict owner-occupied housing costs or rental rates and occupants' household income to the Affordability and Moderate Income Limits defined in Sections 5.0 & 6.0 of the Program.

4.3 Occupancy

Moderate Income Housing Units approved under this Program shall be used to provide housing for full-time residents of the Douglas County Tahoe Township and shall not be used for vacation rental purposes. All owner-occupied and tenant-occupied units shall be occupied for at least ten (10) months in each 12-month period by owner or tenant.

4.4 Compliance

Failure of any unit to comply with the approved use, household income limits, housing costs, or occupancy requirements as more specifically described in the required deed-restriction, or other covenant running with the land, shall require that either such unit cannot be occupied until the non-complying element of the Program is rectified or the removal of such unit or modification of the use to bring the project area into compliance with otherwise applicable development standards.

4.5 Term

Residential units developed under this Program shall permanently remain within the Program.

4.6 Scope of Deed Restriction

The rental and/or sale of any Moderate Income Housing Unit in the Program shall be subject to all of the terms of this Program, which shall be evidenced by a deed-restriction running with the land that will be enforced by the County and that will require any subsequent purchaser or renter of a Moderate Income Housing Unit to sell or rent the unit in accordance with this Program.

4.7 County Rules, Regulations and Procedures

The County at any time may promulgate rules, regulations, and procedures consistent with this Program and which shall be adhered to by the managers, tenants, owners, and/or owner-occupants of each Moderate Income Housing Unit in the Program. Follow-up inspections and/or monitoring are subject to any schedule determined by the County. Annual occupancy reports and certifications are required to be timely sent to Douglas County by the manager or owner of each rented unit in the Program.

4.8 Certification as a Condition to Lease Execution or Close of Escrow

4.8.1 Certification as a Condition to Lease Execution

As a condition to the execution of a lease for the rental of a Moderate Income Housing Unit in the Program, the owner or manager of the property shall certify in writing and deliver to the County or its designee written certification that the rent for the unit does not exceed 30% of 120% of Douglas County's median income. No less than annually, the County, or its designee, shall certify in writing each rental unit within the project is in compliance with the foregoing. The County shall have no liability whatsoever for any failure or delay in providing the certification. The owner and/or manager of the unit shall be solely responsible for compliance and any penalties for non-compliance. Any lease signed by the owner or manager of a unit which is not in compliance with the foregoing, shall be void with the tenant being subject to immediate eviction and non-compliance sanctions as set forth in Section 4.4 hereof.

4.8.2 County Certification as a Condition to Close of Escrow

As a condition to the close of escrow for the sale of a Moderate Income Housing Unit in the Program, the County, or its designee, shall certify in writing and deliver to both seller of the unit and the designated escrow holder written confirmation that the requirements of Section 5.0 hereof (Owner Occupant and Income Eligibility) and Section 6.0 hereof (Affordable Housing Costs for Moderate Income Households and Family Size Appropriate to the Unit) have been satisfied. If the County is unable to make such a certification, neither the sale of the unit nor the closing of escrow may occur. The County shall have no liability whatsoever for any failure or delay in providing such certification. All responsibility therefore shall rest with the seller of the unit. The closing of any escrow without the receipt of the County's certification shall (i) be void, (ii) subject the Unit to foreclosure by the County, (iii) subject the sale to being reversed, and (iv) subject the seller to the non-compliance sanctions set forth in Section 4.4 hereof.

4.8.2.1 Assumption by each Purchaser of Program Restrictions

The deed restriction shall include provisions requiring (i) the County to be notified when an escrow is opened to sell a Moderate Income Housing Unit in the Program, (ii) the prospective purchaser (a) to review the deed restrictions with the escrow holder and to represent and certify in writing as a condition to the close of escrow that the purchaser fully understands and assumes all of his rights and obligations under the Program and acknowledges that both the seller of the Unit, the escrow holder and the County will rely on such acknowledgement and assumption of obligations by the purchaser and (b) to deliver an original of such certification to both the seller, the escrow holder, and the County.

4.9 Related Party Transfers Permitted

Transfers to an existing spouse, surviving joint tenant, or to a spouse as part of a marriage dissolution proceeding, or in connection with marriage, are permitted transfers under this deed restriction, provided that all terms and conditions of the deed restriction run with the land and bind the subsequent transferees and owners of the transferred Unit.

4.10 Foreclosure by Mortgagee or Lien Holder

Neither a foreclosure against a Unit in the Program for a default under a mortgage loan, deed of trust, mechanic's lien, judgment lien, bankruptcy lien, or other liens or encumbrances, nor the fact of a third party (whether the foreclosing party or a bona fide purchaser) obtaining legal title to and becoming the owner of the Unit as a result of such foreclosure by a trustee, lender, mortgagee, lien holder, court, or other person at such sale, shall constitute a violation or breach of either the Program or the deed restriction with respect to the foreclosed or sold Unit. However, neither the foreclosure nor the sale of the Unit shall extinguish or supersede the enforceability of the deed restriction and each of its terms and conditions. Any resulting or subsequent owner of the Unit and any resulting or subsequent rental or sale of the Unit shall each be subject to and shall be in full compliance with, in all respects, all of the terms and conditions of this Program and the deed restriction, and the compliance terms of Section 4.4 shall at all times be fully applicable.

