



# City of San Leandro

Meeting Date: October 7, 2019

## Staff Report

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**File Number:** 19-479

**Agenda Section:** CONSENT CALENDAR

**Agenda Number:** 8.C.

**TO:** City Council

**FROM:** Jeff Kay  
City Manager

**BY:** Tom Liao  
Community Development Director

**FINANCE REVIEW:** David Baum  
Finance Director

**TITLE:** Staff Report for a City of San Leandro City Council Resolution Authorizing the City Manager to appropriate up to \$415,000 from the City Affordable Housing Assets Fund Balance to Purchase a Below Market Rate Housing Unit at 713 Bloom Street for Resale to an Income Eligible Homebuyer and to Execute a Purchase and Sale Agreement with an Income Eligible First Time Homebuyer, which would be subject to an updated Property Value Restrictions, Resale Agreement, and Option to Purchase

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### SUMMARY AND RECOMMENDATIONS

The City's Housing Services Division investigated and determined in recent years that the owner of a Below Market Rate (BMR) townhome at 713 Bloom Street, Stephanie Ransom Clark, was not using it as her primary residence as required under the City's Inclusionary Housing Program. The owner also violated the Property Value Restrictions, Resale Agreement, and Option to Purchase Agreement (Agreement) with the City by over-financing the property beyond the BMR home value. Staff communicated with the owner for many months to re-establish compliance with City affordability requirements, but the owner's, and the loan originator's, OCMBC dba LoanStream, responses were inadequate. The City recently filed legal actions against both the owner and LoanStream to specifically enforce the Agreement.

Staff recommends that the City Council authorize the City Manager to appropriate up to \$415,000 from the City Affordable Housing Assets Fund Balance to purchase a BMR unit at 713 Bloom Street for Resale to an Income Eligible Homebuyer and to Execute a Purchase and Sale Agreement with an Income Eligible First Time Homebuyer, which would be subject to an updated Agreement.

### BACKGROUND

In the early 2000s, the Cherrywood subdivision was constructed and included over 300 owner-occupied detached single family and attached townhome units. Over 30 units were

required by the City to be sold at below market rate prices to eligible low and moderate income homebuyers under the City's Inclusionary Housing Program. The owner of 713 Bloom Street purchased the BMR unit as part of this program. The intent of the program was to create affordable homeownership opportunities for income qualified households, who were primarily first-time homebuyers. If any BMR home is sold or transferred prior to the end of the affordability period, then the home must be re-sold to a similar income eligible homebuyer at the restricted resale value calculated based on the Consumer Price Index (CPI) formula in the recorded Agreement between the owner and the City.

Staff found that the BMR owner had not only moved out and illegally rented 713 Bloom Street as a non-hosted short term rental, but also had refinanced the property in excess of the allowed resale amount. Staff contacted LoanStream, the refinancing originator, to make it aware that the home was a regulated BMR housing unit. Staff later found that the property was refinanced multiple times without the required City approval and in amounts that far exceeded the allowed resale amount, as dictated by the Agreement. Ms. Ransom-Clark defaulted on her loan and refinancing covenants, which caused her to offer LoanStream the deed to the property in lieu of foreclosure, which effectively placed LoanStream in control of the property.

### **Analysis**

In Summer 2019, staff began negotiating with LoanStream to buy back 713 Bloom Street. Due to inadequate cooperation, the City Attorney's Office took legal action against LoanStream and Ms. Ransom-Clark to legally enforce the Agreement by filing suit in Alameda County Superior Court and recording a Notice of Lis Pendens (written notice of the lawsuit) with the Alameda County Recorder's Office to halt any potential illegal resale.

After the lawsuit was filed, LoanStream, which wants to remove the delinquent loans and the property from its portfolio and to hopefully settle the lawsuit, agreed in principle to sell the property to the City at the deed restricted price in the Agreement. This is the ideal result for the City given the current litigation, and the urgency to get this property back into circulation within the City's affordable housing stock. Therefore, staff recommends that the City Council approve the use of available Affordable Housing Assets Fund Balance to purchase this property, and to conduct minor repairs to address code compliance issues and make the home suitable for resale to an income qualified homebuyer.

Assuming that the City is able to settle the litigation with LoanStream based on this agreement in principle, then after the City closes escrow and purchases 713 Bloom Street from LoanStream, the City's contracted Homebuyer Program consultant, Bay Area Affordable Homeownership Alliance (BAAHA), will market and manage the resale process, as it typically does for the resale of other City BMR homes. BAAHA will utilize the interest list it accumulated in recent years of households who qualify and are ready to purchase BMR units, like 713 Bloom Street. BAAHA will give priority to qualified households who live or work in San Leandro per the City's inclusionary housing requirements.

Although there are no guarantees at this time because of the current status of the litigation, staff is cautiously optimistic that the City should recoup the \$415,000 it will borrow from the Affordable Housing Assets Fund through a resale of the property to a qualified household. However,

because of the inherent uncertainty related to the current litigation, it is unclear at this time how much of the purchase costs and repair and “make-ready for sale” costs will be recouped at this time.

