

**LEADVILLE/LAKE COUNTY REGIONAL  
HOUSING AUTHORITY**

**COMMUNITY HOUSING GUIDELINES**

**For the Development and  
Administration of  
Deed Restricted Properties**

**Adopted \_\_\_\_\_**

**Prepared by: Kermode Consulting, LLC - June 2024**

**LEADVILLE LAKE COUNTY REGIONAL HOUSING AUTHORITY**

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**GOVERNING ELEMENTS**

# LEADVILLE LAKE COUNTY REGIONAL HOUSING AUTHORITY

## MISSION AND PURPOSE

“The Leadville Lake County Regional Housing Authority’s mission is to facilitate building and administering access to housing, valuable resources for housing -compromised community members, and healthy stewardship of sustainable community housing.”

“The Leadville Lake County Regional Housing Authority envisions a thriving community that is economically viable, equitable, and multigenerational by providing rental/ownership options for the needs of our community that will create stable foundations and prevent irreversible displacement.”

*Mission and Vision Statements Adopted December 2023*

It is the purpose of the Leadville/Lake County Regional Housing Authority (the “LLCRHA”) to provide housing opportunities for inhabitants within its service boundaries.

These Community Housing Guidelines (the “Guidelines”) are adopted by the LLCRHA’s Board of Directors to govern the development of, admission to, and occupancy of deed-restricted housing units for residents throughout Leadville/Lake County. The Guidelines are split into two distinct sections:

- (1) The “Governing Elements” segment discusses the major elements that a deed restriction would address and are used to define intended target populations, such as: “a 2-bedroom unit priced for households at 100% AMI that work full time in Lake County,” or “homes priced for households earning between 80 – 120% AMI and work for Lake County on a full-time basis.”

The elements as memorialized in the deed restriction will supersede these Guidelines, however, in the absence of a deed restriction or when the deed restriction is silent on these elements, the Guidelines will rule.

- (2) The “Program Procedures” segment defines the processes by which the elements within a subject deed restriction will be implemented by the LLCRHA. If memorialized in the deed restriction, those procedures will supersede these Guidelines; however, in the absence of a deed restriction or when the deed restriction is silent, these Guidelines will rule.

These Guidelines support the LLCRHA’s goals and are not intended to supersede land use codes of Lake County, the City of Leadville, or the International Building Code.

These Community Housing Guidelines are intended to correlate to deed restrictions created for use by the LLCRHA for its projects, providing elasticity to respond to a continuum of housing needs throughout Lake County. The Guidelines are used to establish tolerances for:

- Establishing Income Categories for Development Purposes
- Establishing Preferential Occupant Tiers
- Establishing Affordable Rental Rates
- Establishing Affordable Initial and Resale Prices

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- Establishing Ownership and Occupancy Criteria
- Providing Expertise and Support in New Housing Development
- Providing Expertise and Capacity in Monitoring and Compliance

NOTE: These Guidelines may be amended from time to time upon adoption by the LLCRHA Board of Directors.

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## DEFINITIONS

Affordable Housing - means housing whose sale prices or rental rates are set such that the amount spent by a Household on rent (utilities included) or mortgage payments (principal, interest, taxes, insurance, mortgage insurance and association dues) does not exceed 30% of the Household's gross combined income.

Area Median Income or AMI – means the median annual income for the County (or such next larger statistical area calculated by HUD that includes the County, if HUD does not calculate the Area Median Income for the County on a distinct basis from other areas), as adjusted for household size, that is calculated and published annually by HUD (or any successor index thereto acceptable to the LLCRHA, in its reasonable discretion).

Assets - liquid Assets such as cash in savings, checking or other forms of bank accounts and stocks, bonds or other instruments that can readily be converted to cash. The most recent Assessed Value as provided by the applicable Assessor's Office will be used to determine the value of real estate holdings, regardless of setoffs by encumbrances, costs of sale or holding, or percentage of ownership interest. Assets in a qualified retirement plan and other non-liquid assets such as personal belongings or intangible assets will not be included in the asset limitations for each income category.

Co-Borrower - a person who is on title for the purpose of obtaining lender approval for a buyer's purchase money mortgage.

Community Housing – Dwelling units restricted by use and occupancy as approved by the LLCRHA. A Community Housing unit may be restricted by use, occupancy, resale limitations, retirement restrictions or other limitations to employees of employers, locally working households, or seniors or Disabled Persons.

County – means the County of Lake.

Deed Restriction – legal and binding agreements that restrict the use of real estate in some way and are listed or referenced in the deed. Covenants in a deed restriction will supersede these Guidelines.

Dependent – means a person, including a spouse of a child of, a stepchild or, a child in the permanent legal custody of or a parent of, a Qualified Owner, Qualified Owner-Resident or Qualified Occupant, in each case whose sole place of residence is in the same Household as such Qualified Owner, Qualified Owner-Resident or Qualified Occupant, and who is financially dependent upon the support of the Qualified Owner, Qualified Owner-Resident or Qualified Occupant. Dependent shall also include any person included within the definition of "Familial Status" as defined in 42 U.S.C. § 3602(k), as that act shall from time to time be amended.

Disabled Person – In accordance with the ADA, a person with a disability is someone who has a physical or mental impairment that significantly limits one or more major life activities. This definition also includes people who have a history of such an impairment, or are perceived by others as having such

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an impairment.

Gross Income - is the sum of all wages, salaries, net business profits and other forms of earnings, along with income received from all non-earned sources, cumulative of all persons receiving income in the Household who are 18 years of age and older, before any deductions or offsets to reduce personal taxable income.

Guidelines – means the most recently adopted Leadville/Lake County Community Housing Guidelines currently in effect and as amended from time to time by its Board of Directors.

LLCRHA – the Leadville Lake County Regional Housing Authority who is the deed restriction administrative body.

Household – means one or more persons who intend to live together on a property as a single house-keeping unit.

Housing Expense – means the amount paid for rent plus utilities, or for the principal, interest, taxes, insurance and any homeowner association dues. It includes all payments necessary to prevent loss of the right to own or occupy a property through failure to pay in a timely manner.

HUD – means the US Department of Housing and Urban Development.

Maximum Resale Price – means the maximum purchase price that may be paid by any purchaser of a property, other than the initial purchaser who acquires the property from the LLCRHA or a developer, that is determined in accordance with the provisions in Section V of these Guidelines. The Maximum Resale Price is not a guaranteed price, but merely the highest price an owner may obtain for the sale of the property which includes all considerations paid to the owner.

Non-Occupying Co-Borrower – a person who is on title merely for the purpose of obtaining lender approval for a buyer's purchase money mortgage and whose intent is to not occupy the property. A Non-Occupying Co-Borrower is exempt from the prohibition on ownership of other real estate as otherwise required by these Guidelines.

Non-Qualified Owner – a person or business who does not meet the definition of a Qualified Owner who is allowed to own a property that must be occupied by a Qualified Occupant.

Owner Occupied – at least one Qualified Owner or Qualified Owner-Resident holding title occupies the property as their sole and primary residence.

Primary Residence – a property where the occupants reside a minimum of ten (10) months every calendar year and is their permanent residence as evidenced by vehicle registration, voter registration, billing address for utilities, other personal or property document, etc. as determined at the sole discretion of the LLCRHA.

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Qualified Employer – means a business, nonprofit, government agency whose primary business address is located within Lake County, who also employs persons who reside within Lake County, has fulltime employees who perform work in Lake County, and whose business taxes are paid in Lake County.

Qualified Household – at least one member of the Household is a Qualified Owner or Qualified Owner-Resident.

Qualified Owner – means a natural person who meets the following requirements at the time that he/she takes initial ownership interest or Transfer of interest in a property, as qualified by the LLCRHA:

1. Has maintained his/her primary residence in Lake County, Colorado for twelve (12) consecutive months immediately preceding taking ownership of a Community Housing unit, or has a verified employment contract with an employer in Lake County that has been accepted by the LLCRHA; and
2. Has earned his/her primary source of income (80% or more of all income earned) working a minimum of 30 hours per week on an annual basis, as documented with the United States Internal Revenue Service for an employer within Lake County and has demonstrated such to the LLCRHA, or has a verified employment contract showing the applicant will work sufficient hours on a regular basis with an employer in Lake County that has been accepted by the LLCRHA; and
3. Except as provided for in Section 2.1.6 of these Guidelines, does not own any interest in other improved residential property(s). A purchaser who owns residential real estate must convey all interest in said residential property(s) prior to taking initial ownership of Transfer of interest of a property as provided for in Section 1.3.2 of these Guidelines; and
4. A Qualified Household shall not have a net worth that exceeds the limits as provided for in Section 1.3.1 of these Guidelines; and
5. Income and asset restrictions are only applicable at the time of purchase and shall be verified by the LLCRHA; and
6. Shall occupy the property as his/her sole and exclusive primary residence at all times during ownership of the property.

