



Housing Advisory Commission

HOUSING ADVISORY COMMISSION

AGENDA

Regular Meeting

Thursday, October 3, 2019
7:00 pm

South Berkeley Senior Center

2939 Ellis Street
Secretary Mike Uberti
HAC@cityofberkeley.info

All agenda items are for discussion and possible action.

Public comment policy: Members of the public may speak on any items on the Agenda and items not on the Agenda during the initial Public Comment period. Members of the public may also comment on any item listed on the agenda as the item is taken up. Members of the public may not speak more than once on any given item. The Chair may limit public comments to 3 minutes or less.

1. Roll Call
2. Agenda Approval
3. Public Comment
4. **Discussion on Commission Recommendations to the City Council – Chair Johnson/Staff (Attachment 1)**
5. **Approval of the July 11, 2019 Regular Meeting Minutes (Attachment 2)**
6. **Discussion and Possible Action to Adopt Recommendations to Improve and Enforce the Smoke-Free Multi-Unit Housing Ordinance – Commissioner Lord (Attachment 3)**
7. **Discussion and Possible Action to Appoint Subcommittees – All/Staff**
 - a. **1654 Fifth Street Request for Proposals**
8. **Discussion and Possible Action to Make Recommendations to the City Council’s Draft Affordable Housing Framework – All/Staff (Attachments 4-12)**
9. **Update on Council Items (Future Dates Subject to Change) – All/Staff**
 - a. 1281 University Avenue Request for Proposals (9/10) (Attachment 13)
 - b. Spring 2019 Bi-Annual Report (9/10)
 - c. Annual Work Plan (9/10)
 - d. Smoke Free Housing Ordinance Amendments (10/29)
 - e. Predevelopment Funding Recommendations for 2001 Ashby, 2527 San Pablo, and 2321 10th Street (10/29)
 - f. Transfer Tax Refund for 1638 Stuart Street (12/3)

10. Announcements/Information Items

- a. Lord, Social Housing Subcommittee Update
- b. Wolfe, Non-Profit Housing Association (NPH) Affordable Housing Conference Report Back on State Housing Bills (Attachment 14)
- c. Jenny Wyant, Department of Health, Housing and Community Services, Small Sites Program Update (Attachment 15)
- d. Sarah Moore, Department of Planning and Development, Berkeley Building Code Adoption(Attachment 16)

11. Future Items

12. Adjourn

Attachments

1. Mark Numainville, City Clerk, Commission Recommendations to the City Council
2. Draft September 5, 2019 Regular Meeting Minutes
3. Lord, Improve and Enforce the Smoke-Free Multi-Unit Housing Ordinance
4. July 16, 2019 Annotated Agenda Excerpt: Housing for a Diverse, Equitable and Creative Berkeley: Proposing a Framework for Berkeley's Affordable Housing
5. July 16, 2019 Council Report: Housing for a Diverse, Equitable and Creative Berkeley: Proposing a Framework for Berkeley's Affordable Housing
6. Wolfe, Outline of Housing Framework
7. Lord, Responses to Draft Housing Framework
8. Lord, Climate and Housing
9. Mendonca, Preference Policy Addition to the Affordable Housing Framework
10. Owens, Framework for Affordable Housing Comments
11. Sharenko, Response to Housing for a Diverse, Equitable and Creative Berkeley
12. Wolfe, Framework for Affordable Housing (Regarding Housing for a Diverse, Equitable, and Creative Berkeley)
13. September 10, 2019 Annotated Agenda Excerpt
14. Wolfe, NPH Conference – State Housing Bills
15. Jenny Wyant, Department of Health, Housing and Community Services, Small Sites Program Update
16. Sarah Moore, Department of Planning and Development, Berkeley Building Code Adoption

Correspondence

17. Jennifer Lovvorn, Civic Arts Commission's Friendly Amendment to Affordable Housing Framework
18. Sophia DeWitt, East Bay Housing Organizations (EBHO), Comment Letter on the Proposed Berkeley Affordable Housing Framework
19. Christine Schwartz, Video for City of Berkeley, Housing Advisory Commission, Regular Meeting for September 5, 2019
20. Matthew Lewis, People's Policy Project White Paper on Solving the Housing Crisis Through Social Housing

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Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Health, Housing & Community Services Department located at 2180 Milvia Street, 2nd Floor during regular business hours. Agenda packets and minutes are posted online at:


https://www.cityofberkeley.info/Housing_Advisory_Commission/

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City Clerk Department

September 16, 2019

To: Commission Secretaries
From:  Mark Numainville, City Clerk
Subject: Commission Recommendations to the City Council

City commissions are tasked with providing recommendations to the City Council on issues that are within the purview of the commission. Recent recommendations from some commissions to the council have been worded in a manner that gives the inference that the commission is providing direction to city staff instead of making a recommendation to the council. At the City Council meeting on September 10, 2019 the Council asked that clarification be provided to commissions regarding the correct wording for recommendations to council.

As your commission crafts recommendations to the council in the future, please remind them that the wording of the recommendation should be clear that the commission is not providing direction to city staff, but rather advising the council to take an action.

Please advise the commission to avoid this wording:

“Recommendation: Direct the City Manager to...”

“Recommendation: Direct the city staff to...”

Please advise the commission to use the following wording:

“Recommendation: The Commission recommends that the City Council refer to the City Manager to...”

If you have any questions, please contact me at mnumainville@cityofberkeley.info.



HOUSING ADVISORY COMMISSION
Regular Meeting
Thursday, September 5, 2019

Housing Advisory Commission

Time: 7:06 pm

South Berkeley Senior Center
2939 Ellis Street – Berkeley
Acting Secretary – Mike Uberti, (510) 981-5114

DRAFT MINUTES

1. Roll Call

Present: Mary Kay Lacey (substitute for Xavier Johnson), Thomas Lord, Mari Mendonca, Maryann Sargent (arrived at 7:45 pm), Alex Sharenko, Leah Simon-Weisberg, Marian Wolfe and Amir Wright.

Absent: Xavier Johnson (excused) and Darrell Owens (excused).

Commissioners in attendance: 8 of 8

Staff Present: Amy Davidson and Mike Uberti

Members of the public in attendance: 16

Public Speakers: 18

2. Agenda Approval

Action: M/S/C (Lord/Wright) to approve the agenda.

Vote: Ayes: Lord, Mendonca, Sharenko, Simon-Weisberg, Wolfe and Wright. Noes: None. Abstain: Lacey. Absent: Johnson (excused), Owens (excused) and Sargent (unexcused).

3. Public Comment

There was one speaker during public comment.

4. Approval of the June 6, 2019 Regular Meeting Minutes

Action: M/S/C (Sharenko/Wright) to approve the minutes.

Vote: Ayes: Lord, Sharenko, Simon-Weisberg, Wolfe and Wright. Noes: None. Abstain: Mendonca and Lacey. Absent: Johnson (excused), Owens (excused) and Sargent (unexcused).

5. Discussion and Possible Action to Elect a Temporary Vice Chair for the September 5, 2019 Meeting

Action: M/S/C (Wright/Lord) to elect Commissioner Wright as Temporary Vice Chair for September 5 meeting.

Vote: Ayes: Lacey, Lord, Mendonca, Sharenko, Simon-Weisberg, Wolfe and Wright.

Noes: None. Abstain: None. Absent: Johnson (excused), Owens (excused) and Sargent (unexcused).

6. Discussion and Possible Action on Draft PY18 Consolidated Annual Performance and Evaluation Report (CAPER)

7. Discussion and Possible Action to Approve the Resources for Community Development 2001 Ashby Avenue Predevelopment Loan

Public Speakers: 1

Commissioner Wolfe recused herself from this item as she is on the board of Resources for Community Development, an organization that makes funding requests to the City of Berkeley for development projects.

Action: M/S/C (Simon-Weisberg/Sharenko) recommend Resources for Community Development's (RCD) predevelopment loan request for an additional \$1.2 million for its proposed development at 2001 Ashby Avenue. The HAC also recommends the City require RCD evaluate ways to reduce or eliminate the project's proposed parking spaces and/or parking footprint, if possible, in consideration of the needs of the residents, community services space, and climate change mitigation.

Vote: Ayes: Lacey, Sargent, Sharenko, Simon-Weisberg, and Wright. Noes: Lord. Abstain: Mendonca. Recused: Wolfe. Absent: Johnson (excused) and Owens (excused).

8. Discussion and Possible Action to Approve the Northern California Land Trust 2321-2323 10th Street Predevelopment Loan Application

Public Speakers: 1

Commissioner Wolfe recused herself from this item as she is on the board of Resources for Community Development, an organization that makes funding requests to the City of Berkeley for development projects.

Action: M/S/C (Simon-Weisberg/Mendonca) to recommend the Housing Trust Fund subcommittee's recommendation to approve Northern California Land Trust's (NCLT) predevelopment loan request for \$50,000 for its proposed acquisition and renovation of 2321-2323 10th Street subject to NCLT meeting the conditions of its 2017 Development Loan Agreement and completion of the following items prior to disbursement of funds:

- a. NCLT must provide an updated plan for assessing the feasibility of converting 1340-48 Blake and 2425 California to cooperatives; and
- b. NCLT must work with its Board to update the organizational documents to include the tripartite structure.

Vote: Ayes: Lacey, Mendonca, Sargent, Sharenko, Simon-Weisberg, and Wright. Noes: None. Abstain: Lord. Recused: Wolfe. Absent: Johnson (excused) and Owens (excused).

9. Discussion and Possible Action to Approve the Transfer Tax Refund for 1638 Stuart Street

Public Speakers: 1

Action: M/S/C (Lord/Simon-Weisberg) recommend that City Council authorize the City Manager to grant an estimated \$10,260 to Bay Area Community Land Trust (BACLT) in the form of a transfer tax refund, in support of the renovation of 1638 Stuart Street and BACLT's operation of the property as affordable housing.

Vote: Ayes: Lacey, Lord, Mendonca, Sargent, Sharenko, Simon-Weisberg, Wolfe and Wright. Noes: None. Abstain: None. Absent: Johnson (excused) and Owens (excused).

10. Discussion and Possible Action to Appoint and Extend Subcommittees

Public Speakers: 6

Action: M/S/C (Wright /Sargent) to extend the meeting 30 minutes to 9:30 pm.

Vote: Ayes: Lacey, Lord, Mendonca, Sargent, Simon-Weisberg, Wolfe and Wright. Noes: Sharenko. Abstain: None. Absent: Johnson (excused) and Owens (excused).

Action: M/S/C (Lord/Sharenko) to extend the Social Housing subcommittee through March 31, 2020 and appoint Commissioners Johnson, Lord, Mendonca and Simon-Weisberg.

Vote: Ayes: Lord, Mendonca, Sharenko, Wolfe and Wright. Noes: None. Abstain: Lacey, Sargent and Simon-Weisberg. Absent: Johnson (excused) and Owens (excused).

11. Discussion and Possible Action to Make Recommendations to the City Council's Draft Affordable Housing Framework

Public Speakers: 8

Action: M/S/C (Simon-Weisberg/Sargent) to extend the meeting 15 minutes to 9:45 pm.

Vote: Ayes: Lacey, Mendonca, Sargent, Simon-Weisberg, Wolfe and Wright. Noes: Lord and Sharenko. Abstain: None. Absent: Johnson (excused) and Owens (excused).

Action: M/S/F (Sargent/Simon-Weisberg) to endorse the Draft Affordable Housing Framework as presented.

Vote: Ayes: Lacey, Sargent, Simon-Weisberg, and Wright. Noes: Lord, Mendonca, Sharenko and Wolfe. Abstain: None. Absent: Johnson (excused) and Owens (excused).

12. Discussion and Possible Action to Adopt Recommendations to Improve and Enforce the Smoke-Free Multi-Unit Housing Ordinance

13. Update on Council Items

14. Announcements/Information Items

15. Future Items

16. Adjourn

Action: M/S/C (Sharenko/Wright) to adjourn the meeting at 9:45 pm.

Vote: Ayes: Lacey, Lord, Mendonca, Sargent, Sharenko, Simon-Weisberg, Wolfe and Wright. Noes: None. Abstain: None. Absent: Johnson (excused) and Owens (excused).

Approved on October 3, 2019

_____, Mike Uberti, Secretary

Housing Advisory Commission

October 3, 2019

To: Housing Advisory Commission
From: Commissioner Thomas Lord
Subject: **Improve and enforce the Smoke-Free Multi-Unit Housing Ordinance**

Preface addressed to the Housing Advisory Commission

Below is a draft referral to City Council.

The recommendation to the HAC is to send the referral below to council, and to transmit a copy to the City Council Agenda Committee so that it arrives along with our July recommendations.

Introduction

On July 11, 2019, the Housing Advisory Commission referred to council proposals for modifying policies for enforcement of the Smoke-Free Multi-Unit Residences ordinance (BMC 12.70.035).

The recommendations within go farther in two ways:

1. Current City policy contradicts the existing ordinance. We propose that the City Manager be directed to make policy consistent with the law.
2. We suggest changes to the ordinance itself and related enforcement policies, in light of experience reports received by the Housing Advisory Commission and by some individual members thereof.

Recommendation

1. Make a short term referral directing the City Manager to correct current City Policies for enforcing BMC 12.70.035 so that those policies do not contradict the ordinance.

Details of the contradictions between policy and law are explained below.

Additionally, modify BMC 12.70.035 to require that second and third complaints must refer to a violation or violations that occur after the 12.70.035(C) notice has been made.

2. Modify BMC 12.70.035 so that the requirement that signs be posted is enforced as part of the Residential Safety ordinance. Failure to post signage may result in fines, accordingly.
3. Modify BMC 12.70.035 so that repeated failure to provide new tenants with the City's brochure shall be guilty of an infraction. It shall also be an infraction for landlords to tell new tenants, in contradiction to the law, that tobacco smoking by some tenants is permitted.
4. Modify BMC 12.70.035 so that the City will receive non-anonymous but confidential complaints and record these for one year. Upon the first such complaint in a 6 month period, the City shall send appropriate notice as in section 12.70.035(C) to all units in the building, informing tenants about the prohibition and penalties. (Confidentiality shall be preserved for the personal safety of the filer of such a complaint.) For purposes of (non-confidential) second and third complaints, notice on the basis of a confidential complaint is treated as 12.70.035(C) notice.
5. Establish a City policy that City inspection officers and other enforcement officers who enter a multi-unit residence and observe clear evidence of tobacco smoking *may* and in some cases *should* report that fact to the City's Code Enforcement Officer who shall treat that the same way as a non-anonymous tenant complaint. (Thus, it may serve as the first, second, or third complaint for enforcement purposes.)

Explanations and Rationales

1. Aligning enforcement policy with the law

The complaint form on the City's website contains a statement of policy (in an "Information Sheet") that is not consistent with ordinance. Item 5 on the information sheet reads (emphasis in the original):

If it is the second complaint within a six month period a note is made and no additional notice will be sent to the person(s) responsible. The second complaint can be made by the same resident as the first complaint or by a resident in another unit in the same building. ***The second complaint must be dated at least 10 days after the date of the notice sent by City of Berkeley to the person(s) responsible.*** You may call the Tobacco Prevention Program (see #10) for this information.

The highlighted section is the problem. BMC 12.70.035(D) says:

If within a six month period following issuance of a notice under subdivision C, the City receives at least two complaints from residents of at least two separate units of the same multi-unit residence [...] *the person(s) responsible for the violation shall be guilty of an infraction [...] [emph. added].*

The 10 day delay rule, imposed by policy, contradicts the plain language of the law which contains no such delay period.

Presumably the delay period is meant to ensure that the person(s) responsible for the violation have time to receive, read, and act upon the warning. It may in fact be a reasonable grounds for appeal that the second and third complaints arrived too quickly for the person(s) accused to have corrected the problem. Nevertheless, in individual circumstances, it might also be an unreasonable grounds for appeal.

In any event, the ordinance does not support the 10 day delay policy.

It may be helpful to modify BMC 12.70.035(D) to make it clear that second and third complaints must refer to a violation or violations that occur after section (C) notice has been made.

It may be helpful to modify BMC 12.70.035(D) to use the date of delivery of a notice, and for the City to send notices using the USPS confirmed delivery service.

Returning to the policy declarations on the “Information Sheet”, the City declares in item 6 (emphasis in the original):

If it is the third complaint, information about the person(s) responsible is sent to the City Enforcement team and a citation may be issued. ***Please note that the issuance of a citation is an absolutely discretionary process based on the City’s resources, competing time constraints, and whether it is clear that the complaints are being filed in good faith.*** Only two complaints may be made by tenants in the same unit. All three complaints may not be made by tenants in the same unit.

The Code Enforcement Officer and City Attorney no doubt enjoy broad prosecutorial discretion but the statement above declares a policy wide open for prosecutorial abuse.

Criteria such as “competing time constraints” and “based on the City’s resources” are so vague as to mean nothing more than “we’ll enforce it if we feel like it”. Further, there are no criteria or checks on the judgment of whether or not a complaint was made in good faith.

Such reservations of discretion are intimidating and excessive for what should be, in many cases, a nearly ministerial process of checking the complaint forms and issuing

a citation.

The City Manager should form policy that if the Code Enforcement team decides not to issue an infraction, they must clearly state the reasons for their decision and inform the complaint filers of these reasons. Complaint filers must have a right to appeal and, if appropriate, amend their complaints with further evidence.

The City's declared indifference to enforcing the ordinance risks worsening the threat of retaliation. This is a very serious threat. See item 4, below.

2. Enforce signage violations under the Residential Safety Program

Smoke free housing is a safety issue and the signage is part of how that condition is maintained. Since such signage is unambiguously part of the condition of the physical structure, it should be treated as a building code requirement enforced under the Residential Safety program.

3. Enforcing brochure requirements

Evidence from the Berkeley Considers survey and heard by HAC commissioners strongly suggests that in many cases, making everyone aware of the ordinance is enough for some tobacco smokers to change their behavior.

The City should take that seriously, and take steps to boost awareness of the ordinance.

Based on anecdotal evidence, tenants seem generally to have never received the brochure that informs them of their rights and responsibilities under the ordinance. In the Berkeley Considers survey, several respondents indicated their surprise at learning their is such an ordinance.

Making systematic violations of the brochure requirement an infraction provides tenants with an alternative mode of complaint that can potentially help resolve ongoing violations without risking personal retaliation for pointing the finger at a particular tobacco smoker or smokers.

Here, prosecutorial discretion can be again aided by policy. Upon credible evidence that a landlord is in violation, the Code Enforcement Officer might (by policy) issue a first warning to the property owner or landlord, and send the brochure to all units.

Finally, in one instance, an ad for tenants advises potential applicants that the building is "slowly transitioning" to non-smoking, implying that smoking is permitted and lawful by existing tenants. Systematically misinforming potential tenants of their

rights should be treated as a violation of the brochure provision. (See attached ad, page 2, criteria 1.)

4. Non-anonymous but confidential complaints

The Commission and Subcommittee heard repeatedly, and the Berkeley Considers survey also suggested, that many fear filing a complaint for threat of retaliation.

The threat of retaliation is quite real. Notably, Carol Denny who has been a tireless advocate for strengthening this ordinance was recently assaulted at and near the residential property where she lives, allegedly in part as retaliation for filing complaints under the ordinance. She received a concussion in one of these assaults.

5. City enforcement officials of any kind should report violations

Under the existing ordinance, infractions may be issued for reasons other than the “three complaint” process.

Serious and ongoing situations like Ms. Denny’s (described above) make it clear that sometimes, such alternative enforcement is a appropriate and a matter of public safety.

Any City enforcement officer (including police officers) entering a property and observing clear evidence of tobacco smoking, especially evidence of tobacco smoking associated with particular tenants or units, *may* report that evidence to the Code Enforcement Officer.

City officials called to a building because of a complaint related to the ordinance (such as signage violations, brochure violations, or calls to the scene of violent retaliation) *should* be on the lookout for clear evidence of tobacco smoking, reporting such back to the Code Enforcement Officer.

In this way, the ordinance may be enforceable in extreme cases while reducing the risk of retaliation (or further retaliation, as the case may be) against residents.

Subject **urgent situation: domestic violence and multi-unit residential smoking ban**
From Thomas Lord <lord@basiscraft.com>
To <manager@cityofberkeley.info>, Berkeley City Council <council@cityofberkeley.info>
Bcc <lord@basiscraft.com>
Date 2019-09-23 11:38

Ms. Williams-Ridley (City Manager) and City Council,

I am writing about a very urgent situation, asking that you take immediate steps to intervene in a case where violence against a Berkeley resident is escalating, in part because of the City's very poor handling of her request that the City enforce the law.

Ms. Carol Denney, known to you all, has alleged -- credibly to me -- that she has recently been beaten by a neighbor (she suffered a concussion), been rebuffed by the police who were dismissive towards her complaints, and is the recipient of escalating harassment in what is supposed to be her secure home.

The City must intervene, and must intervene now. From the details I have heard, I believe the City still - though barely - has the opportunity both to enforce the law and to de-escalate tension among the neighbors. So far, however, the City has simply appeared to show disdain for taking the situation seriously. As a result, I believe that Ms. Denney is at increasing risk of violence and I know that she is suffering worsening harassment.

As several of you know, the Housing Advisory Commission has been working on improving the law and implementation of the law that prohibits smoking tobacco in multi-unit residential buildings. Speaking from my individual perspective as a member of the Commission: Through a community survey (via "Berkeley Considers") and personal testimony we have learned that the public is under-informed of the law. We have learned that sometimes warnings alone work. We have learned that fear of retaliation implies a need for anonymous reporting methods and new investigatory procedures by the City. We have learned that the City makes it difficult to report violations and projects an attitude of not wishing to enforce the law. Most critically, we have learned that the City's poor enforcement practices combined with the risks to complaint filers can *in fact* lead to retribution - even violent retribution. I expect the Commission will consider my proposed changes in a few days, at our October meeting.

That, however, is too little too late for Ms. Denney, whose situation demands and deserves thoughtful, multi-modal, and above all thorough intervention by the City. My personal demand is that the City immediately invoke its legal, mental health, mediation, and policing capacities with the dual mission of de-escalating the situation she faces, and enforcing the smoking ban.

Ms. Denney also speaks for herself, and deserves to be heard:

----- Original Message -----

Subject:Re: Fwd: [peoples-park-committee] Chuck Herrick Peace and Freedom Park (Telegraph and Dwight)
Date:2019-09-23 05:58
From:Carol Denney <cdenney@igc.org>
To:Thomas Lord <lord@basiscraft.com>

Hi Thomas,

Burning cigarettes were left in my plant pots and by my door yesterday, Sunday 9-22-2019 around 10 am, and all the replaced defaced City of Berkeley smokefree signage has been defaced again. Officer Shikore, who responded, said that my complaints about the smoking had made me a target. No kidding! I'm still recovering from the effects of the concussion I got from another guest of a tenant who beat me up for trying to document the horror that is happening here. Most tenants

are too frightened to say a word.

I called both Ann Song and Deborah Day-Rodriguez last week to see if either of them would come to a tenants meeting planned for 3pm on Sunday to give clear information about the city's MUH smoking regulations and the problems in the building, but neither one got back to me. This informational meeting was supposed to happen five years ago when the ordinance was enacted, but nobody showed up but me and Sunday Von Drasek, one of the staff/board members who smokes in her room. Nothing in our building changed a whit. Even the Crossroads building website still says that we are "trying to transition" to a smokefree building, something I think you noticed.

