



COMMUNITY DEVELOPMENT DEPARTMENT

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CITY COUNCIL INFORMATIONAL MEMORANDUM

Date: August 8, 2024

To: Cupertino City Council
From: Pamela Wu, City Manager

Re: Below Market Rate (BMR) Fund Expenditures on Administrative Costs Compared to Other Cities

Background

At the April 3, 2024, City Council meeting, staff was directed to conduct research on neighboring jurisdiction's expenditures of Below Market Rate (BMR) Affordable Housing Fund (AHF) on administrative fees. In accordance with a City Council resolution which was passed and adopted on May 19, 2020, the City maintains a BMR AHF. In accordance with the [BMR Housing Mitigation Program Procedural Manual](#) section 2.2.2, eligible activities for this fund are related to the predevelopment and development of affordable housing. Eligible activities include: administration of the BMR program, land acquisition, new construction, acquisition and/or rehabilitation of buildings for conversion to permanent affordability, preservation of "at-risk" BMR units, substantial rehabilitation, rental operating subsidies, down payment assistance, direct gap financing, fair housing enforcement, and to benefit the needs of extremely low-income households and persons with special needs. The City has historically expensed the administrative costs from the BMR AHF in accordance with the [BMR Housing Mitigation Program Procedural Manual](#) Section 2.2.2.

Revenues for the fund come from a Housing Mitigation Fee that is collected from construction development projects that is calculated from net added square footage of residential and non-residential development based upon the Consumer Price Index. In addition, there is an in-lieu fee for fractional BMR units (when the requirement of affordable units to be provided by the developer results in a non-whole number with a decimal between .1 and .4).

Staff has contacted the following neighboring jurisdictions to research common uses for local BMR funds and specifically, how administrative costs are covered:

Table 1: Santa Clara County Jurisdictions and Comparative BMR Administration Funds

Jurisdiction	Pays for BMR Admin through BMR Fund	Pays for BMR Admin through General Fund
City of Campbell	No	Yes
City of Cupertino	Yes	No
City of Gilroy	Half*	No
City of Los Altos	Unknown	Unknown
Town of Los Gatos	Unknown	Unknown
City of Milpitas	Yes	No
City of Monte Sereno	No	Yes
City of Morgan Hill	Unknown	Unknown
City of Mountain View	Yes	No
City of Palo Alto	Unknown	Unknown
City of San Jose	Yes	No
City of Santa Clara	Half*	No
County of Santa Clara	Yes	Yes
City of Saratoga	No	Yes
City of Sunnyvale	Yes	No

*Jurisdictions which paid for BMR administration halfway through a local BMR fund would fund the other half through another separate local fund

Sustainability Impact

No sustainability impact.

Fiscal Impact

No fiscal impact.

Prepared by: Nicky Vu, Senior Housing Coordinator

Reviewed by: Benjamin Fu, Director of Community Development

Approved for Submission by: Pamela Wu, City Manager

Attachments:

A – Comparative Santa Clara County Jurisdictions BMR Administration

ATTACHMENT A
Comparative Santa Clara County Jurisdictions BMR Administration

City of Campbell

- The City of Campbell does not currently have a dedicated BMR housing fund but is proposing the creation of one to their City Council in August 2024.
- BMR administration is done through a housing consultant and is currently paid for through their general fund.

Cities of Saratoga and Monte Sereno

- Neither the City of Saratoga nor the City of Monte Sereno maintain a local BMR housing fund.

City of Santa Clara

- BMR administration was previously done through a housing consultant but going forth BMR rental will be done by in-house staff while ownership BMR administration will be managed by a housing consultant.
- Staff which work in BMR administration charge half of their time to a locally dedicated affordable housing fund and remaining half to the Redevelopment Successor Agency (RDA) fund.

Town of Los Gatos

- BMR administration has been managed by a housing consultant.

City of Gilroy

- The City of Gilroy maintains a local BMR fund that covers for BMR administration costs.
- BMR administration for both rental and ownership housing is managed by a housing consultant.

City of Morgan Hill

- The City of Morgan Hill contracts both BMR rental and BMR ownership administration to a housing consultant.

City of Sunnyvale

- BMR administration is done by two in-house staff (an associate level staff for rental BMR and a manager for ownership BMR).
- Staff salaries are paid for through a local BMR fund which collects revenues through that in-lieu fees, fractional fees, commercial linkage fees, and BMR ownership fees.

City of Mountain View

- The City of Mountain View maintains a BMR fund that collects revenues through BMR in-lieu fees, housing impact fees and rental housing impact fees. A rolling NOFA is released for affordable development proposals.
- BMR administration is managed by a consultant, and paid through the local BMR fund.
- An in-house staff person acts as a liaison and a portion of their salary is charged to the BMR fund.

Cities of Palo Alto and Los Altos

- Both the City of Palo Alto and the City of Los Altos contract their BMR administration through a housing consultant.

City of Milpitas

- The City of Milpitas maintains a BMR fund which they refer to as the Milpitas Housing Authority.
- BMR home ownership administration is managed by a housing consultant, which is paid through the Milpitas Housing Authority. Individual rental property managers are responsible for maintaining rental BMR units within developments.

City of San Jose

- The City of San Jose has an in-house staff team to manage both rental and ownership BMR administration programs and lists all affordable rental units on the City website through a third-party website.
- Staff salaries are paid through a local BMR fund that collects revenues through loan fees, monitoring fees, and loan repayments.

County of Santa Clara

- The County of Santa Clara has an in-house staff team to manage both rental BMR and ownership BMR administration.
- While the County manages its own BMR fund, it does not collect enough fees through development to offset staff salaries who administer the BMR program. Staff salaries are paid through their general fund and partially through administration fees charged to developments.