4.11 Acquisition of Title by Non Profit Entity through Gift or Purchase

The provisions of Section 4.8 above shall apply equally to the sale or donation of the Unit to any non-profit entity so long as (i) the entity is recognized as such under Section 501(c)(3) of the Internal Revenue Code and is in good standing with all applicable governmental and taxing authorities; and (ii) any resulting or subsequent owner of the Unit and any resulting or subsequent rental or sale of the Unit shall each be subject to and shall be in full compliance with, in all respects, all of the terms and conditions of this Program and the deed restriction, and the compliance terms of Section 4.4 shall at all times be fully applicable.

5.0 OWNER-OCCUPANT AND TENANT INCOME ELIGIBILITY

5.1 Definition of Moderate Income Limits

Moderate Income Limits for a Moderate Income Household are defined as an individual or family's income of not more than 120% of Douglas County's Median Family Income (as defined in Section 2.2 of the Program) ("Moderate Income Limits"). The Moderate Income Limits in place at the time of income qualification will apply when determining the eligibility of an owner-occupant or tenant as a Moderate Income Household.

5.2 Determination of Income Eligibility

5.2.1 For Moderate Income Unit Tenants

For Moderate Income tenants, all income received by persons 18 years of age or older living in a multi-family moderate income rental unit in the Program is used to determine

income eligibility at time of rental (i.e., whether or not the tenant's income exceeds the Moderate Income Limits at time of rental).

5.2.2 For Moderate Income Unit Owner Occupants

For Moderate Income Unit owner occupants, all income received by the prospective owner(s) of the unit in the Program is used to determine eligibility at time of purchase (i.e., whether or not a prospective unit purchaser's income exceeds the Moderate Income Limits at time of purchase).

5.3 Verification of Income

The combined annual gross income of all tenants and owner-occupants will be used to determine whether or not a household is above or below the Moderate Income Limits. Income will be verified by reviewing and documenting verifications of employment sent to employers, copies of signed tax returns, copies of wage receipts or subsidy checks, and/or bank statements, along with documentation of liquid assets or investments that generate income.

5.3.1 Income Verification for Tenant

Prior to executing any lease with each tenant for a unit in the Program, the unit owner or manager will provide to the County for its approval sufficient information so that the County can determine whether the tenant satisfies the Moderate Income Limits as described in Section 5.1, at the time of lease. All rental files shall be maintained by the manager of the unit and shall include the lease agreement, house rules and maintenance policies. The County will maintain all documentation in its tenant file under the address of the unit and hold it in confidence.

5.3.2 Income Verification for Owner-Occupant

Prior to the close of escrow for the sale of a unit in the Program, each Moderate Income Unit seller will submit to the County for its approval sufficient documentation so that the County can determine whether the owner-occupant purchaser satisfies the Moderate Income Limits as described in Section 5.1, at the time of sale. In addition, prior to the County issuing any income verification certificate, the prospective owner-occupant will provide a certificate (in a form approved by the County) attesting to the fact that he intends to occupy the Unit on a full time basis, as his primary residence. The County will maintain all documentation in its owner-occupant file under the address of the unit and hold it in confidence.

6.0 AFFORDABLE HOUSING COSTS FOR MODERATE INCOME HOUSEHOLDS AND FAMILY SIZE APPROPRIATE TO THE UNIT

6.1 Affordable Moderate Income Housing Costs for Initial Owner-Occupants of a Specific Moderate Income Housing Unit on its Initial Sale

Affordable housing costs for the initial Moderate Income Household which proposes to purchase and occupy a specific Moderate Income Housing Unit on its initial sale shall mean a purchase price for the unit which does not exceed the greater of the following

two criteria: either (i) total housing costs (principal, interest, property taxes, fire insurance premium, ground lease fees, if applicable, etc.) shall not exceed the product of 35% times 120% of the County's Median Family Income, adjusted for Family Size Appropriate to the Unit (as defined in Section 6.3 of the Program); or (ii) the maximum sales price of the Moderate Income Housing Unit to the prospective owner shall not exceed a 4.2 multiplier (Multiplier) multiplied by 120% of the Median Family Income (adjusted for Family Size Appropriate to the Unit as defined in Section 6.3 of the Program) at the time of sale. As long as the unit sale price on the initial sale of a Moderate Income Housing Unit does not exceed the greater of these two criteria, it is permitted and "Affordable" under the Program, even if the sales price would not satisfy the other criterion. Prior to the close of escrow, each Moderate Income Unit seller will submit to the County for its approval sufficient documentation to prove that either the sales price or the total housing costs for the prospective owner-occupant purchaser fall within one of these two parameters (i.e., are Moderate Income Housing). The Multiplier is subject to periodic amendment, to adjust for changes to the Douglas County Median Family Income resulting in a numerical increase in the multiplier.