Thanks for working so hard to try to help me. I'm starting to think the only way the City of Berkeley is going to change their approach is if I'm killed, and even then they'll blame me for speaking up.

I sure know what I would do, and I know both the police and the health department have the discretion to do it. If a secondhand smoke problem persists in a building, and especially if there is evidence of retaliation for making a complaint, the issue should move into a third party's hands entirely. The City of Berkeley should at the very least require the informational meeting be repeated and require all tenants *and* staff attend. A social worker/inspector/ombudsman/police officer/contact person from the health department - some third party - should be immediately made available to address the situation **by location**, not by tenant complaint. I guarantee that any third party's simple inquiries about the experience and patterns of the location's secondhand smoke and smoker behavior, residents' observations taken in private, butts on the ground, etc., would begin to accomplish the education many smokers blow off as unimportant, which is usually all you need. Right now the city looks as indifferent as it is.
Except for you, my friend.

love, Carol

On 9/21/2019 9:18 PM, Thomas Lord wrote:

Yup. I've also asked Cheryl to help figure out how to help with your circumstance specifically. This is beyond ridiculous.

-t

On 2019-09-20 17:57, Carol Denney wrote:

Hi Thomas,

The assaults on my and vandalism of my property have moved into high gear, happening at night, during the day, and break of dawn, too. The last of the City of Berkeley's smokefree multi-unit housing stickers was spray-painted out last night, as was my garden (9-19-2019). Today I got home to find a big spray-painted "X" across my front door and defacing my door wreath.

I wish there were some special fine for people who not only continue to smoke in their units but retaliate against those who speak up about secondhand smoke.

Feel free to the HAC commissioners know that some of us are really suffering.

I also hope you will write to the parks commission about Triangle Park. I intended to, but I'm going to pieces here trying to keep up with documenting the constant vandalism.

love, Carol

On 9/15/2019 8:06 PM, Thomas Lord wrote:

Perhaps of interest:

----- Original Message -----

Subject:[peoples-park-committee] Chuck Herrick Peace and Freedom Park (Telegraph and Dwight)

Date:2019-09-15 17:09

From:Thomas Lord <lord@basiscraft.com>

To:"People's Park Committee" <peoples-park-committee@lists.sonic.net>

Reply-To:"A people's committee in response to UC plans to raze the park" <peoples-park-committee@lists.sonic.net>

I am told that City has decided the triangle of land at Dwight and Telegraph is no longer a park. If that is the case, the City has broken its own law.

On July 23, 1968, the area was designated a park. <https://voices.revealdigital.com/?a=d&d=BFBJFGD19680802.1.5&srpos=10&e=01-05-1968-01-06-1975--en-20-BFBJFGD-1--txt-txIN-Herrick+Park-----1>

The law in Berkeley is that the revocation of such a designation requires a ballot measure:

<https://www.codepublishing.com/CA/Berkeley/cgi/NewSmartCompile.pl?path=Berkeley06/Berkeley0642/Berkeley0642.html>

I don't know if the City ever officially adopted the given name: Chuck Herrick Peace and Freedom Park (aka Chuck Herrick Memorial Park).

-t

peoples-park-committee mailing list
peoples-park-committee@lists.sonic.net
<https://lists.sonic.net/mailman/listinfo/peoples-park-committee>

Action Calendar – Continued Business

- Ab. Companion Report to Peace and Justice Commission’s Resolution Asking to be an Assigned Advisory Role in Consulting on Socially Responsible Investments and Procurement** *(Continued from July 9, 2019.)*

From: City Manager

Recommendation: Continue to allow the City Council Budget and Finance Committee to provide investment policy oversight.

Financial Implications: See report

Contact: Dave White, City Manager's Office, 981-7000

Action: 5 speakers. M/S/C (Arreguin/Bartlett) to adopt Resolution No. 69,028–N.S. in Item Aa as revised in the supplemental material introduced by Mayor Arreguin.

Vote: Ayes – Davila, Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – Droste; Abstain – Kesarwani, Wengraf.

- B. Housing for a Diverse, Equitable and Creative Berkeley: Proposing a Framework for Berkeley’s Affordable Housing** *(Continued from July 9, 2019.)*

From: Mayor Arreguin, and Councilmembers Hahn, Harrison, and Robinson

Recommendation: Refer to the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts to consider the proposed Housing for a Diverse, Equitable and Creative Berkeley framework (the “Framework”) and return comments for consideration at a Special Meeting of the City Council in September, to inform a final version the City Council will adopt to govern Berkeley’s affordable housing policies, programs and projects through 2030.

Financial Implications: See report

Contact: Jesse Arreguin, Mayor, 981-7100

Action: M/S/C (Hahn/Arreguin) to suspend the rules and extend the meeting to 11:30 p.m.

Vote: Ayes – Davila, Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – Kesarwani, Wengraf, Droste.

Action: M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 11:40 p.m.

Vote: All Ayes.

Action: 6 speakers. M/S/C (Hahn/Arreguin) to refer to the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts to consider the proposed Housing for a Diverse, Equitable and Creative Berkeley framework (the “Framework”) and return comments for consideration at a Special Meeting of the City Council in the early fall, to inform a final version the City Council will adopt to guide Berkeley’s affordable housing policies, programs and projects through 2030. The item is further amended to add a “Draft” notation, remove the phrase “rather than for profit-maximizing companies” from Section II, and remove reference to the 50% goal.

Vote: Ayes – Davila, Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – Kesarwani, Droste; Abstain – Wengraf.



Office of the Mayor

ACTION CALENDAR

July 16, 2019

(Continued from July 9, 2019)

To: Honorable Members of the City Council
 From: Mayor Jesse Arreguín and Councilmembers Sophie Hahn, Kate Harrison and Rigel Robinson
 Subject: Housing for a Diverse, Equitable and Creative Berkeley: Proposing a Framework for Berkeley's Affordable Housing

RECOMMENDATION

Refer to the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts to consider the proposed **Housing for a Diverse, Equitable and Creative Berkeley** framework (the "Framework") and return comments for consideration at a Special Meeting of the City Council in September, to inform a final version the City Council will adopt to govern Berkeley's affordable housing policies, programs and projects through 2030.

SUMMARY STATEMENT

With the public's generous support of 2018 Measures O and P and 2016 Measure U1, Berkeley has significant new local funds to support our affordable and homeless housing goals. Numerous advisory and decision-making entities, including the Measure O Bond Oversight Committee ("Measure O Committee"), Housing Advisory Commission (HAC), Planning Commission, Homeless Services Panel of Experts, City Staff - and the City Council as the final decision-making body - have a role in recommending, adopting or implementing policies, programs and projects using these and the City's other affordable and supportive housing resources. Several other entities may also play a role in recommendations or decisions affecting affordable and supportive housing including the Zoning Adjustments Board (ZAB) and the Mental Health and Homeless Commissions. *To support optimal coordination among these many bodies and cohesive action to realize Berkeley's affordable housing goals, it is imperative that the City Council provide a high-level roadmap for all to follow.*

There is a great deal of public process before us as we move forward to build an equitable housing future for Berkeley. We offer this Framework as a starting point for many future decisions, lighting a path for Berkeley to honor and maximize the powerful

opportunity presented by Measures O, P and U1, and the community's outstanding commitment to affordable and homeless housing.

This framework addresses *only* Berkeley's *affordable and supportive housing* strategies. Many strategies are already in place to support the creation of new market rate housing, and others are under consideration. Because the creation and preservation of affordable housing involves significant investments of City of Berkeley resources, a high-level, comprehensive framework, adopted by the City Council, is necessary to guide decision making by multiple entities over time.

BACKGROUND

In the past, the City of Berkeley had limited financial resources to fund the development and management of affordable and supportive housing. Berkeley created a Housing Trust Fund in 1990¹ which may collect money from a number of sources including fees from market-rate rental or ownership developments (pursuant to BMC Chapter 23C.12 - Inclusionary Housing Requirements), demolitions, and the sale of City-owned properties.² Funds are often insufficient to support multiple projects simultaneously, or to fund single, large projects in their entirety. As of 2015, the HTF received approximately \$7.6 million from fee programs, which was the only source of funding at that time.³ In December of 2018 (prior to the adoption of Measure O), the Housing Trust Fund had a balance of only \$3.5 million. In addition, that balance and other funds had been reserved for The Berkeley Way Project, which required at least \$13 million in City funds to move forward.⁴

Recently, Berkeley voters overwhelmingly endorsed three measures that together create an unprecedented opportunity for the City to fulfill the community's highest priorities: addressing the dual crises of housing affordability and homelessness.

Measure U1 (2016), which passed with 75% percent of the vote, increased the gross receipts tax on owners of five or more residential rental units, generating approximately \$5 million per year to increase affordable housing and protect Berkeley residents from

¹ City of Berkeley Housing and Community Services Department, Housing Trust Fund, <https://www.cityofberkeley.info/ContentDisplay.aspx?id=6532>

² City of Berkeley Housing Trust Fund Guidelines, https://www.cityofberkeley.info/uploadedFiles/Housing/Level_3_-_General/Revised%202016%20HTF%20GUIDELINES.pdf

³ Memo on Below Market Rate Housing and Housing Trust Fund Program Status, December 2015, https://www.cityofberkeley.info/Clerk/City_Council/2015/12_Dec/Documents/2015-12-01_WS_Item_03_Below_Market_Rate_Housing.aspx

⁴ Reserving Up to an Additional \$12.5M in Housing Trust Funds for the Berkeley Way Development, December 4, 2018, https://www.cityofberkeley.info/Clerk/City_Council/2018/12_Dec/Documents/2018-12-4_Item_03_Reserving_Up_to_an_Additional_12_5M_in_Housing_Trust_Funds.aspx

homelessness.⁵ In November of 2018, Measures O and P were overwhelmingly passed by Berkeley voters.^{6,7} Measure O, supported by 77%, is a \$135 million affordable housing bond to create and preserve affordable housing. Measure P, which received 72% support, increases the real estate transfer tax on the top one-third of real estate transactions by 1% to fund rehousing, mental health and other services for the homeless, likely yielding \$6 to \$8 million per year.

Over ten years, these three measures are projected to generate more than \$200 million to create and preserve affordable housing, to keep vulnerable residents housed, and to rehouse individuals and families experiencing homelessness. Not surprisingly, given the high levels of support for these measures, the provision of affordable housing and homeless services was ranked as extremely or very important by 84% of respondents to a 2018 community survey⁸.

The message from Berkeley voters and residents is clear; it is now our responsibility to deliver maximum value for those who need help finding or sustaining housing, and for the entire community.

Berkeley is poised to undertake a major expansion of our affordable housing programs, using the new monies provided by Measures U1, O and P. Combined with already-existing affordable housing resources (Housing Trust Funds, inclusionary requirements and public land, among others) and supplemented with possible changes to the zoning code that could improve the mix and yield of affordable units, the City is well-positioned to meaningfully address Berkeley's highest priorities.

Diversity is one of Berkeley's key strengths. With the rapid influx of new workers to the Bay Area and additional students to UC Berkeley, our community is challenged to meet a variety of housing needs; in particular the needs of low and moderate income households and the homeless. Berkeley is committed to housing for its teachers, artists and artisans, seniors and students, young people entering the work-force, and the many other working individuals and families who cannot afford market-rate housing. Berkeley is also deeply committed to housing individuals and families experiencing

⁵ Full text of Measure U1,

<https://www.cityofberkeley.info/uploadedFiles/Clerk/Elections/Measure%20U1.pdf>

⁶ Full Text of Measure O, <https://drive.google.com/file/d/1qdA7jW6J5IHgFSllcwHcb20x-fcfW3Xv/view?usp=sharing>

⁷ Full Text of Measure P,

<https://drive.google.com/file/d/1JbipUDMW62KqkI4szDoMEgAmN0lvZCLk/view?usp=sharing>

⁸ Discussion and Direction Regarding Potential Ballot Measures for the November 6, 2018 General Municipal Election, https://www.cityofberkeley.info/Clerk/City_Council/2018/03_Mar/Documents/2018-03-27_Item_23_Discussion_and_Direction_Regarding_-_Supp.aspx

homelessness, and ensuring that people with disabilities have accessible, supportive and affordable options.

Berkeley's new affordable housing monies enable us to expand successful housing strategies the City is already pursuing and to significantly expand important strategies that were more difficult to achieve in the absence of meaningful local funds. The plan proposes expanding Berkeley's major existing affordable housing programs and putting substantial resources into directions that reflect core Berkeley values such as cooperative ownership, democratic control and the empowerment of underserved communities. It also proposes a suite of policies that should be broadly applied to all existing, expanded and new affordable housing initiatives.

This Framework is meant to serve as the "mission and goals" that will guide the next decade of action on affordable housing in Berkeley. Specific strategies, programs and projects will be developed in much more detail by the Measure O Committee (and, with respect to U1 funds, the HAC and to Measure P funds, the Homeless Services Panel of Experts); with input from other committees and commissions and from trusted community partners and the public; with the expertise and support of City Staff; and with refinement and approval by the Berkeley City Council.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES & LAWS

The City of Berkeley has numerous programs, policies and laws in place that directly or indirectly support the creation and preservation of affordable and supportive housing. Many of these are discussed in the proposed Framework, including rent control and eviction protections⁹, affordable housing fees and inclusionary requirements for for-profit developments¹⁰, a Small Sites Program, and the Tenant Opportunity to Purchase Act¹¹.

Housing affordability is the first objective of the Housing Element of the City of Berkeley General Plan. *Policy H-1 - Extremely Low, Very Low, Low and Moderate Income Housing* sets the goal of increasing housing affordable to residents with lower income, and outlines a number of actions to achieve this goal, including encouraging incentives for affordable housing development, utilizing the Housing Trust Fund to provide housing, and maintaining zoning requirements for the inclusion of affordable units in

⁹ Rent Stabilization and Eviction for Good Cause Ordinance, https://www.cityofberkeley.info/Rent_Stabilization_Board/Home/Ordinance_Rent_Stabilization_and_Eviction_for_Good_Cause.aspx

¹⁰ BMC Chapter 23C.12, Inclusionary Housing Requirements, <https://www.codepublishing.com/CA/Berkeley/cgi/NewSmartCompile.pl?path=Berkeley23C/Berkeley23C12/Berkeley23C12.html>

¹¹ Small Sites Acquisition Program and Tenant Opportunity to Purchase, Feb 14, 2017, https://www.cityofberkeley.info/Clerk/City_Council/2017/02_Feb/Documents/2017-02-14_Item_18b_Small_Sites_Acquisition.aspx

new housing developments¹². Housing affordability is also the subject of Land Use Policies LU-18 (Downtown Affordable Housing Incentives) and LU-25 (Affordable Housing Development) of the Land Use Element of the General Plan¹³ and of the City's affordable housing requirements in market rate buildings.¹⁴ Many of Berkeley's area-specific plans, such as the Downtown Area Plan, Adeline Corridor Specific Plan, and West Berkeley Plan, also highlight the importance of affordable housing to specific areas and neighborhoods.^{15, 16, 17}

2018's Measure O is the most recent affirmation of the community's desire to create and preserve housing affordable to serve populations not able to afford market rates. It sets a goal of achieving 10% reserved affordable housing by 2030.¹⁸ The Framework seeks to coordinate existing and new efforts toward achieving this goal.

ACTIONS/ALTERNATIVES CONSIDERED

While the City has made numerous commitments to affordable housing in the past and taken a variety of actions to encourage its development and preservation, many of these were made before Measure U1, O, and P's resources were contemplated or available. The need to allocate resources in a coordinated, efficient and rational manner is more urgent than ever as we set out to spend the significant new funds voters have generously provided.

Creating a clear roadmap for the many entities that will consider and decide on the use of both new and existing resources is the best way to ensure optimal allocations and maximum achievement of the community's goals. Looking at individual projects or programs absent a guiding plan and principals will not produce the optimization or

¹² Housing Element, Policy H-1 Extremely Low, Very Low, Low and Moderate Income Housing
https://www.cityofberkeley.info/Planning_and_Development/Home/General_Plan_-_Housing_Element.aspx

¹³ Land Use Element, City of Berkeley General Plan,
https://www.cityofberkeley.info/Planning_and_Development/Home/General_Plan_-_Land_Use_Element_Introduction.aspx

¹⁴ BMC 23C.12 Inclusionary Housing Requirements,
<https://www.codepublishing.com/CA/Berkeley/cgi/NewSmartCompile.pl?path=Berkeley23C/Berkeley23C12/Berkeley23C12.html>

¹⁵ Berkeley Downtown Area Plan,
https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_DAP/FINAL_x-DAP%20document_120329.pdf

¹⁶ Adeline Specific Area Plan
https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Land_Use_Division/Adeline%20SP%20Public_4.%20Housing_5.15.19.pdf

¹⁷ West Berkeley Plan, Housing and Social Services,
https://www.cityofberkeley.info/Planning_and_Development/Home/West_Berkeley_-_Housing_Social_Services.aspx

¹⁸ Full Text of Measure O, <https://drive.google.com/file/d/1qdA7jW6J5IHgFSllcwHcb20x-fcfW3Xv/view?usp=sharing>

coordination that is required to fulfill our mandates. Similarly, adopting a Framework without collecting input from the community and appropriate Commissions and Committees would not be appropriate. We see no alternatives that would ensure the work of many entities involved in forwarding affordable housing in Berkeley is harnessed towards commonly established, clearly stated and rationalized goals.

CONSULTATION/OUTREACH OVERVIEW & RESULTS

The intent of this referral is to launch a broad process of consultation to gather input from the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts and from community partners and the public. Because the Framework must be in place before other entities embark to fulfill their respective charges, consultation must be completed and the Framework adopted quickly.

This referral specifically requests feedback on *broad concepts, directions and goals*, not on *implementation strategies, programs or projects*. While Commissions, Committees, community partners and the public will no doubt be tempted to address these additional important elements at this time, specific strategies, programs and projects will not be addressed in the Framework itself. These will be developed and vetted over time by the Measure O Committee, the HAC and other appropriate entities, and will involve additional consultation with community partners and the public.

The attached draft Framework reflects consultation with the City Manager's Office and the Health, Housing, and Community Services Department, and with the item's four co-sponsors. The Framework was conceived and written with the support of Stephen Barton, PhD., former Executive Director of the City of Berkeley's Rent Board and former City of Berkeley Housing Director. The Framework, offered as a draft, now awaits input from the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts, community partners and, most importantly, the public.

RATIONALE FOR RECOMMENDATION

Traditionally, affordable housing has been the purview of the City Council, the Housing Advisory Commission and City Staff. Measure U1 further deputizes the HAC to make recommendations on the use of U1 funds and recommendations on expanding affordable housing in the City, and both Measures O and P established boards to provide recommendations on the use of their respective funds. Finally, the Planning Commission, the Land Use, Housing, and Economic Development Committee, the Zoning Adjustments Board and other City entities play important roles in supporting and producing affordable housing. It is important that all of these entities share a single

vision and, even when acting independently, are moving towards clearly articulated, Council-approved goals. A single cohesive Framework will help ensure that different funds, regulatory strategies and other resources available to be harnessed to the cause of affordable and supportive housing are each deployed for their optimal purpose within the broader ecosystem.

IMPLEMENTATION, ADMINISTRATION & ENFORCEMENT

The Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts are the most appropriate drivers of the public process. Each shall hold at least one publicly noticed meeting to take comments and review and discuss the proposed Framework. The Chair of each body shall prepare a set of comments, approved by the Commission and Committees, to present at the Special Meeting of the City Council in September. Given the urgency of this referral, lengthy reports are neither required nor feasible. Each body can choose its own preferred format for comments, and the Chair (or other chosen representative) will be provided 10 minutes at the September Special Meeting to present comments.

FISCAL IMPACTS

Costs for review of the proposed Framework by Commissions, Committees, and by the City Council at a Special Meeting are minimal and consist of staff time to notice and staff meetings, many of which are already regularly scheduled.

Ultimately, adoption of the Framework will provide the cohesion necessary to rationalize the use of the City's many affordable housing resources and allow the City to responsibly and efficiently allocate resources to best achieve community goals.

ENVIRONMENTAL SUSTAINABILITY

Carrying out the community process as proposed has no environmental impacts.

Creating and preserving affordable and homeless housing in Berkeley, a transit rich community, will allow lower income individuals and families to live closer to transit and to their workplaces, reducing greenhouse gas emissions by shortening commutes and decreasing reliance on personal vehicles. Building to high green standards, as required by the Framework, will ensure new and refurbished housing incorporates energy efficiency, electrification, water conservation and use of non-toxic materials, as well as other green building measures.

Preserving and refurbishing existing housing stock is an important environmental strategy, as reuse/repair/refurbishment of materials already in use maximizes the value of a building's embodied energy, and avoids expending additional embodied energy on

a new building, that can take decades or even a century to recapture.

Finally, increasing affordable housing in Berkeley will make the City more economically and racially equitable, which is a key factor of the City's sustainability and resilience goals, as outlined in Berkeley's Resilience Strategy.

OUTCOMES & EVALUATION

If robust input is received from diverse stakeholders and the Framework is adopted, the goals of this item will have been fully realized. The Framework will support achievement of Measure O's stated goal that 10% of Berkeley housing units be reserved affordable by the year 2030.

CONTACT

Mayor Jesse Arreguín, (510) 981-7100

Councilmember Sophie Hahn, District 5, (510) 981-7150

Attachments:

1. Housing for a Diverse and Creative Berkeley: A Framework for Affordable Housing

Housing for a Diverse, Equitable and Creative Berkeley

A Framework for Affordable Housing

Councilmember Sophie Hahn and Mayor Jesse Arreguín

Written in collaboration with Stephen Barton, Ph.D.

EXECUTIVE SUMMARY

Berkeley is poised to undertake a major expansion of our housing affordability programs, using new monies provided by Measures U1, O and P. Combined with already-existing affordable housing resources and supplemented with possible changes to the zoning code that could improve the mix and yield of affordable units, the City is well-positioned to meaningfully address Berkeley citizens' highest priorities: to increase affordable housing and rehouse the homeless.

Diversity is one of Berkeley's key strengths. With the rapid influx of new workers to the Bay Area and additional students to UC Berkeley, our community is challenged to meet a variety of housing needs; in particular the needs of low and moderate income households and the homeless. Berkeley is committed to housing for its teachers, artists and artisans; seniors and students; young people entering the work-force; and the many other working families and individuals who cannot afford market-rates. Berkeley is also deeply committed to housing the homeless, and ensuring that people with disabilities have accessible, supportive and affordable homes.

Berkeley's new housing monies enable us to expand successful affordable housing strategies we are already pursuing and to expand important strategies that were more difficult to achieve in the absence of significant local funds. We propose expanding Berkeley's major existing affordable housing programs and putting substantial resources into directions that reflect core Berkeley values such as cooperative ownership, democratic control and the empowerment of underserved communities. We also propose a suite of policies that should be broadly applied to all existing, expanded and new affordable housing initiatives.