Qualified Owner-Resident – means a natural person who meets the following requirements at the time that he/she takes initial ownership interest or Transfer of interest in a property, as qualified by the LLCRHA:

1. Has maintained his/her primary residence in Lake County, Colorado for twelve (12) consecutive months immediately preceding taking ownership of a Community Housing unit; and
2. Has earned his/her primary source of income (80% or more of all income earned) working a minimum of 30 hours per week on an annual basis, as documented with the United States Internal Revenue Service, within Eagle, Summit or Chaffee County and has demonstrated such to the LLCRHA, or has a verified employment contract showing the applicant will work sufficient hours on a regular basis with an employer in Eagle, Summit or Chaffee County that has been accepted by the LLCRHA; and
3. Except as provided for in Section 2.1.6 of these Guidelines, does not own any interest in other improved residential property(s). A purchaser who owns residential real estate must convey all interest in said residential property(s) prior to taking initial ownership of Transfer of interest of a

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property as provided for in Section 1.3.2 of these Guidelines; and

4. A Qualified Household shall not have a net worth that exceeds the limits as provided for in Section 1.3.1 of these Guidelines; and
5. Income and asset restrictions are only applicable at the time of purchase and shall be verified by the LLCRHA, however, employment may be verified annually subject to LLCRHA discretion; and
6. Shall occupy the property as his/her sole and exclusive primary residence at all times during ownership of the property.

**Qualified Occupant** - means a person who meets the following requirements at the time he or she takes initial occupancy of the Property as qualified by the Beneficiaries:

1. Has maintained his/her primary and sole residence in Lake County, Colorado for six (6) consecutive months immediately preceding taking initial ownership or Transfer of interest in a property, or has a verified employment contract with an employer in Lake County that has been accepted by the LLCRHA; and
2. Has earned his/her primary source of income (80% or more of all income earned) working a minimum of 30 hours per week on an annual basis, as documented with the United States Internal Revenue Service, within Lake County and has demonstrated such to the LLCRHA, or has a verified employment contract with an employer in Lake County that has been accepted by the LLCRHA; and
3. Does not own any interest in other improved residential property(s). An occupant who owns residential real estate must convey all interest in said residential property(s) prior to taking initial occupancy of a property; and
4. A Qualified Household shall not have a net worth that exceeds the limits as provided for in Section 1.3.1 of these Guidelines; and
5. Income and asset restrictions are only applicable at the time of initial occupancy and shall be verified by the LLCRHA.
6. Shall occupy the property as his/her sole and exclusive primary residence at all times during occupancy of the property.

**Tier(s)** - a structure designated by LLCRHA to outline how community members will qualify for Community Housing.

**Transfer** - means an act of a party, or of the law, by which the title to a property is wholly or partially Transferred to another; including but not limited to the sale, assignment voluntary, involuntary or by operation of law (whether by deed, contract of sale, gift, devise, bequest, trustee's sale, deed in lieu of foreclosure, or otherwise) of any interest in the property, including but not limited to a fee simple interest, a joint tenancy interest, a tenancy in common, a life estate, a leasehold interest or any interest evidenced by a land contract by which possession of the property is Transferred and owner retains title, except that, this definition does not include any Transfer of an interest by the LLCRHA. If reviewed and approved in writing by the LLCRHA prior to occurrence the following Transfer(s) are exceptions to the definition, provided that the new owner, other than an estate, shall use the property as his/her Primary residence:

- A Transfer resulting from the death of an owner where the Transfer is to the spouse or domestic partner who is also a Qualified Owner or Qualified Owner-Resident.

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- A Transfer resulting from a decree of dissolution of marriage or legal separation or from a settlement incidental to such a decree by which a Transfer is made to a spouse who is also a Qualified Owner or Qualified Owner-Resident.

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**SECTION I  
INCOME CATEGORIES, EMPLOYMENT, ASSET, AND RESIDENCY  
REQUIREMENTS**

This Section identifies categories of income levels for Lake County Households for the purpose of establishing initial sales prices and rental rates for new housing.

**1.1: INCOME CATEGORIES**

Category 1	Very-Low Income Limits	Below 50% AMI
Category 2	Low Income Limits	50.1 to 80% AMI
Category 3	Moderate Income Limits	81% to 100% AMI
Category 4	Middle Income Limits	101% to 120% AMI
Category 5	Upper Income Limits	121% to 200% AMI

**1.1.1: Using Area Median Income**

The LLCRHA will use income categories that correlate to income levels by Household size provided by the US Dept of Housing and Urban Development (HUD) and the U.S. Census Bureau known as Area Median Income (AMI) for Lake County on an annual basis. The LLCRHA will make available the annual AMIs to the public when published by HUD.

**1.1.2: Determining Household Size**

HUD’s AMI categories are further defined by Household size. For the purpose of calculating initial sales prices, the Household size will be calculated by using one and one-half (1.5) persons per bedroom of the unit to be built. For the purpose of establishing rental rates, the number of bedrooms of the rental unit (times 1.5 persons) will determine Household size.

**1.1.3: Affordable Housing Defined**

In accordance with HUD’s determination that housing is considered affordable when a Household spends at or less than thirty percent (30%) of its gross annual income on its Housing Expense. Such Housing Expense includes rent and utilities for rental housing, or the principal, interest, taxes, insurance, mortgage insurance and association dues for ownership housing.

**1.2: INCOME TESTING AND INCOME CALCULATION**

Income testing refers to the verification of the annual Household income of a prospective purchaser or tenant who wishes to qualify for an income-restricted unit. Income testing shall only be done at the time of qualification for initial purchase or initial occupancy of the unit by a Household, and at every subsequent sale or Transfer of occupancy.

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Household income should be calculated using a standard method for all prospective purchasers and tenants of income-restricted housing. These Guidelines require using gross income from each Household member's tax returns. For Households with more than one tax return filer, the gross income for each filer will be added together to arrive at the Household's income.

## **1.2.1: Documentation**

The LLCRHA may request the following documentation to calculate income using the Gross Income method.

### Persons employed by others:

- Most recent 2 years complete personal federal tax returns with all schedules attached
- Most recent 2 years W-2s from all employers
- Most recent 2 consecutive paystubs from each employer
- Verification of Employment from 3<sup>rd</sup> party

### Persons with some form of self-employment:

- Most recent 2 years complete personal federal tax returns with all schedules attached
- Most recent business Profit & Loss Statement
- Most recent 2 months business bank statements

### Most recent 2 years business tax returns:

- Partnership – K-1 and 1065
- S-Corporation – K-1 and 1120S
- Corporation – 1120 (including W-2's and 2 most recent paystubs)

### Persons with unearned income:

- Most recent 'award letter' stating the monthly or annual gross income received (SSI, SSDI, VA benefits, etc.)
- Evidence showing current receipt of unearned income (bank statements, copies of checks deposited)

### Persons newly employed and/or with no previous tax returns:

- Evidence of income to be earned (employment contract, written verification from new employer of income to be earned, etc.)
- Most recent consecutive business and personal bank statements from start of business

Under certain circumstances the LLCRHA may require other non-traditional forms of documentation to accurately calculate a Household's Gross Income.

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All income documentation and the information contained therein will remain confidential.

## **1.2.2: Calculating Gross Income:**

All income reported to the Internal Revenue Service (IRS), whether taxable or not, may be included in the Household Gross Income calculation as long as it can be determined that it has a strong likelihood of continuing in the future. Income from the following sources will be calculated using the following methods:

“Salaried Income” – this is income earned by working for a separate entity whether the employee is considered ‘exempt’ or not. Income reported on the previous 2 years’ W-2s in Box 3 “Social Security Wages” will be averaged over the time period covered by the W-2. This will allow for the inclusion of variable wages earned such as overtime, bonus\*, hazard pay, tips, etc. that are taxed by the employer.

\* Bonus income may be excluded from income calculation based upon review.

“Self-employed Income” – this is income/(loss) earned from a business that the Household member has some ownership interest in. Partnerships, S-Corporations, LLCs and Sole Proprietorships are included here. Income/(loss) reported as taxable income on the business tax return or reported on a Schedule K-1 as income/(loss) to the Household member will be averaged for the most recent 2 years.

“Unearned Income” – this is income generated through no effort of the Household member and includes pension, annuity, dividends, retirement, alimony or separate maintenance payments, unemployment compensation and Social Security benefits. Variable sources of income will be averaged over the most recent 2 years. Non-variable sources will use the amount as stated on the appropriate documentation. Any income derived from these sources that will not continue past the purchase of a Community Housing unit will not be included in the adjusted total income calculation.

“Rental Income” – net income/(loss) earned from investment properties will be averaged over the past 2 years using income/(loss) as reported on Schedule E. If the relevant deed restriction does not allow for ownership of other improved real estate, this income will not be included in the Gross Income, and disposal of the associated property(s) must be verified.

“Capital Gains/(Losses) – income generated from capital gains/(losses) as reported on Schedule D will be included only if it is apparent that it is a regular activity of the Household member and is from the sale of short-term and/or long-term assets.

“Non-Occupying Owners” – income from persons taking an ownership interest in an income-restricted unit with a purchaser for the sole purpose of enhancing the credit-worthiness of the purchaser will not be included in the Household’s Gross Income. Such non-occupying owners must be an immediate family member or a family member once-removed (aunts, uncles, grandparents, in-laws), otherwise their income will be included in the Household’s Gross Income.

