

Requirements for Title Transfer to Living Trust

Please read the Requirements for Title Transfer to Living Trust document in its entirety as the requirements may change from time to time. Complete and accurate packages will ensure timely turnaround. Packages are considered complete when ALL required documentation has been received.

The approval criteria may vary based on program requirements and restrictions. Review the attached Living Trust Policy for general guidelines. Review the attached Title Transfer to Living Trust Request Checklist for the required documents. The Mayor's Office of Housing and Community Development (MOHCD) of the City and County of San Francisco (the "City") may request additional information before making a decision. MOHCD reserves the right to deny a living trust approval request that contains unusual risk or impairment of the City's rights.

Notes:

1. Owners must get written permission from MOHCD before making any changes to title, including transferring ownership of MOHCD-assisted properties to living trusts.
2. Owners must be in compliance with all program requirements and current with annual monitoring requirements in order to be considered for requested title changes.
3. Complete packages take 90 business days or more to process. If a package is received incomplete, the file is suspended, and the requestor is notified.
4. MOHCD processes all requests in the order in which they are received. Requests will NOT be rushed.
5. There is no processing fee charge for the request.
6. Complete packages can be submitted electronically via a secure ShareFile link, available at <https://sfmohcd.org/title-change>, or by mail to: MOHCD, 1 South Van Ness Ave., 5th Floor, San Francisco, CA 94103 Attn: Loan Servicing.

Title Transfer to Living Trust Policy

Transfer of title to a living trust for properties subject to restrictions under the City's Affordable Homeownership Programs

The Mayor's Office of Housing and Community Development (MOHCD) of the City and County of San Francisco (the "City") administers a variety of programs to provide housing options to low-income, median-income and moderate-income homeowners ("City Affordable Homeownership Programs"). MOHCD is also responsible for monitoring and ensuring the long-term affordability and physical viability of the City's affordable housing stock. To achieve these objectives, a deed restriction, among other tools, is imposed as a means of providing affordable housing.

MOHCD will allow title to be in a trust if the trust complies with MOHCD's Title Transfer to Living Trust Policy (this "Policy"), meets city program requirements, and the owner is in compliance with city program rules. The trust must be an inter vivos (living) revocable trust. The trust and proposed transfer documents must be submitted to MOHCD for review and approval prior to recordation of a deed.

Eligibility Requirements

MOHCD will consider approving transfer of title into an inter vivos (living) revocable trust if the trust meets the following conditions:

1. The trust must include the following:
 - a. Name of the trust
 - b. Date trust executed
 - c. Trustor(s) of the trust
 - d. Trustee(s) of the trust
 - e. Primary beneficiaries
 - f. Remainder beneficiaries
 - g. The trust is revocable
 - h. The trust is governed by the laws of California
 - i. The trust is subject to all applicable provisions and restrictions of the City's Affordable Homeownership Programs
 - j. The title to the property is vested solely in the trustee(s) of the trust, jointly in the trustee(s) of the trust and in the name(s) of the individual owner(s); or in the trustee(s) of more than one trust.
 - k. At least sixty (60) days' notice must be given to the City before any transfer of the Property as part of a distribution of trust assets upon the death or incapacity of the Trustor.
2. The Owner must be named as trustor, trustee and primary beneficiary of the trust.
3. The trustee is duly qualified under the applicable California law to serve as trustee.
4. The trustor has the right to revoke or alter the trust.

5. The trust has not been revoked, modified or amended in any manner that would cause the representations to be incorrect.
6. The trust documents must contain language approved by MOHCD that a transfer of the property to a beneficiary under the living revocable trust who is not the Owner triggers the City's right of first refusal or option to purchase the property, the Owner's obligation to repay the loan, and/or other rights under the applicable City Affordable Homeownership Program.
7. This Policy may change at the City's sole discretion. Additional restrictions may be required for individual homeownership programs. MOHCD reserves the right to deny a title transfer request for a living trust that contains unusual risk or impairment of the City's rights including the right to have full title to the property conveyed to the City should foreclosure proceedings have to be initiated to cure a default or a deed in lieu under the terms of the City's loan.

Trust Documentation

Owner may submit a copy of the entire trust document or a trust declaration or abstract of the trust that shows that all of the requirements listed above are satisfied. If Owner desires to submit only a portion of the trust document the submitted portion must contain the information verifying the requirements listed above are satisfied.

In addition to the trust documents, the Owner must submit a trust certification in the form attached. If the Owner submits the entire trust or a declaration or an abstract of the trust, then the certification may be signed by all trustees. If the Owner submits only a portion of the trust documents, the certification must be prepared and signed by the Owner's estate planning attorney.

Title Transfer to Living Trust Process

Homeowners may prepare a living revocable trust on their own, or retain a licensed estate planning attorney to prepare a trust on their behalf, in accordance with MOHCD's Living Trust Policy. MOHCD encourages homeowners to work with license attorneys who are familiar with the City Affordable Homeownership Programs.

Homeowners must obtain their own legal counsel in assistance with any questions regarding the establishment of trust and title vesting, and the legal, practical, tax, estate planning and other considerations involved.

Required Documents

Please be sure to include the following documents in your submission.