Major Existing Programs - Recommend to Expand:

Currently, the City of Berkeley works to maintain housing affordability through four primary strategies, each of which is backed by effective organizations within the City of Berkeley and by local non-profit affordable housing organizations. *These four strategies should be strengthened and expanded:*

1. Constructing New Non-Profit Affordable Units
2. Rent and Eviction Protections
3. Affordable Housing Fees and Inclusionary Requirements for For-Profit Developments
4. Direct Subsidies to Renters

Additional Important Programs - Recommend to Significantly Expand:

There are several additional strategies that the City should expand substantially as they offer excellent opportunities to create and preserve affordable rental *and ownership* housing aligned with Berkeley values. Some of these strategies require capacity-building within City Departments and in non-profit partners. ***These programs should be significantly strengthened and expanded:***

1. House and Support the Homeless
2. Transition some of Berkeley's existing rental housing to permanently affordable social ownership by expanding the Small Sites Program, accompanied by a Tenant or Community Opportunity to Purchase Act.
3. Provide innovative homeownership opportunities for moderate and low income residents, including cooperative ownership using the Community Land Trust model.
4. Significantly increase the supply of affordable live-work housing for artists and artisans.
5. Encourage adding incremental units, such as accessory dwelling units (ADUs) or low-rise multiplex units that complement neighborhood character.
6. Partner with UC Berkeley to support creation of housing appropriate and affordable to students, faculty and staff.

Policies to Ensure Equity and Sustainability:

While pursuing these strategies, there are several principles of equity and sustainability the City should apply to all of its affordable housing programs:

1. Ensure equitable access to scarce affordable housing, including accessible units with universal design features.
2. Codify Deep Green Building standards for healthy and sustainable buildings, and other measures to increase environmental sustainability.
3. Prioritize the use of public land for the creation of affordable housing.
4. Ensure those who build and rehabilitate our housing are paid fair wages and have access to health insurance, and support local apprenticeship programs.
5. Make changes to the City of Berkeley Zoning Code and project approvals processes to incentivize, facilitate and reward the production of affordable housing.

Following these programs and principles, Berkeley will be able to preserve and expand its diverse and creative character, support equity and opportunity, and offer meaningful, stable housing solutions to families and individuals not able to afford market rates.

This Framework addresses only Berkeley's *affordable* housing goals. Many strategies are already in place to support the creation of new market rate housing, and others are under consideration. Because the creation and preservation of affordable housing involves significant investments of City and other resources, a comprehensive roadmap, adopted by the City Council, is necessary to guide decision making by multiple entities over time.

I. INTRODUCTION

Many things make Berkeley a special and attractive place; nationally and internationally renowned for activism, intellect, innovation and the arts. We are lucky to be situated on the desirable West Coast of the United States and the Pacific Rim, bordering San Francisco Bay and adjacent to the largest Regional Parks network in America. But the core of what makes us a unique, important and engaging City is *the people of Berkeley, and our shared values of equity, opportunity and justice*. Our robust mix of backgrounds includes people of diverse ethnicities, religions, ages, gender identities, occupations and abilities. Without this mix, we lose the fundamental elements of our greatness and risk all that makes Berkeley one of the most uniquely desirable and impactful small cities in America.

Preserving and enhancing our diversity - and our humanity - in the face of unprecedented pressure on housing affordability is one of the greatest challenges we face. Rent control has long been a key strategy for Berkeley to provide stability and affordability to residents; our ability to keep it strong has been severely eroded by the State. Twenty years ago, working families could still afford to buy homes in Berkeley; with median home prices now topping \$1.3 million, that is no longer the case.¹ And with a dramatic rise in rents and evictions throughout the region and the State, the humanitarian disaster of homelessness accelerates.^{2, 3, 4}

¹ Oakland, Berkeley, Piedmont Real Estate, June 2019,

<https://www.bayareamarketreports.com/trend/oakland-berkeley-real-estate-market-conditions-prices>

² New report underscores link between 'shocking' number of evictions, homelessness, Curbed LA, June 10, 2019, <https://la.curbed.com/2019/6/10/18659841/evictions-homelessness-rent-burden-los-angeles>

³ Implementation of Resolution 68,312 (Council Funding for Additional Services Amending Contracts with Eviction Defense Center ("EDC") and East Bay Community Law Center ("EBCLC")) For the Period Ending June 30, 2018, April 2, 2019,

https://www.cityofberkeley.info/Clerk/City_Council/2019/04_Apr/Documents/2019-04-02_Item_13_Implementation_of_Resolution.aspx

⁴ "Rising rents, home prices in Berkeley and the Bay Area displacing thousands", June 28, 2018, <https://www.berkeleyside.com/2018/06/28/rising-rents-home-prices-in-berkeley-and-the-bay-area-displacing-thousands>

Rising market rates for both rental and ownership housing in Berkeley is driven primarily by the huge increase in high paid workers flooding the Bay Area, and by UC Berkeley's addition of 35% more students over the last 20 years, bringing enrollment to over 41,000.⁵⁶ New Tech and other "white collar" workers pay well over \$1 million for the bungalows, duplexes and tract homes that used to house the Bay Area's middle income and poor residents, and are able to afford rents of \$3500 or more for a two bedroom apartment.⁷ Students in Berkeley are packed 2, 3 and 4 to a bedroom, some paying \$1,500 per month - per person - for a bunk. Everyone else is left behind.

Who is "everyone else?" *Everyone else* includes the teachers who teach our children; the nurses and home-care workers who support us when we are sick; the activists and not-for-profit workers who forgo high salaries to promote and serve the public interest; the artists and artisans who delight, entertain, feed and provoke us; the firefighters who come to our rescue and police who work to keep us safe; seniors who have contributed for decades and are now on fixed incomes and students who struggle to pay tuition and rent; young people entering the workforce and starting families, who are building our future; the waiters, baristas and retail workers who serve us; public sector workers who make sure our cities and counties can deliver, and who make our public institutions work; and many more. *Everyone else* also includes the disabled, whose ability to generate income may be limited; those suffering from mental illness or substance abuse, which afflict people from all walks of life; and our lowest income community members, especially those who have been subject for generations to discrimination and physical, psychic and economic violence. *These are the people Berkeley's affordable and supportive housing programs are designed to help.* We want them in our community.

The voters of Berkeley recently established three important new sources of funding to support the creation and preservation of affordable housing, to keep vulnerable people housed, and to rehouse the homeless: Measure U1 (2016), Measure O (2018) and Measure P (2018). Thanks to the generosity and care of Berkeley citizens, Berkeley for the first time has substantial local funds to support these important community goals. In addition, the City collects funds and obtains affordable units from for-profit developments as mitigation for affordable housing impacts. Finally, the City of Berkeley is completing an inventory of land it owns that might be allocated to affordable housing development.

⁵ Student Enrollments, UC Berkeley Office of the Vice Chancellor of Finance, <https://pages.github.berkeley.edu/OPA/our-berkeley/student-enrollments.html>

⁶ Common Data Set 1999-00, UC Berkeley Office of Planning and Analysis, <https://opa.berkeley.edu/sites/default/files/1999-2000.pdf>

⁷ Berkeley Average Rent Trend Data, April 2019, <https://www.rentjungle.com/average-rent-in-berkeley-rent-trends/>

These Berkeley affordable housing resources can bring in matching Federal, State and/or County funds of as much as \$5 for every Berkeley dollar, significantly leveraging our investments. All of these resources together, allocated strategically, could yield well over 1,000 additional units of affordable housing. As stated in Measure O, the Berkeley City Council - and the voters - have adopted a goal of making 10% of Berkeley's housing reserved affordable by 2030. This means that ten years from now we intend to have 5,000 units available at below-market rates and set aside for people with diverse incomes, from extremely low- to middle-income, groups that are struggling to afford the cost of housing in our city.

We believe that Berkeley should aspire to make at least 30% of its housing, around 15,000 units, permanently affordable, and eventually strive to achieve 50% protected or reserved affordable housing, to match the "social housing" mix of progressive European cities such as [Amsterdam](#) and [Vienna](#).

Berkeley's [Measure O](#) provides for sale of \$135 million in bonds to fund capital expenditures for a variety of types of affordable housing. [Measure P](#) increased the real estate transfer tax on the most expensive one-third of real estate sales to rehouse the homeless and fund the services they need to remain housed. It is expected to bring in \$6 - \$8 million annually, depending on property sales. [Measure U1](#) increased the gross receipts tax on most residential rental properties to fund affordable housing and protect Berkeley residents from homelessness. In 2018 it realized \$5.1 million and will continue to increase as rents increase. Taken together, over the next ten years the City of Berkeley will likely have almost \$250 million in new revenue available for affordable housing and homelessness reduction. (For more detail on Berkeley's Affordable Housing resources see Appendix A - Funding Sources)

To allocate these and other affordable housing monies (such as developer impact fees) and allocate resources such as public land and inclusionary units, the City Council is advised by no fewer than three different advisory boards, as required under each measure, and receives input from the Planning Commission and numerous additional entities. This report is intended to help provide these advisory bodies, and the City Council, which has the ultimate responsibility to allocate all of these funds and resources, with a coherent framework. The goal is for our housing programs and expenditures to have a unifying sense of direction: to deploy the optimal mix of City resources for each purpose, to maximize the leveraging of local funds, and to meet the expressed needs and desires of the community.

Measure O funds are limited to traditional types of capital expenditures: buildings, grounds and other “hardscape” elements of projects. Measure P funds are available for programmatic as well as capital needs, including mental health and other supportive social services, and rent subsidies or operating cost subsidies necessary to rehouse the homeless and to support people who are at immediate risk of homelessness. U1 funding can be used for anything that is necessary for the creation of permanently affordable housing, and as such is the most flexible source of regular affordable housing funds. Because of this flexibility, at least some (and possibly all) U1 funds should likely be reserved for use where other more restricted funds are not available.

Affordable Housing fees paid by developers of market rate projects are deposited into Berkeley’s [Affordable Housing Trust Fund](#) (HTF), and can only be used for those fund purposes. In general, these include pre-development expenses and long-term loans to cover the capital costs of building or rehabilitating permanently affordable housing. Developers are allowed the alternative of providing “inclusionary housing” (where a market rate project includes affordable units within the development itself) and policy makers must consider what the best role for those units might be, as one component of a much larger set of affordable housing resources. With significant local, County, State and Federal funds now available to support Berkeley’s deeply subsidized units for very low and extremely low income people, inclusionary housing requirements for market rate developments could be redirected towards production of housing for low and moderate income families - at higher inclusionary percentages than are currently in place for more deeply affordable units.

This proposed framework is not intended as a comprehensive statement of all the City’s housing goals, which are provided in the [General Plan Housing Element](#). Our focus is on the creation and retention of affordable housing in concert with Berkeley’s goals and values, taking maximum advantage of the opportunities created by the passage of Measures U1, O and P, combined with the City’s pre-existing affordable housing resources: affordable housing mitigation fees, inclusionary housing and public land.

In addition to these Berkeley resources, there are a great number of Federal, State and County programs, some of which require local matching funds and others of which do not. The City also has the potential to revise its land use regulations to create housing opportunities; these require more systematic analysis.

When State and Federal funds are used, Berkeley is limited to supporting housing and services that meet their program criteria. Monies provided by Berkeley’s own generous voters are more flexible than State and Federal funds and can be strategically deployed to accomplish a broader spectrum of City priorities. Our job is to optimize each funding

source and adjust our land use policies to support the community's expressed goals, ensuring that Berkeley moves decisively to implement programs and policies that advance us towards 10% reserved affordable housing by 2030, and embody our values of equity, opportunity, health and environmental sustainability.

This report provides an overview of an approach to affordable housing that we believe reflects Berkeley's values and diversity. It looks at the loss of affordability that Berkeley has undergone over the past 20 years and the sources of that loss. It lists and briefly explains the broad range of housing policies and programs that Berkeley might pursue. It lists the resources Berkeley has available to meet the current crisis and the limitations placed on the use of each resource. It then matches policies and resources, explaining how each can best be used.

II. HOUSING AND BERKELEY VALUES

Berkeley values diversity. Interaction among diverse people fosters important community values, including equity, opportunity, learning, creativity, neighborliness, and democracy. Berkeley was once affordable to everyone, from the high-income residents of large single-family homes to the extremely low-income residents of single-room occupancy residential hotels, and to everyone in between. Berkeley was a national leader in inclusion, redrawing school attendance lines to integrate its schools, eliminating barriers for those with mobility and other physical limitations, preserving the affordability of rental housing by limiting rent while allowing landlords to receive a fair return on their investment, and protecting lower and middle income neighborhoods from the displacement of so-called Urban Renewal.

Now rising rents and home prices threaten to turn Berkeley into an enclave of mostly the well-to-do and university students, with a small number of low-income residents in subsidized units. Rent control enables tenants to remain in place as long as they can afford modest annual rent increases, but State law mandates that landlords can increase rents - even on rent controlled units - to current market rates when units turn over. Even in "inclusionary" apartments, rents have increased faster than the rate of inflation because the rent-setting formula for these units is based on the "area median income," (AMI) which increases as more high-income people move into Alameda County and low-income people are forced out.

We must do what we can to preserve the diversity of our City. A community that excludes most low and moderate income people is no longer a source of opportunity. A community no longer affordable to those who work for the common good rather than for profit-

maximizing companies will no longer be equitable. A community in which only a few of the most successful writers, researchers, artists and artisans are able to live will no longer be a creative, learning community.

Preservation of a diverse, equitable and creative Berkeley requires many different types of housing compatible with different neighborhoods to meet the housing needs of people with a range of incomes, family sizes, abilities and ways of life. It requires that we mobilize and carefully coordinate the use of our affordable housing resources to get the maximum benefit from each source, so that we continue to have housing affordable to our diverse residents.

Berkeley must create and preserve affordable housing at all scales - from accessory dwelling units to small scale multi-family, live-work and large apartment buildings. We also need to create units of various sizes, including units large enough for families to live long term, and for children to grow up in.

We need to make more of our housing work for people with varied mobilities and for the elderly, and to make more of our housing environmentally efficient. We are studying the concept of expanding housing beyond the Downtown and transit corridors by adding more duplex, triplex and quadruplex units within existing low density neighborhoods.

We must ensure that an important share of our City's housing is subject to social ownership that will keep it affordable; held by non-profit housing corporations, community land trusts and limited and non-equity cooperatives, and subject to deed restrictions. And we must establish community priorities for access to this scarce resource so that the affordable housing we create and preserve helps keep low and moderate income residents from being displaced, enables children to remain in school and low-wage workers to live near their jobs, and maintains our historic diversity.

III. THE AFFORDABILITY CRISIS

Across the Bay Area, almost 1 million jobs have been created since 1990.⁸ From 2009 to April 2019, the overall Bay Area job market increased by about 30%, while the tech industry increased by 56%.⁹ In Berkeley, there are more students and staff at the University of California, more private sector jobs within easy commute, and more people who appreciate the walkable, transit-oriented lifestyle provided by Berkeley's compact

⁸ Plan Bay Area 2040: Final Plan, <http://2040.planbayarea.org/the-bay-area-today>

⁹ "Tech employment in Bay Area reaches record highs.", <https://www.mercurynews.com/2019/06/14/tech-employment-bay-area-reaches-record-highs-google-apple-facebook-adobe/>

development and the wide range of cultural and social amenities. The diverse, open and forward thinking people of Berkeley and the Bay Area have made Berkeley a place where more people want to live, many of them with higher incomes than those already here.

This reality tracked by looking at average rents in Berkeley over time. At the end of 1998, just before State-mandated vacancy decontrol took effect, the average rent in the 20,000 apartments built before 1980 was \$720 a month. Twenty years later, at the end of 2018, it was \$1,956. If rents had increased only by the rate of inflation, they would instead average \$1,150 a month.¹⁰ As older units are vacated, average market rents rise ever higher, reaching \$2,200 for a one-bedroom and \$3,000 a month for older two-bedroom apartments in 2018, with increases of around 50 percent in just the last five years. Owners of older housing stock in Berkeley are able to increase their profits as they ride the exploding demand from high-paid professionals and the increases in UC Berkeley's student population - squeezing lower-income tenants who must pay most of their incomes to find housing near jobs or family, or end up homeless. Similarly, In 2000 the median home price was \$380,000. By 2013 it was \$704,000 and by 2019 it had reached \$1,300,000.

Housing is expensive to build, requires land to build on and lasts a long time if properly maintained. This has important implications for affordability. With few vacant sites available in Berkeley, the supply of housing can only increase by increasing the density of development, as is currently underway Downtown and along major transit corridors, and is being contemplated in other areas. However, only a minority of tenants can afford to pay enough rent to repay the cost of new construction, typically \$3,000 - \$4,000 monthly for a one bedroom apartment.¹¹ Theoretically, this new market-rate housing is helpful in diverting some of the increased demand from high-income tenants into new construction and away from older, more affordable buildings, thus reducing displacement; but it does not help meet the significantly increased demand from middle and lower-income tenants.

Most Berkeley tenants live in older housing, where the cost of construction was paid off long ago and the building can be operated and maintained for a lower rent. But the supply of older housing is fixed and, with rising demand, this is the housing sector that is undergoing huge rent increases and rapid gentrification.

Proponents of market solutions claim affordability is simply a matter of supply and demand, and the problem can be solved by building new housing. But while increased rents at the high end of the market encourage production of new housing that high-wage

¹⁰ Inflation as measured by the San Francisco-Oakland area Consumer Price Index for All Items except Shelter, "shelter" meaning rent and owners equivalent rent.

¹¹ New Apartments for Rent in Berkeley, CA. Apartments.com, <https://www.apartments.com/berkeley-ca/new/>

workers can afford, rent increases in older housing simply generate windfall profits for their owners and fuel displacement of middle and lower income tenants. State-mandated “vacancy decontrol” allows landlords to raise rents to market levels each time a unit turns over, even in cities like Berkeley with traditionally strong rent controls. Ultimately, owners of older housing with significantly lower costs are under no obligation to keep their rents low as well, and in the immediate, higher demand for older housing can never produce more of it.

It typically takes ten to fifteen years before rents in newly constructed buildings have the potential to level off as buildings age and the initial costs of construction are paid off. This is what is often called the process of “filtering down.” But this process is self-limiting. Once enough new housing is built to meet demand from higher-income tenants and high-end rent rates peak, or slightly decline, market-rate construction slows or stops, despite continued high demand among middle and lower income tenants who can’t afford even somewhat reduced market rents for new housing.¹² In plain terms, a family that can only afford \$1,200 or \$1,500 per month for a two-bedroom apartment will never benefit from a reduction in new-build market rents from \$4,000 to \$3,500, or even to \$2,000 - a very unlikely scenario. If rents at older units have also risen, middle and lower income tenants have no place to go.

The supply of new market-built housing will also always be limited by the need to cover construction and other development costs. For-profit developers simply will not build housing that doesn’t generate the returns they require - for banks and investors to provide the capital to build, and for their own need to generate profits. This is true even when significant demand for housing persists. If those who need housing can’t pay rents that will cover the cost of construction, capital and profits, *no amount of demand will generate new for-profit development.*

In the Bay Area’s exploding job market, with people coming to the region to take jobs at both higher and lower wages, new market-rate construction will at best absorb some of the demand from high wage workers and may reduce pressure to gentrify older neighborhoods. But it will not result in a flood of new market rate units and deeply reduced prices to meet the increased demand from the growing numbers of lower-wage workers who also need to be housed, or from those who have been displaced through gentrification.

¹² The State of the Nation’s Housing. Joint Center for Housing Studies of Harvard University (2018), p. 19-21, http://www.jchs.harvard.edu/sites/default/files/Harvard_JCHS_State_of_the_Nations_Housing_2018.pdf

High-wage jobs make up a majority of Bay Area jobs, but low-wage jobs are growing at a much faster rate. Approximately 90,000 low-wage jobs were added from 2016 to 2017 in the Bay Area, while the number of high-wage jobs decreased over the same time period.¹³ This means that new market-rate construction will not result in lower rents for most tenants, and indeed market rents are likely to continue to increase in older housing as well. Only reserved affordable or subsidized housing can meet the needs of families and individuals with incomes at moderate and low levels.

The question before us is whether we will let market forces decide who can reside in Berkeley, ultimately reserving it for those with high incomes and wealth, or whether we want to reshape the market so Berkeley can remain accessible to people of all backgrounds and incomes, who are essential to the life and vibrancy of our city.

IV. AFFORDABLE HOUSING IN BERKELEY - AN OVERVIEW

Berkeley today has about 49,000 housing units. About 2,500 of these are required to be permanently affordable to low- and moderate-income people.

This is done either through

- Government subsidies to create affordable apartments reserved for low-income residents at below-market rates and
- Land use regulations that require developers to set aside a certain percentage of apartments at rents affordable to low- and moderate-income families or individuals.

A fortunate minority of about 2,100 tenant households live in newer or recently renovated rental housing, mostly owned by non-profit housing organizations or limited or non-equity cooperatives, where the government has paid all or part of the cost of construction and rents greatly reduced. The non-profit organizations that own this housing have affordability as their mission, and in many cases rents only need to cover the ongoing costs of operation and maintenance and a set-aside for future repairs, typically \$600 to \$800 a month. Many of Berkeley's lowest-income residents can't afford even the greatly reduced "operating cost" rents offered by non-profit housing where government has paid the costs of construction. They require additional subsidy, either to the individual family or as an operating cost subsidy to the building owner. The Federal Section 8 program enables a family to pay 30% of its income for rent, with the government paying an additional amount to reach a "fair market rent". Several hundred of the Berkeley Housing Authority's Section 8 vouchers are currently allocated to non-profit housing to make units affordable to very low-income people.

¹³ MTC, Jobs by Wage Level, <https://www.vitalsigns.mtc.ca.gov/jobs-wage-level>

There are another approximately 400 “inclusionary” units within newer for-profit buildings that are set aside for low- and moderate-income tenants pursuant to City zoning regulations.¹⁴ Nearly half of these units are set aside for very low-income tenants receiving assistance through the Section 8 program. Most of these apartments are required to be kept affordable for the life of the building, but the rent-setting formula they are subject to is based on the “Area Median Income” (AMI), which does not fully guarantee affordability. The formula, determined by the U.S. Department of Housing and Urban Development, results in rents that increase faster than the incomes of many low-income people.¹⁵ This is because AMI, based on an average of all regional wages, increases rapidly when more high-income people move into the area and displace lower-income people, rather than, for example, tracking increases in wages for low income workers, which rise much more slowly over time than the average of all wages - if at all.¹⁶

In addition to buildings with below-market rents, about 1,500 tenant households in Berkeley receive monthly rental assistance through the Federal Government’s Section 8 program, which is administered by the Berkeley Housing Authority (BHA). Over 200 authorized Section 8 vouchers go unused because the Federal government does not fund the BHA at an amount adequate to enable tenants to pay market rents and cover the cost of all of its vouchers. Instead, the BHA has to choose between paying a competitive rent but restricting the number of households it can support, or subsidizing more households but falling behind the market and risking having landlords leave the program. About one quarter of the units occupied by tenants assisted through the BHA are in non-profit or inclusionary housing as described above, but three quarters are in for-profit housing. When Federal subsidies fall behind the market, owners of these units often leave the program and rent to much higher income residents at market rate.