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## 1.3: ASSET TESTING AND LIMITATIONS

Asset testing refers to the verification of economic resources that contribute to a Household's net worth.

Asset testing and valuation shall only be done at the time of application for qualification of a Household to initially purchase or occupy a unit, or to enter a lottery to purchase a unit and at every subsequent sale or Transfer of occupancy of the unit thereafter.

The term *Asset* refers to liquid assets such as cash in savings, checking or other forms of bank accounts and stocks, bonds or other instruments that can readily be converted to cash. The most recent Total Actual Value as provided by the applicable Assessor's Office will be used to determine the value of real estate holdings regardless of setoffs by encumbrances, costs of sale or holding, or percent of ownership interest. Assets in a qualified retirement plan and other non-liquid assets such as personal belongings or intangible assets will not be included in the asset limitations for each income category.

Documentation to verify the value of an asset will be determined by the type of asset; the LLCRHA reserves the right to request documents deemed necessary and appropriate to calculate a Household's net worth.

### **1.3.1 Household Net Worth Limitations**

Category 1	Very Low Income	≤ 2 times the AMI based on actual household size
Category 2	Low Income	≤ 2 times the AMI based on actual household size
Category 3	Moderate Income	≤ 3 times the AMI based on actual household size
Category 4	Middle Income	≤ 3 times the AMI based on a 3-person household
Category 5	Upper Income	≤ 3 times the AMI based on a 3-person household

Categories for Net Worth Limitations correspond to income Categories referenced in Section 1.1.

Note: Middle and upper income capped at 3-person household tied to the average household size in the County is 2.59 as of the 2020 Census.

### **1.3.2: Prohibitions on Ownership of Other Real Estate**

Qualified Owners, Qualified Owner-Residents and Qualified Occupants in Income Categories 1 – 5 are not permitted to own other improved residential real estate. Improved residential real estate includes stick-built homes and mobile and manufactured housing on a permanent foundation or with utilities. If such property is owned, the purchaser must list for sale, at competitive market prices, the residential real estate or mobile home prior to closing on the Community Housing unit and must still meet the asset/income limitations as set forth in Part I Section 3 herein. Upon the sale, a copy of the recorded warranty deed must be provided to the LLCRHA. If the property is not sold by the time of closing on the deed-restricted property, it must remain listed until sold. If the other property has not sold within 90 days of the purchase of the deed-restricted unit, the owner must list and sell the deed-restricted unit according to the terms of the deed restriction or these Guidelines, whichever prevails.

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## 1.4: EMPLOYMENT AND RESIDENCY REQUIREMENTS

“Provisions for housing that is safe, stable and affordable for everyone in a community has ripple effects throughout the economy. When sufficient and appropriate housing is available, businesses can attract and retain employees. Additionally, when employees at all wage levels can afford housing in the community the area is able to successfully provide other services such as education, healthcare, child care and recreation. A strong housing context benefits existing residents and employees, future residents and employees, the local economy, and overall growth and success of the area.”

*-excerpt from the 2018 Lake County Housing Needs Assessment*

With few exceptions, Community Housing developed in the LLCRHA boundaries is intended to provide dwelling accommodations at rental prices or purchase prices within the means of families of low or moderate income; and to provide affordable housing projects or programs for employees of employers located within the jurisdiction of the LLCRHA. To achieve this, the cost of construction or acquisition of Community Housing units must be subsidized in some manner by the jurisdictions within the LLCRHA, therefore, deed restrictions containing employment requirements may be placed upon certain Community Housing units as appropriate to each development.

### **1.4.1: Minimum Employment Requirements**

At the time of initial ownership or occupancy of Community Housing units and at all times during ownership or occupancy thereafter, at least one Qualified Owner, Qualified Owner-Resident or Qualified Occupant who resides in the home shall be employed, meaning that the person earns at least eighty percent (80%) of their gross income working a minimum of 30 hours per week on an annual basis for a business or organization acceptable to the LLCRHA.

### **1.4.2: Other Employment Considerations**

To provide flexibility from the local employment requirement to address unique situation such as: 1) residents that work from home, 2) persons retiring in their home, 3) Disabled Persons, and 4) persons who have involuntarily lost their employment in Lake County, additional consideration as follows should be given when determining eligibility.

“Residents that Work from Home” – the LLCRHA may determine that residents who work from home satisfy the local employment criteria if evidence is submitted demonstrating that the work provides a product or service, or other significant direct benefit to the residents of the County and/or an existing local business. If the work, product, service or other benefit does not directly serve the residents of the County and could be performed anywhere, approval to purchase and/or occupy Community Housing may be denied.

“Persons Retiring in Their Home” – Qualified Owners and Qualified Owner-Residents as defined herein, who wish to retire and continue to own or occupy their workforce housing must score 25 out of a possible 30 points based on the following criteria:

10 Points                      Must have met the LLCRHA employment requirements for seven (7) continuous years prior to retirement. If employment is less than 7 years, no points are awarded.

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10 Points                    Must have owned and/or occupied their Community Housing unit for 7 continuous years. If owned or occupied less than 7 years, 1 point shall be deducted for every year less than seven (7).

10 Points                    Must be 65 years of age or older. If retiring earlier than age 65, deduct 1 point for every year below age 65.

All other requirements for qualification contained in a deed restriction must be met.

“Persons with Disabilities” – A Qualified Owner or Qualified Owner-Resident who becomes disabled after commencement of ownership or occupancy of Community Housing and such disability prevents them from meeting the minimum employment or retirement requirements set forth herein, shall be permitted to remain in their home for a period of occupancy authorized by the governing jurisdiction.

“Involuntary Loss of Local Employment” – Qualified Owners or Qualified Owner-Residents who no longer meet the minimum employment requirements through no action of their own may be approved to continue to own and/or occupy their unit so long as they are approved in writing by the LLCRHA based upon criteria including, but not limited to: 1) percent of total income earned in Lake County, 2) place of voter registration, 3) place of automobile registration and driver’s license address, 4) length of residency within Lake County, 5) Dependent(s) attendance at local educational institutions, and 6) other qualifications established by the LLCRHA from time to time. Compliance with each of these criteria is not necessary; the LLCRHA shall consider the criteria cumulatively as they relate to the purpose and intent of the unit’s deed restriction.

### ***1.4.3: Minimum Residency Requirements***

Any minimum residency requirement specified in the deed restriction shall be followed; if none is specified, proof of a minimum of 12 months’ residency for ownership opportunities, or 6 months’ residency for rental opportunities, or an employment contract or letter of employment may be used to evidence local employment.

### ***1.4.4: Reasonable Accommodations***

**A reasonable accommodation as defined by Americans with Disabilities Act may be requested from the Housing Authority for the residency requirements.**

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## SECTION II OWNERSHIP, USE, OCCUPANCY AND RENTALS

The primary intent of the Community Housing program is to provide safe, decent, affordable homes for local residents, prioritizing persons who are currently Qualified Owner, Qualified Owner-Residents or Qualified Occupants. To meet this intent, these Guidelines address how Community Housing units may be owned, used and occupied.

### 2.1: OWNERSHIP, USE, OCCUPANCY

#### **2.1.1: Qualification Prior to Ownership or Occupancy**

Prior to executing an offer for ownership of a deed-restricted property, a purchaser shall be approved by the LLCRHA as a Qualified Owner or Qualified Owner-Resident, or, have approval to become a Non-Qualified Owner.

#### **2.1.2: Non-Qualified Ownership**

Upon the written consent of the LLCRHA a non-qualifying natural person or entity that owns and/or operates a business located in and serving the County may purchase a deed-restricted property; provided, however, that by taking title to a property, a Non-Qualified Owner shall be deemed to agree to the rental restrictions set forth in these Guidelines, and shall rent the property to a natural person(s) that does meet the definition of a Qualified Occupant, and shall not use or occupy the property for their own use or leave the property vacant for longer than sixty (60) days. Any occupancy of a property pursuant to this Section shall not exceed two people per bedroom, unless the LLCRHA approves otherwise.

#### **2.1.3: Occupancy Requirements**

At all times during ownership of a deed-restricted property, the use and occupancy of the property shall be limited exclusively to a Qualified Owner, Qualified Owner-Resident or Qualified Occupant, their partner, and their Dependents as their sole and exclusive primary residence.

To minimize under-utilization of bedrooms in Community Housing properties, except for studio and one-bedroom units (due to inapplicability), minimum household size is one person less than the bedroom count of the subject unit. For example, a two-person household may not purchase and occupy a four-bedroom unit, but a two-person household could purchase a studio, one-, two- or three-bedroom unit.

No more than four non-related persons may occupy a deed-restricted unit at any one time.

