



## Legislation Text

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File #: 17-574, Version: 1

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**TO:** Mayor and Commissioners  
**FROM:** R. Max Lohman, City Attorney  
**THROUGH:** Chief Neal de Jesus, Interim City Manager  
**DATE:** July 6, 2017

### ORDINANCE NO. 23-17 AMENDING THE CITY'S WORKFORCE HOUSING ORDINANCE (SECOND READING)

#### **Recommended Action:**

Motion to Approve Ordinance No. 23-17 on second reading.

#### **Background:**

Ordinance 23-17 amends the City's Workforce Housing Ordinance, specifically sections 4.7.7, 4.7.8 and 4.7.9 of the City's Land Development Regulations, by exempting workforce housing units sold as part of the Delray Beach Community Land Trust (DBCLT) from recording a restrictive covenant as part of the sale. Currently, restrictive covenants that ensure continued affordability by requiring workforce housing units to remain affordable for a set amount of time must be recorded as part of the sale of workforce housing units. Additionally, units sold through the DBCLT require the recordation of 99 year ground leases. The DBCLT leases the land to homeowners via a ground lease in order to lower the purchase price thereby making the unit more affordable. Consequently, the DBCLT retains ownership of the underlying land and only the improvements are sold to the homebuyer.

In order to be able to insure mortgages on CLT homes through Fannie Mae, mortgage lenders use the Fannie Mae Ground Lease Rider in conjunction with mortgages to CLT home buyers. The Fannie Mae Rider eliminates any resale price restrictions in the event the lender takes title as part of a foreclosure, or takes a deed in lieu of foreclosure in the event of a default. Lenders dealing with CLT mortgages are requiring that there be no other resale restrictions, such as the City's restrictive covenant, other than those contained in the ground lease and the Fannie Mae Rider. As a result, prospective homebuyers are unable to secure a home mortgage through Fannie Mae mortgage lenders due to the requirement of the recording of a restrictive covenant which contains resale restrictions.

These amendments apply only to workforce housing units sold through the DBCLT and exempt same from the requirement of recording a restrictive covenant. Workforce Housing Units sold through other entities would not be affected by this Ordinance and would maintain the requirement of recording a restrictive covenant.

**City Attorney Review:**

Approved as to form and legal sufficiency.