Many extremely low-income people need ongoing social and health services in order to live independently. The term used to describe housing with services formally tied to or operated from the building, unit or tenant is “supportive housing.”¹⁷ The Federal “Shelter Plus Care” supportive housing program administered by the City of Berkeley assists about 260 formerly homeless households with a combination of rent subsidy and ongoing social services. About half of the tenants assisted through the Shelter Plus Care program are

¹⁴ Apartment Buildings with City of Berkeley BMR Program Units, [https://www.cityofberkeley.info/uploadedFiles/Housing/Level_3 - General/2017-07%20BMR%20list%20of%20properties.pdf](https://www.cityofberkeley.info/uploadedFiles/Housing/Level_3_-_General/2017-07%20BMR%20list%20of%20properties.pdf)

¹⁵ U.S. Department of Housing and Urban Development, Income Limits, <https://www.huduser.gov/portal/datasets/il.html>

¹⁶ Low-Wage Work in California Data Explorer, UC Berkeley Labor Center, <http://laborcenter.berkeley.edu/low-wage-work-in-california/>

¹⁷ United States Interagency Council on Homelessness, Supportive Housing, <https://www.usich.gov/solutions/housing/supportive-housing/>

placed outside of Berkeley due to the difficulty of finding places in Berkeley, but still receive services from Berkeley.

Berkeley thus has approximately 4,000 tenants who live in housing which is reserved for low- and moderate-income people at affordable rents or are provided with on-going subsidies that enable them to pay market rents. With the additional funding provided by measures O, P and U1, the City should be able to increase this number to over 5,000 and reach its goal of having 10% of its housing reserved affordable for low- and moderate-income people.

This goal does not include the tenants covered by rent stabilization (“rent control”). Due to the extraordinary rent increases of the last several years, there are several thousand tenants with rents that are now significantly below current market rates, but these units are only kept affordable for the tenant who lives there now.¹⁸ Once the tenant moves out, the rent is reset to current market rates, so that apartments in Berkeley are increasingly rented to higher-income tenants who can better afford our rapidly increasing rents.

Under the vacancy decontrol provisions imposed on Berkeley by the State legislature, as tenants in deeply affordable rent controlled units move out, rents can be, and usually are, increased to current market levels. These apartments thus experience huge rent increases - reset to market rates - resulting in a significant loss of affordable housing for Berkeley. Pressure for landlords to evict or otherwise incentivize these long term rent stabilized tenants to move is strong; these are the kinds of vulnerable tenants whose stories we hear when Berkeley’s housing retention service providers testify before the City Council.

As a result of these and other pressures, Berkeley will have to work hard to maintain its current level of economic diversity.

Maintaining diversity requires Berkeley to both increase the supply of housing overall and to remove a substantial part of our housing, new and existing, from the speculative market. This protected affordable housing should be allocated on the basis of need, using techniques ranging from non-profit and community ownership to regulation of rents (through traditional rent control and dedicated affordable units), and creation of new forms of home ownership that ensure homes will remain affordable now, and for future generations.

¹⁸ Bursell, Lief and Fabish, Jen. Market Medians: January 1999 through December 2018. Rent Stabilization Board. 21 March 2019, https://www.cityofberkeley.info/uploadedFiles/Rent_Stabilization_Board/Level_3_-_General/INFO_Market%20Medians%20Report%20for%20Q3%20and%20Q4%20of%202018.pdf

V. EXISTING AFFORDABLE HOUSING PROGRAMS AND NEW OR EXPANDED OPPORTUNITIES

Introduction:

The City of Berkeley has the opportunity to build on its current programs and to expand in new directions to better deal with its housing affordability crisis. This chapter begins with a brief listing of current programs and new opportunities and then examines each in more detail. These goals are intended to allow Berkeley to make the changes it needs in order to preserve its character as a diverse and creative community, and meet its 10% affordability goal. As we move forward it will be important to maintain a balance between all of them.

Major Existing Programs - Recommend to Expand:

1. Constructing New Non-Profit Affordable Units

Through the Housing Trust Fund the City provides capital to non-profit housing developers to construct multi-family buildings, usually on or near major transit corridors and downtown. These projects qualify for additional State and Federal subsidies and offer maximum leverage for Berkeley dollars while increasing the supply of modern, accessible, energy efficient and green housing affordable to lower-income residents.

New non-profit developments are currently the main housing affordability strategy in the City of Berkeley, and primarily serve very low-income people with incomes ranging from 30% to 60% of Area Median Income. For one person in Alameda County, 30% of AMI is \$26,050 and 60% is \$52,080, while for a family of four, 30% of AMI is \$37,150 and 60% is \$74,340.¹⁹ These are predominantly lower-wage working people or people with low retirement or disability incomes, but there are many people with incomes even lower. Serving people with incomes below 30% of AMI requires additional subsidy. Some non-profit housing developments include supportive services on site for the formerly homeless, people with disabilities and seniors.

¹⁹ HUD Income Guidelines, Effective April 24, 2019, https://www.cityofberkeley.info/BHA/Home/Payment_Standards_Income_Limits_and_UTILITY_Allowance.aspx

Opportunities for Expansion:

This method of achieving housing affordability is the easiest to expand with new resources from Measure O. The City already has the knowledge and experience to successfully execute these projects and there are several large, trusted local non-profit housing developers to work with. While new construction is extremely expensive, local funding can draw matching dollars from the Federal government (mostly [Low-Income Housing Tax Credits](#)), the State (from cap and trade revenue, state housing bonds, and many [other sources](#)), and from the Alameda County Housing Bond ([Measure A1](#)). Together, outside sources of funding can leverage Berkeley dollars up to 5:1, allowing Berkeley's investment of local dollars to generate significantly more units than would otherwise be possible.

In general, County, State and Federal funding sources require that the residents of subsidized housing have incomes at or below 60% of AMI, meaning these developments serve mostly low and extremely low income residents. In today's Bay Area economy, teachers (average annual salary \$71,738), personal care providers (average annual salary \$33,332), and administrative assistants, (average salary of \$51,991) would be eligible for this type of housing, as well as individuals living on Social Security for the elderly or disabled.

2. Rent and Eviction Protections

Berkeley has extensive regulatory protections for tenants of rental housing through the Rent Stabilization and Eviction for Good Cause Ordinance ("Rent Control") and the Rent Stabilization Board, which provides legal assistance to tenants facing eviction. The City also protects rent controlled units through restrictions on demolition, conversion of rental properties to condominiums and short-term rentals, and other protections.

Opportunities for Expansion:

Without changes to State laws, Berkeley is limited in its ability to achieve stability for renters and to increase protections for rent controlled housing and tenants. The Ellis Act allows landlords to go out of the rental business by evicting all the tenants in a building rather than selling it to another owner who will maintain the property as a rental. It serves no legitimate purpose and should be repealed. The State of California's Costa-Hawkins Act, which instituted "vacancy decontrol," allows rents to be reset to market rates upon conclusion of each tenancy, denying Berkeley and other cities the power to limit increases to a fixed percentage when units turn over. It also prevents regulation of rents in buildings constructed after 1979 and

regulation of rents in single-unit properties, even when owned by large corporate landlords. These prohibitions should be revised or repealed.

3. Affordable Housing Fees and Inclusionary Requirements for For-Profit Developments

The Downtown and major transit corridors have been rezoned to encourage private construction that adds to the supply of market-rate housing while also requiring new rental developments to either include a certain percentage of apartments at below-market rents (formerly 10% and now 20% of units)²⁰ or pay into the Housing Trust Fund (HTF) to support non-profit housing development (\$37,962 per market-rate unit built as of July 2018).²¹ There are similar inclusionary requirements and fees for condominiums²². Currently, for market rate rental developments, the 20% inclusionary units required must be affordable to people with very low incomes, no greater than 50% of AMI, and half of them (10% of all units in the building) must first be offered to tenants receiving Section 8 housing assistance or in Berkeley's Shelter Plus Care Program.

Opportunities for Expansion:

At present, the City offers developers a choice between paying an affordable housing mitigation fee or providing below-market rate units as part of the project. When fees were one of Berkeley's most important sources of revenue for the Housing Trust Fund it made sense to have both alternatives, and opinions have differed (with worthy arguments made on both sides) as to whether it was better for the City to obtain money for the Affordable Housing Trust Fund or for affordable units to be built on site.

The traditional argument in favor of obtaining the affordable housing fee from a market rate development rather than on-site inclusionary units is that local affordable housing dollars can be significantly leveraged with other public dollars to net many more affordable units within an all-affordable project built at another location. The argument in favor of obtaining the on-site inclusionary units has been that it ensures low-income residents are integrated within mixed-income neighborhoods and buildings, that affordable units are built right away, not at some future unknown time and location. In neighborhoods with few opportunity sites for affordable housing such as the Downtown, including affordable units within market rate developments is often the only way to achieve affordability.

²⁰ Berkeley Municipal Code Chapter 23C.12 Inclusionary Housing Requirements

²¹ Berkeley Municipal Code Section 22.20.065 Affordable housing mitigation fee

²² Berkeley Municipal Code Chapter 21.28 Condominiums and Other Common Interest Subdivisions

With \$135 million in Measure O funds available to be leveraged with other public monies to support the creation and preservation of deeply affordable units (serving individuals with incomes up to 60% of AMI), the relatively small sums that mitigation fees generate are less important to the overall success of Berkeley's affordable housing strategies. By requiring market rate developments to include affordable units on site rather than pay a mitigation fee, Berkeley can achieve the goals of integration and dispersal without significant impacts to our ability to fund all-affordable projects.

In addition, with inclusionary units now just one part of a multifaceted affordable housing strategy, the possibility of requiring a different mix and number of on-site affordable units should be considered. One alternative or supplemental formula for inclusionary unit requirements in market rate developments would be to offer developers the opportunity to produce low- and moderate-income units (affordable to people with incomes between 80% and 120% of AMI) rather than the currently required deeply affordable units (below 80% AMI), but at higher percentages of the project than the current 20%. It is likely that market rate developments could include 30%, 40% and possibly higher percentages of units at low and moderate rates and still return a reasonable profit. Because there are fewer County, State and Federal funds for low- and moderate-income units than very- and extremely-low, *asking market rate developers to subsidize low and moderate income units may be a good strategy to achieve a greater mix of affordability levels Citywide and gain more permanently affordable units overall.*

4. Direct Subsidies to Renters

Berkeley provides individual rent subsidies through the [Berkeley Housing Authority](#), which assists 1,600 Berkeley households with Federally funded [Section 8 housing vouchers](#), and the City operates a Federally funded [Shelter Plus Care](#) program that provides monthly rental assistance and social service support to around 200 formerly homeless Berkeley residents, about half of them having chosen housing outside of Berkeley due to the difficulty of finding places in Berkeley.

Opportunities for Expansion:

Measure P funds could be used for this purpose if recommended by the Homeless Services Panel of Experts, and other City funds might be applied to expand direct renter subsidies and "rapid rehousing," as is proposed in the City's [1,000 Person Plan to Address Homelessness](#).

Additional Important Programs - Recommend to Significantly Expand:

There are several additional strategies that the City should expand substantially as they offer excellent opportunities to create and preserve affordable rental *and ownership* housing aligned with Berkeley values. Some of these strategies require capacity-building within City Departments and in non-profit partners. ***These programs should be significantly strengthened and expanded:***

1. House and Support the Homeless

In response to the Pathways Project, staff prepared a 1000 Person Plan to Address Homelessness, which considered resources and interventions required to house the currently unhoused population of Berkeley and to prevent inflow of future homelessness. According to the Plan, ending homelessness will require targeted investments in various interventions to ensure that each individual experiencing homelessness receives an appropriate, timely response according to their needs, including targeted homelessness prevention, light-touch housing problem-solving, rapid rehousing, or permanent subsidies. In addition, the Homeless Services Panel of Experts will provide an essential source of guidance in developing effective strategies to prevent and end homelessness in Berkeley.

In general, people with extremely low incomes (at or below 30% of AMI), are unable to afford even the below-market rent that a non-profit housing provider needs in order to cover operating and maintenance expenses. People living on Social Security for the elderly or disabled have incomes of 14% to 20% of AMI (\$932 a month for an individual, \$1,564 a month for a couple). This means that under Federal standards they can “afford” only \$280 to \$470 a month for housing, and even that is a hardship considering how little income they start with.

The Housing Trust Fund Guidelines call for 20% of housing funded through the HTF to be affordable to people with incomes at or below 30% of AMI, but non-profit housing organizations have had difficulty obtaining ongoing subsidies to create housing at this level of affordability.²³ The City has been forced to rely on limited Federal funding - especially project-based Section 8 through the Berkeley Housing Authority.

²³ City of Berkeley Housing Trust Fund Guidelines, April 5, 2016, https://www.cityofberkeley.info/uploadedFiles/Housing/Level_3_-_General/Revised%202016%20HTF%20GUIDELINES.pdf

Opportunities for Expansion:

Measure P funding has the potential to fill this gap and to encourage non-profit housing providers to increase their service to the homeless, as discussed in the 1,000 Person Plan to address homelessness.

Measure P funding will vary somewhat from year to year because it is based on the value of the top 1/3 of real estate transactions in a given year. For this reason, the City should allocate only a portion of initial Measure P receipts to ongoing subsidies and supportive services, so that it can be sure it can sustain those commitments from year to year. The amount that is likely to vary from year to year, perhaps one-quarter to one-third (Finance Department staff may be able to provide an accurate estimate, based on historical data regarding fluctuations), should then go to one-time expenditures such as capital subsidies to expand the supply of permanently affordable housing available to the homeless. For example, in the Berkeley Way project, the City has agreed to provide a capital fund that will cover 10 years of operating subsidies.

The 1000 Person Plan covers in detail strategies necessary to rehouse Berkeley's homeless. Creation of deeply affordable housing is one element of this Plan. The Homeless Services Panel of Experts will make recommendations regarding the use of Measure P funds, which may be used to fund the "support" in Supportive Housing, and for many other purposes.

2. Transition some of Berkeley's existing rental housing to permanently affordable social ownership by expanding the Small Sites Program, accompanied by a Tenant or Community Opportunity to Purchase Act.

Most of Berkeley's neighborhoods used to house people with diverse incomes, but the affordability crisis is reducing that diversity²⁴. Preservation of neighborhood socioeconomic character will require transitioning some existing housing from the for-profit market to various forms of socially responsible ownership intended to maintain affordability. Last year the City Council allocated an initial one million dollars to start a Small Sites Program and begin the process of supporting acquisition and rehabilitation of properties with up to 25 units. The Small Sites Program will provide funds to non-profit developers to allow for the acquisition of small multi-unit properties vulnerable to real estate speculation, and reserve them

²⁴ Romem, Issa and Elizabeth Kneebone, 2018. "Disparity in Departure: Who Leaves the Bay Area and Where Do They Go?" <https://ternercenter.berkeley.edu/disparity-in-departure>

for low-income individuals and families. This process is also an opportunity to expand limited equity cooperative ownership.²⁵

The Small Sites program requires a different approach from the City's current focus on partnership with large non-profit housing developers. Two-thirds of the rental housing covered by rent stabilization has less than 20 units. The large non-profit housing organizations avoid properties with less than 20 units because these buildings have higher management costs and are generally more costly to finance than larger developments. In addition, non-profit developers tend to prefer new construction to the uncertainties of acquisition and rehabilitation of existing buildings. Cost-effective management of smaller properties *can be provided* when residents take on significant responsibility for the property and receive appropriate education and support.

Another current barrier to the Small Sites Program is that residents of small buildings often have a mix of incomes, which reduces the available subsidies under Federal and State programs that limit assistance to units occupied by people with incomes no greater than 60% AMI. *Local funding can make an important contribution to the Small Sites Program.*

Opportunities for Expansion:

Measure O and Measure U1 both offer funds that can be used for small sites with mixed-income residents. The City should substantially increase its efforts to transition existing small apartment buildings to permanent affordability. The Small Sites Program should be tied to a Tenant or Community Opportunity to Purchase Act (TOPA or COPA) to enable groups of existing tenants or non-profit partners to buy and maintain this naturally occurring affordable housing and prevent displacement. Through a TOPA, landlords must provide legal notice to tenants of their opportunity to purchase a property when it is placed on the market. If a tenant or tenants decide to purchase, they must form a tenant organization to manage the building, and take on other management responsibilities. This model has seen success in other communities, including Washington D.C.²⁶

²⁵ City of Berkeley, Referral to City Manager, Establishment of Affordable Housing Small Sites Fund, https://www.cityofberkeley.info/Clerk/City_Council/2015/12_Dec/Documents/2015-12-15_Item_54_Referral_to_City_Manager_Establishment_-_Rev.aspx

²⁶ Small Sites Acquisition Program and Tenant Opportunity to Purchase, February 14, 2017, https://www.cityofberkeley.info/Clerk/City_Council/2017/02_Feb/Documents/2017-02-14_Item_18b_Small_Sites_Acquisition.aspx

3. Provide innovative homeownership opportunities for moderate and low income residents, including cooperative ownership using the Community Land Trust model

By taking on full or partial responsibility for management of a property, residents strengthen their community. In years past, Berkeley had programs to support both individual and cooperative homeownership. At a time when working families can no longer afford to buy homes in Berkeley, the City should give renewed attention to resident ownership and participation.

Berkeley currently has about 300 units in limited-equity and non-equity cooperatives, half of these established without City assistance at a time when real estate values were much lower. Encouraging residents to take ownership or responsibility for the operation and management of their housing, while keeping it permanently affordable, was an important part of Berkeley's housing programs in the 1970s through the 1990s. Unfortunately, since then this model has received little attention.²⁷ Current housing programs miss opportunities to build democratic organizations in which people learn organizational skills and collaborative problem solving, and have input into the management and physical condition of their homes, a model sometimes referred to as "social housing."

Berkeley has no currently active programs to create individual or cooperative homeownership opportunities, in part because it is difficult to combine the use of Low-Income Housing Tax Credits with resident ownership. Measure O and Measure U1 both provide funding that can be used to support cooperative homeownership and community land trusts.

Individual homeownership opportunities: Although they are few in number, Berkeley has some small parcels of publicly owned land embedded in neighborhoods that may be suitable for townhouse-style or other low-rise homes. In order to preserve affordability, the City should either retain ownership of the land or convey it to a community land trust, rather than selling it outright. Working with Habitat for Humanity or a similar organization could reduce the cost of construction and increase affordability for these units.

²⁷ S. Barton, "From Community Control to Professionalism: Social Housing in Berkeley, California, 1976 – 2011", *Journal of Planning History*, May 2014, V.13:2, pp. 160 – 182.

Cooperative homeownership opportunities: Limited-equity and non-equity housing cooperatives provide an affordable, democratic version of homeownership in which a property is owned by a nonprofit cooperative corporation, made up of tenants of the property. Initial capital subsidy makes them permanently affordable to very low, low and moderate-income people. When the residents take responsibility for the management of their buildings they can keep costs down, which makes cooperatives suitable for small multi-family properties.

Importance of affiliation with a Community Land Trust or larger cooperative: Experience has shown that housing cooperatives need ongoing training, technical assistance and oversight from a larger organization. This larger organization can be a Community Land Trust, which owns the land under the cooperatively owned buildings or, in the case of the Berkeley Student Cooperative, a larger cooperative that maintains and renovates affiliated properties while supporting residents in operating their individual buildings. Measure U1 monies could be used to provide organizational support to strengthen the capacity of local land trusts, which at present are relatively small organizations. In 2018 the City Council used U1 funds to provide a small capacity-building grant to the Berkeley-based Bay Area Community Land Trust.

It will be necessary to expand the organizational capacity of Berkeley's land trust to support a larger program utilizing this model. Community Land Trusts receiving support from the City of Berkeley should be required to meet the Federal definition of a Community Land Trust (Housing and Community Development Act of 1992, Section 213, Housing Education and Organizational Support for Community Land Trusts), which ensures that residents of affiliated properties serve on the land trust governing board.²⁸

Other models - Challenges: Berkeley has an inclusionary requirement for condominium developments and there are currently a small number of below-market condominiums reserved for low-income owners. *Caution is needed in creating low-income condominiums because rising monthly assessments and occasional special assessments for major renovations can become unaffordable for lower-income owners.*

In addition, residents can misunderstand the condominium form of ownership and underestimate the need to work cooperatively with other owners. Cooperatives are

²⁸ HR 5334- Housing and Community Development Act of 1992, Section 213.
<https://www.congress.gov/bill/102nd-congress/house-bill/5334/text>

less likely to have this problem. In the past, the City provided down-payment assistance on a shared-equity basis (meaning that the owners of the cooperatives had to repay a portion of the property's value at sale), but the cost of single-family homes has far surpassed the City's ability to provide effective down-payment assistance. As described above, several useful models exist to support homeownership without these challenges, and should be included in Berkeley's affordable housing mix.

4. Significantly increase the supply of affordable live-work housing for artists and artisans.

Berkeley has a long tradition of live-work housing, mostly located in West Berkeley, and much of it lacking legal recognition. There are only a few units of permanently affordable live-work housing citywide. In part this is because it is difficult to use State and Federal subsidies for this purpose. In addition, certain subsidy program regulations make it difficult to allocate live-work housing to the artists and artisans that it is intended for.

As an alternative, live-work housing can easily be organized to include resident ownership or resident participation in property management.

Opportunities for Expansion:

Live-work units are allowed in most of Berkeley's Commercial and Manufacturing districts. Measure O and Measure U1 both provide funding that can be used for affordable artists and artisan live-work housing using ownership or other participatory models. The City also has the potential to require affordable live-work units, or provision of land for such units, as part of development approvals throughout Berkeley.

5. Encourage adding incremental units, such as accessory dwelling units (ADUs) or low-rise multiplex units, that complement neighborhood character.

There are many opportunities to add one, two or more units to existing properties at relatively modest cost. When sold as condominiums such units can be affordable to middle-income families who have difficulty entering the current market for single-family homes. Accessory dwelling units (ADUs), even rented at market rate, can also be affordable to middle income individuals. In addition, low-rise multi-family housing such as duplexes, triplexes, courtyard apartments, and multiplexes can also be inserted into existing neighborhoods, and may provide additional opportunities for middle-income families to enter the housing market.

Opportunities for Expansion:

Where possible, the City should encourage addition of family-sized units as well as smaller ADUs. The City Council recently approved a referral to study the possibility of allowing up to four-plexes into areas currently zoned for a single family home and ADU. These housing types are already allowed in most other zones. Modest incentives such as expedited review of applications, low interest loans or small capital subsidies may be sufficient to persuade property owners who add such units to reserve them for lower-income families. These incentives should be explored, and a program developed to support the reservation of additional neighborhood units for affordable housing.

6. Partner with UC Berkeley to support creation of housing appropriate and affordable to students, faculty and staff.

Enrollment increases that far exceed UC Berkeley's Long Range Development Plan have resulted in an extreme shortage of student housing and a very high incidence of student housing insecurity and homelessness, while the general housing affordability crisis forces faculty and staff to live far from campus.

The University of California should take greater responsibility for housing its students. This will require the Regents to allocate more funding for student, faculty and staff housing and the State legislature to include this funding in the State budget. In addition, the Regents must stop the practice of increasing enrollment without regard for the carrying capacity of both UC Berkeley and the City of Berkeley.