#### **2.1.4: Leave of Absence Exemption**

There are times when a Qualified Owner or Qualified Owner-Resident must leave their residence for an extended period (sixty (60) consecutive days or more on an annual basis) for personal or family reasons. In this instance the Qualified Owner or Qualified Owner-Resident may apply for an exemption from the LLCRHA from the use and occupancy requirements of these Guidelines. It is the responsibility of the Qualified Owner or Qualified Owner-Resident to provide evidence satisfactory to the

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LLCRHA of a bona fide reason for the exemption and a commitment to returning to the property. A leave of absence exemption may be granted at the sole discretion of the LLCRHA and will be granted for up to twelve (12) months maximum.

During an approved leave of absence longer than six (6) months, the Qualified Owner or Qualified Owner-Resident must find a Qualified Occupant to rent the property during their absence. The LLCRHA must approve the Qualified Occupant and the rental terms prior to occupancy of the property by the Qualified Occupant.

## ***2.1.5: Business Use of a Property***

The use and occupancy of deed-restricted properties will be limited exclusively to housing for natural persons who have been qualified by the LLCRHA as meeting employment, income, asset and occupancy restrictions. Unless permitted by local zoning or ordinances where a property is located, and with written permission from the LLCRHA, an occupant shall not engage in any commercial business activity on or in the property. Home businesses require written permission of the LLCRHA.

## ***2.1.6: Non-Occupant Co-Borrowers***

Co-borrowers (persons providing security or assuming partial responsibility for a purchase money loan) may be approved for joint ownership of the unit but shall not occupy the unit unless qualified by the LLCRHA. All co-borrowers must execute the subject unit deed restriction acknowledgement and the deed restriction security instrument prior to purchase of a unit. If title to a unit transfers solely to a non-qualified co-borrower, the unit must be placed for sale according to the terms of the deed restriction and these Guidelines.

## ***2.1.7: Initial Finance and Refinance Restriction***

***2.1.7.1:*** At the time of purchase of a Community Housing unit the original principal amount of any indebtedness secured by a mortgage shall not exceed an amount equal to one hundred percent (100%) of the purchase price paid for the unit.

***2.1.7.2:*** An owner may refinance a mortgage that encumbers their unit, provided, however, that the original principal amount of any refinanced indebtedness secured by any and all mortgages against the unit shall not exceed an amount equal to ninety-seven percent (97%) of the then current Maximum Resale Price.

It is recommended that each deed restriction created incorporate the elements of this Section 2.1.7 in its entirety.

## **2.2: RENTALS**

### ***2.2.1: Qualification Prior to Occupancy***

Prior to executing an application for occupancy of a deed-restricted property, a tenant shall be approved by the LLCRHA as a Qualified Occupant.

### ***2.2.2: Rental Offered by Qualified Owner or Qualified Owner-Resident***

Exemptions for the rental of a property that requires owner-occupancy as a Primary residence may be granted by the LLCRHA under certain circumstances. An owner must apply for an exemption

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through the LLCRHA and provide the following supporting documentation:

- A. Copy of lease agreement with all terms and conditions disclosed.
  - i. Regardless of the term of the lease, the rents charged will not exceed the owner's total Housing Expense (mortgage payment including principal, interest, taxes, insurance, mortgage insurance if applicable and homeowner association dues) by more than \$100 dollars per month.
  - ii. Regardless of the term of the lease, the maximum security deposit shall not exceed one month's rent.
- B. Copy of the proposed tenant's approval as a Qualified Occupant from the LLCRHA.

Under no circumstances may a property be leased for more than 12 cumulative months during the entire ownership period of a Qualified Owner or Qualified Owner-Resident.

### ***2.2.3: Leases After Death of Head of Household***

Should a Qualified Occupant that is the head of the Eligible Household become deceased, the remaining Household members shall be permitted to occupy the property until the original lease termination date, subject to the property owner's approval. If a remaining Household member becomes a Qualified Occupant during the original term of the lease, they will be allowed to renew the lease, subject to the property owner's approval.

### ***2.2.4: Rentals to Roommates***

Roommates are permitted under these Guidelines. Prior to occupancy of a room within a deed-restricted property the owner shall provide written notice of the rental with identifying information of the roommate to the LLCRHA. Roommates in Owner-Occupied properties do not have to meet eligibility requirements but at no time may an owner rent out rooms for lease terms of less than 6 months. Under no condition shall any portion of a property be rented on a short-term basis.

### ***2.2.5: Qualified Employer Rentals***

Certain developments may allow for a property to be owned by a Qualified Employer for the purpose of renting the property to its employees, or to employees of other local employers.

Rental terms shall be for no less than six (6) months. The LLCRHA will not require occupants of employer-owned properties to become Qualified Occupants except they must be employed in Lake County; however, Qualified Employer-owners will provide evidence of occupant(s) employment as requested by the LLCRHA from time to time.

A Qualified Employer may own other improved real estate in or outside of Lake County.

### ***2.2.6: Rental Property Acquired by LLCRHA***

When rental properties are acquired by a LLCRHA member through a buy-down transaction and a deed restriction is placed of record, the LLCRHA may, subject to member direction, state in its listing agreement that at least one of the occupants must become a Qualified Occupant within 90 days or the lease shall be terminated.

**PROGRAM PROCEDURES**

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**SECTION III  
PURCHASING NEW COMMUNITY HOUSING BY LOTTERY**

From time to time the LLCRHA may operate a lottery for the sale of newly developed deed-restricted properties. In the absence of lottery procedures contained within a specific deed restriction, the LLCRHA recommends using the following procedures. These are designed to provide a sensible, actionable process that is transparent, provides equity to persons accessing the process and, when delivered consistently in a uniform manner, should be defensible in its implementation.

**3.1: QUALIFICATIONS FOR ENTERING A LOTTERY**

To qualify to enter the lottery the LLCRHA must determine that at least one person in a Household wanting to take title to a deed-restricted property meets the requirements for employment, income and asset limitations and any other requirements of the applicable deed restriction.

The LLCRHA will issue a Certification of Eligibility upon approval of the Household to purchase. A title company or transaction attorney may not close a purchase transaction on a deed-restricted home without having a copy of the Certification in their possession.

**3.2: LOTTERY PROCEDURES**

Lotteries should be held in a public location during normal business hours, and all participants in the lottery and any other interested persons are allowed to attend. Participants who are unable to attend a lottery in person may designate (in writing to the LLCRHA before the lottery proceedings) a proxy to act on their behalf. Unrepresented participants will not be considered in the drawing and their entries will be removed.

The lottery proceedings will be recorded.

**3.2.1: “Day of” Lottery Process**

- A. At the time of the lottery, the LLCRHA Board President or designee and one additional LLCRHA member, along with an un-affiliated third-party shall be present to witness the entire process and that each applicant has placed their entries into the lottery container.
- B. The lottery container shall be solid and non-transparent, and entries will be sufficiently mixed.
- C. The un-affiliated third-party person will then draw an entry out of the container, and the name shall be recorded on the LLCRHA lottery log.
- D. The selected participant will mark their particular unit or may choose to defer their selection until all other units have been claimed.
- E. This process will continue until entries have been drawn for each unit available and recorded in the same manner.
- F. Alternates will be drawn from the remaining participants in order of their position

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- on the preferences list and their priority position on the alternate list recorded.
- G. The first-drawn applicant will have no more than three (3) business days to execute a contract or reservation form with the LLCRHA. Should they fail to do so, the first alternate will be notified and will have no more than three (3) business days to execute a contract or reservation form, and should they fail to do so, then the next alternate will be notified and will have no more than three (3) business days to do so. This process will continue until there is a contract or reservation executed.

### 3.2.2: Earnest Monies and Title

The LLCRHA will, in cooperation with a developer, set the minimum earnest money deposit required for lottery participation. The amount of \$1,000 is recommended but may be subject to project financing requirements. At no time will an affordable housing lottery require more than 1% of the purchase price as the minimum earnest money deposit.

Earnest money deposits shall be refundable from the time of contract execution to a specified hard date identified prior to execution of contracts. The developer may require additional earnest money at that time, but in no event will it be more than 1% of the purchase price.

LLCRHA will select the title company absent a developer’s selection.

### 3.3: APPLICANT SELECTION CRITERIA

#### 3.3.1: Preferential Occupant Tiers

A Preferential Occupant is a Qualified Household who also falls into one of the following categories of persons, which persons shall be given preference in a lottery drawing according to the following categories, and in this priority order according to the terms of the applicable deed restriction:

1. (Position placeholder) The **Beneficiary** and employees of the Beneficiary or their affiliates as may be defined by the Beneficiary,
2. (Position placeholder) An **employee** working for a business located within Lake County, including self-employed persons earning  $\leq 140\%$  of AMI.
3. (Position placeholder) A **person** who claimed Lake County as their place of primary residency for four (4) or more years **AND** earning  $\leq 140\%$  of AMI.
4. (Position placeholder) A **person** working for a business in Lake County earning  $\leq 200\%$  of AMI.
5. (Position placeholder) Any **person** claiming Lake County as their primary residence.

