

MEMO

Date: November 22, 2024

To: Julie Regan, TRPA Executive Director

From: TRPA Staff

Subject: Annual Monitoring and Audit Status Report for 2024

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**Summary:**

Effective enforcement and monitoring of deed-restricted affordable and workforce housing properties is key to the success of TRPA's housing programs and environmental threshold attainment, and TRPA places a high priority on continual improvement of these systems. In December 2018, TRPA implemented a major update of its deed-restriction requirements, based on best practices from other mountain resorts, including instituting an annual compliance monitoring system for units that were deed-restricted after that date. In September of 2023, TRPA hired a consultant to help bring older deed-restricted units into this annual tracking and monitoring program, as well as make recommendations for improvements to the program as a whole.

**Background**

TRPA began issuing deed-restrictions around 1996. Many of these early deed-restrictions were tied to the subdivision of existing "defacto" affordable or moderate-income housing, or to federal or state grants subsidizing the construction of new deed-restricted apartment housing. During this time, TRPA utilized the fact that deed-restrictions carry through on the title of a property and are disclosed through a title search at the time of sale as the mechanism for prompting compliance. Early deed-restrictions did not contain language related to annual compliance reporting, documentation requirements or penalties for non-compliance, although authority and mechanisms for enforcement exist through the Bi-State Compact and Code of Ordinances just as they do for any other violation of the TRPA code. There are just over 250 properties with TRPA deed-restrictions on them, some with multiple units. The vast majority of units (over 300 units) are in managed, rental apartment complexes such as Kelly Ridge Senior Apartments, or the Aspens in South Lake Tahoe. Other units have been subdivided into individual ownership units.

In October 2018, TRPA passed code amendments through its Development Rights Strategic Initiative that required all units receiving a bonus unit in exchange for a deed-restriction be part of an annual compliance monitoring program, whereby owners of deed-restricted properties must submit a form each year certifying that the home complies with the requirements of the deed-restriction. These amendments also stipulated that bonus unit property owners may be subject to a fine of up to 1/10th of the current cost of a Residential Unit of Use (RUU) annually for failure to submit the compliance report or deed-restriction disclosure form. Based on a March 2024 appraisal conducted for the City of South Lake Tahoe, from Johnson Valuation Group Ltd, an RUU is estimated at \$28,750. These deed-restricted

properties are also subject to complaint-based investigation or audit in which they can be required to furnish documentation demonstrating compliance with the terms of the deed-restriction. These new rules went into effect December 17, 2018, and apply to all permits for deed-restricted properties issued after that date.

On September 1, 2023, as part of its ongoing improvement process, TRPA brought on HousingInc., a firm with expertise in managing deed-restriction programs, to conduct and certify TRPA’s annual deed-restriction compliance monitoring and deed-restriction audit. As part of its contract, HousingInc. makes recommendations for program improvements it identifies through conducting the compliance monitoring and audit to ensure that the program continues to improve and achieve TRPA’s Regional Plan goals.

This report summarizes the status of the 2024 annual Compliance Monitoring and Audit processes.

**Compliance Monitoring and Audit Program**

TRPA’s compliance and monitoring program consists of two discrete parts: 1) Annual Compliance Monitoring of Properties Receiving a Deed-Restriction after December 2018 (“post-2018”); and 2) Audit of a portion of all properties that carry a deed-restriction issued by TRPA before or after December 2018.

**1) Compliance Monitoring of Post-2018 Deed Restricted Units**

- On January 22, 2024, TRPA mailed an initial letter to 11 deed-restricted property owners to remind them of the online compliance form and inform them of a pending request for additional information.
- In March 2024, TRPA mailed an official request letter to the same 11 property owners asking that they submit the Certification Form online.
  - TRPA found that five of the eleven deed-restricted properties were still under construction and are not yet required to submit an online compliance form.
  - Of the remaining six properties, all six are in compliance. Five properties demonstrated compliance by completing the online compliance form. The sixth property owner reported by phone that they have not been able to find a tenant for the unit and have hired Coldwell Banker to help find a tenant. TRPA staff verified information reported by phone with receipt of a confirmation email from the property owner. No reported use of this property is out of compliance with the deed-restriction.
  - Annual compliance monitoring of properties with TRPA-issued deed restrictions post-2018 resulted in 100% compliance. See the table below for a summary of compliance status for the units, and Attachment A for the details of the responses.