Opportunities for Expansion:

The Berkeley Student Cooperative serves students in community college and the Cal State system as well as at U.C. Berkeley. It is eligible for funding through the Housing Trust Fund and some Measure O funding could be used to help purchase existing buildings near campus to make them permanently affordable to their student residents, who predominantly come from low-income families. While the City of Berkeley may choose to allocate some Housing Trust Funds to student housing, the University of California should provide the vast majority of funding for this important type of housing, as it is the University's responsibility to ensure their students are housed.

Policies to Ensure Equity and Sustainability:

Finally, while pursuing these strategies, there are several principles of equity and sustainability that the City should apply to all of its affordable housing programs:

1. Ensure equitable access to scarce affordable housing, including accessible units with universal design features.

Berkeley makes very limited use of City-established priorities in the allocation of affordable housing. In part this is due to the rules attached to State and Federal funding and in part to potential City administrative costs. A lack of State or local definitions of universal design also makes it difficult to adequately review projects for accessibility.

Opportunities:

Housing units with universal design elements that ensure access for those with mobility limitations should be included in all City-supported affordable housing. To support this, Berkeley should codify both baseline and enhanced universal design housing elements. In addition, to the extent legally allowable, Berkeley should establish a set of priorities for access to below-market rate housing. These priorities could include (but not be limited to):

- People at risk of displacement or who have been displaced from Berkeley, in particular those who have been subject to redlining or other discriminatory housing and lending practices in the past, including foreclosures;
- People who formerly experienced homelessness in Berkeley;
- Artists and artisans who need live-work spaces;
- Families with children in Berkeley schools; and
- People who work in Berkeley; in particular those who work for the Berkeley Unified School District or in emergency services (firefighters, doctors, police, nurses, etc.).

2. Codify Deep Green Building standards for healthy and sustainable buildings, and emphasize other measures to increase environmental sustainability.

Berkeley Deep Green Building is an ambitious program designed by building and clean energy professionals and environmentally-minded citizens as part of the Berkeley Zero Net Energy++ Working Group. It sets forward a detailed plan to incentivize these and other green and healthy building practices. The five goals of Berkeley Deep Green Building are to:

1. Support zero-net energy at the individual building and community scale;
2. Reduce embodied energy in building materials and practices;

3. Reduce toxicity in building materials;
4. Source sustainability produced materials from fair trade, fair wage and culturally and environmentally friendly suppliers; and
5. Conserve water.

Some of these goals are already addressed in City codes and policies; some require expansion or codification.

The City of Berkeley has a variety of programs and Building and Zoning Code provisions that seek to address green building. These include energy efficiency audits under the Building Energy Saving Ordinance (BESO), LEED gold standards for larger downtown buildings, Bay-friendly landscaping for projects over a certain size, and stormwater and waste management during construction.²⁹ In addition, a number of solar, energy efficiency and other green building proposals have been referred to the City Manager over time, but have not yet been implemented. Pending codification or implementation, affordable projects should strive to meet all Deep Green Building and other state of the art green building practices.

Building affordable units near transit is also an environmental strategy. This is especially true when parking is reduced or eliminated. Because lower-income people use transit at significantly higher rates than people with higher incomes, siting affordable housing near transit can yield increased ridership - and reduce the displacement of lower-income households. A UCLA study of the effects of Transit Oriented Development on transit use in Los Angeles found that allowing market-rate housing with parking near transit contributed to a significant reduction in transit use. , Lower income people who previously rode transit were displaced to the outer reaches of the region, and were forced to commute long distances, often by car. They were replaced in their previous transit-rich neighborhoods with more affluent people who can afford cars and use transit much less frequently, resulting in large reductions in transit use citywide, despite massive public transit investments and the creation of significant new transit-oriented housing. ³⁰

3. Prioritize the use of public land for the creation of affordable housing.

Land is expensive in Berkeley and securing appropriate sites for affordable housing is costly and difficult. The City owns several sites which may be appropriate for affordable housing development. Other parcels may also be eligible for housing but

²⁹ Building Energy Saving Ordinance, <https://www.cityofberkeley.info/BESO/>.

³⁰ "Transit-oriented development? More like transit rider displacement," L.A. Times, Feb. 20, 2018, <https://www.latimes.com/opinion/op-ed/la-oe-rosenthal-transit-gentrification-metro-ridership-20180220-story.html>

would require remediation. In 2017, the City purchased a property at 1001 - 1011 University Avenue, with the express intention of converting the property for use as affordable housing.³¹ The City should take steps to offer whatever public land is available, appropriate and safe to qualified affordable housing projects.

4. Ensure those who build and rehabilitate our housing are paid fair wages and have access to health insurance, and support local apprenticeship programs.

As in the entire Bay Area, there is a severe shortage of skilled construction workers in Berkeley, partly because their wages are often insufficient to allow them to live in the very buildings they help construct. Berkeley contributes to solving this problem by requiring builders of City-assisted housing to pay their workers prevailing wage (the hourly wage paid to the most workers in an area working on similar jobs) and through project labor agreements in areas of the City with community benefit requirements. Labor organizations are, for their part, supporting construction of modular, factory-built housing that can modestly reduce construction costs. Additional approaches should include stronger protections against wage theft, expanded apprenticeship programs that help local residents start careers in construction and policies ensuring that workers on large projects receive adequate benefits. Healthcare is particularly important for construction workers; by its nature construction work is physically demanding. Injuries and physical stress are frequent, even on well-managed sites.

5. Make changes to the City of Berkeley Zoning Code and project approvals processes to incentivize, facilitate and reward the production of affordable housing.

The City has taken a number of steps to incentivize and facilitate the production of affordable housing. Affordable projects receiving Housing Trust Fund monies are automatically expedited and prioritized for permits, inspections, and other City of Berkeley administrative processes.³² Additional referrals have been made to reduce development fees for affordable projects, create additional density bonuses for affordable projects, and otherwise ease restrictions on affordable projects. The State Density Bonus program provides significant benefits to projects that build

³¹ Acquisition of Real Property at 1001 University Avenue, 1007 University Avenue, 1011 University Avenue, and 1925 Ninth Street, March 27, 2017
https://www.cityofberkeley.info/Clerk/City_Council/2017/03_Mar/Documents/2017-03-28_Item_32_Acquisition_of_Real_Property.aspx

³² Berkeley Municipal Code Chapter 19.62 Priority Permit Processing for Housing for Low and Moderate Income Persons

inclusionary units, and affordable projects meeting specific criteria are approved “by right” under SB 35.

In addition to these supports and incentives for affordable projects, the Berkeley City Council recently increased the affordable housing mitigation fee to \$37,962 per market-rate unit. The fee had been set at \$28,000 in 2012, “discounted” by the City Council to \$20,000 in 2013, raised to \$34,000 in 2016, and then to the current rate in 2017.³³³⁴³⁵ The City also doubled its inclusionary requirement from 10 to 20% of units in all developments with five or more units.³⁶ The City should continue to develop and implement policies, programs and regulatory mechanisms to expedite, maximize, incentivize and reward the creation and preservation of affordable housing.

VI. CONCLUSION

The **Framework for a Diverse, Equitable and Creative Berkeley** is a high-level roadmap to guide the many City entities involved in moving our affordable housing goals forward. As each navigates its own path, all must be headed to the same destination.

Berkeley has an unprecedented opportunity to significantly increase the City’s stock of affordable housing and to preserve the limited affordability that already exists. Housing is a human right, and the severity of the Bay Area’s housing crisis calls us to action. We must ensure that our homeless can be rehoused, our vulnerable seniors, youth and disabled neighbors remain housed, our dedicated public and not-for-profit workers can make homes in our community, and our artistic, activist and academic residents can thrive. We have a duty to ensure that people of all backgrounds, ethnicities, ages, religions, gender identities, occupations, and abilities can be, and are, housed in Berkeley.

We are embarking on a path to achieve 10% reserved affordable housing in Berkeley, and to lay the institutional and policy foundations for a future with 30% and eventually up to 50% affordable or “social” housing. It’s an exciting and demanding venture, but essential to preserve and expand all that makes Berkeley an exceptional place to live, work, learn, play and thrive.

³³ Resolution No. 66,809, October 7, 2014

³⁴ Resolution No. 67,614-N.S., July 12, 2016

³⁵ Berkeley Municipal Code Section 22.20.065 Affordable Housing Mitigation Fee

³⁶ Berkeley Municipal Code Chapter 23C.12 inclusionary housing Requirements

To: Housing Advisory Commission (HAC)
From: Marian Wolfe, Vice-Chair
Date: October 3, 2019
RE: Council Request for Feedback on Framework for Berkeley's
Affordable Housing

We agreed at the September 5, 2019 meeting that Commissioners would send their ideas on the draft Affordable Housing Framework send to the HAC secretary in advance of the October 3, 2019 meeting. Hopefully, this will not be at the last minute, since I would like to consolidate the comments (verbatim) into a single document in the same way we worked together on U-1 program goals. In this way, we have a unified document to discuss at the meeting.

I have provided the same list (assembled verbatim from the Framework) that I distributed at the September meeting here. This is a WORD file, so it should be easy to add in your comments regarding what you support, as well as any additional comments you have. The only difference between this document and the one distributed at the September 5th meeting is that I have added a place for your name.

Thank you.

Name of Commissioner

Major Existing Programs - Recommend to Expand:

- Constructing New Non-Profit Affordable Units
- Rent and Eviction Protections
- Affordable Housing Fees and Inclusionary Requirements for For-Profit Developments
- Direct Subsidies to Renters

Additional Important Programs - Recommend to Significantly Expand:

- House and Support the Homeless
- Transition some of Berkeley's existing rental housing to permanently affordable social ownership by expanding the Small Sites Program, accompanied by a Tenant or Community Opportunity to Purchase Act.
- Provide innovative homeownership opportunities for moderate and low income residents, including cooperative ownership using the Community Land Trust model
- Significantly increase the supply of affordable live-work housing for artists and artisans.
- Encourage adding incremental units, such as accessory dwelling units (ADUs) or low-rise multiplex units that complement neighborhood character.
- Partner with UC Berkeley to support creation of housing appropriate and affordable to students, faculty and staff.

Policies to Ensure Equity and Sustainability:

- Ensure equitable access to scarce affordable housing, including accessible units with universal design features.
- Codify Deep Green Building standards for healthy and sustainable buildings, and emphasize other measures to increase environmental sustainability.
- Prioritize the use of public land for the creation of affordable housing.
- Ensure those who build and rehabilitate our housing are paid fair wages and have access to health insurance, and support local apprenticeship programs.
- Make changes to the City of Berkeley Zoning Code and project approvals processes to incentivize, facilitate and reward the production of affordable housing.

Housing Advisory Commission

October 3, 2019

To: Housing Advisory Commission
From: Commissioner Thomas Lord
Subject: **responses to draft Housing Framework**

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This is Commissioner Thomas Lord's responses to the proposed "Housing Framework" that City Council referred to the Housing Advisory Commission.

General Concerns as to Purpose

When Council considered the framework, I was struck favorably by comments from Council member Wengraf who offered that the Framework was in substantial part redundant with the existing General Plan, particularly the Housing Element. (I would that the Plan's general equity and economic development components are also highly relevant.)

Persistent Concerns About Misrepresentations Measure U1

The framework repeats popular misrepresentations of Measure U1. For example, in the "RATIONALE FOR RECOMMENDATION" portion of the document we read:

"...Measure U1 further deputizes the HAC to make recommendations on the use of U1 funds and recommendations on expanding affordable housing in the City, ..."

Here and elsewhere, the Framework imagines a partitioning of funds among various commissions. It depicts a tidy scheme, but one that does not exist in Measure U1 or Berkeley law.¹

The quote above continues:

"...and both Measures O and P established boards to provide recommendations on the use of their respective funds..."

Here again, the indicated ballot measures actually gave their respective committees an *oversight*, not an *advisory* role. Council's decision to assign these committees the role of reviewing RFP responses may be lawful, but it is not what voters passed at the ballot.

¹As it happens I volunteer to coach some Berkeley middle school kids on their writing assignments. Often, this means working with them on reading comprehension - middle school is the period when students begin to learn close reading skills in preparation for more rigorous expectations in high school.

If we studied the text of Measure U1 in that context, aside from the problem that we'd bore the students half to death, a successful outcome would be one in which students could articulate why the measure doesn't support the claims made about it in the Framework.

Selected Responses to Commissioner Wolfe's Summary

Commissioner Wolfe helpfully tried to summarize the major points of the framework. Following her outline, my selected replies follow:

Major Existing Programs - Recommend to Expand:

Constructing New Non-Profit Affordable Units

Berkeley ought to be critically re-examining this strategy. For decades, this form of housing provision has proved its inability to scale. Increasingly, it is showing weakness at leveraging City funds. (Poor leverage is often disguised. For example, in the case of Berkeley Way, accounts of projected leverage ignore the use Berkeley's assigned funds from County Measure A1, debt service, loss of income from the parking lot, staff time, waved fees, and opportunity cost on the use of the land).

Moreover, housing of this type is inflexible as to unit pricing, making it systemically less able to adapt to changing social need. Additionally, because rent levels are rigidly tied to Area Median Income, during periods of rising median income, the system becomes *pro-displacement*.

Rent and Eviction Protections

The City does not closely monitor outcomes of the anti-displacement programs. The minimal monitoring performed shows that the number of people served has not risen in proportion to a growing budget, while the case workers anecdotally describe that they find themselves doing a considerable amount of social work rather than eviction defense per se.

Before again renewing or expanding these programs, the City Council should take some time to reconsider the purpose of the program, appropriate monitoring, and how to arrange a cost-efficient match between provider skills and social need.

Inclusionary Units and In-lieu Fees

"Affordable Housing Fees and Inclusionary Requirements for For-Profit Developments"

There is little practical choice but to continue these however they are deeply flawed in many of the same ways as traditional non-profit development:

- These programs can not scale and structurally worsen affordability.
- Pricing is rigidly tied to AMI rather than social need.
- AMI-based pricing is pro-displacement.

Direct Subsidies to Renters

Berkeley should consider a generalized (flexible) household or individual emergency assistance fund.

Subsidies to renters are, meanwhile, a fiscally inefficient means to help, since their primary function is to transfer profit to private landlords, and nothing more.

The Housing Advisory Commission has begun deliberating about a system of social housing that would internally produce and distribute direct subsidies from tenants of greater means to those of the least means. This system has the advantage that the subsidy need only cover operating costs, broadly defined, not private profit.

Additional Important Programs - Recommend to Significantly Expand:

House and Support the Homeless

The recent Everybody Home count and survey shows conclusively that the City has made a very poor choice of deprioritizing temporary shelter and sanctioned encampments. The need for such has grown. There is a worsening social crisis and strife. There are signs that vigilantism against the homeless is a looming threat, as a consequence of the City's neglect. There are signs that the federal government may attempt to "solve" homelessness through carceral means – a politics that gets a boost from Berkeley's stubborn insistence on deprioritizing temporary shelter and sanctioned encampments.

Small Sites and TOPA

"Transition some of Berkeley's existing rental housing to permanently affordable social ownership by expanding the Small Sites Program, accompanied by a Tenant or Community Opportunity to Purchase Act."

and *"Provide innovative home-ownership opportunities for moderate and low income residents, including cooperative ownership using the Community Land Trust model"*

As stated, this tactic can save a few units in a fiscally efficient way, but it can not scale.

A closely related variation that can scale - a social housing system - is being considered by the Housing Advisory Commission.

Artists and Artisans

"Significantly increase the supply of affordable live-work housing for artists and artisans."

A persistent obnoxiousness throughout the Framework and in Berkeley politics is a theme of proposing affordable housing discrimination on the basis of profession.

Inevitably, such policies will be racist, agist, and classist in effect.

Nobody should support this form of discrimination.

Nobody should support such “divide and conquer” politics that plays unjustly on sentimental feelings.

ADUs

“Encourage adding incremental units, such as accessory dwelling units (ADUs) or low-rise multiplex units that complement neighborhood character.”

Yes, and it is also the case that without robust assurance that such units will be affordably available to the general public - public money should not be used.

Partner with UC Berkeley

“Partner with UC Berkeley to support creation of housing appropriate and affordable to students, faculty and staff.”

Unfortunately, the City has not demonstrated a capacity to enter such a *partnership*. In a partnership, the interests of the City and its residents would be strongly represented.

The City instead has rolled over as UC violates law and previous agreements. The City is currently rolling over as the University plans to destroy the only public open space in the south campus area in a plainly racist and classist attack on poor people.

Policies to Ensure Equity and Sustainability:

Universal design features

“Ensure equitable access to scarce affordable housing, including accessible units with universal design features.”

Excellent.

Deep Green Building Standards

“Codify Deep Green Building standards for healthy and sustainable buildings, and emphasize other measures to increase environmental sustainability.”

This is inadequate to the point of being an example of climate denial.

Public Land

“Prioritize the use of public land for the creation of affordable housing.”

This is vacuous and at best purely symbolic. There is need for any such declaration.

Labor protections

“Ensure those who build and rehabilitate our housing are paid fair wages and have access to health insurance, and support local apprenticeship programs.”

Sure although the City has no silver bullet here to make these requirements work better than they already do.

So-called Affordable-by-Design Zoning

“Make changes to the City of Berkeley Zoning Code and project approvals processes to incentivize, facilitate and reward the production of affordable housing.” As stated, this is too vague to be meaningful.*”

A risk is that it is interpreted - as may be the intent - as incentivizing the construction of substandard housing as a “solution” to the affordability crises. For example, in Cupertino, it appears that a zoning incentive created by SB35 may produce many “affordable” units that are ill suited for growing families. Another example, in Berkeley, is past proposals we’ve seen to satisfy RHNA quotas by building cheaply constructed, unmaintainable, undersized modular units for the poor.

Parting Thoughts and Proposed Council Action

The exercise of writing the framework seems to have been somewhat helpful in bringing City Council up to speed on the current programs and policies.

At the commission level, there is already evidence of its being used as a political bludgeon in an emerging fight over Measure O funds.

I do not expect that the Framework will result in greater equity, greater fiscal efficiency, greater social justice, or greater clarity of thought on the issues.

I do expect that the framework will be abused in future debates and deliberations where it will be interpreted as a constraint or bias on the allocation of funds – it will have a long-term regressive impact.

Perhaps the best way to keep the benefits of the framework and to minimize the risks is to regard it as received and considered by all interested parties - and leave it at that.

Housing Advisory Commission

October 3, 2019

To: Housing Advisory Commission
From: Commissioner Thomas Lord
Subject: **Climate and housing**

From my standpoint, many discussions about local, state, and national housing policy have taken on a surreal quality because sometimes they don't consider the climate emergency at all, and other times, the climate emergency is mentioned but false conclusions are drawn.

I thought it would be helpful to pass along some very basic facts I've learned from a variety of sources, including these easily accessed resources:

- **The IPCC Special Report on Global Warming of 1.5°** (*IPCC SR15*)

This is the famous U.N. report that is so often referred to by climate activist Greta Thunberg:

<https://www.ipcc.ch/sr15/>

- **Climate Change: The Science and Global Impact**

This is an on-line, self-paced course taught by climate scientist Michael Mann.

<https://www.edx.org/course/climate-change-the-science-and-global-impact>

Of course, I also tune into climate scientists and teachers on social media, so that I am exposed to at least a few highlights of the latest scientific literature.

A few critical things to keep in mind, and then some thoughts about how what this implies for our work here on the Housing Advisory Commission:

We are close to locking-in the worst imaginable outcomes

The climate emergency has been known for decades. Effectively no progress has been made reducing emissions, or slowing their rate of growth.

We are on a trajectory, within roughly the next 20 or 25 years, to lock-in warming of 3-5°C (5.4-9°F) average surface temperature rise compared to pre-industrial civilization. That level of temperature increase is comparable to the difference between today's climate and (in the other direction) an ice age. It is a profound level of warming over a period of time that is incredibly short compared to any known historic or geological precedent.

That level of warming will, at a minimum, greatly expand the range of deserts - for example making large parts of the U.S. essentially uninhabitable. It will cause the collapse of many regional ecosystems and a mass extinction event. Much of the East Bay will be lost to sea level rise, including all of McLaughlin Eastshore State Seashore, Alameda, much of Union City, a large part of Richmond, part of West Berkeley, and more. Across the bay, East Palo Alto will be lost, along with Facebook and Google Headquarters. Much of the highway system will be destroyed. The region will likely suffer more extreme heat events, extreme rains, and drought. Although there is considerable uncertainty in the models, all of this is projected to be probable over the next 8 decades, on our present course.

At this level of warming, we are very likely to cross many tipping points – conditions in which the Earth’s climate system suddenly contributes strongly to warming on its own, beyond human control. For example, the loss of ice will cause the Earth’s climate system to reflect less and absorb more heat. The burning of forests will release billions of tons of CO₂, further increasing surface temperature rise.

Summary: within 20 or 25 years we will “lock in” an apocalyptically ruined medium-term future.

We are out of time

The IPCC report mentioned above shows that a world warmed by 1.5°C will be very harsh, but that a world warmed by 2°C will be considerably worse, with many more deaths, more uninhabitable land, much more biodiversity loss, and so on.

In principle, our local and state commitments to the Paris Accord means we are (supposed to be) aiming for 1.5°C, treating 2°C as a worst-case option.

We are not. Not even the state’s or the City’s stated commitments are consistent with those warming targets. Worse, the commitments are not even being met.

When Greta Thunberg spoke at the U.N. recently, she referred to this fact: There is no scientifically realistic chance of avoid the worst outcomes unless we scramble to cap emissions now, and sharply reduce them each year for the next decade. In the U.S., because of our advanced state of development and in the name of equity, we must go a bit faster.

I urge my fellow commissioners to be very afraid and to fight against the fact that we are not reducing emissions this way. We need to be asking questions like: “What will it take to reduce Bay Area emissions - both locally produced and indirectly produced by consumption - by 10, 15, 20, or 25% in the year 2020?”

That is the true level of urgency. That is why Greta was fighting back tears and red in the face.

What has this to do with housing policy?

We are accustomed to thinking of housing policies and programs on decadal and multi-decadal scales. Business-as-usual, however, has reached its limits on that scale. We simply can not plan in customary ways on those time scales - to do so is arguably genocidal. (I use the term advisedly. Greta Thunberg and several of her comrades have recently filed human rights complaints against the U.S. and 13 other nations. The science is squarely on their side.)

As I begin to try to figure out the housing policy problems that we *really* face, equity looms large, and so do practical questions like how can we turn off all natural gas to residential properties within the next few years? It is not an easy question. Electrical retrofits at that scale and speed are implausible. Should we be considering a crash program to establish community kitchens, warming centers, and cooling centers?

Amendment to Create/Develop a City of Berkeley Priority Preference Policy for Affordable Housing to be included in The Affordable Housing Framework

Due to past and present social and economic injustices Berkeley residents have become extremely vulnerable. The threat of displacement, and the challenge to obtain and maintain affordable housing in their community is abhorrent. It creates a detrimental fear that can tear away at the fabric of an entire households ability to simply live.