#### 3.3.2: Lottery Entries by Tenure

The LLCRHA will use the following priority list for Qualified Households entering into a lottery:

Qualified Households that can provide satisfactory evidence of immediate and continuous in-County residency and employment from the age of 18 shall receive lottery entries as outlined here:

Working and Living in Lake County $\leq 1$ year	1 entry
Working and Living in Lake County $> 1$ year but $\leq 3$ years	2 entries

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Working and Living in Lake County > 3 year but ≤ 5 years	5 entries
Working and Living in Lake County > 5 year but ≤ 10 years	6 entries
Working and Living in Lake County > 10 years but ≤ 20 years	7 entries
Working and Living in Lake County > 20 years	8 entries

“This condition gets more chances” placeholder.

### **3.3.3: Lotteries Not Required**

There are certain Transfers of title on deed-restricted properties that do not require a lottery to be held.

- A. Person(s) chosen by a current property owner to join them in title, as long as it is in joint tenancy.
- B. Resales of deed-restricted units currently owned and occupied.

### **3.3.4: Ineligible Applicants**

Applicants determined to be ineligible to enter the lottery may submit a notice to the LLCRHA protesting the determination and initiate the Grievance Process identified in Section VIII of these Community Guidelines within one week of being notified of ineligibility.

## **3.4: MAINTAINING ELIGIBILITY FOR OWNERSHIP OF COMMUNITY HOUSING**

There is no requirement to meet income or asset criteria for persons who have already purchased and own a Community Housing unit or are a Qualified Occupant, however, occupancy and employment criteria along with non-ownership of other improved real estate must continue to be met throughout the tenancy of the Household. LLCRHA will require all owners to complete and sign a deed-monitoring affidavit on an annual basis. Responses to the affidavit may require additional documentation be provided to verify compliance.

It will be considered a violation of these Guidelines for an owner to fail to comply with all deed-monitoring requirements.

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## SECTION IV RESALES OF DEED-RESTRICTED PROPERTIES

The supply of affordable housing in Lake County is limited and expected to remain so, causing unnaturally competitive market conditions amongst households desiring to obtain housing. It is therefore incumbent upon the LLCRHA to control the resale process by following sensible, transparent, equitable and defensible procedures as set forth herein.

Lotteries are not recommended, in fact strongly recommended against, in the event of the resale of a Community Housing unit for reasons including but not limited to the fact that administering a full lottery process places an unnecessary time burden on the seller, and unnecessary time burdens are financially harmful to sellers.

### 4.1: COMPLIANCE AND NOTICE

#### ***4.1.1: Compliance Before Purchasing***

No deed-restricted property shall be Transferred subsequent to the original purchase from the LLCRHA or its assigns, except upon full compliance with the procedures set forth in these Guidelines. In the event a property is sold and/or conveyed without compliance with these Guidelines, such sale or Transfer shall be wholly null and void and shall confer no title whatsoever to the purported buyer.

#### ***4.1.2: Notice of Intent Required***

When an owner intends to sell or otherwise transfer title to a deed-restricted property, the owner shall submit to the LLCRHA a Notice of Intent to Sell or Transfer Title. The property may not be transferred to any person, entity or entities not qualified by the LLCRHA as a Qualified Owner or Qualified Owner-Resident, or approved as a Non-Qualified Owner, nor for consideration that exceeds the Maximum Resale Price as determined by the LLCRHA pursuant to the provisions of these Guidelines.

#### ***4.1.3: Parity in Ownership***

At the time of resale of a Community Housing unit a buyer who is considered either a Qualified Owner or Qualified Owner-Resident, upon qualification by the LLCRHA, will have equal opportunity to make an offer to purchase said unit. The designation of Qualified Owner or Qualified Owner-Resident shall be deferred only upon the buyer and not the unit.

### 4.2: LISTING UNITS FOR RESALE

Upon receipt of the Notice of Intent to Sell or Transfer a unit, the LLCRHA will calculate the Maximum Resale Price in accordance with the terms of the deed restriction or these Guidelines and provide the owner with the process for selling their unit pursuant to these Guidelines.

When the lottery process is not required by the LLCRHA or these Guidelines, particularly in the event of resales on owner-occupied deed-restricted properties, the following procedures shall be followed, regardless of whether the listing agent is the LLCRHA, another governmental agency, a licensed bro-

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kerage firm or the owner himself. In the event a property is sold and/or conveyed without compliance with these Guidelines, such sale or transfer shall be wholly null and void and shall confer no title whatsoever to the purported buyer.

Prior to any listing on any media platform the LLCRHA will inspect the unit to assess its compliance with the Minimum Property Standards for Full Resale Value in Section 6.1.2 of these Guidelines. Any costs of cleaning and repairs deemed necessary to bring it into compliance shall be deducted from the Maximum Resale Price Calculation.

The owner may list their unit for sale in any of the following manners:

- A. They may sell it themselves.
- B. They may enter into an agency agreement with any duly licensed real estate broker. The listing agency and broker are required to execute an acknowledgment of these processes upon execution of a listing agreement.
- C. They may list it with the LLCRHA.
- D. No more than a 2% fee is allowed to be charged to the owner for all listing services. This does not preclude a buyer compensating a broker under a buyer agency agreement.
- E. The owner must provide a copy of the executed Seller's Property Disclosure form to the LLCRHA.
- F. The unit must be listed for sale publicly, with a minimum 2-week period from publishing the listing publicly to holding the open house. This allows time for interested persons to get qualified through the LLCRHA prior to offers being presented.
- G. At least one on-site 'open house' must be held prior to any offers being presented to and accepted by the owner.
- H. Where a Special Beneficiary is prioritized in eligibility, an owner must provide an exclusive right of first offer time period to those qualified applicants. Such time period will be determined upon mutually agreeable terms between the owner and the LLCRHA.
- I. All offers must be accompanied by a Certificate of Eligibility from the LLCRHA.
- J. The owner/seller must provide a copy of the fully executed contract along with the contact information for the title company to the LLCRHA within three (3) business days of acceptance of the contract.

The LLCRHA will monitor the status of the transaction through closing and the buyer's execution of the LLCRHA required documents.

## **4.3: DETERMINING MAXIMUM RESELL PRICE**

### ***4.3.1: Maximum Resale Price Formula***

The Maximum Resale Price may not exceed the sum of:

The Purchase Price paid by the owner for the Property, **plus:**

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- a. an increase of two percent (2%) of such Purchase Price per year (prorated at the rate of 1/12 for each whole month, but not compounded annually) from the date of the owner's purchase of the Property to the date of the owner's Notice of Intent to Sell the Property; **plus**
- b. an amount equal to any special improvement district assessments, if applicable and not transferable, paid by the owner during the owner's ownership of the parcel; **plus**
- c. the cost of Permitted Capital Improvements from the date made to the property by the owner as set forth in these Guidelines; **minus**
- d. any amounts associated with bringing the property up to the Minimum Standards for Full Resale Value as set forth in these Guidelines.

Fees for any real estate services provided in the course of listing and selling the unit shall not be added into the Maximum Resale Price at any time for any reason.

### ***4.3.2: No Guarantee of Resale Price***

Nothing in these Guidelines represents or guarantees that any property will be re-sold at an amount equal to the Maximum Resale Price. Depending upon conditions affecting the real estate market and the property itself, a property may be re-sold for less than the Maximum Resale Price.

### ***4.3.3: Restriction on Additional Financial Gain***

No owner shall permit any prospective purchaser to assume any or all of the owner's closing costs. No owner shall accept anything of value from a prospective purchaser except for the Maximum Resale Price before, during or after closing of the Transfer of the property.

## **4.4: PROPERTY CONDITION UPON RESALE**

Pursuant to these Guidelines, each owner shall be responsible for ensuring that at transfer of title the unit is clean, appliances are in working order, and there are no health or safety hazards on the property, and that the unit meets the Minimum Property Standards for Full Resale Value per Section 6.1.2 of these Guidelines.

In the absence of an owner's remediation of conditions that do not meet the Minimum Property Standards, the LLCRHA is authorized to take actions and incur such expenses deemed necessary to bring the property into saleable condition. Such actions and expenses include, but are not limited to, cleaning the property and making necessary repairs to or replacements of appliances and/or property fixtures, such as windows, doors, cabinets, countertops, carpets, flooring and lighting fixtures, and/or correcting any health or safety violations on the property. Itemized expenses shall be deducted from the Maximum Resale Value. If repairs are needed after listing the unit for sale and before closing, any expenses will be deducted from seller's proceeds as a cost of settlement.

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## SECTION V INFORMATION FOR DEVELOPMENT OF COMMUNITY HOUSING

Section V of these Guidelines contains information for developers of Community Housing units in Lake County or the municipalities within the County whether required in connection with an application for free-market development or other proposals containing a Community Housing component.

### 5.1: INITIAL SALES PRICE CALCULATION FOR OWNERSHIP PROPERTIES

There are several different methods that can be used in determining the initial sales price of a unit; each method has ramifications for both short-and long-term affordability and financial impacts an owner upon resale of the property. LLCRHA has carefully considered the various methods and determined that setting initial sales prices relative to a specific index – AMI – provides the long-term affordability we need and allows us to target specific income levels in the development of Community Housing. Using the AMI index method requires us to calculate an affordable mortgage payment for each AMI level targeted by local housing development. This method is also compatible with federal and state funding resources for both developing and purchasing Community Housing.