Type	Number of Units	Units Fully in Compliance
Accessory Dwelling Units	4	4
Multi-family apartments	8	8
Condominium	1	1
<b>Total</b>	<b>13</b>	<b>13</b>

## **Audit**

- In April, TRPA mailed its annual letter to owners of all deed-restricted units reminding them of the requirements to comply with the terms of the deed-restrictions on their property. All TRPA-issued deed restricted properties receive this letter every year in the spring, regardless of whether they will be audited.
- In preparation for this year's audit, TRPA worked with a housing consultant to develop a well-defined and consistent methodology. This methodology will be incorporated into the monitoring guidelines as TRPA makes updates to its deed-restriction program. To ensure an effective launch and with the advice of the consultant, TRPA decided to postpone the audit until January 2025 when the monitoring guidelines are completed. See the "Implementation Status" section below for more information.

## **New Deed-Restriction Program Improvements and Implementation Status**

HousingInc. has recommended that TRPA develop and integrate new tools to improve the deed-restriction compliance processes for existing deed-restricted properties, streamline steps for new properties entering the deed-restricted program, and develop best practices for staff to effectively monitor properties and manage the program.

### **Recommendations for Process Improvements (in progress)**

- Develop and publish Program Guidelines. This action includes monitoring and underwriting, and an operational manual to provide a well-defined and streamlined process.
- Design a process, workflow, and timeline to resolve compliance issues.
- Develop legal documents to assist with monitoring, enforcement, and compliance, such as new deed-restriction language, a Deed of Trust and/or Promissory Note.
- Develop escrow instructions.

### **Implementation Status**

- Monitoring guidelines completed for 15 different existing deed-restriction types (December 2024)
- Monitoring guidelines shared with property owners providing direction on how to comply with their legal agreements (January 2025)
- 100 percent of homeowners with a deed-restricted property engaged by requesting that they respond to a simple form, with yes/no answers on the status of their deed-restriction property. The purpose of this step is to build trust, educate homeowners on how to comply with deed-restrictions, and create direct channels of communication with homeowners (January 2025).
- Monitoring report completed based on responses (February 2025).

After analyzing the results and adjusting the program, TRPA will send a request for documentation of compliance to 50 percent of the properties (Summer 2025).

## **Budget**

TRPA has allocated \$44,000 for fiscal year 2024-25 for compliance, monitoring, and program improvements. Long-term, sustainable funding for deed-restriction management is part of the next phase of the agency's Tahoe Living Strategic Priority.

**Regional Plan Consistency**

The deed-restriction program is consistent with the following Regional Plan Goals and Code of Ordinances sections:

**GOAL HS-1**

PROMOTE HOUSING OPPORTUNITIES FOR FULL-TIME AND SEASONAL RESIDENTS AS WELL AS WORKERS EMPLOYED WITHIN THE REGION.

**GOAL HS-3**

REGULARLY EVALUATE HOUSING NEEDS IN THE REGION AND UPDATE POLICIES AND ORDINANCES IF NECESSARY TO ACHIEVE STATE, LOCAL AND REGIONAL HOUSING GOALS.

Code of Ordinances Section 52.3.4. Affordable, Moderate, and Achievable-Income Housing.

All projects receiving a residential bonus unit for affordable, moderate, or achievable housing development as defined in Chapter 90: Definitions shall comply with criteria in Section 52.3.4A-F. TRPA shall report to the TRPA Governing Board biennially on the implementation of the residential bonus unit program for affordable, moderate, and achievable housing development. This report shall include, but is not limited to, the number of housing developments and units awarded and constructed bonus units, number of bonus units awarded to and constructed in each income category, number of bonus units awarded to and constructed in single and multi-family housing developments, location of housing developments,<sup>1</sup> and compliance with the program.

