




Agenda Item No: 5.b
Meeting Date: May 17, 2021

SAN RAFAEL CITY COUNCIL AGENDA REPORT
Department: COMMUNITY DEVELOPMENT
Prepared by: Paul A. Jensen, Director
Don Jeppson, Chief Building Official
City Manager Approval: _____ 

TOPIC: RESIDENTIAL BUILDING RESALE (RBR) REPORT

SUBJECT: RESOLUTION ADOPTING AN EXTENSION OF TEMPORARY MEASURES FOR ADMINISTERING THE RESIDENTIAL BUILDING RECORD PROGRAM (“RBR PROGRAM”) SET FORTH IN SAN RAFAEL MUNICIPAL CODE TITLE 12 (BUILDING REGULATIONS), CHAPTER 12.36 (REPORT OF RESIDENTIAL BUILDING RECORD) DURING THE HIGH DEMAND REAL ESTATE MARKET AND COVID-19 PANDEMIC

RECOMMENDATION:

Adopt resolution to extend temporary measures for administering the RBR Program.

BACKGROUND:

History

In 1973, the City Council adopted Ordinance No. 1128, which established the City’s Residential Building Resale (RBR) Program. The provisions and requirements of the RBR Program are codified in San Rafael Municipal Code (SRMC) Chapter 12.36 (Report of Residential Building Record). SRMC Section 12.36.010 requires that prior to the sale or exchange of any residential building, the property owner is required to obtain a “report of residential building record” (resale report). The program includes a City inspection for which the findings are incorporated in the resale report. While the RBR Program is not a common service and practice in most California cities, this program is in place in all local jurisdictions in Marin County, except for the County of Marin.

In December 2016, following a performance audit of the RBR Program by the California State Auditor’s Office, the City Council adopted a substantially revised and updated Program. The City Council adopted [Ordinance No. 1945](#) setting forth new municipal code provisions for the RBR Program. In tandem with this action, the Council adopted: a) [Resolution No. 14243](#) which sets forth adopted policies, practices, and procedures for administering and enforcing the RBR Program; and b) Resolution No. 14244, which updated the RBR Program fee schedule.

FOR CITY CLERK ONLY

File No.: _____

Council Meeting: _____

Disposition: _____

In November 2020, the City Council adopted Resolution No. 14870 which temporarily adjusted RBR fees and temporarily ceased the City’s inspection portion of the RBR Program for six months. The resolution allowed, with an assessment from Community Development Department staff on the status of the real estate market and the COVID-19 pandemic, an extension of temporary measures with approval of the City Council.

The following tables provide Building-Related Permit activity for the past two years and RBR statistics for the past four years:

Building-Related Permits	Year-to-Date 2021	Year-to-Date 2020 (comparison)
New Building Permit Applications Received (Total Valuation)	1,292 (\$67 million)	989 (\$41.3 million)
Building Permits Issued (Fees Collected)	1,136 (\$2.2 million)	936 (\$4.3 million)
Projects and Permits Completed through Final Inspection	984	781
Residential Building Resale Inspection Reports Issued	308	173

Reporting Year	Total RBRs Issued	Total Monthly Average	Total Refunds Issued
2017	634	50	15
2018	635	49	23
2019	592	45	19
2020	638	53	38
2021 (Year-to-date)	308	77	NA

High Demand Real Estate Market & COVID 19 Pandemic

As recently reported in Bay Area news, San Francisco and the South Bay are experiencing an exodus of City residents that are moving outward to the suburbs. A combination of factors is causing this exodus including: 1) a permanent and sustained shift in the workforce to working from home which started during the COVID 19 Shelter-in-Place Order; 2) high rents in San Francisco; and 3) low interest rates for real estate loans (mortgage interest rates are below 3%). Our local realtors have reported record numbers of new clients seeking housing in Marin. Further, the available real estate inventory is low, so property that is placed on the market sells quickly, resulting in shorter transaction periods.

As a result of this spike in activity, the RBR applications are at a record high (as cited above, monthly average has jumped 35%) and one Building Inspector has been dedicated to administering the inspections and resale reports. Other staff in the Building Division have had to step in to assist during periods of heavy application/inspection activity. Because of reduced staffing resulting from the COVID-19 pandemic and increased demand for building permits, there were delays in processing, inspecting, and issuing the resale reports before the temporary measures were adopted. As the sellers, buyers and realtors rely on the information from the RBR in the property sale process, the delays in the issuance of the resale reports has been challenging for our customers.