#### 5.1.1: Determining Household Size

The LLCRHA will use income levels equating to 1.5 persons/bedroom in establishing maximum sales prices, except for studio units, which will use 1 person/unit. Thus, for a 2-bedroom unit, the income used would be for a 3-person household at the identified AMI level.

#### 5.1.2: Formula Components

The formula LLCRHA will use in calculating initial sales prices take into consideration the following components:

- A. Establish AMI as the standard index – AMI measures the median income for a specific geographic area adjusted by household size published annually by HUD. For Lake County, the methodology for calculating the AMI is tied to the most recent 5-year American Community Survey (ACS) data and adjusted by inflation.
- B. Establish an affordability level – LLCRHA will use HUD’s affordability level of 30% of a Household’s Gross Income going towards their Housing Expense as affordable.
- C. Establish an amount for property tax, homeowner insurance and HOA dues – to calculate an affordable sales price, we must first calculate an affordable loan to the AMI target for a specific development. LLCRHA will use an amount determined to be in keeping with current tax/insurance rate trends, including any HOA dues in calculating a loan amount.
- D. Establish a mortgage term – most purchasers of Community Units need the lowest mortgage payment possible thus use of a 30-year term is standard. Owners can choose a shorter term as long as it is a fixed rate loan. No variable rate loan may be financed for a deed restricted property in Lake County.
- E. Establish an interest rate for the mortgage payment – the mortgage amount for a community unit is directly tied to the interest rate used in this calculation. The

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lower the interest rate, the higher the mortgage amount and conversely, the higher the interest rate, the lower the mortgage amount. The LLCRHA will use a trailing interest calculation by calculating the average interest rate over a specified period of time and add an affordability margin to that average. The LLCRHA will use the most recent ten-year Federal Home Loan Mortgage Corporation (FHLMC, aka Freddie Mac) year-end average rates and will add a 1.5% margin to that number.

- F. Establish a loan-to-value ratio – the LLCRHA will use a 90% loan-to-value ratio to determine the initial sales price after calculating the mortgage amount.
- G. Using these data points with a financial calculator the initial sales price is set.

The LLCRHA will update these sales prices annually when the most recent HUD AMIs are published.

### 5.2: INITIAL SALES PRICE CALCULATION FOR RENTAL PROPERTIES

This same formula for determining the initial sales price of a unit will be used when developing affordable rental housing offered for sale by a developer to the general public, as it directly targets specific income levels. Rental rates for affordable units will be capped at thirty percent (30%) of the AMI adjusted by bedroom count. The thirty percent (30%) must include utilities.

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## SECTION VI

### REGULAR MAINTENANCE, MINIMUM PROPERTY STANDARDS, PERMITTED CAPITAL IMPROVEMENTS, INSURANCE REQUIREMENTS

#### 6.1: REGULAR MAINTENANCE AND MINIMUM PROPERTY STANDARDS

##### ***6.1.1: Regular Maintenance***

In order to preserve the quality of our housing stock, particularly those that have significant amounts of public subsidies in them, it is important that homeowners maintain the condition of their homes to an acceptable level. Ideally, homeowners would choose to maintain their homes because of a voluntary preference to reside in safe, decent housing, rather than involuntary by regulation or rules from the LLCRHA. The LLCRHA is making efforts to educate homeowners that there are distinct financial advantages to maintaining their residences in decent condition since:

- A. failure to do so could result in poor marketability and lower offering prices for the home, and
- B. when property conditions are rated as “fair” or “poor” on appraisals, lenders will require that work be performed and paid for to upgrade the rating prior to closing on a resale.

All costs expended by the LLCRHA to repair or maintain a property to bring it up to the minimum property standards will be deducted from the Maximum Resale Price.

##### ***6.1.2: Minimum Property Standards for Maximum Resale Price***

To obtain the Maximum Resale Price from the LLCRHA, the unit shall be in reasonable marketable condition, meaning:

- “Thoroughly cleaned property” as defined in Section 6.1.3 of these Guidelines
- Carpets professionally cleaned two or three days prior to closing
- All major scratches, holes, burn marks repaired in hardwood floors, linoleum, tile, counter tops, walls, baseboards, indoor stairways, etc.
- No broken windows
- All screens in windows (if screens were originally provided)
- All appliances (as originally provided) must be in clean, working order. All appliance types originally provided with the unit must be included in the sale price.
- All doors shall be in working order, latching properly and without holes.
- All latches and locks on doors will be in good condition and in working order.
- All light fixtures shall be present and in good working order with working light bulbs installed.
- All keys associated with the unit will be available at seller’s expense.
- All mechanical and electrical systems shall be in good working order.
- Walls are in paint-ready condition.
- Normal wear and tear on carpet is acceptable in the sole discretion of the LLCRHA. Holes, stains, warping, rips, etc. shall be repaired prior to closing.

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- Plumbing fixtures shall be in good working order with all leaks correctly remediated.
- Roof shall be in good working order with normal physical depreciation expected. Any damages from weather, fire, flood or other acts of man or God shall be remediated prior to closing.
- All safety hazards within the dwelling and other areas on the property shall be remediated prior to closing.

## 6.1.3: “Thoroughly cleaned property” means:

### *KITCHEN*

- Range must be cleaned inside and out, on top and the floor underneath cleaned.
- Range hood and exhaust fan must be clean and in good working order.
- Refrigerator and Freezer – Inner and outer surfaces of refrigerator and freezer must be clean. Freezer must be defrosted.
- Cabinets and Countertops – Exterior and interior surfaces of cabinets and drawers must be clean. Door and drawer handles must be clean and in place.
- Sink and Garbage Disposal – Sink and plumbing fixtures must be clean. If garbage disposal is provided, this must be in good working order.
- Dishwasher – If provided prior to move-in, it must be in good working order and inner and outer surfaces must be clean.

### *BLINDS, WINDOWS, SCREENS:*

- Mini-blinds, Venetian Blinds, Vertical Blinds, and Pull Shades – must be clean and in good working order with no holes or damage.
- Windows – All window surfaces, inside and outside of the window glass, must be clean.
- Screens – Screens must be clean and in place with no holes or tears.

### *CLOSETS:*

- Closets, including floors, walls, hanger rod, shelves and doors, must be present and clean.

### *LIGHT FIXTURES:*

- Light fixtures will be clean and must have functioning bulbs/fluorescent tubes.
- All outlets must be good working order.

### *BATHROOMS:*

- Bathtub, Shower Walls, Sinks -Bathtubs, shower walls and sinks must be clean.
- Toilet and Water Closet – Water closets, toilet bowls and toilet

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seats must be clean. If the toilet seat is broken or peeling, the seat must be replaced.

- Tile – All tile and grout must be clean.
- Mirrors and Medicine Cabinets – must be cleaned inside and out.
- Shelves and/or Other Cabinetry – must be cleaned inside and out.

## *WALLS, CEILINGS, PAINTED DOORS AND BASEBOARDS:*

- Painted surfaces must be cleaned with care to ensure the surface is clean without damaging the paint.
- All holes and noticeable damage (exclusive of normal wear and tear nicks) must be repaired and all surfaces in paint-ready condition.

## *FLOORS:*

- Floor cleaning includes sweeping and mopping and could include stripping, waxing and buffing. Types of floor surfaces include wood, wood parquet tiles, linoleum, asphalt tile, vinyl tile, mosaic tile, concrete and carpet. If carpet, all carpets must be professionally cleaned at least three days prior to closing.

## *INTERIOR STORAGE/UTILITY ROOMS:*

- Storage/utility rooms must be cleaned. Properly cleaned storage/utility rooms will be free from odors, removable stains, grease marks or personal belongings.

## *WINDOWS*

- Windows will be in good condition with no cracks, leaks, breakages, broken/missing locks and screens present. Severe water damage to window frames may require remediation at the sole discretion of the LLCRHA.

### **6.1.4: Health and Safety Hazards.**

Any condition(s) that provides a health and/or safety hazard must be remediated prior to closing. This would include, but is not limited to, exposed electrical wiring, improper ventilation for gas, hot water systems, exterior components such as siding, cemented areas, garages, fences, landscaping (at the sole discretion of the LLCRHA), etc.

## **6.2: PERMITTED CAPITAL IMPROVEMENTS**

At times owners of deed restricted properties may want to improve their home and recoup their expense for the improvement. Because one of the primary objectives in providing deed restricted homes in a community is to ensure there is a supply of Community Housing, any improvements that increase the resale price of deed restricted properties relative to the original income target is a concern. Therefore, Permitted Capital Improvements should be clearly defined and restricted sufficiently to maintain affordable price points over time while still protecting the quality of the housing stock.

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It should be noted that Permitted Capital Improvements (PCIs) do not include the regular repair, maintenance, replacement of fixtures and finishes, or the upkeep of a property. Those on-going owner obligations are important to the quality of the deed restricted housing stock and are addressed in the Maintenance section of these Guidelines.