The City of Berkeley Mission and Core Value statement/document reads as follows:

Provide excellent service to the Berkeley community; promote a diverse, accessible, affordable, safe, healthy, environmentally sound and culturally rich city; innovate; embrace respectful, democratic participation in local decision-making; respond efficiently and effectively to neighborhood and commercial concerns; and do so in a fiscally sound manner.

City of Berkeley Core Values

Service: We are responsive to the needs of our community.

Collaboration: We build partnerships with individuals and organizations within the community and foster multi-disciplinary solutions to the challenges we face.

Respect: We embrace and have profound respect for diverse backgrounds, cultures, views, and opinions.

Equity: We have a responsibility to advance social and racial equity.

Accountability: We take responsibility for the work we do on behalf of the community and we demonstrate results. We learn and grow from our successes and mistakes and constantly strive to do better.

Continuous Learning: We learn and grow from our successes and mistakes and constantly strive to do better.

Innovation: We value creativity and innovation and encourage new ideas for improving our city and setting cutting-edge examples for others.

Safety: We make the safety of community members and our employees our top priority.

Health: We believe that every person in Berkeley has a right to good health and we will work to ensure that the health and well-being of every community member.

In alignment with our City's mission and values I propose It imperative that a Preference Policy for Affordable Housing be part of the Affordable Housing Framework. A Preference Policy can have an immediate and direct impact on our most vulnerable community members by creating equity and stability for one of our most basic needs -safe, secure, unthreatened permanent housing.

Mr. Eli Kaplan has done extensive research for the City to assist in the formation and development of such a Policy -which he presented to the HAC at our June meeting.

Please refer to the copy of Eli Kaplan's report:

Implementing a Community Preference Policy for Affordable Housing in Berkeley

https://drive.google.com/file/d/1mmE-_k04rLaXIWMPFBa5_d8dga9sSaH/view

I will not go into the details of this document... as it has already been presented to the commission. The actual creation of the literal policy will obviously be a process in and of itself. My recommendation and proposal at this time is to make sure that it is added to the plan knowing that the language and specific policy details are in progress.

HAC@cityofberkeley.info, muberti@cityofberkeley.info

Mike,

Please find my comments on “Housing for a Diverse, Equitable and Creative Berkeley” below.

I commend Mayor Arreguin and Councilmember Hahn’s desire to create an affordable housing framework. However, I think more could be added to make this a meaningful plan. I’m also concerned that there are many factual errors and several irrelevant opinionated statements.

Even though Councilmember Hahn and Mayor Arreguin’s report claims to address only Berkeley’s affordable housing strategies, it makes several incorrect and demonstrably false statements about housing that is not subsidized. The report blames tech workers and students for the increase in housing prices when the research from the California LAO, the UCB Urban Displacement Project, UCB Turner Center and virtually every other source has shown that restrictive zoning, NIMBYism, high building costs, financing structures, and cumbersome approvals processes are to blame for the insufficient housing growth, relative to jobs growth regionwide. The document states over and over that market rate housing fuels displacement without any credible evidence. Research commissioned by the San Francisco Planning Department which studied development in San Francisco, showed no evidence between market-rate development and legal evictions in S.F.

“I find that new construction does not increase the likelihood of legal eviction. This is true not only for market-rate housing, but also for affordable housing and building replacements. It is true in all neighborhoods, from the Mission to the Outer Richmond.” Pennington, Kate. “The Impact on Housing Production on Legal Eviction in San Francisco”. (2018).

https://www.scribd.com/document/385855381/KatePennington-EvictionStudy-18-6-8#from_embed

The authors also cite an op-ed which is not a credible source of academic research, and incorrectly cites two working papers about housing. The “Affordability Crisis” section (p.10) cites page 19-21 of “The State of Nation’s Housing” to justify a claim that market rate housing doesn’t help middle and lower income tenants. However, the pages cited are passages about home ownership. Interestingly, the same report says, “Land costs rise when demand is strong and land use regulations limit the number of new units that can be built and/or impose significant costs on developers through fees and protracted approvals.” (“The State of Nation’s Housing,” p.8).

Also, on page 26, the authors link to an op-ed to claim that “market rate housing with parking near transit contributed to a significant reduction in transit use.” The Chatman study did not say that at all. The head of the Urban Displacement project, Karen Chapple, which published Chatman’s study clarified that Chatman “finds a ‘bigger bang for the buck’ (VMT reduction) if rich people live near transit than if poor people do, because rich travel more. [Chatman] also argues TOD will only work with a lot more density nearby. And if small rich households replace big poor households, with net population loss, then you have a lose-lose. The win-win is with

density and housing of all types.” Also, the study also did not examine parking at all. So it’s clear this study was cited incorrectly as verified by its author.

The authors also cite Vienna as a social housing model and that Berkeley should strive to create 15,000 permanently affordable units (15,000*\$500,000=\$7.5 billion). The city should maximize the total number of affordable units it can, but I don’t understand why the authors would target an unstudied proposition. The Vienna comparison is also unrelatable. Vienna purchased its land after WWI and gets subsidies of over \$1 billion.

(<https://www.governing.com/topics/health-human-services/gov-affordable-luxurious-housing-in-vienna.html>). The City of Berkeley’s **entire** general fund operating budget is \$180 million dollars. One unit of affordable housing costs anywhere between \$500k-\$600k, and is increasing in cost annually.

But the bigger concern is the intent of the ratio. If we want to set a 15,000 BMR target, that’s fine, but there’s no reason to assert a percentage of housing city wide should be subsidized. My specific concern is that this ratio could be used as a bait-n-switch to reduce market-housing approvals in the city, which would diminish inclusionary affordable housing, make the 15k target far less likely to happen, and worsen the housing crisis.

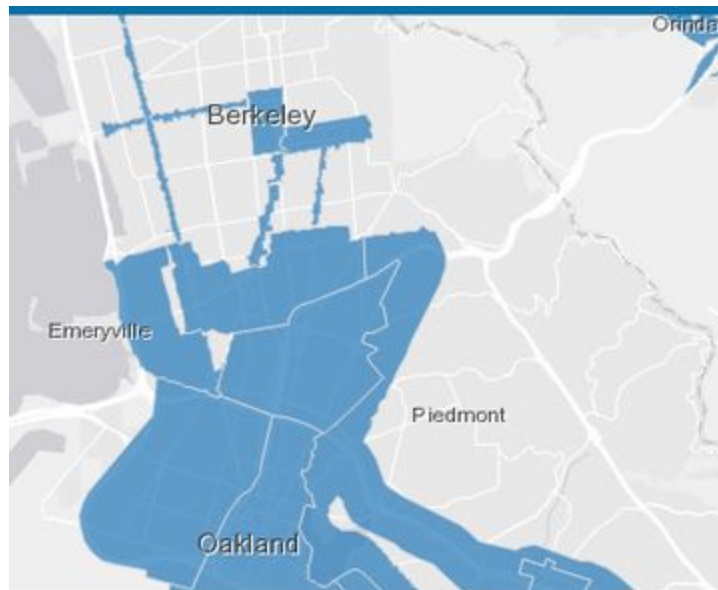
Again, the city should seek to maximize affordable housing via additional bond measures, taxes, municipal buyouts and inclusionary housing. Conduct a study with the Planning Department to determine how many units we could build within 10 years under a range of scenarios and set it as the target.

My recommendations for improvement are:

- Focus on the specific Area Median Income (AMI) levels we need financing for. Particularly strategies for two types of supportive housing: below 20% AMI housing and Senior housing, that would house the homeless and low-income seniors living in ADA-inaccessible dwellings.
- Strike references urging UC Regents to stop enrolling more students into UC Berkeley. The City, particularly Cal’s alumni representatives on the council, should be working with the campus to streamline and grow student housing, not push policies to deny more students the right to seek a public education at a public university.
- Strike the target goal of 30% housing being subsidized, as this is unhelpful. The total number of affordable housing matters, it does not matter what the ratio it is if the denominator remains small, and it may be counterproductive.
- Discuss the regional jobs/housing imbalances without blaming individuals who work in the software industry, which is a fraction of the overall regional job growth occurring. City policy should not be made to discourage or scapegoat employees for our housing crisis.
- Focus on strategies to reduce the cost of housing, such as building more homes relative to the city population growth (which in 2020 will finally surmount the city’s 1950’s record population), as to enable Berkeley’s city workers, retail workers, and Middle Class employment to actually live in the city they work.

- Either clarify the citations by accurately representing them with accurate quotations or just drop them altogether, since it's been confirmed these studies have been presented inaccurately.
- Strike "The Affordability Crisis" section on p. 8-11 since it's mainly a personal rant about market-rate housing that has zero relevance to a guideline about affordable housing.
- Include the following strategies for an Affordable Housing guideline:
 - We need to zone for substantial mid-rise multi-family housing, particularly Senior Housing, in District 5 around Solano Avenue, North Shattuck, Martin Luther King Jr Way, Hopkins, The Alameda. We also must allow for single family homes to be quadplexed. Currently, District 5 is now the only district in Berkeley that has 0 new housing in the pipeline, with D6 having last year added the Upper Hearst project. The authors rightfully state we need a more diverse Berkeley, and diversity research related to housing was recently published. Per recent UC Berkeley Turner Center research: "Anti-density zoning and. . . opposition to development predicts more exclusive jurisdictions with fewer Black and Hispanic residents and fewer blue-collar workers. . ." (Page 16). Rothwell, Johnathan, "Land Use Politics, Housing Costs, and Segregation in California Cities", UC Berkeley Turner Center (2019).
<http://californialanduse.org/download/Land%20Use%20Politics%20Rothwell.pdf>

To reinforce this point, examine the Priority Development Area map where new multi-family housing is allowed in Berkeley, compared to Oakland:



(Map of PDA housing plans from *Plan Bay Area*, provided here:

https://www.arcgis.com/home/webmap/viewer.html?panel=gallery&suggestField=true&url=https%3A%2F%2Fservices3.arcgis.com%2Fi2dkYWmb4wHvYPda%2Farcgis%2Frest%2Fservices%2Fpriority_development_areas_current%2FFeatureServer%2F0)

- Develop an affordable housing plan in particular for Berkeley's most affluent neighborhoods. Research by Diamond and McQuade from the Bureau of Economic Research indicates that Affordable Housing (Low-Income Housing Tax Credit) raises home prices in low-income neighborhoods, while decreases them in affluent ones.
"LIHTC construction in neighborhoods with a median income below \$26,000 increases local property values by approximately 6.5% within 0.1 miles of the development site. In contrast, LIHTC construction in neighborhoods with median incomes above \$54,000 leadsto housing price declines of approximately 2.5% within 0.1 miles of the development site." (Page 1, 2). Diamond, Rebecca. McQuade, Timothy. Bureau of Economic Research. (2016).
- Provide consulting services for elderly homeowners, particularly in South and West Berkeley on maintaining their homes with respect to issues such as reverse-mortgages, inheritance, and cost of maintenance. As part of the preservation aspect of housing.
- Implement right of first refusal for tenants, to preserve multi-family affordable housing.
- Enable more housing to be affordable by design (i.e Step Up Housing)
- Eliminate parking requirements.
- Further ease secondary unit requirements.
- Ensure that housing development fees are transparent, consistent, and studied to ensure housing is still built and the goals of the fees are realized.
- Allow for some affordable housing not covered by SB35 to be approved ministerially.
- Implement the Neighborhood Preference Plan for affordable housing applicants.
- Better incorporate feasible means to maximize affordable housing through market-rate housing requirements. Inclusionary requirements rely on market-rate housing being built to be meaningful, so both should be maximized. If market-rate housing production slows in Berkeley, the burden to finance 15,000 affordable housing units falls exclusively onto Berkeley homeowners and businesses via property taxes and bonds, while developers simply build elsewhere. This is an issue for elderly homeowners on fixed incomes, new homeowners without Prop 13 filtered property taxes, and low-income homeowners.

Both subsidized housing and market housing reduce housing costs on residents, it is not an either/or choice, per UC Berkeley Urban Displacement Project authors:

"What we find largely supports the argument that building more housing, both market-rate and subsidized, will reduce displacement. However, we find that subsidized housing will have a much greater impact on reducing dis-placement than market-rate housing. We agree that market-rate development is important for many reasons, including reducing housing pressures at the regional scale and housing large segments of the population. However, our

analysis strongly suggests that subsidized housing production is even more important when it comes to reducing displacement of low-income households.” (Page 4). Chapple, Karen. Zuk, Miriam. Berkeley IGS Research Brief: “Housing Production, Filtering and Displacement: Untangling the Relationships” (2016). https://www.urbandisplacement.org/sites/default/files/images/udp_research_brief_052316.pdf

Thank you,
Darrell Owens

Commissioner Alex Sharenko- response to “Housing for a Diverse, Equitable and Creative Berkeley” (i.e. “The Framework”)

- The Framework states that it is not intended as a comprehensive statement of all the City’s housing goals (page 14 of 36), therefore in the spirit of this assertion and in the pursuit of finding as much common ground as possible this document should narrowly focus on how best to spend the approximately ~\$200 million in affordable housing dollars (Measure O, U1) Berkeley will have access to over the next 10 years, especially given the short timeline the HAC and other bodies have to analyze and discuss The Framework.
- The Framework should explicitly acknowledge that a significant fraction (\$29.5 million) of the ~\$200 million Berkeley has available over the next decade has already been earmarked for two specific projects: BRIDGE-BFHP Berkeley Way (\$23.5 million) and All Saints/SAHA Oxford Senior Affordable housing (\$6 million)ⁱ.
- The Framework should explicitly acknowledge that a significant fraction of affordable housing monies Berkeley has available (~\$100 million?) will likely be spent on the development of some amount of low-income subsidized housing at both the Ashby and North Berkeley BART stations as part of comprehensive transit oriented development in line with current Cityⁱⁱ and BART goalsⁱⁱⁱ as well as state legislation, i.e. AB 2923
- The Framework should acknowledge that the city has already engaged with Berkeley Unified School District in trying to understand how the two entities may work together in order to build dedicated teacher housing^{iv}, an effort so far endorsed by the HAC^v, and that continuing and completing these efforts will require significant affordable housing monies (~\$25 million?) from the City.
- The above crude accounting, as well as any more thorough analysis of the low-income housing needs of the city, indicates that \$200 million over the next 10 years is likely an inadequate sum of money and that the majority of these funds have already been earmarked, explicitly or implicitly, for projects likely built by non-profit affordable housing developers. This pool of money will therefore need to be supplemented with other streams of funding to the fullest extent possible. The largest such stream that does not require additional undue burden on the Berkeley taxpayers is the affordable housing mitigation fees paid by developers of market rate housing. It is therefore crucial that more money for affordable housing be generated by building more market rate housing and that the amount of affordable housing dollars generated from these projects is maximized by undergoing a thorough third party economic feasibility study of any and all fees imposed on new development. The Framework should explicitly acknowledge this. It currently does not and instead cites arbitrary percentages of affordable housing that at best distract from discussions grounded in data and quantitative analysis and at worst anchors such discussion to unrealistic and unachievable outcomes that could, tragically, result in less than a maximum amount of affordable housing from being constructed.

ⁱ Berkeley City Council January 15, 2019 Measure O work session

ⁱⁱ May 9, 2019 Berkeley City Council meeting Agenda- items 1 and 2

ⁱⁱⁱ <https://www.bart.gov/about/business/tod>

^{iv} April 30, 2019 Berkeley City Council Agenda- item 18

^v April 4, 2019 Berkeley Housing Advisory Commission Agenda- item 7

To: Housing Advisory Commission

From: Marian Wolfe, Vice-Chair Housing Advisory Commission

Subject: Framework for Affordable Housing (Regarding Housing for a Diverse, Equitable, and Creative Berkeley)

Date: September 5, 2019 (Revised September 25, 2019)

Introduction

I have undertaken a detailed review of the two parts of the Framework – the shorter Council Recommendation and the longer background report. To make this review easier for you I am providing both a brief summary of my comments, which is then followed by detailed comments that are linked to actual page numbers and statements in the two reports.

Two basic recommendations for the use of Measures O, P, and U1 listed in the framework are:

- Expand existing affordable housing programs
- Provide substantial resources into additional directions such as co-op ownership, democratic control and empowerment of underserved communities.

If I agree with recommendations and background information, I have not listed any comments. My detailed comments below refer to policy issues, economic considerations, factual errors, and polemical statements that I believe are inappropriate for this type of document.

Finally, I recommend that when you look at my detailed comments, you have the framework document in front of you for some “back and forth” review. The page number references are not completely accurate, since I had reviewed an earlier draft. I hope that no one finds this confusing. If so, I can modify the page references.

Summary of Comments

1. Improve Understanding of Current Programs

- Use of Measure P funds for rent subsidies – while good in theory, in practice it is really important to provide some estimates of the number of people who can be helped and the cost to the City. The City would not want to start providing subsidies only to stop the program. Rental housing subsidies can be very expensive, and Measure P is not a guaranteed revenue source since revenue from Measure P is based on sales transactions (which vary) and will sunset after 10

years.

- TOPA is not a program that is operating in the City, and is not one which could easily be adopted. (See more detailed comments below.)
 - Rent Control – The City cannot establish more restrictive rent control on its own, given Costa Hawkins. And, the ballot measure intended to overturn Costa Hawkins on the November 2018 ballot was defeated by a large majority of voters.
2. Challenges Regarding New Programs (Land Trust, Co-ops, and TOPA) - These three approaches require motivated tenants, administrative support, local funding, and suitable sites whose owners wish to sell. I believe that the challenges these approaches face need to be acknowledged more in the framework.
 3. Income Limits – Several of the target groups, such as employees of BUSD, families with children in Berkeley schools, etc. may have household incomes that exceed lower-income thresholds. If this is the case, then leveraging with outside funds is no longer possible, and the City will need to provide more local funding. I believe that this caveat needs to be included.
 4. Use of Publicly Owned Land – Identifying publicly owned land suitable for housing continues to be a challenge. I was surprised to see that the Premier Cru properties were mentioned as properties that are available but would require remediation. I have written several memos that present the obstacles to developing these sites for affordable housing. Stating that “remediation” is required is an understatement of the challenges of using these sites for permanent affordable housing.
 5. Economic Analysis of Changing Inclusionary Requirements and Helping to Build ADU’s, and Small Unit Development – I believe that Councilmembers already know that any changes to the Inclusionary Housing Requirements will need a financial feasibility assessment. The City has already undertaken this assessment for previous policy changes. What is less clear is whether anyone has undertaken financial analyses of the costs of adding ADU’s (either as rentals or for-sale) and building two, three, or four-unit projects that could become sources of more affordable ownership. This is important in order to establish how affordable these units could be without financial subsidies.
 6. Teaming with UC Berkeley to Develop More Student Co-Ops – As part of the HAC’s student sub-committee, we learned about challenges in working with UC Berkeley on a joint effort to expand affordable housing for students. One issue which was unresolved was how to define student income, if students were still receiving financial support from their families.

7. Establishing Priorities for Access to Affordable Housing – Only recently has the establishment of priorities for affordable housing - to be given to households who were subject to redlining, or to other discriminatory housing and lending practices in the past, including foreclosures, been suggested as City policy. My principal concern is how the household or City will document this past discrimination. I believe more thought should be given to how this will work (and how evidence is documented) before we assume that this priority is possible.

8. Factual Errors

- Sources of funds for the HTF – revenues were stated as those from fee programs. The Framework does not mention revenues from HOME and CDBG. Text should be edited.
- Increase in jobs in the Bay Area between 1990 and 2019 – Percentage increase, as stated, is incorrect. Text should be edited.
- Decrease in in high-wage jobs was reported, but the data sources provides information on the decrease in middle-wage jobs. Text should be edited.

Detailed Comments on Framework Summary (Council Recommendation)

Misleading or Incorrect Statements:

Page 2 - As of 2015, the HTF received approximately \$7.6 million from fee programs, which was the only source of funding at that time.

This is not true. HOME and CDBG are also sources of funds for the HTF.

Page 3 – Description of Measure P is somewhat incomplete when initially stated here.

This description of Prop. P is somewhat misleading. First, the increase in the transfer tax only lasts for ten years (and I believe this should be mentioned at the beginning, although it is mentioned in the longer discussion of the framework). Secondly, the initial threshold sales price should explicitly include the starting amount of \$1,500,000 that will be adjusted annually to capture the top 33% of transfers.

Page 4 - Review of Existing Plans, Programs, Policies & Laws

TOPA is mentioned here as one of the City’s programs. Although it has been discussed,

it is currently not one of the City's programs at present.

Detailed Comments on Framework Report

Major Existing Programs - Recommend to Expand – Listed on Page 2

Four programs are mentioned. The first three are correct. However, the fourth one – Rental Vouchers – is not a City program, but a federal program that is managed by the City. I think it is misleading to include this along with the first three programs, and I would create a separate paragraph for it.

Additional Important Programs - Recommend to Significantly Expand – Listed on Page 2:

1. Transition some of Berkeley's existing rental housing to permanently affordable social ownership by expanding the Small Sites Program, accompanied by a Tenant or Community Opportunity to Purchase Act.

HAC staff undertook research on the TOPA approach for the City. It is clear that the City would need to provide a lot of technical assistance for a TOPA program, so I am concerned that this approach is still highlighted in the framework. Please remove it. A small sites program is very different.

2. Provide innovative homeownership opportunities for moderate and low income residents, including cooperative ownership using the Community Land Trust model.

This works if technical assistance would be provided and if there would be sites or existing developments that would work with this approach.

3. Significantly increase the supply of affordable live-work housing for artists and artisans.

Should the caveat of "income-eligible" be added here?

4. Encourage adding incremental units, such as accessory dwelling units (ADUs) or low-rise multiplex units that complement neighborhood character.

If city financial assistance is to be provided, then there needs to be

some quid pro quo – owners of the new ADUs need to rent them under a rent-restricted program if they receive financial assistance, including fee waivers.

5. Partner with UC Berkeley to support creation of housing appropriate and affordable to students, faculty and staff.

This was one of the HAC's hopes, but we have gotten nowhere. I wonder how the lawsuit will impact this.

Policies to Ensure Equity and Sustainability- Listed on Page 2:

“Prioritize the use of public land for the creation of affordable housing.”

This is good in theory, but we haven't gotten very far with this strategy since there are very few appropriate city-owned sites (that is, in addition to those identified by BUSD).

Comment on this statement on Page 5:

“These Berkeley affordable housing funds and resources can bring in matching funds of as much as \$5 for every local dollar, significantly leveraging Berkeley's investments.”

Every time that leveraging is mentioned it is important to remember that projects will only be able to leverage outside funds if affordability is kept at 60% AMI or below in order to be competitive. There are other places in the framework that acknowledges this, but I think that the public needs to be reminded about this limitation.

Comment on this statement on Page 6:

“U1 funding can be used for anything that is necessary for the creation of permanently affordable housing, and as such is the most flexible source of regular affordable housing funds. Because of this flexibility, at least some (and possibly all) U1 funds should likely be reserved for use where other more restricted funds are not available.”

Remember that U1 cannot be used for bonding for housing, since U1 funds are technically General Funds. So U1 funds are not really as flexible as this statement makes it seem.