Temporary RBR Program Measures

Staff has continued close collaboration with the Marin Association of Realtors to meet the current high demand for real estate. We have agreed to the following, which is outlined in the attached resolution:

1. Continue to temporarily cease the City inspection part of the process.

2. Prepare and issue a resale report that provides property information and the permit history on file with the City.
3. Continue temporarily reduced RBR fees. The recommended fee reduction is discussed in the Fiscal Impact section of this report.
4. Apply these interim measures through December 31, 2021.

ANALYSIS:

Staff finds that the extension of temporary measures will assist in reducing turnaround time for issuance of a resale report and allow the City’s RBR inspector to be deployed to other, needed inspection services. Further, the issuance of an RBR report that provides the property permit history only would be like the resale programs in Marin where no inspection is completed (e.g., Town of Corte Madera). For now, the other advantage is one of safety to the customer and the Building Inspector. With the current high demand real estate market where the available inventory is selling quickly, a great number of sellers are remaining in their homes during the property listing and sale process. As a result, there is a greater number of person-to-person encounters during the RBR inspection process. There are two downsides to these interim measures. First, without a City inspection, unpermitted work would not be identified and cited for correction. Second, if unpermitted work is not cited, there would be a temporary reduction in projected revenue (discussed below in Fiscal Impact section) that is generated from the issuance of retroactive permits with fines/penalties.

FISCAL IMPACT:

The administration of the RBR Program is funded by fees. As noted above, on December 5, 2016 the City Council adopted an update of the RBR Program fee schedule. The adopted RBR fees are presented in the table below. The fees are based on a 2016 cost study that was prepared by staff, which represents staff time to complete the service, including a minor amount of overhead. Completing the field inspection and reporting the inspection findings represents about 50% of the service time and cost represented in the adopted fees. Therefore, staff is recommending that during this interim period, the RBR fees be temporarily reduced as presented in the table below (right column).

RBR Service	Currently Adopted Report Fees	Temporary Fee Reduction (Recommended)
Resale Report- Single-Family Residential	\$290.00	\$145.00
Resale Report - Duplex	\$290.00/unit	\$145.00/unit
Resale Report- Multiple-Family/Apartments First Unit.	\$270.00	\$135.00
Each additional Multiple-Family Dwelling/Apt. Unit	\$30.00	\$15.00
Resale Report- Condominiums	\$255.00	\$128.00
Appeal	\$100.00	NA

Please note two factors. First, a “not applicable” entry has been placed in this table for appeals. An appeal is offered to the customer that challenges the field inspection findings that are reported in the RBR. If, during this interim period no field inspections are conducted, there would be no appeals. Second, during this interim period, the fee would not be refundable. The current refund that is offered is for a “clean” resale report that is issued based on the findings of the field inspection, which would not be conducted during this interim period.

As noted, revenue is generated by the retroactive permits and penalties for unpermitted work that is disclosed as part of the RBR inspection process. If inspections are ceased to the end of the year, it is estimated that \$80,000-100,000 in projected revenue from retroactive building permit and penalties (investigation fees) may not be realized.

OPTIONS:

The City Council has the following options to consider on this matter:

1. Adopt the resolution as proposed by staff.
2. Adopt the resolution with modifications.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

Adopt resolution.

ATTACHMENTS:

1. Resolution
2. Correspondence

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL ADOPTING AN EXTENSION OF TEMPORARY MEASURES FOR ADMINISTERING THE RESIDENTIAL BUILDING RECORD PROGRAM (“RBR PROGRAM”) SET FORTH IN SAN RAFAEL MUNICIPAL CODE TITLE 12 (BUILDING REGULATIONS), CHAPTER 12.36 (REPORT OF RESIDENTIAL BUILDING RECORD) DURING THE HIGH DEMAND REAL ESTATE MARKET AND COVID-19 PANDEMIC

WHEREAS, on December 16, 2016, the City Council adopted Ordinance No. 1945 amending San Rafael Municipal Code Title 12, Chapter 12.36 (Report of Residential Building Record), which set forth the general administration and enforcement of what is known as the RBR Program. The RBR Program requires that upon resale of any residential property with the City, the property seller shall obtain from the City a report (resale report) of the City permit records and City inspection of the property. The resale report provides an added level of disclosure to the purchaser of the property; and

WHEREAS, in tandem with the adoption of Ordinance No. 1945, on December 16, 2016 the City Council adopted: a) Resolution No. 14243 which sets forth the specific policies, practices, and procedures for administering the RBR Program; and b) Resolution No. 14244 which amended the City’s Master Fee Schedule to update fees specific to the RBR Program; and