### **6.2.1: Treatment of Permitted Capital Improvements on Maximum Resale Price**

The amount for PCIs shall not exceed ten percent (10%) of the original purchase price for an initial ten (10) year period. For every ten (10) year period from the date of the original purchase and Covenant, another ten (10) percent of the purchase price may be added to the value of the property for PCIs. In calculating such amount, only those Permitted Capital Improvements identified in these Guidelines shall qualify for inclusion. An owner’s contributed labor or “sweat equity” shall not be part of the cost of an eligible improvement.

When PCIs are allowed, only those that improve unfinished interior spaces or add new system(s) that make the property more affordable for the owner/occupant will be included in the Maximum Resale Price calculation. Luxury or cosmetic upgrades, exterior improvements (landscaping, decks and patios), or replacement of existing finishes, appliances, or fixtures will not be included as PCIs in the Maximum Resale Value.

When calculating the value of PCIs an owner must provide clear, legible, written proof of costs incurred.

Appreciation of PCIs will start from the first of the month when they were completed. An owner must provide evidence of obtaining a building permit and notice of formal completion when required to add the value of the PCIs to the Maximum Resale Price.

In the development of new housing, if PCIs are allowed, the initial sales prices will be discounted to ensure that even with the addition of PCIs, the price at time of resale will be Affordable to the initial income target. For example, if a developer leaves a bathroom only plumbed in, then the initial sale price will be reduced by 10% of the sale price calculation to allow room for the PCIs to be added in the future to avoid over- compensating the developer for that unfinished bathroom space. When PCIs are not allowed, properties will be fully finished with adequate storage and/or garages at the time of initial sale.

### **6.2.2: Permitted Capital Improvements**

- Modifications or improvements to accommodate persons with disabilities as defined in the Americans with Disabilities Act of 1990;
- Modifications or improvements to assist seniors to age in place;
- Improvements for health and safety protection devices (including radon);
- Improvements to finish intentionally included unfinished interior space;
- Modifications or improvements to increase energy efficiency and/or water conservation on a case-by-case basis (this includes energy efficient appliances).

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## **6.2.3: Non-Permitted Capital Improvements**

- Jacuzzis, sauna, steam showers and other similar items;
- Upgrades or the addition of decorative items including lights, window coverings, flooring, paint and other similar items;
- Upgrades of appliances, plumbing and mechanical systems;
- Outdoor landscaping including the addition of decks, porches, patios, gazebos, fencing, irrigation systems and other similar fixtures;
- Cost of tools or rental equipment.

## **6.3: INSURANCE REQUIREMENTS**

Deed-restricted housing with public subsidies means that the cost to build homes is greater than what the sales price is. Typically, homeowners insure their homes for 80% of what the value of the home is, assuming 20% of the value is in the land. This results in appreciation-capped properties often under-insured when that initial “value” or sale price is subsidized below market pricing (and thus costs of construction).

When properties are subsidized, owners must obtain full replacement cost coverage which will repair or replace the home in the event of damage or destruction. Insuring a deed-restricted home to a capped value could result in a gap between what the insurance will pay and what it actually costs to repair or replace the home.

It will be a requirement of any buyer to prior to closing, deliver a copy of the buyer’s certificate of insurance naming the LLCRHA as Loss Payee with dwelling coverage deemed sufficient at the sole discretion of the LLCRHA.

Any damage or destruction must be corrected or repaired before a resale of the property will be allowed. It is permissible for the seller’s insurance company to pay for such repairs at the time of settlement.

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## SECTION VII DEED MONITORING/COMPLIANCE MATTERS

The Community Housing programs currently in place in our community, as well as those yet to be developed, have come at great cost to each community in terms of volunteer time, investment of legal, financial and material resources, the contributions of intellectual property and gaining the support of the public will. It is incumbent upon providers of a Community Housing program to protect the investments made and honor the intent of each deed restriction through compliance monitoring.

### 7.1: DEED MONITORING

The LLCRHA will annually monitor compliance by owners of deed-restricted properties through a self-completed affidavit.

It is considered a violation of these Guidelines for an owner to refuse to return a completed deed-monitoring affidavit to the LLCRHA.

#### **7.1.1: LLCRHA Responsibility**

To adequately qualify new owners as well as determine compliance when deed monitoring, the LLCRHA will use the following definitions:

- A. Owner-Occupied – at least one qualified person holding title occupies the property as their primary residence.
- B. Non-Occupying Co-Borrower – a person who is on title merely for the purpose of obtaining lender approval for a buyer’s purchase money mortgage and whose intent is to not occupy the property.
- C. Non-Qualified Owner – a person or business allowed to own a property that must be occupied by a Qualified Occupant.
- D. Qualified Occupant or occupant – a person who has been approved through the LLCRHA as meeting the requirements of employment, income, occupancy or any other factors relative to the deed restriction.
- E. Primary residence – a property where the occupant(s) lives a minimum of 9 months per year.
- F. In addition to an owner’s use of the property, relevant factors in determining that the property is the Primary residence include without limitation:
  - i. The owner’s place of employment.
  - ii. The principal place of residence for the owner’s family members.
  - iii. The address listed on the owner’s federal tax returns, driver’s license, auto registration and/or voter registration card.
  - iv. The owner’s mailing address for household bills, personal bank statements and personal correspondence.

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- v. The location of religious organizations, service clubs or community non-profits the owner is affiliated with.
- G. In addition to an occupant's use of the property, relevant factors in determining that the property is the Primary residence include a – e above without limitation, and:
  - i. Evidence the occupant has been qualified as a resident by the LLCRHA.
- H. Sole residence – the only residence an owner has a right, title or other form of interest in, or the only residence a Qualified Occupant has an interest in.
- I. Vacant Property – a home that is no longer occupied as a Primary residence by the owner for a period of 90 consecutive days, or a property that is unoccupied by a Qualified Occupant for a period of 90 consecutive days.
- J. Leave of absence – a vacancy longer than 90 days that has prior approval from the LLCRHA.

## **7.1.2: Owner/Occupant Responsibility**

Each Qualified Owner, Qualified Owner-Resident and Qualified Employer owning Community Housing shall timely submit all information deemed reasonable and necessary for the LLCRHA to determine such Qualified Owner, Qualified Owner-Resident or Qualified Employer is in full compliance with the terms and conditions of the unit's deed restriction and these Guidelines, whichever applies in priority.

## **7.2: COMPLIANCE MATTERS**

From time to time it may come to the attention of the LLCRHA that a Qualified Owner, Qualified Owner-Resident, Qualified Employer or Qualified Occupant may be out of compliance with the terms of the applicable deed restriction, or an occupant of a property managed by the LLCRHA may be found to be in violation of the lease and any and all rules, regulations, policies and procedures governing such occupancy. It is the responsibility of the LLCRHA to investigate all alleged non-compliant matters and determine if a violation is in existence. LLCRHA members will inform the Board President of potential non-compliance matters upon discovery and keep the President apprised of the investigative process and outcomes.

### **7.2.1: Ownership Non-Compliance**

The LLCRHA has the right and authority to investigate as fully as possible all non-compliant matters which will include, but is not limited to:

- A. Contact with the owner informing them of the allegation
- B. Inspection of the property in question
- C. Inspection of lease agreements, title documents, loan documents and all others pertaining to legal ownership and occupancy of the property
- D. Verification of employment directly with the owner's employer, tax returns of the owner, IRS verifications of tax return authentication, and other documents as warranted
- E. Social media searches, all other publicly accessed internet resources

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- F. Any other reasonable means of verifying compliance as deemed necessary.

Subject to the nature of and significance of a violation, the LLCRHA will notify the beneficiary and the owner, provide suggestions for acceptable remediation and a reasonable timeline in which it must be achieved.

If a remedy satisfactory to the beneficiary cannot be reached and subject to the terms of the deed restriction, one of the following penalties may be levied:

- A. Appreciation – no appreciation gained on a property from the date the violation was incurred or discovered, whichever is earlier, until a satisfactory remedy is reached.
- B. Monetary – a per diem fine may be imposed from the date the violation was incurred or discovered, whichever is earlier, until a satisfactory remedy is reached.
- C. Specific performance – the violating homeowner may be forced to sell the property.
- D. Reimbursement – the violating homeowner may be required to reimburse the beneficiary equal to the current value of the public dollars invested in the property.
- E. If a property is encumbered by a HUD-insured mortgage, the following remedies will not be pursued:
  - Acceleration of a mortgage
  - Voiding a conveyance by an owner
  - Terminating an owner’s interest in a property
  - Subjecting an owner to contractual liability other than monetary damages.

An owner found to be in violation of these Guidelines or the applicable deed restriction wishing to protest the determination may initiate the Grievance Process according to Section VIII of these Guidelines but must do so in writing and within one week after receiving such notice.

## **7.2.2: Tenant Non-Compliance**

This Section identifies lease violation procedures that will be strictly implemented for tenants of properties owned and managed by LLCRHA, excepting those properties whose senior governing documents prevent such procedures. These procedures clearly detail the actions and timelines for enforcement of lease provisions, rules and regulations, policies and procedures and companion/service animal agreements. These procedures apply to all tenants and for all violations *except for failure to pay rent when due*, when the specific terms of the lease agreement prevail.

