



County of Monterey

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 26-208

March 17, 2026

Introduced: 3/4/2026

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

- a. Approve and authorize Amendment No. 2 to the Jeffrey S. Kirby Inclusionary Housing Agreement (inherited via a Memorandum and Reaffirmation of Inclusionary Housing Agreement) to allow conveyance of his inclusionary unit into a revocable living trust; and
- b. Approve and authorize the Housing and Community Development Director, or his designee, to execute the approved Amendment No. 2 to the Inclusionary Housing Agreement.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve and authorize Amendment No. 2 to the Jeffrey S. Kirby Inclusionary Housing Agreement (inherited via a Memorandum and Reaffirmation of Inclusionary Housing Agreement) to allow conveyance of his inclusionary unit into a revocable living trust; and
- b. Approve and authorize the Housing and Community Development Director, or his designee, to execute the approved Amendment No. 2 to the Inclusionary Housing Agreement.

SUMMARY:

Inclusionary Housing Program homeowners, Jim J. Kirby, Sr. and Dorothy Kirby, purchased the inclusionary unit on December 18, 1998, and executed a 30-year Inclusionary Housing Agreement ("Agreement") with the County that was recorded on January 14, 1999. Later, they added their inclusionary unit into a revocable living trust and named their son, Jeffrey S. Kirby, as receiver of full distribution of the inclusionary unit. Dorothy Kirby passed away on May 20, 2020, and then Jim J. Kirby, Sr. passed away on October 21, 2022. Jeffrey S. Kirby was added to the Inclusionary Housing Agreement that his parents executed back in 1999 via the Memorandum and Reaffirmation of Inclusionary Housing Agreement. His term of affordability expires on December 18, 2028.

Now inclusionary homeowner, Jeffrey S. Kirby, has submitted all the required documents and wishes to place his inclusionary unit in a revocable living trust as part of his estate planning. He inherited the inclusionary unit from his parents, and he executed and recorded the Memorandum and Reaffirmation of Inclusionary Housing Agreement on May 10, 2024.

The inclusionary unit is located in the Las Palmas Ranch Subdivision, Phase II, and is designated as a 120% moderate-income unit. Under the terms of the recorded Owners' Agreement with the County, transfers of title between owner-spouses and to eligible purchasers (i.e., new income qualified owner-occupants) are the only permitted transfers of title. Per the terms of the Agreement, any other transfer of property title, including into a trust, is not allowed without Board of Supervisors ("Board") approval.

The current Inclusionary Housing Program does allow transfers of title by Owner into an inter

vivos trust in which Owner is the beneficiary is allowed, provided, however, that Owner shall provide written notice of such transfer to the County. However, this provision of the Inclusionary Housing Agreement requires Board approval. The Board has previously approved requests by other inclusionary homeowners to transfer their inclusionary unit into a revocable living trust.

DISCUSSION:

Owners of inclusionary units who purchased their home after July 12, 2011, are allowed to transfer their homes into trusts under Section 3.E. TITLE CHANGES AND PROPERTY INHERITANCE of the Inclusionary Housing Program Administrative Manual previously amended and adopted by the Board. The amendment, however, did not provide for retroactive application of this provision for existing homeowners who had entered into an agreement prior to July 12, 2011. As previously stated, Jim J. Kirby, Sr. and Dorothy Kirby purchased the inclusionary unit in 1998.

The proposed amendment to the Agreement enables the homeowner to transfer title of his property to a trust by expanding the Agreement's definition of "Permissible Transfer" to include conveyance to a revocable living trust for estate planning purposes. The amendment will allow the County to preserve its affordable housing program by requiring homeowner: (1) specifically acknowledge the continuing conditions of the Inclusionary Housing Program; (2) include specific language in the Deed transferring title into the trust; and (3) include specific language in the homeowners' trust documents. The proposed amendment will not affect the Inclusionary Housing Program's restrictions regarding the resale of home to income-and-asset qualified buyers and is consistent with the Inclusionary Housing Ordinance.

OTHER AGENCY INVOLVEMENT/COMMITTEE ACTIONS:

The County Counsel Office has reviewed this report and the Declaration of Trust, The Kirby Family Trust and the Trust Transfer Deed submitted by the homeowner with the required language. The County Counsel Office has approved the Amendment No. 2 to Inclusionary Housing Agreement as to form.

HOUSING IMPACTS:

- ☐ Reduces constraints on Housing Development
- ☐ Increases constraints on Housing Development
- ☐ Neutral
- ☒ Not applicable [N/A]

QUALITATIVE SUMMARY of potential impacts of the policy/program on Housing:
"N/A"

HOUSING CONSTRAINTS:

"N/A"

FINANCING:

There is no fiscal impact on the General Fund or on revenues. Staff time to prepare this report is included in the FY2025-26 Adopted Budget for Housing and Community Development Appropriation Unit HCD001, Unit 8542.

BOARD OF SUPERVISORS STRATEGIC PLAN GOALS:

The County's Inclusionary Housing Program provides homeownership opportunities in the unincorporated areas of Monterey County to very low-, low-, or moderate-income households.

Mark a check to the related Board of Supervisors Strategic Plan Goals:

- ☒ Well-Being and Quality of Life
- ☐ Sustainable Infrastructure for the Present and Future
- ☐ Safe and Resilient Communities
- ☐ Diverse and Thriving Economy
- ☐ Dynamic Organization and Employer of Choice

If does not fall under any of the above Board of Supervisors Strategic Plan Goals (Other):

☐ Administrative

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Approved by: Craig W. Spencer, Director of Housing & Community Development, x5233

Attachments are on file with the Clerk of the Board:

Attachment A - Kirby Inclusionary Housing Agreement.pdf

Attachment B - Kirby Memorandum and Reaffirmation.pdf

Attachment C - Amendment No. 2 Transfer to Trust PRE 2002 Kirby.pdf