WHEREAS, Resolution No. 14243 includes, among others the specific process steps for and required information to be included in a resale report. The resale report must include a complete history of the property permit records (Building and Planning Division permits) and code enforcement cases on file with the City. Further, a property inspection must be conducted by a City inspector and the resale report shall include the findings of the inspection and shall cite violations and/or unpermitted construction that must be corrected or remedied. This resolution also includes a commitment that within seven (7) business days following City receipt of the RBR application, City staff is to contact the property owner/seller or their representative to schedule a date and time for City inspection of the property; and

WHEREAS, on November 16, 2020, the City Council adopted Resolution No. 14757 which temporarily adjusted RBR fees and temporarily ceased the City’s inspection portion of the RBR Program for six months. The resolution allowed, with an assessment from Community Development Department staff on the status of the real estate market and the COVID-19 pandemic, an extension of temporary measures with approval of the City Council.

WHEREAS, San Francisco and the South Bay continues experiencing an exodus of residents moving outward to the suburbs. A combination of factors is causing this exodus including: 1) a permanent and sustained shift in the workforce to working from home which started during the COVID 19 Shelter-in-Place Order ; 2) high rents in the San Francisco and South Bay; and 3) the low interest mortgage loan rates. The high demand real estate market has resulted in a low inventory and shorter property sale transaction periods; and

WHEREAS, during the COVID-19 pandemic building permits and RBRs have increased while there have been significant budget cuts and staffing reductions resulting in slower processing times and inspection scheduling for resale reports; and

WHEREAS, the Community Development Department staff has continued to collaborate with Marin Association of Realtors on the extension of temporary, interim measures for administering the RBR Program during the pandemic and this high demand real estate market. The interim measures include temporarily ceasing the City inspection portion of the RBR Program through December 31, 2021;

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby adopts the following temporary measures for administering the RBR Program:

1. The City inspection, reporting of the inspection results, and the citing of violations and unpermitted improvements outlined in and required by City Council Resolution No. 14243 shall cease during this temporary period. All other RBR Program tasks and actions outlined in Resolution No. 14243 shall continue to be administered by the City.
2. During this temporary period, the contents of the resale reports shall follow the requirements set forth in San Rafael Municipal Code Chapter 12.36 (Report of Residential Building Record), Section 12.36.060 (contents of report) except that the report will not include City site inspection findings.
3. The RBR application and related fees shall temporarily be adjusted as follows:

RBR Service	Temporary Fee Reduction
Resale Report- Single-Family Residential	\$145.00
Resale Report - Duplex	\$145.00/unit
Resale Report- Multiple-Family/Apartments First Unit.	\$135.00
Each additional Multiple-Family Dwelling/Apt. Unit	\$15.00
Resale Report- Condominiums	\$128.00
Appeal	NA

During this temporary period, no refunds will be issued.

4. During this temporary period, issued resale reports shall continue to be valid for a period of six (6) months with the ability for a one-time extension of up to an additional 90 days.
5. These temporary measures shall be in place and in effect through December 31, 2021.
6. Following the sunset date of these temporary enforcement of the RBR Program shall resume consistent with the adopted policies, practices and procedures set forth in City Council Resolution No. 14243. Further, at that time, the RBR fees shall return to the full application fee amounts set forth in the City of San Rafael Master Fee Schedule.

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing resolution was adopted at a regular meeting of the City Council on the 17th day of May 2021.

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

Don Jeppson

From: Romeo Arrieta <romeoa@marincountyrealtors.com>
Sent: Thursday, May 6, 2021 1:50 PM
To: Don Jeppson
Subject: Re: RBRs

Don,

I just wanted to follow up on our conversation today. We understand that the temporary changes to the Resale Inspection program are set to expire on 5/16/2021.

Given the factors of high demand in the real estate market at this time, the Marin Association of REALTORS supports extending these provisions. I mentioned in our conversation that perhaps an extension to either the beginning or end of the month would be an easier message to communicate. For example, extending these provisions to December 1, December 31 or January 1 would be an easier to communicate as it aligns with the end of a month or year.

I want to thank you and your department for continuing to work with our association to ensure the safety of San Rafael residents.

I would also like to take this opportunity to thank you and the building department for coming up with “out of the box” ideas to continue to serve San Rafael Residents and the Marin REALTORS who serve them. We are quite impressed with the virtual office hours and various ways that your staff has been able to adapt to the challenges of the COVID era.

Please don't hesitate to contact me if you have any questions. I appreciate and look forward to the opportunity to work with you on this or future endeavors between the REALTOR community and the San Rafael Building Department.

Romeo Arrieta



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