

## Affordable Housing Deed Restrictions

Title to real estate is transferred from one owner to another by a deed. A deed restriction is a legal document that places limitations or restrictions on how real estate is occupied, used and/or sold. Most affordable housing units available for purchase (including those units to be built at Discovery, Central Park Condominiums, and 1450-1460 Park Avenue) are subject to long-term affordability deed restrictions.\*

Affordable homeownership programs utilize deed restrictions to create lasting affordability. These programs either directly (through funds - as with the PCMC projects) or indirectly (through inclusionary zoning requirements - as with the Discovery project) subsidize the cost of a home to make the purchase price affordable for low- to- moderate-income homebuyers. Hence, the homeowner obtains a mortgage loan for the entire property, including both land and home, for an amount below fair market value. Before the homeowner takes title to the property, the developer who subsidized the costs of constructing the unit records required deed restrictions that stipulate certain occupancy and resale restrictions.

The deed restrictions applicable to the Discovery, Central Park Condominiums, and 1450-1460 Park Avenue projects contain similar (and typical) affordable housing provisions, including requirements that the unit be owner-occupied at all times (with limited exceptions) and restrictions on the terms of resale of the unit. If the owner decides to sell the home, it must sell to a qualified (moderate income) purchaser in the same way that the owner had to qualify for the initial purchase. The deed restrictions set forth other limitations such as preference for the local workforce. Additionally, the sales price for the unit is limited to retain its affordability for subsequent purchasers, with the price capped at three percent increase per year over the seller's purchase price. This price restriction seeks to balance the seemingly competing goals of providing a fair return on the initial owner's housing investment with assuring that the unit is kept affordable for the next buyer. People who buy deed restricted affordable homes are, in essence, exchanging their right for unlimited market-driven appreciation for significant upfront subsidy that allows them to own a home in a location they otherwise would have been unable to afford.

Most lenders' mortgage products work with affordable housing deed restrictions, but it is important that a lender know up-front when a deed restricted unit is involved because they are not typical and may be difficult to process for inexperienced lenders.

*\*(Note: the Silver Creek Village Townhomes are being developed on a community land trust (CLT) model which includes similar features to deed restrictions).*