### **Applicable General Plan Policies**

Housing Element Policy 55.01, Community Stability Through Home Ownership - Enhance community stability by promoting home ownership and creating opportunities for first-time homebuyers in the City of San Leandro.

### **Environmental Review**

Environmental review is not applicable.

### **Legal Analysis**

The City Attorney’s Office reviewed and approved this staff report and related resolution .

### **Fiscal Impacts**

The City currently has an unaudited balance of approximately \$2,040,288 in undesignated fund balance in the Affordable Housing Assets Fund (Fund 168), also known as the Housing Successor Fund. These funds consist of repayments from the former Redevelopment Agency Housing Set-Aside Fund loans (such as the down payment assistance and owner-occupied housing rehabilitation loan programs as well as prior development loans to nonprofit developers). The use of these funds are designated specifically for affordable housing activities.

The Affordable Housing Assets Fund currently has sufficient funding to provide the \$415,000 that the City may use to purchase 713 Bloom Street and to make the necessary repairs to address code violations and cosmetic needs.

### **Budget Authority**

Budget authority for the Resolution comes from the City of San Leandro’s Affordable Housing Assets Fund cash balance, Fund 168 (aka Housing Successor Fund), which must be used for affordable housing.

### **Attachment to Staff Report**

- None

**PREPARED BY:** Maryann Sargent, Senior Housing Specialist, Community Development Department



# City of San Leandro

Meeting Date: October 7, 2019

## Resolution - Council

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**File Number:** 19-480 **Agenda Section:** CONSENT CALENDAR

**Agenda Number:**

**TO:** City Council

**FROM:** Jeff Kay  
City Manager

**BY:** Tom Liao  
Community Development Director

**FINANCE REVIEW:** David Baum  
Finance Director

**TITLE:** RESOLUTION of the City of San Leandro City Council to Authorize the City Manager to appropriate up to \$415,000 from the City Affordable Housing Asset Fund Balance to purchase a below market rate housing unit at 713 Bloom Street for resale to an income eligible homebuyer and to execute a purchase and sale agreement with an income eligible first time homebuyer, which would be subject to an updated property value restrictions, resale agreement, and option to purchase

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WHEREAS, Ms. Stephanie Ransom-Clark purchased 713 Bloom Street, San Leandro, California in 2003 with the help of the San Leandro Redevelopment Agency, which provided a loan to finance her down payment as part of the Agency's program to facilitate home ownership for low and moderate income persons; and

WHEREAS, as part of the down payment assistance, the Agency and Ms. Clark entered into a Property Value Restrictions, Resale Agreement, and Option to Purchase (the "Agreement"), effective April 24, 2003; and

WHEREAS, the Agreement gives the Agency the right of first refusal for any proposed sale, and prohibits Ms. Clark from any sale unless the Agency gives consent. The Agreement further provides that any sale price must be based on the original \$247,000 purchase price, adjusted for the Consumer Price Index (CPI.) Finally, the Agreement prohibits the owner from refinancing the property to exceed 100% of its purchase price; and

WHEREAS, pursuant to State law that eliminated Redevelopment Agencies, the City assumed and was assigned to enforce the Agreement; and

WHEREAS, in December 2017 Ms. Clark refinanced the property for \$408,000 and did not seek the City's consent. This refinancing breached the Agreement because the refinancing exceeded 100% of the purchase price. In May 2018, Ms. Clark refinanced the property again for

\$432,000 and did not seek the City's consent. In December 2018 Ms. Clark refinanced the property again for \$510,000 without the City's consent. When the City became aware of these breaches, the City contacted Ms. Clark to attempt to bring her back into compliance, but she refused. In addition, the City received notice that Ms. Clark was in default on the loans, and had also violated the Agreement by not using it as her primary residence, and engaging in non-hosted short term rental of the property; and

WHEREAS, OCMBC dba LoanStream, the company that executed the refinancings with Ms. Clark, informed the City of its intent to sell its existing loan to an investor in exchange for Ms. Clark granting the investor a deed in lieu of foreclosure. The investor would no longer be bound by the affordability restrictions in the Agreement and the subject property would no longer be available for low income housing. This was unacceptable to the City, which caused the City to file suit against Ms. Clark and LoanStream; and

WHEREAS, upon filing suit, the City recorded a lis pendens on the property, which clouds the title for any sale of the property. The lis pendens was recorded on August 5, 2019; and

WHEREAS, LoanStream has an agreement in principle with the City to sell the property directly to the City at the CPI adjusted price as set forth in the Resale Agreement.

NOW, THEREFORE, the City Council of the City of San Leandro does RESOLVE as follows:

1. That the agreement in principle to purchase 713 Bloom Street from LoanStream at the CPI adjusted price, as set forth in the Resale Agreement, is approved; and
2. Up to \$415,000 in City Affordable Housing Asset Fund Balance shall be appropriated from the fund and used towards the purchase, and a purchase and sale agreement to be executed with an income eligible first time homebuyer is hereby approved and execution by the City Manager is hereby authorized, subject to approval as to form by the City Attorney; and
3. That the City Attorney is directed to recover all costs and fees, including attorneys' fees and costs, related to the purchase and resale of 713 Bloom Street from the defendants, Ms. Clark, and LoanStream.