Each tenant is provided with a copy of all lease provisions, rules and regulations, policies and procedures and companion/service animal agreements at the time of initial occupancy of a unit and at each lease renewal. After reviewing these documents with LLCRHA member, each tenant is required to sign these documents and initial in various places. The LLCRHA will continue to make tenants aware of all lease provisions, rules and regulations, policies and procedures and companion/service animal agreements at the time of initial occupancy of a unit and at each lease renewal.

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When a violation of any lease provisions, rules and regulations, policies and procedures and companion/service animal agreements is made known to the LLCRHA, the following procedures shall be followed:

1. First violation:

Within two (2) business days an informal email with the subject line stating “First Notice of Violation and Request for Compliance” will be sent to the tenant stating:

- The specific lease provision, rule, regulation, policy, procedure or agreement term that was violated
- How the violation occurred
- When the violation occurred
- How to remedy the violation
- Highlight they have 3 business days from the date of the email to have the violation corrected
- A request for the tenant to notify us in writing when they have corrected the violation

The LLCRHA reserves the right to immediately file for lawful eviction if the first violation is of a nature that:

- Poses a serious or imminent threat to another individual
- Causes property damage beyond the amount of the damage deposit received from the tenant
- Is a criminal activity
- Involves the use, possession or cultivation of a prohibited substance LLCRHA will immediately notify the Board President of any eviction action being initiated.

2. Second violation of the same nature:

Within two (2) business days, a formal email with the subject line stating: “Second Notice of Violation and Request for Compliance” will be sent to the tenant stating:

- The specific lease provision, rule, regulation, policy, procedure or agreement term that was violated
- How the violation occurred
- When the violation occurred
- How to remedy the violation
- Highlight they have 3 business days from the date of the email to have the violation corrected
- A request for the tenant to notify us in writing when they have corrected the violation.

The LLCRHA reserves the right to immediately file for lawful eviction if the second violation is of a nature that:

- Poses a serious or imminent threat to another individual
- Causes property damage beyond the amount of the damage deposit received from the tenant
- Is a criminal activity

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- Involves the use, possession or cultivation of a prohibited substance LLCRHA will immediately notify the Board President of any eviction action being initiated.

### 3. Third violation of the same nature

Within two (2) business days a formal email with the subject line stating: “Third and Final Notice of Violation” will be sent to the tenant stating:

- The specific lease provision, rule, regulation, policy, procedure or agreement term that was violated
- How the violation occurred
- When the violation occurred
- When the First and Second Notices of Violation were sent and a summary of tenant responses to each Notice
- Identify the enforcement action to be taken by the LLCRHA, subject to applicability:
  1. Early termination of lease - If there are six (6) full months or more remaining on the lease
  2. Non-renewal of lease - If there are less than six (6) full months remaining on the lease
  3. Eviction - If the violations are of a nature that:
    - Poses a serious or imminent threat to another individual
    - Causes property damage beyond the amount of the damage deposit received from the tenant
    - Is criminal activity
    - Involves the use, possession or cultivation of a prohibited substance.

The LLCRHA staff will follow all applicable laws in the effectuation of each enforcement action and will immediately notify the Board President of the issuance of the Third and Final Notice of Violation and the enforcement action taken.

The tenant shall receive a copy of the LLCRHA Grievance and Appeals Process and Request for Alternative Dispute Resolution form.

### 4. Violations of different natures

For tenants with violations, individually or in combination, of five (5) different terms of any lease provisions, rules and regulations, policies and procedures and companion /service animal agreements, shall, after the fifth violation is made known to LLCRHA, receive an email with a formal “Final Notice of Violation” stating:

- The specific lease provision, rule, regulation, policy, procedure or agreement term that was violated
- How the violation occurred

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- When the violation occurred
- When the previous First Notices of Violation and Request for Compliance were sent and a summary of tenant responses to each Notice
- Identify the enforcement action to be taken by the LLCRHA, subject to applicability:
  1. Early termination of lease - If there are six (6) full months or more remaining on the lease
  2. Non-renewal of lease - If there are less than six (6) full months remaining on the lease
  3. Eviction - If the violations are of a nature that:
    - Poses a serious or imminent threat to another individual
    - Causes property damage beyond the amount of the damage deposit received from the tenant
    - Is criminal activity
    - Involves the use, possession or cultivation of a prohibited substance.

The LLCRHA staff will follow all applicable laws in the effectuation of each enforcement action and will immediately notify the Board President of the issuance of the Third and Final Notice of Violation and the enforcement action taken.

The tenant shall receive a copy of the LLCRHA Grievance and Appeals Process and Request for Alternative Dispute Resolution form.

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## SECTION VIII

### DISCRIMINATION, GRIEVANCE PROCESS, EXEMPTION REQUESTS

#### ***8.1: Discrimination***

The requirements established in this section are designed to ensure that there is a fair and equitable process for addressing owner/tenant or prospective owner/tenant concerns and to ensure fair treatment of owners/tenants in the event that an action or inaction by the LLCRHA Board or members is perceived to adversely affect the owner/tenant of a housing project.

Protected classes in housing include race, color, religion, creed, national origin/ancestry, disability/handicap, sexual orientation (including transgender status), marital status and familial status (children under the age of 18 in the Household).

Any owner/tenant or prospective owner/tenant seeking to purchase or occupy housing administered by the LLCRHA who believes he or she is being discriminated against because of a protected class may file a complaint in person with, or by mail to the U.S. Department of Agriculture's Office of Civil Rights, Room 326-W, Whitten Building, 14<sup>th</sup> and Independence Avenue, SW., Washington DC 20250-9410 or to the Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development (HUD), Washington, DC 20410, and to the Colorado Department of Regulatory Agencies Civil Rights Division, 1560 Broadway, Suite 110, Denver, CO 80202, and to the LLCRHA Board of Directors at PO Box 1683, Leadville, CO 80461.

#### ***8.2: Grievance Process***

Any prospective owner/tenant seeking to purchase or occupy housing administered by the LLCRHA, or an existing owner/occupant of housing administered by the LLCRHA, who believes he or she is otherwise aggrieved (the Grievant) may request an alternative dispute resolution process through the LLCRHA Board. Such requests must be made in a timely manner by delivering the request to the Board President of the LLCRHA within fifteen (15) calendar days of the alleged grievance. The request shall clearly identify the nature and date of the grievance and state if they want a Grievance and Appeals hearing or use a voluntary mediation process, both as described herein.

#### **Grievance and Appeals Hearing**

The Board President shall appoint three Board members as the Grievance and Appeals Committee. The Committee shall schedule a hearing with the Grievant within ten (10) calendar days of the request for an alternative dispute resolution.

The Grievant and the LLCRHA may both present to the Committee any exculpatory or inculpatory records, documents and regulations pertinent to the request for the hearing. Both parties shall be given the opportunity to examine all such documents at minimum 48 hours prior to the hearing. Both parties may have legal representation at the hearing.

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The Committee shall determine the length of the hearing after review of the documents provided and shall inform the parties of the procedure during the hearing (which party presents first and for how long, comments from any public present, etc.).

There are three possible outcomes from the Committee at the time of the hearing:

- The Committee can rule to uphold the LLCRHA actions/determinations
- The Committee can overrule or modify the LLCRHA actions/determinations
- The Committee can defer their ruling until a future date, not to exceed five (5) business days from the date of the hearing. A final ruling of the Committee will be delivered in writing to the Grievant and LLCRHA.

## Voluntary Mediation Process

The LLCRHA will use a voluntary mediation process where the owner/tenant or prospective owner/tenant agrees that any and all claims, controversies, breaches or disputes arising from or related to an action or inaction of the LLCRHA Board is subject to a requirement to mediate prior to filing any lawsuit or filing for arbitration. The mediation shall take place in the County of Lake, State of Colorado utilizing a mediator provided by The Office of Dispute Resolution of the State of Colorado's Judicial Branch ("ODR"). The mediation proceedings will be conducted in compliance with the Colorado Dispute Resolution Act C.R.S. 13-22-301 et seq in effect at the time a demand for mediation is made. The parties to the mediation agree that there is no requirement to actually reach a settlement to the dispute in mediation, but agree that if a settlement is reached during mediation, it shall be reduced to writing and shall be binding upon the parties, their heirs, executors, administrators, successors and assigns.

### ***8.3: Exemption Request***

A request for an exemption to the strict application of these Guidelines or any terms or conditions of an applicable deed restriction may be made to the LLCRHA requested if an unusual hardship can be shown, and the variance from the strict application of the Guidelines is consistent with the deed restriction intent. In order to request an exemption, a letter must be submitted to the LLCRHA Executive Director stating the request, with documentation regarding the unusual hardship.

The LLCRHA may grant a request for an exemption to these Guidelines, with or without conditions. If the request is for an exemption to the terms and conditions of the Deed restriction, the LLCRHA Board President will forward the request and supporting documentation to the jurisdiction that is the beneficiary of the deed restriction for a final decision.

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END OF DOCUMENT