

Application for Allocation of Article 34 Authority for MOH/SFRA-Financed Affordable Housing Projects

Prior to seeking Loan Committee's approval of financing for a proposed new or existing affordable housing project, MOH and SFRA staff must obtain Article 34 authority or an exemption to it. In some cases, the sponsor of the project requests the information apart from any request for City/Agency financing because they need to submit it with an application to HCD or other state housing finance agency.

Instructions

Complete the attached application and submit it to MOH asset management staff. They will determine whether the project needs authorization under Article 34 or is exempt and will notify the sponsor of the determination by letter with a copy to you. Submit the application *at least two weeks prior* to the date when the determination is needed.

Background

Article 34 of the state Constitution prohibits the development of a low-income affordable housing project with state or local public financing or assistance unless and until a majority of the voters of the jurisdiction has approved it. The article reads as follows:

“No low rent housing project shall . . . be developed, constructed, or acquired in any manner by any state public body until, a majority of the qualified electors of the city...or county...in which it is proposed to develop, construct or acquire the same, voting upon such issue, approve such project by voting in favor thereof at an election.”

The voters' approval is referred to as “authority” or “Article 34 authority” and is usually not obtained for specific projects but for a maximum number of units that may be developed anywhere in the jurisdiction by the city or county, its housing authority, its redevelopment agency or other “state public body.” (In San Francisco, voters authorized the development of 3,000 units in each of two elections, one in 1976 and one in 1994, for a total of 6,000 units.) In deciding to finance or assist a proposed affordable housing project, jurisdictions allocate authority from their banks of authorized units for the number of low-income units to be developed in the project.

Article 34 authority is not required for all affordable housing developments. The California Health and Safety Code exempts certain kinds of projects and excludes certain forms of public agency financing and assistance from the definition of “develop, construct or acquire.”

Definitions

low rent housing project – any development dwellings, apartments or other living accommodations for persons of low income, financed in whole or in part by the Federal

Government or a state public body or to which the Federal Government or a state public body extends assistance.

persons of low income – defined by the Health & Safety Code as individuals or households whose income does not exceed the greater of (a) the “lower income” limit under federal Section 8 guidelines or (b) 80% of area median income, if the Section 8 guidelines are discontinued

state public body – the State, or any city, city and county, county, district, authority, agency, or any other subdivision or public body of the State (does not include the federal government)