6.2 Affordable Moderate Income Housing Costs for Later Owner-Occupants of a Specific Moderate Income Housing Unit on its Resale

Affordable housing costs for a Moderate Income Household which proposes to be the second or later purchaser and occupant of a specific Moderate Income Housing Unit in the Program (i.e., on the resale of a specific Moderate Income Housing unit already in the Program) shall mean a purchase price for the unit which does not exceed the greater of the following two criteria: either (i) the Moderate Income Housing Unit seller's original purchase price for the unit increased by the compound annual increase from the month and year of the original unit purchase through the month and year of the proposed resale closing date of the U.S. City Average of All Urban Consumers Price Index (CPI-U) as released periodically by the U.S. government (see www.bls.gov/bls/list.htm); or (ii) the maximum sales price of the Moderate Income Housing Unit to the prospective owner shall not exceed a 4.2 multiplier (Multiplier) multiplied by 120% of the Median Family Income (adjusted for Family Size Appropriate to the Unit as defined in Section 6.3 of the Program) at the time of resale. As long as the unit sale price on the resale of a Moderate Income Housing Unit does not exceed the greater of these two criteria, it is permitted and "Affordable" under the Program, even if the sales price is greater than the other criterion. Prior to the close of escrow, each Moderate Income Unit seller will, upon the proposed resale of his unit, submit to the County for its approval sufficient documentation to prove that the sales price for the prospective owner-occupant purchaser is Affordable (i.e., less than or equal to the greater of these two criteria).

6.3 Moderate Income Housing Costs for Tenants

Housing costs for a Moderate Income Household which proposes to rent (but not own) a Moderate Income Housing Unit shall mean that total rent, including a reasonable utility allowance (unless utilities are included in the rent), shall not exceed the product of 30% times 120% of Douglas County's Median Family Income (County's Median Income Family Multiplier), adjusted for Family Size Appropriate to the unit (as defined in Section 6.3 of the Program). Prior to executing a lease with each tenant, the unit manager will provide to the County for its approval a copy of the rental or lease agreement for each tenant to prove that the housing costs for the prospective tenant

fall within these parameters (i.e., are Moderate Income Housing). Owners and managers of rented units in the Program may increase rents only in accordance with the annual increase in the County Median Family Income using the standards articulated in Section 5.0 and 6.0 of the Program, upon the commencement of a new tenancy. Nothing herein shall prohibit an owner or manager from, upon turnover of the unit, from re-renting the property at the maximum permitted under Douglas County's Median Family Income Multiplier.

6.4 Family Size Appropriate to the Unit

Applying HUD guidelines, the term "Adjusted for Family Size Appropriate to the Unit" in this Program means the following:

Unit Size	Family Size
Studio	2-Person
1-Bedroom	3-Person
2-Bedroom	5-Person
3-Bedroom	7-Person
4-Bedroom	9-Person

7.0 RECORDATION OF DEED RESTRICTIONS

Each deed restriction shall be recorded against a unit in the Program prior to the acknowledgement of the TRPA permit authorizing the project. The form of deed restriction shall be submitted to the County and TRPA for approval prior to the TRPA permit acknowledgment, and its recordation shall be a condition precedent to the acknowledgement of the TRPA permit authorizing the project. All costs associated with the recordation of the deed restriction will be paid by the developer/owner. Douglas County shall receive the original, recorded deed restriction by mail from the County Recorder's Office and shall retain it in its files for monitoring purposes, and the County shall provide a copy of the recorded deed restriction to TRPA for its files.

8.0 FEES

The County may charge an appropriate fee, set by resolution that it determines in its judgment and assesses from time to time for the preparation of all deed restriction documents and Income and Affordability verifications processed under the Moderate Income Housing Program. The fee is due and payable at the time the deed restriction is applied for (prior to recordation in the County Recorder's Office) or at the time a tenant income and Affordability certification is requested. This fee will be based upon the cost to the County to devote staff and resources (i) to the preparation and recordation of each deed restriction document, (ii) to the processing of each income and Affordability verification, (iii) to the monitoring, inspections and reports required to be carried out by the County under the Program, and (iv) to any other costs arising out of the administration of the Program. This fee does not include or satisfy other development fees imposed by Douglas County (i. e., building and/or planning divisions).

9.0 ANNUAL REPORTING/MONITORING

In order to ensure full compliance with the Program, the County will be responsible for monitoring, documenting and reporting annually to the TRPA on the management and enforcement of the Program and compliance with the provisions of the deed restrictions. The County will submit an annual report on the performance of the County's Moderate Income Housing Program to TRPA on or before March 31 after the end of a calendar year, and will include information as to the number and location of each unit, copies of recorded deed restrictions, description of monitoring visits, reports of noncompliance and any remedial actions taken.