



COMMUNITY DEVELOPMENT DEPARTMENT

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CITY COUNCIL INFORMATIONAL MEMORANDUM

Date: June 12, 2026

To: Cupertino City Council
From: Benjamin Fu, Director of Community Development

Re: Update on Expiring Below Market Rate (BMR) Rental Units in Cupertino

Purpose

This memo is intended to inform the City Council of the status of expiring BMR units in the City, including the process for expiring affordability restrictions.

Background

On April 30, 2026, Mayor Moore received a six-month notice of expiring affordability restrictions for four Below Market Rate (BMR) units at the Cupertino Park Center, as required by the California State Department of Housing and Community Development (HCD). These four (4) units will transition out of the BMR program and effectively become market rate units on November 1, 2026.

The City's BMR rental housing program is an affordable housing program designed to assist low and low-income households. Currently, the City's BMR portfolio includes 142 rental units across nine properties. The period of affordability for these units is set by a Declaration of Resale Controls or Regulatory Agreement between the City and the property. The terms of affordability for these units are 30 years, as they were established before the 1999 update of the Housing Mitigation Program Procedural Manual, which extended affordability restrictions to a term of 99 years, or for the life of the property.

Discussion

Expiring BMR Units

Of the City's 142 BMR rental units, 114 units across eight properties will be expiring out of the program within the next 13 years. Prior to expiration, property owners are required to send expiration notices to the renters and the Mayor/City, as required by California Government Code 65863.10. Required notices must be sent at the following intervals: three years in advance, 12 months in advance, and six-months in advance of the expiration of affordability restrictions. Staff conduct annual audits with the property owners to

confirm and verify completion of the notification requirements for the 3-year and 12-month notices. Check-ins are conducted as needed for 6-month notices. If the property owner misses any of the notices, the terms are automatically extended relative to the noticing period that was missed. For example, a missed three-year notice would extend the affordability by three additional years, a missed 12-month notice would extend affordability by an additional 12 months, and so forth. Once expired, the units become market rate rental units.

The Park Center units are the first in the City's BMR portfolio scheduled to expire. Mayor Moore received the required six-month notice on April 30, as the four (4) units are scheduled to expire on October 31, 2026.

Figure 1. Expiring BMR Units

Apartment Building	Units	Restrictions Expire	New Restriction	3-Year Notification	12-Month Notification	6-Month Notification
Aviare	20	7/8/2026	1/1/2028	Yes – Ext		
Forge Homestead	15	7/15/2026	11/8/2027	Yes – Ext		
Park (City Center)	4	7/31/2026	10/31/2026	Yes – Ext	Yes – Ext	Yes
Hamptons	34	10/20/2027		Yes		
Arioso	20	1/29/2028				
Biltmore	2	8/30/2029				
Aviare	2	7/8/2038				
Markham	17	11/4/2039				
TOTAL	114					

Staff will continue to conduct annual audits (and check-ins for 6-month noticing) with various housing property managers for compliance with state law for noticing and will inform property managers of their responsibilities for notifying all the required affected parties. Non-compliance will be rectified with extension of affordability terms per the regulations of state law.

Sustainability Impact

No sustainability impact.

Fiscal Impact

No fiscal impact.

City Work Program (CWP) Item/Description

Yes – Preserve existing and develop new BMR/ELI housing: Explore opportunities to preserve existing expiring BMR housing. Develop ELI (Extremely Low Income) and BMR housing units for Developmentally Disabled Individuals (IDD) on City-owned property as well as the County-owned sites.

Council Goal:

Housing

California Environmental Quality Act

No California Environmental Quality Act impact.

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Reviewed by: Benjamin Fu, Community Development Director

Approved for Submission by: Tina Kapoor, City Manager