Another Comment on a Page 6 statement:

“With significant local and County, State and Federal funds now available to support

Berkeley’s deeply subsidized units for very low and extremely low income people, inclusionary housing requirements for market rate developments could be redirected towards production of housing for low and moderate income families - at higher inclusionary percentages than are currently in place for more deeply affordable units.”

It is very important to undertake financial analysis of requiring higher percentages. Be sure to consider pro forma analyses before making this conclusion. It will also help out later when there could be push back from developers.

I would have added the following phrase to the above statement...at higher inclusionary percentages (that are financially feasible) than are currently in place for more deeply affordable units.

Comment on a Page 7 statement:

“When State and Federal funds are used, Berkeley is limited to supporting housing and services that meet their program criteria. Monies provided by Berkeley’s own generous voters are more flexible than State and Federal funds and can be strategically deployed to accomplish a broader spectrum of City priorities.”

It is very important to remember, however, that the City will need to subsidize affordability gaps completely and/or provide other incentives, such as zoning changes, since our local funds cannot be leveraged with outside sources if moderate-income groups are targeted.

HOUSING AND BERKELEY VALUES (Page 7)

“Berkeley was a national leader in inclusion, redrawing school attendance lines to integrate its school system, eliminating barriers for those with mobility and other physical limitations, preserving the affordability of rental housing by limiting rent increases to the level necessary for landlords to receive a fair return on their investment, and protecting lower and middle income neighborhoods from the displacement of so-called Urban Renewal.”

This is somewhat misleading. We really didn’t have urban renewal, so the City is taking credit for something it did not really do. A better way of stating this would be: Protecting lower and middle income neighborhoods from displacement by not adopting significant urban renewal policies.

THE AFFORDABILITY CRISIS (page 9)

I understand that the background information is provided to make a case for the framework to be adopted. However, it is difficult to ignore mistakes that would have been caught by a careful review of the document. Here are two examples:

Statement on page 9:

“Across the Bay Area, almost 1 million jobs have been created since 1990 - an increase of 33% over just 30 years.⁸ From 2009 to April 2019, the overall Bay Area job market increased by about 30%, while the tech industry increased by 56%.⁹ “

This makes no sense. If the increase since 1990 was 33%, how could the increase in the last ten years be 30%? One of these numbers is not correct, since this would imply that job growth between 1990 and 2009 (almost as twenty year time period) was only 3%.

EXISTING AFFORDABLE HOUSING PROGRAMS AND NEW OR EXPANDED OPPORTUNITIES

Opportunities for Expansion (page 15)

Rent and Eviction Protections:

“The State of California’s Costa-Hawkins Act, which instituted “vacancy decontrol,” allows rents to be reset to market rates upon conclusion of each tenancy, denying Berkeley and other cities the power to limit increases to a fixed percentage when units turn over. It also prevents regulation of rents in buildings constructed after 1979 and regulation of rents in single-unit properties, even when owned by large corporate landlords. These prohibitions should be revised or repealed. “

It is important to mention here that there was a recent state ballot measure (Prop 10 placed on the November 2018 ballot) that was designed to overturn Costa Hawkins this which failed. (Nearly 2/3 of voters voted against the repeal). Berkeley, as a local government, cannot overturn Costa-Hawkins, and so for now, we cannot suggest rent control as a policy to expand affordable housing.

Inclusionary Requirements (page 17)

“Because there are fewer County, State and Federal funds for low- and moderate-income units than very- and extremely-low, asking market rate developers to subsidize low and moderate

income units may be a good strategy to achieve a greater mix of affordability levels Citywide and gain more permanently affordable units overall.”

This may work, but it is necessary to do a pro forma analysis and also talk about what level of density bonus would be required and what reduction in parking requirements would be needed in order for a project to still “pencil out” even while providing more low- and moderate-income units.

Direct Subsidies to Renters (page 17)

Measure P funds could be used for this purpose {direct subsidies to renters} if recommended by the Homeless Services Panel of Experts, and other City funds might be applied to expand direct renter subsidies and “rapid rehousing,” as is proposed in the City’s [1,000 Person Plan to Address Homelessness](#).

Before suggesting this, I recommend undertaking the calculations to see if there are limits to how many people can be helped and for how long they can be helped. Rental subsidies are very expensive, and Measure P funds are being pledged for many purposes.

Additional Important Programs - Recommend to Significantly Expand (Page 18)

Operating Subsidies for Berkeley Way (page 19)

“The amount that is likely to vary from year to year, perhaps one-quarter to one-third . . . , should then go to one- time expenditures such as capital subsidies to expand the supply of permanently affordable housing available to the homeless. For example, in the Berkeley Way project, the City has agreed to provide a capital fund that will cover 10 years of operating subsidies.”

Important: If Measure P is providing a capital fund to pay for 10-years of operating subsidies, this would not be a good example of using Measure P for capital expenditures. Staff and council should be sure to review the definitions of capital expenditures and operating subsidies.

“Transition some of Berkeley’s existing rental housing to permanently affordable social ownership by expanding the Small Sites Program, accompanied by a Tenant or Community Opportunity to Purchase Act. . . This process is also an opportunity to expand limited equity cooperative ownership.” (Page 19)

I strongly suggest that City policies first focus on the small sites rental program and then see if the City has the staff to undertake limited equity co-ops and/or TOPAs.

Provide innovative homeownership opportunities for moderate and low income residents, including cooperative ownership using the Community Land Trust model.(page 20)

“Berkeley currently has about 300 units in limited-equity and non-equity cooperatives...”

Do these include student co-ops? If so, it should be stated

Individual homeownership opportunities (page 21)

“Although they are few in number, Berkeley has some small parcels of publicly owned land embedded in neighborhoods that may be suitable for townhouse-style or other low-rise homes. In order to preserve affordability, the City should either retain ownership of the land or convey it to a community land trust, rather than selling it outright. Working with Habitat for Humanity or a similar organization could reduce the cost of construction and increase affordability for these units. “

This is a good idea, but we must be aware that only a handful of units could be provided this way given the scarcity of city-owned sites. Again, consider administrative costs of supporting this program.

Other Models - Challenges: (page 22)

“In addition, residents can misunderstand the condominium form of ownership and underestimate the need to work cooperatively with other owners. Cooperatives are less likely to have this problem.”

It would be good to explain why cooperatives are more likely to work than condominium form of ownership.

Significantly increase the supply of affordable live-work housing for artists and artisans. (Page 22)

“The City also has the potential to require affordable live/work units, or provision of land for such units, as part of development approvals throughout Berkeley.”

It would be helpful to include some models of this as practiced in other cities.

Encourage adding incremental units, such as accessory dwelling units (ADUs) or low-rise multiplex units, that complement neighborhood character.(page 23)

“There are many opportunities to add one, two or more units to existing properties at relatively modest cost. When sold as condominiums such units can be affordable to middle-income families who have difficulty getting into the current market for single-family homes. Accessory dwelling units (ADUs), even rented at market rate, can also be affordable to middle income individuals. In addition, low-rise multi-family housing such as duplexes, triplexes, courtyard apartments, and multiplexes can also be inserted into existing neighborhoods, and may provide additional opportunities for middle-income families to enter the housing market.”

I encourage some pro forma development. The cost of adding an additional unit to an existing parcel can be higher than you think, particularly if the unit pays required fees.

Opportunities for Expansion: (page 23)

“Where possible the City should encourage addition of family-sized units as well as smaller ADUs. The City Council recently approved a referral to study of the possibility of allowing up to quadplexes into areas currently zoned for a single family home + ADU. These housing types are already allowed in most other zones. Modest incentives such as expedited review of applications, low interest loans or small capital subsidies may be sufficient to persuade property owners who add such units to reserve them for lower-income families. These incentives should be explored, and a program developed to support the reservation of additional neighborhood units for affordable housing. “

I would be happy to provide technical assistance in this area, since I have participated in similar work for Santa Cruz County as part of a larger team.

Opportunities for Expansion: (page 24)

“The Berkeley Student Cooperative serves students in community college and the Cal State system as well as at U.C. Berkeley. It is eligible for funding through the Housing Trust Fund and some Measure O funding could be used to help purchase existing buildings near campus to make them permanently affordable to their student residents, who predominantly come from low-income families. While the City of Berkeley may choose to allocate some Housing Trust Funds to student housing, the University of California should provide the vast majority of funding for this important type of housing, as it is the University’s responsibility to ensure their students are housed.”

How is household income defined if city funds are used? Would income include parent’s income for students supported by their parents in college? Estimating income can be complicated. Do not assume that all students who would want to live in co-ops

predominantly come from low-income families unless the City has actual information to support this assertion.

Policies to Ensure Equity and Sustainability (page 25)

“People at risk of displacement or who have been displaced from Berkeley, in particular those who have been subject to redlining or other discriminatory housing and lending practices in the past, including foreclosures.”

This will require a lot of documentation if it is done accurately. Would the tenant/buyer provide the documentation?

“Artists and artisans who need live-work spaces”

Assume that they are below a certain income threshold?

“Families with children in Berkeley schools”

Assume that they are below a certain income threshold?

“People who work in Berkeley; in particular those who work for the Berkeley Unified School District or in emergency services (firefighters, doctors, police, nurses, etc.)”

Assume that they are below a certain income threshold?

“Locating high densities of housing near or on transit corridors and reducing parking requirements at such developments can yield increased public transit use and greater incidence of people living closer to their workplaces.”

Transit doesn't mean you live closer to your job. And, what about two- or more workers in the household – who work at different locations? While it is true that a location near transit could increase transit use, it may not result in residents living closer to their jobs.

Prioritize the use of public land for the creation of affordable housing. (Page 26)

“Other parcels may also be eligible for housing but would require remediation. For example in 2017, the City purchased a property at 1001 - 1011 University Avenue, with the express intention of converting the property for use as affordable housing.”

This property was purchased without any cost considerations of how much it would take

to re-use it or demolish it. This is not a good approach for the future – it makes more sense to undertake due diligence first. I would not include these properties as good examples of the use of public land, given all the constraints which I have documented in other memos to the City. Let me know if you want me to provide you with the background material again.

POLITICAL STATEMENTS

There are several statements in the longer framework discussion where the phrasing and content appear to be politically motivated. As a professional, these statements “jumped out” at me, and so I have listed them below, along with alternative means of expressing somewhat similar ideas.

Comment on this statement on Page 5: We believe that Berkeley should aspire to make at least 30% of its housing, around 15,000 units, permanently affordable.

This would be a very challenging goal. If it is included, I think it would be a good idea to explain how this could possibly happen.

The Affordability Crisis – Pages 9 and 10

Below, I have copied in several statements from the framework that describe market conditions, and I have provided alternative wording which is less political.

“Owners of older housing stock in Berkeley are able to increase their profits as they ride the exploding demand from high-paid professionals and the increases in UC Berkeley’s student population - squeezing lower-income tenants who must pay most of their incomes to find housing near jobs or family, or end up homeless. “

Owners of older housing stock in Berkeley are able to increase profits (assuming that repair and maintenance costs do not rise as quickly as rents) as they benefit from increased demand from well-paid professionals and UC Berkeley students. This results in the need for lower-income tenants to pay more of their incomes for housing located near jobs or family, or end up homeless.

”But while increased rents at the high end of the market encourage production of new housing that high-wage workers can afford, rent increases in older housing simply generate windfall profits for their owners and fuel displacement of middle and lower income tenants.”

My Comment: These windfall profits would only be possible if a long term owner owns the property (so that there are lower mortgage payments). However, if there is a new owner, it is very unlikely that higher rents would not result in windfall profits, given the higher costs of financing to acquire the property. This topic was my dissertation focus at UC Berkeley, and I would be glad to explain more if anyone is interested.

Statements on page 14:

“Maintaining diversity requires Berkeley to both increase the supply of housing overall and to remove a substantial part of our housing, new and existing, from the speculative market.”

If it is speculative then there is no guarantee that rents would rise. What is actually being described here are market forces. The word “speculative” again adds a slant to the discussion.

“This protected affordable housing should be allocated on the basis of need, using techniques ranging from non-profit and community ownership to regulation of rents (through traditional rent control)”

Berkeley can only operate with Costa Hawkins rent control now, so rent control is not really a solution.

Partner with UC Berkeley to support creation of housing appropriate and affordable to students, faculty and staff. (Page 32)

“The University of California **should** take greater responsibility for housing its students. This will require the Regents to allocate more funding for student, faculty and staff housing and the State legislature to include this funding in the State budget. In addition, the Regents **must stop** the practice of increasing enrollment without regard for the carrying capacity of both UC Berkeley and the City of Berkeley.”

Remember that the university does not need to listen to the City. I would not use language like “should” and “must” given the lawsuit situation.

Codify Deep Green Building standards for healthy and sustainable buildings, and emphasize other measures to increase environmental sustainability. (Page 33)

“Source sustainability produced materials from fair trade, fair wage and culturally and environmentally friendly suppliers.”

Culturally friendly suppliers??? This does not sound right and could be defined in ways that sound less discriminatory and more succinct.

Consent Calendar

35. 1281 University Avenue Request for Proposals

From: Housing Advisory Commission

Recommendation: Direct the City Manager to issue a Request for Proposals (RFP) for residential development at the City-owned site at 1281 University Avenue with a requirement that at least 50% of the on-site units to be restricted to 50% AMI or below households, with consideration given to accommodations that serve unhoused or homeless households, including nontraditional living arrangements such as tiny homes and that Council consider interim use for the site for housing purposes.

Financial Implications: See report

Contact: Mike Uberti, Commission Secretary, (510) 981-7400

Action: Moved to Action Calendar. 3 speakers. M/S/C (Arreguin/Kesarwani) to approve the recommendation as revised below.

Vote: All Ayes.

Refer to the City Manager to issue a Request for Proposals (RFP) for residential development at the City-owned site at 1281 University Avenue with a requirement that 100% of the on-site units to be restricted to 80% AMI or below households with at least 10% at 50% AMI, with consideration given to accommodations that serve unhoused or homeless households, including nontraditional living arrangements such as tiny homes and that Council consider interim use for the site for housing purposes.

36. Spring 2019 Bi-Annual Report on Funding for Housing Programs

From: Housing Advisory Commission

Recommendation: Accept the Housing Advisory Commission's (HAC) recommendations for the allocation of U1 General Fund revenues to increase the supply of affordable housing and protect residents of Berkeley from homelessness.

Financial Implications: See report

Contact: Mike Uberti, Commission Secretary, (510) 981-7400

Action: Referred to the Land Use, Housing, and Economic Development Committee.

37. Appointment of Andrea Prichett to the Mental Health Commission

From: Mental Health Commission

Recommendation: Adopt a Resolution approving the appointment of Andrea Prichett to the Mental Health Commission, as a representative of the general public interest category, for a three year term beginning September 11, 2019 and ending September 10, 2022.

Financial Implications: None

Contact: Jamie Works-Wright, Commission Secretary, (510) 981-5400

Action: Adopted Resolution No. 69,091–N.S.

Vote: Ayes – Davila, Bartlett, Harrison, Robinson, Arreguin; Noes – Kesarwani, Droste; Abstain – Hahn, Wengraf.

To: Housing Advisory Commission (HAC)

From: Marian Wolfe, Vice-Chair

Date: October 3, 2019

RE: NPH Conference – State Housing Bills

I attended the 40th annual NPH Conference on September 20, 2019. One of the major panels consisted of State Assembly members Chiu, Ting, Wicks, and State Senator Scott Wiener.

I found the discussion very useful. I developed this brief memo using additional information I found on the internet. All of these bills have been approved by both the State Assembly and Senate, but I do not believe any of these have been signed by the Governor.

AB 1482 Rent Caps and Eviction Controls

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1482

Establishes statewide rent caps and eviction controls. The rental increase limit is 5% annually (plus inflation) up to a maximum of 10% on existing tenants. Also, properties need to be older (built at least 15 years ago). There will be an assessment of this bill in 2030, implying that it may be changed. Does not apply to owner-occupied units where one or two additional units are rented out.

AB 1486 Surplus Land

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1486

Expands list of land owners beyond local agencies that are currently subject to Surplus Land requirements. The revised list would include “sewer, water, utility, and local and regional park districts, joint powers authorities, successor agencies to former redevelopment agencies, housing authorities, and other political subdivisions of this state.” It would also expand eligible uses for the land. See the actual legislation for more details

AB 1485 Housing Development Streamlining (Referred to in panel as the “missing middle” legislation)

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1485

This bill is an extension of SB35 (streamlining). I believe that the main changes from SB35 are an increase the percent of required units that are required to be affordable in order to use streamlining. Another change is that the required household incomes for these units has been increased. See this quote:

“This bill would modify that condition to authorize a development that is located within the San Francisco Bay area, as defined, to instead dedicate 20% of the total number of units to housing affordable to households making at or below 120% of the area median income with the average income of the units at or below 100% of the area median income...”

Interestingly these changes only apply to the Bay Area.

Projects must consist of 10 or more units.

AB 1487 – Bay Area Development Financing

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1487

“This bill, the San Francisco Bay Area Regional Housing Finance Act, would establish the Bay Area Housing Finance Authority (hereafter the authority) and would state that the authority’s purpose is to raise, administer, and allocate funding for affordable housing in the San Francisco Bay area, as defined, and provide technical assistance at a regional level for tenant protection, affordable housing preservation, and new affordable housing production. The bill would provide that the governing board of the Metropolitan Transportation Commission serve as the governing board of the authority. The bill would require the authority board to provide for regular audits of the authority, including an independent financial and performance audit for bonds secured by ad valorem property taxes, and financial reports, as provided. The bill would include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities within the San Francisco Bay area, including charter cities.”

Voters within each of the nine counties need to approve this measure by a 2/3 vote. The first step is for each County to place the measure on the local ballot. If the voters in a County do not approve the measure, then that County will not be included in the Finance Authority.

This funding bill could raise between \$1 and \$1.5 billion annually. An expenditure plan is included in the language of the bill.

In addition, under AB 1487, jurisdictions would adopt commercial linkage fees of \$10/SF. Nexus studies would be required. I do not know at this time what happens if a jurisdiction already has a commercial linkage fee in excess of \$10/SF.

SB 268 – Limits on the number of words included in Ballot Measures.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB268

This is not a housing bill per se, but was mentioned by the panel. This is an issue that impacts all ballot measures in terms of how many words can be included on the actual ballot to explain a proposed ballot measure. Under this bill, 75 words would no longer be the maximum. Now, language can be more “nuanced” which can help bond and parcel tax measures, according to the panel.

AB 68 – ADU Measure

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB68

This bill makes it easier to build ADUs, including speeding up the approval process from 120 days to 60 days. See Bill language for more details.

Additional Comments Unrelated to Recent Bills

Chiu would like parking areas under apartment buildings to be repurposed and used for ADU construction.

Wicks would like all rental units within the state to be registered.



Health Housing and
Community Services Department
Housing & Community Services Division

MEMORANDUM

To: Housing Advisory Commission (HAC)
From: Jenny Wyant, Community Development Project Coordinator
Date: September 25, 2019
Subject: **Small Sites Program Update**

The City of Berkeley recently closed its first Small Sites Program loan, providing \$950,000 to Bay Area Community Land Trust for the renovation of 1638 Stuart Street. When City Council approved the Small Sites Program in 2018, they directed staff to provide the Housing Advisory Commission and Council with funding applications and staff's analysis. Staff's project review is attached; the Stuart Street Apartments application is available online at <https://www.cityofberkeley.info/ContentDisplay.aspx?id=6532>.

Small Sites Program Overview

The Small Sites Program was created in 2018 as an over-the-counter application process with projects approved by the City Manager. Small Sites Program proposals do not go to the Housing Advisory Commission or City Council for approval. Instead, projects that meet the program criteria receive funding if funding is available. Council allocated \$1 million to the program, and of that, \$50,000 was granted through a competitive process to Bay Area Community Land Trust to be used for capacity building. The remainder was made available through a Notice of Funding Availability released in January 2019. The City received one application in response to the NOFA. Information about the status of funds and applications is posted online.

Stuart Street Apartments

Bay Area Community Land Trust (BACLt) will use the City funds to renovate 8 residential units located at 1638 Stuart Street. The property is owned by the neighboring McGee Avenue Baptist Church, which is leasing the site to BACLt for the 55 year term of the City's affordability restrictions. BACLt plans to create a non-equity cooperative, serving households earning up to 80% of the area median income.

Attachment: Project Review Form

Small Sites Program - Project Review

Applicant:	Bay Area Community Land Trust
Project Name:	Stuart Street Apartments
Project Address:	1638 Stuart Street
Funds Requested:	\$950,000

Project Summary:

BACLT proposes to renovate 8 residential units located at 1638 Stuart Street. The property is currently owned by McGee Avenue Baptist Church, and has been vacant for more than 20 years. The buildings are in poor condition, and if they continue to deteriorate beyond the point of repair, current zoning could limit replacement development to two units. BACLT proposes to enter into a 57 year lease with MABC, renovate the property, then rent them to households earning up to 80% of the area median income. If there is sufficient interest amongst the future residents, BACLT intends to operate the property as a non-equity cooperative and encourage as much resident management as possible.

Program Objectives:

Are residents at imminent risk of Ellis Act evictions?	No
Is the property occupied?	No
Do the existing residents include vulnerable populations (i.e. families with minor children, elderly, disabled, and catastrophically-ill persons)? <i>If yes, describe vulnerable population, below.</i>	No
Property is vacant.	
Average AMI of current residents:	n/a
Subsidy per unit:	\$ 118,750
Number of affordable units proposed:	8
Proposed conversion to cooperative?:	Yes

Developer Experience and Capacity

Developer must have completed one comparable project, and have the demonstrated capacity to undertake the proposed project.

BACLT has been involved with several renovations over the past few years, as the developer and co-developer. BACLT had a project management role in two renovations, which had a combined total development cost of \$350,000. BACLT most comparable project was an acquisition and renovation project with a budget of \$1.8 million, which BACLT co-developed with the San Francisco Land Trust.

Stuart Street Apartments

Property Eligibility

Total number of units:	8
Do all residential units meet the City's definition of 'dwelling unit'?	Yes
Is the majority of the property residential?	Yes

Project Scope

Does the proposed renovation meet the health and safety needs of the project?	Yes
Is the renovation scope and budget supported by a physical needs assessment (PNA) of the property?	Yes

Project Budget

Is the proposed City loan leveraged with private financing?	Yes
Is the proposed per unit subsidy under the program limits?	Yes
Is the acquisition price substantiated by an appraisal showing both the fair market value and the anticipated restricted value?	n/a
Are fees charged to the project reasonable?	Yes
Is the developer fee less than the program limit of \$80,000 plus \$10,000 per unit, not to exceed 5% of project costs (excluding the developer fee)?	No. See Exception.
Are construction management fees less than \$25,500?	n/a
Does the renovation budget include state prevailing wage rates?	Yes
Construction contingency (must be 15% or higher)	16%
Soft cost contingency (must be 15% or higher)	15%
Do the reserves comply with the following?	
Operating: 25% of budgeted 1st year operating expenses	25%
Replacement: Greater of \$2,000 per unit or the amount necessary to pay replacement costs for the next 10 years, as specified in the PNA.	Yes - \$16k.
Vacancy: The monthly rent for units (residential and commercial) vacant at acquisition, multiplied by the number of months expected to remain vacant during renovation and lease-up.	No - \$24k reserve, equal to 1.9 months rent

Operating Proforma

Is there a positive cash flow for 15+ years after project completion?	Yes
Do the vacancy rates meet or exceed program requirements (5% residential, 20% commercial)	Yes
Do the reserve deposits comply with the following:	
Operating: None unless balance drops below 25% of prior year's operating expenses	Yes
Replacement: The higher of a) the amount needed according to the approved 20-year PNA, or b) \$400 per unit per year (\$350 per unit for projects with 11+ units)	\$400 pupa

Stuart Street Apartments

Existing Tenants and Affordability

Have 75% of existing households acknowledged their agreement to participate (in the conversion to restricted affordability and cooperative conversion, if applicable)?

n/a

Does the project have an average affordability of 80% of the area median income (AMI)?