<input type="checkbox"/>	1. Title change request letter, dated and signed by all members of the Trust.
<input type="checkbox"/>	2. Draft trust documents
<input type="checkbox"/>	3. Draft deed, showing proposed vesting
<input type="checkbox"/>	4. Certification of Trust Authority and Power (attached)

Next Steps upon MOHCD's Approval

Once MOHCD reviews and approves the title transfer request, MOHCD will issue an approval letter. After receiving MOHCD's approval letter, the Homeowner may finalize and execute the Trust and return it to MOHCD. Next, MOHCD will prepare an "Assignment and Assumption Agreement" with a "Living Trust Rider" for the homeowners to review, execute and record.

Homeowner will take the Assignment and Assumption Agreement with a Living Trust Rider along with a MOHCD-approved deed to the Assessor-Recorder's Office at City Hall for recordation. Homeowner must send a copy of the recorded deed to MOHCD, attention Loan Servicing.

Please note that owners of any property that has had changed in ownership (except by death of an owner) must file a Preliminary Change in Ownership Report (PCOR) and Transfer Tax Affidavit when the transfer is recorded at the Assessor-Recorder's Office. For more information, visit <https://www.sfassessor.org> or contact your attorney for legal advice.

CERTIFICATION OF TRUST AUTHORITY AND POWER FORM

This Certification of Trust Authority and Power form must be submitted with the trust documents and draft deed. Homeowners who submit a copy of their living revocable trust document, such as the entire trust, or Declaration or Abstract of Trust, may complete this form on their own. Homeowners who submit the portions of the trust document that contain the information requested below must retain a licensed attorney, who will complete this form.

I, the undersigned, am a licensed attorney in the state of: _____ [State],

Bar #: _____ [Enter Bar Number].

Name: _____

Phone Number: _____

Email Address: _____

I, the undersigned, am the owner of the property listed below.

Name(s): _____

Phone Number(s): _____

Email Address(es): _____

I have reviewed the living revocable trust: _____

_____ [Complete legal name of Trust],

("Trust" or "Proposed Trust") which includes the property at: _____

_____ [Property Address], **San Francisco, CA**, _____ [Enter Zip Code] (the

"Property"). I understand that the Property is restricted by the Mayor's Office of Housing and Community Development ("MOHCD") of the City and County of San Francisco (the "City") for the purpose of assisting low, middle and moderate-income first-time homebuyers. I affirm the following:

1. The Owner(s) of the Property is/are: _____

_____.

2. <input type="checkbox"/> Yes <input type="checkbox"/> No	The Trust has been or will be executed by the Owner(s). If applicable, what is the date the Trust was originally executed: _____
3. <input type="checkbox"/> Yes <input type="checkbox"/> No	The Trust complies with and is governed by the laws of California.
4. <input type="checkbox"/> Yes <input type="checkbox"/> No	The Trust is an inter vivos (living) revocable trust.
5. <input type="checkbox"/> Yes <input type="checkbox"/> No	Only the Owner(s) of the Property is/are named as the Trustor, Trustee, and the Primary Beneficiary of the Trust.
6. <input type="checkbox"/> Yes <input type="checkbox"/> No	The Trustee satisfies all of the following: <ul style="list-style-type: none"> ✓ The Trustee is duly qualified under applicable law to serve as Trustee; ✓ The Trustee is the Owner; ✓ The Trustee is the Trustor; and ✓ The Trustee is fully authorized under the trust documents and applicable law to pledge or otherwise encumber the Trust assets.
7. <input type="checkbox"/> Yes <input type="checkbox"/> No	The Trustor(s) has the right to revoke or alter the Trust.
8. <input type="checkbox"/> Yes <input type="checkbox"/> No	The Trust names Secondary/Remainder/Additional Beneficiaries. If yes, the named Secondary/Remainder/Additional Beneficiaries are: _____ _____
9. <input type="checkbox"/> Yes <input type="checkbox"/> No	The Trust provides that at least sixty (60) days' notice must be given to the City before any transfer of the Property as part of a distribution of Trust assets upon the death or incapacity of the Trustor.
10. <input type="checkbox"/> Yes <input type="checkbox"/> No	The Proposed Trust documents contain language specifically acknowledging the Property restrictions and the City's right of first refusal or option to purchase or other rights, if the Property is transferred to a beneficiary under the Trust who is not the Owner(s). Sample language: <i>The real property located at 123 Sample Street Unit A, San Francisco, CA 94103 is part of the affordable homeownership</i>

	<p><i>programs restricted by the City and County of San Francisco (“City”), and is subject to provisions, terms, conditions and restrictions contained in the Owner’s City documents. A transfer of this real property to a beneficiary under the living revocable trust who is not the Owner(s) triggers the City’s right of first refusal or option to purchase, the Owner’s obligation to repay the loan, and/or other rights under the applicable City Affordable Homeownership Program.</i></p> <p>If using the above sample language, please define “Owner” within draft Trust.</p>
<p>11. <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>Complete this part only if the trust already exists.</p> <p>The Trust has been not been amended.</p> <p>If the Trust has been amended, describe the amendment(s) made to the Trust and indicate the date(s) when the Trust was amended/proposed to be amended:</p> <p>1st Amendment: _____</p> <p>Date of 1st Amendment: _____</p> <p>2nd Amendment: _____</p> <p>Date of 2nd Amendment: _____</p>

Date: _____, 20_____

Name (PRINTED)

Name (SIGNED)