**Contact Information**

For questions regarding this report, please contact Michelle Brown, Associate Planner, at (775) 589-5226 or [mbrown@trpa.gov](mailto:mbrown@trpa.gov).

**Attachment(s)**

Attachment A:

2024 Bonus Unit Program Compliance Report (Anonymized for Public Viewing)

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<sup>1</sup> These metrics will be reported in the 2023 Performance Metrics report.



**Attachment A:  
2024 Bonus Unit Program  
Compliance Report (Anonymized for Public Viewing)**

TRPA’s 2024 Monitoring and Reporting Program requested six owners of thirteen “post-2018” deed restricted units to certify adherence with their property’s Deed Restriction by submitting a Residential Bonus Unit Compliance (RBUC) Form. Five owners completed the online RBUC Form. One owner reported by phone; TRPA staff verified information with receipt of a confirmation email from the owner.

Five additional properties selected for certification are under construction. TRPA did not require owners to submit RBUC Forms.

2024 RBUC Results

Owner responses to TRPA’s 2024 RBUC Form questions indicate full compliance, as defined by TRPA, for the six properties.

2024 RBUC Responses

<b>Address</b>	<b>Number of Deed Restricted Units</b>	<b>Tenant/Owner Occupied</b>
Accessory Dwelling Unit - South Lake Tahoe	1	Tenant
Accessory Dwelling Unit - Tahoe City	1	Tenant
Condominium - Incline Village	1	Owner
Apartment Complex - Tahoe City	8	Tenants
Accessory Dwelling Unit - Homewood	1	Tenant
Accessory Dwelling Unit - South Lake Tahoe	1	Vacant

The attached chart lists owner responses to the 2024 Compliance Form.

**CONTINUED ON THE NEXT PAGE**

<b>2024 RBUC Responses</b>	<b>Accessory Dwelling Unit South Lake Tahoe</b>	<b>Accessory Dwelling Unit Tahoe City</b>	<b>Condominium Incline Village</b>	<b>Apartment Complex Tahoe City</b>	<b>Accessory Dwelling Unit Homewood</b>	<b>Accessory Dwelling Unit South Lake Tahoe</b>
<b>Property Type</b>	SFR/ADU	SFR/ADU	SFR/Main House	Multi-Family	SFR/ADU	SFR/ADU
<b>Number of Deed Restricted Units</b>	1 (Achievable)	1 (Achievable)	1 (Achievable)	8 (Moderate Income)	1 (Achievable)	1 (Achievable)
<b>Number Bedrooms</b>	Two	Studio	One	Studio	One	One
<b>Total Number of Units</b>	1	1	1	8	1	1
<b>The unit was occupied by the owner throughout the last year</b>	No	No	Yes	No	No	No
<b>If yes, the owner meets one or more criteria (the income and/or rent limits and/or employer requirement) established in the deed restriction?</b>	N/A	N/A	Yes	N/A	N/A	N/A
<b>Unit/Unit was/were rented?</b>	Yes	Yes	N/A	Yes	Yes	No
<b>If yes, the renter meets one or more criteria (the income and/or rent limits and/or employer requirement) established in the deed restriction?</b>	Yes	Yes	N/A	Yes	Yes	N/A
<b>Has the unit been used as</b>	No	No	N/A	No	No	No

<b>a second home or vacation home during the course of the last year?</b>						
<b>Has the unit been used exclusively by a permanent resident or seasonal worker throughout the last year?</b>	No	Yes	No <sup>2</sup>	Yes	Yes	No
<b>Notes</b>	A portion of 2023 rented to achievable income and sat vacant the remaining of the year.	I have been renting the ADU since July of 2023	I [ <i>name redacted</i> ] owner of this condo have been living here full time.			TRPA verified information reported over the phone by receipt of a confirmation email from the owner.

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<sup>2</sup> Owner responded “no” in the form, however, his responses to all the other answers indicate compliance