Yes - all units at 80%

Do 66% or more of the existing households income-certify, with incomes averaging up to 80% AMI? Up to 34% of households may be over-income (above 120% AMI) or refuse to certify.

n/a

Limited Equity Housing Cooperative

Is applicant proposing to convert the property to a limited equity housing cooperative (LEHC) or similar model?

Yes

Applicant experience with cooperative conversion:

BACLT has four cooperatives that are part of the land trust.

Exceptions to the Program Guidelines

Did the Applicant request or does the project require any exceptions to the program guidelines?

Yes

Describe exceptions, below.

BACLT requested to cap all units at 80% AMI (rather than achieving an average AMI of 80%).
 - 1638 Stuart has no existing tenants, and BACLT has demonstrated that the project will have a positive cash flow if rents are capped at 80% AMI.
BACLT requested a \$120,000 developer fee, in excess of the program standards.
 - SSP allows the lesser of 5% of development costs, or \$80,000 plus \$10,000 per unit.
 - BACLT's developer fee would therefore be the lesser of 5% (~\$110,900) or \$160,000.
 - BACLT's total development costs do not include site acquisition, so its development costs are lower than a project involving acquisition.
Low vacancy reserve (\$24,000)
 - Requirement assumes the project is operating during construction. Stuart is vacant and will not be operated until construction is complete, so a higher vacancy reserve is not necessary.

Funding Recommendation/Funding Contingent Upon

Fund BACLT at \$950,000, contingent upon:
 - BACLT securing a first mortgage in an amount sufficient to make the project feasible
 - Lease and loan terms satisfactory to the City
 - Confirmation of which planning or zoning approvals may be necessary
 - Submission of an approved marketing plan
 - City completion of CEQA analysis



Planning and Development Department
Office of Energy and Sustainable Development

MEMORANDUM

To: Housing Advisory Commission
From: Sarah Moore, Sustainability Program Manager
Date: September 24, 2019
Subject: Berkeley Building Code Adoption

Overview

This memo provides a brief overview of the proposed Berkeley Building Code, which is based on the 2019 California Building Standards Code and incorporates new local amendments that seek to limit the greenhouse gas emissions associated with buildings and vehicle transportation. Every three years, the California Building Standards Commission updates the California Building Standards Code (California Code of Regulations, Title 24). This Code provides the minimum standards to which new buildings, additions, and alterations must be constructed. The 2019 California Building Standards Code will become effective on January 1, 2020. Local governments, based on findings of local climatic, geological, or topographical conditions, and in the case of the Energy Code, also cost-effectiveness, have the authority to adopt local amendments that are stricter than the California Building Standards Code.

Background

Berkeley traditionally adopts local amendments based on factors such as seismic activity, fire danger, and vulnerability to sea level rise. The California Building Standards Code, with Berkeley's local amendments, is collectively known as the Berkeley Building Code, codified in the Berkeley Municipal Code, Title 19, and enforced through plan checks, permit issuance and inspections conducted by the Building & Safety Division of the Department of Planning and Development.

Several new local amendments to the California Building Standards Code are being proposed for City Council's consideration for this Code cycle (first reading anticipated on November 12; second reading on Dec 3) based on direction from City Council. Specifically, City Council declared a Climate Emergency on June 12, 2018 ([Item 49](#)), and has directed the City Manager and Commissions to increase requirements for energy efficiency and the replacement of fossil fuels with electricity in buildings and vehicles through:

- *Berkeley Deep Green Building Initiative* (February 28, 2017, [Item 27](#)) directing the City Manager and Energy Commission to develop policies and programs to improve the energy efficiency and sustainability of buildings. The response to this referral (June 26, 2018, [Item 52](#)) included the development of local amendments

to the Energy Code and California Green Building Code (CALGreen) in conjunction with the 2019 Code cycle; and

- *Referral to the Energy Commission and the City Manager: Electric Vehicle Charging Ordinance* (June 13, 2017, [Item 44](#)); and
- *Adoption of an Ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code Prohibiting Natural Gas Infrastructure in New Buildings* (July 16, 2019, [Item C](#)). This Ordinance, adopted at its second reading on July 23, 2019, prohibits natural gas infrastructure in new buildings, with specific exceptions and a public interest exemption, applying for land use permits on or after January 1, 2020.

These City Council actions stress the impacts of greenhouse gas emissions on climate change, including vulnerabilities in Berkeley such as rising sea levels that threaten the City's shoreline and infrastructure and increases in temperatures, drought conditions, and the length of fire seasons. Health impacts, such as asthma, due to poor outdoor and indoor air quality are associated with the combustion of gasoline and diesel in vehicles and natural gas in homes, which disproportionately impacts Berkeley's communities of color and low income households.

Berkeley Building Code

The proposed Berkeley Building Code includes new requirements that reduce the greenhouse gas emissions associated with buildings and vehicle transportation. The Berkeley Building Code must be adopted by City Council, in advance of the January 1, 2020 effective date of the California Buildings Standards Code. The California Building Standards Code (California Code of Regulations, Title 24) consists of the following parts: Building Code (Part 2), Residential Code (Part 2.5), Electrical Code (Part 3), Mechanical Code (Part 4), Plumbing Code (Part 5), Energy Code (Part 6), Historical Code (Part 8), Fire Code (Part 9), Existing Building Code (Part 10), and CALGreen (Part 11); all are incorporated into the Berkeley Building Code. Newly proposed amendments include:

Electric-favored Reach Code (Energy Code Amendment)

To complement the Prohibition of Natural Gas Infrastructure in New Buildings, adopted by City Council on July 23, 2019, an electric-favored reach code (a local amendment to the Energy Code) is being proposed. The 2019 Energy Code requires solar photovoltaic (PV) systems on new single family and low-rise residential buildings (3 stories or less). The proposal extends this solar PV requirement to nonresidential buildings, high-rise residential buildings, and hotel/motels.

In addition, it provides two pathways for new buildings to demonstrate compliance with the Energy Code. New buildings must either be constructed as all-electric, meaning that no natural gas or propane plumbing is installed within the building, or must exceed the energy efficiency requirements of the Energy Code by 10% for nonresidential buildings, high-rise residential buildings, and hotel/motels, or by 10 total Energy Design Rating (EDR) points for single-family or low-rise buildings. Both of these compliance pathways have been found to be cost-effective by the California Energy Codes and Standards

Program (July 2019), but the all-electric construction, utilizing efficient heat pump technology, is lower cost and produces more savings in greenhouse gas emissions.

The proposal also includes electric-ready requirements for any natural gas appliance in a new building, to support future electrification. The proposed reach code is based on Statewide Cost Effectiveness Studies (Low-Rise Residential and Nonresidential New Construction) and model code language that was collaboratively developed by the California Energy Codes and Standards Program, Building Decarbonization Collaborative, and several Community Choice Aggregations (CCAs) including East Bay Community Energy, Alameda County's new electricity provider. Staff has also been working with nearby jurisdictions, including Oakland and San Francisco, to promote regional consistency.

Residential Stove Hoods

Current requirements for kitchen hoods are limited to commercial cooking appliances. The proposed amendment to the Mechanical Code would also require kitchen range hoods, with a minimum air flow of 100 cfm and a maximum sound rating of 3 sones, on residential stoves within new individual dwelling units. This proposal addresses indoor air quality and health concerns, particularly associated with cooking.

Electric Vehicle Charging Requirements

The proposed amendments extend the electric vehicle (EV) charging readiness requirements of CALGreen through low-cost requirements for new construction that facilitate future EV charging, and the significant reduction of greenhouse gas emissions associated with use of EVs in comparison to gasoline or diesel-powered vehicles. EV Ready spaces, parking spaces with conduit, electric service capacity, and wiring to allow for a simple installation of a Level 2 EV charging station in the future, are proposed for all parking spaces at new one- and two-family homes and at 20% of parking spaces in new multifamily buildings with 3 or more units. In addition, the remaining 80% of parking spaces at new multifamily dwellings would be conduit and raceway equipped, meaning that conduits at concealed areas and electrical breaker space would be provided, so that EV charging stations could be added in the future without building modifications, likely supported by an EV Management System that would allocate charging capacity between the stations.

As proposed, new office buildings would be required to have EV Supply Equipment (EVSE), also known as EV charging stations, at 10% of parking spaces and equipped with conduit infrastructure measures at 40% of parking spaces, to enable workplace charging. Other types of new nonresidential buildings would require EVSE at 5% of parking spaces and conduit infrastructure measures at 20%. These proposals are based on existing requirements in Oakland and San Francisco, and model code developed by CCAs including East Bay Community Energy; staff has also worked to promote regional consistency with other local jurisdictions, like San Jose, who are working to adopt EV charging requirements in this Code cycle.

Low-Carbon Concrete

Proposed local amendments include requirements for low-carbon concrete in new buildings, utilizing recommendations from a Bay Area Air Quality Management District funded research project for the County of Marin. Cement used in concrete is the largest single material source of embodied emissions in buildings and is responsible for 8% of global emissions. Replacing cement with alternatives, such as fly ash or slag, can reduce total emissions for concrete by 50%. The proposed requirements reduce the greenhouse gas emissions associated with this common carbon-intensive building material, while maintaining the strength and durability required for safe construction.

Other Requirements

In addition to the newly proposed local amendments to address energy efficiency and electrification of buildings and transportation as directed by City Council, other local amendments will be retained from the existing Code cycle. For example, construction and demolition waste requirements that exceed CALGreen by requiring that 100% asphalt, concrete, excavated soil and land-clearing debris be diverted from disposal by recycling, reuse, and salvage, in addition to the general 65% diversion requirement.

Newly proposed local amendments also reflect the addition of previously adopted requirements for Emergency Housing (June 12, 2018, [Item 42](#)) and Building Code amendments with regional climatic, geological, or topographical conditions to promote consistency with neighboring jurisdictions.

Please contact Sarah Moore, Sustainability Program Manager, at (510) 981-7494 or smoore@cityofberkeley.info, or Alex Roshal, Chief Building Official and Manager of the Building and Safety Division, at (510) 981-7445 or aroshal@cityofberkeley.info, with any questions.

Uberti, Michael

From: Lovvorn, Jennifer
Sent: Wednesday, September 25, 2019 11:51 AM
To: Housing Advisory Commission
Subject: Civic Arts Commission's friendly amendment to Affordable Housing Framework
Attachments: Affordable Housing Artists Artisans Cultural Workers7-24-19.docx

Hello Mike,

I am contacting you relative to your role as Secretary to the Housing Advisory Commission. I am the secretary to the Civic Arts Commission.

Relative to the Affordable Housing Framework that is being discussed by your Commission, please let your Commission members know that the Civic Arts Commission approved a friendly amendment to the framework at its regular meeting on July 24, 2019:

[https://www.cityofberkeley.info/uploadedFiles/City_Manager/Level_3_-_Civic_Arts/7.24.19%20Minutes%20Draft\(1\).pdf](https://www.cityofberkeley.info/uploadedFiles/City_Manager/Level_3_-_Civic_Arts/7.24.19%20Minutes%20Draft(1).pdf)

Attached is the language for their amendment to expand the framework's recommendations regarding affordable housing for artists, artisans, and cultural workers. Please share this information with your Commission members.

I have also forwarded this to the Measure O Oversight Committee.

I believe that the Civic Arts Commission is preparing an informational report to Council, but since this topic is moving quickly through review we wanted to make sure that it was considered by the Committees and Commissions who are weighing in on the framework.

If you have any questions, please let me know.

Regards,
Jen

Jennifer Lovvorn
Chief Cultural Affairs Officer
Civic Arts Program

City of Berkeley
Office of Economic Development
2180 Milvia Street, 5th Floor
Berkeley, CA 94704

Pronouns: She/Her

T: 510-981-7533
JLovvorn@CityofBerkeley.info

Policy Statement development Civic Arts Commission's Policy Subcommittee and Berkeley Cultural Trust's Space Committee

Approved by the Civic Arts Commission 7/24/19

Amendment Recommendations for Section 4 on page 30:

4. Significantly increase the Supply of Affordable Housing and Live/Work Housing for Artists, Artisans, and Cultural Workers

Berkeley has a long tradition of live-work housing, mostly located in West Berkeley, and much of it lacking legal recognition. There are only a few units of permanently affordable live-work housing citywide. In part this is because it is difficult to use State and Federal subsidies for this purpose. In addition, certain subsidy program regulations make it difficult to allocate live-work housing to the artists and artisans that it is intended for.

As an alternative, live-work housing can easily be organized to include resident ownership or resident participation in property management.

While West Berkeley is a geography that presents the potential for a greater number of units, we recommend that the overall strategy consider citywide affordable housing opportunities for artists and cultural workers.

Opportunities for Expansion:

Live-work units are allowed in most of Berkeley's Commercial and Manufacturing districts. Measure O and Measure U1 both provide funding that can be used for affordable artists and artisan live-work housing using ownership or other participatory models. The City also has the potential to require affordable live-work units, or provision of land for such units, as part of development approvals throughout Berkeley.

Explore opportunities for artists and cultural workers in each relevant Affordable Housing strategy and consider additional strategies.

- **Immediate Need For Zoning Ordinance addition:** With regards to the West Berkeley MULI district, we recommend all live/work units newly built or remodeled to be rented or sold shall be affordable up to 50% AMI to artists and cultural workers.
- **ADUs** could benefit artists and cultural workers.
- **Larger scale affordable housing projects** could contain artists' live/work spaces and cultural worker living spaces as part of the overall project design.
- **Incentivize developers of market rate housing to include affordable live/work** units onsite for creative workers rather than paying affordable housing mitigation fees, especially in transit-oriented developments.
- **The Small Sites Program** could provide opportunities for groups of artists and cultural workers to buy and maintain properties.
- **Identify additional opportunities** to cultivate and create affordable housing cooperative models for artists. This tested model could significantly impact the displacement of artists and artisans, cultural workers, and foster hives of creativity. Emeryville, Boston, and New York can provide possible models for the city of Berkeley.

- **Community Land Trust** ownership of artist live/work buildings could preserve existing artist live/work spaces as affordable and prevent displacement.¹
- **Develop underutilized City-owned buildings** as an artist live/work spaces.²
- **Incentivize underutilized retail space** city wide artists live/work space
- **Prevent displacement of artists in West Berkeley by developing policies to protect existing live/work spaces from being displaced by cannabis businesses (such as cannabis product manufacturing).**

In conclusion, use an overarching lens of inclusion for artists and cultural workers in each recommended affordable housing strategy to identify a range of suitable ways to increase the overall supply of affordable housing.

Footnotes:

1. See example <https://www.kqed.org/arts/13839406/art-studios-saved-as-oakland-community-land-trust-acquires-first-live-work-building>
2. See example: <https://www.kqed.org/arts/12578740/affordable-housing-for-artists-santa-cruz-shows-bay-area-how-its-done>



East Bay Housing Organizations

September 5, 2019

Mr. Mike Uberti
Secretary
Housing Advisory Commission
Health, Housing and Community Services Department
2180 Milvia Street, 2nd Floor
Berkeley, CA 94704

Dear Mr Uberti:

I write this letter on behalf of East Bay Housing Organizations (EBHO) to provide comments to the Housing Advisory Commission on "Housing for a Diverse, Equitable and Creative Berkeley: A Framework for Affordable Housing". EBHO is a 35 year old membership organization committed to creating, preserving and protecting affordable housing opportunities for low-income residents of the East Bay. Many of our members live and/or work in the City of Berkeley.

We wish to express support for the overall direction of the framework in working to increase affordable housing opportunities in the City of Berkeley. Our one major area of concern involves the recommendation that the City's policies regarding inclusionary units might be shifted toward the low and even moderate income populations, with potentially higher percentages of inclusionary units required than the current 20%, and away from their current focus on the very low income population. While there is a need for assistance to the low to moderate income population (80% to 120% of AMI) that need is most pronounced in terms of helping individuals and families access homeownership, less in terms of the rental market. EBHO also knows that lower income communities have been hardest hit by the housing affordability crisis. We would, therefore, prefer to see the tool of inclusionary rental units continue to be directed at housing for the very low income population, while other policies related to affordable homeownership could be targeted to the population between 80% to 120% of AMI.

EBHO looks forward to continuing to engage with the City and community residents during the process of adoption and implementation of the Affordable Housing Framework, working towards an equitable outcome for all the residents of Berkeley.

Sincerely,

Rev. Sophia DeWitt
Program Director

Uberti, Michael

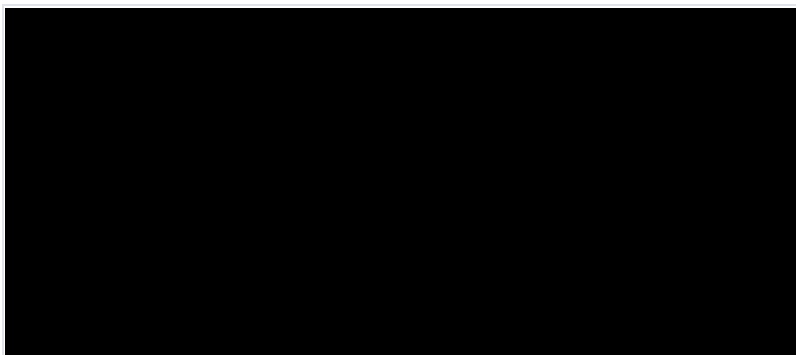
From: C schwartz <cschwartz29@yahoo.com>
Sent: Sunday, September 08, 2019 3:15 PM
To: Housing Advisory Commission
Cc: muburti@ci.berkeley.ca.us; Davidson, Amy
Subject: Video for City of Berkeley, HOUSING ADVISORY COMMISSION, Regular Meeting for September 5, 2019 by Christine Schwartz

Hello,

If you are interested, please see the above described videos, below.

All my best,
Christine Schwartz
Community Volunteer Videographer

[COB HOUSING ADVISORY COMM Reg Mtg 9/5/19 by Christine Schwartz](#)



**COB HOUSING ADVISORY COMM Reg Mtg
9/5/19 by Christine Schwartz**

City of Berkeley - HOUSING ADVISORY COMMISSION Reg
Mtg, Thursday, September 5, 2019 7:00 pm South Berkeley
Senio...

Uberti, Michael

From: Matthew Lewis <mrlewis125@gmail.com>
Sent: Thursday, September 26, 2019 1:55 AM
To: Homeless Services Panel of Experts; Housing Advisory Commission; Measure O Oversight Board
Subject: People's Policy Project White Paper on Solving the Housing Crisis Through Social Housing
Attachments: Social Housing White Paper.pdf; Social Housing Landing Page.pdf

Dear Commissioners,

I am writing to you in support of the "Housing for a Diverse, Equitable, and Creative Berkeley" policy framework that the city council referred to you, specifically to recommend some key guidelines for the portion on constructing new non-profit affordable units. **The City of Berkeley has the opportunity to implement the new construction portion of the framework on a scale never before seen in our history, even without new taxes** (though I would I would highly recommend new taxes, as doing so would make this much easier).

It is likely that you will come to the unfortunate realization that Measures O, P, and U1 do not actually raise that much money (at least relative to the size of our housing affordability crisis). But even though these three measures alone are not enough to reach 30% permanently affordable housing through traditional methods, **Berkeley can easily reach 30% - or better yet a majority, and eventually 100% - permanently affordable social housing with the necessary political will.** Even if we ignored the potential for Berkeley voters to approve additional taxes for affordable housing (to say nothing of Prop 13 reform, which will be on the ballot next November), the city could easily fund large-scale, mixed-income social housing developments through revenue bonds.

Unlike general obligation bonds, which require voter approval, **revenue bonds do not require voter approval.** However, because (this type of) revenue bonds are not financed through a tax increase, the developments they finance must be at least revenue-neutral. Fortunately, **as outlined in the [People's Policy Project's Social Housing in the United States white paper](#) by Peter Gowan and Ryan Cooper (which I've attached), permanently affordable social housing developments can easily be made revenue-neutral (or even net-positive) by structuring them as mixed-income developments.** Essentially, the highest income tenants would pay market-rate rents. Because market-rate rents are higher than the cost threshold of financing the development, the difference can then be used to subsidize lower-income tenants so they pay less than market rate (see figures 3, 4, and 6 in the appendix for examples of this economic model). Unlike with privately-owned (i.e. profit-maximizing) housing, this cross-subsidy model works in social housing because there is no capitalist landlord with a mandate to simply pocket the higher rents on wealthier tenants (and seek only the wealthiest tenants).

By utilizing existing revenues, new tax revenues, and revenue bonds (or even only revenue bonds), Berkeley can finance unlimited mixed-income social housing developments. Furthermore, **the city can make these developments even stronger financially through special density bonuses** (including increased heights) for such mixed-income social housing projects. With land prices being the greatest factor in the cost of housing, allowing more social housing units per acre would allow the rents on such developments to have a greater percentage of lower income tenants and/or offer them deeper subsidies. Unlike density bonuses for private developers, which offer a significant financial windfall for the developer, such density bonuses that are exclusive to social housing developments would keep all windfalls in public hands (whether through lower rents, increased capital for the public developer to build other affordable developments, new city revenue for other municipal services, or some combination of the preceding). **In fact, such special density bonuses could easily make social housing developments more competitive than private developments.**

It is worth noting that only would using this model simply be good policy, it would also meet two of the key guidelines put forth by the East Bay Democratic Socialists of America (East Bay DSA) in response to the social housing framework:

- **"Universal:** homes available for renters of all incomes in each building, free of segregation by income or race"
- **"Permanently affordable:** rent is based on ability to pay, with up to 100% subsidy for poor renters, subsidized by taxing the wealthy, along with secure rental leases that can only be ended with just cause, not by changes in income."

I strongly encourage your commission to explicitly recommend to the city council both of those guidelines (especially with a specific recommendation to follow the mixed-income economic model of the Peoples' Policy Project white paper), as well to explicitly recommend the other two key guidelines put forward by East Bay DSA:

- **"Democratic control:** permanent public or community not-for-profit ownership of land and buildings, forever protected from privatization and the speculative market; managed by democratically accountable entities, public workers, and residents." (Given the history of the Berkeley Housing Authority, I will specifically note that democratic control of social housing does not have to mean municipal ownership. Instead, it can come in a variety of models, including municipal ownership, community land trusts, [Mutual Housing California](#)'s model, the [Berkeley Student Cooperative](#)'s model; if you wish to review the latter two models, please see attachments 5 and 6 respectively of the Housing Advisory Commission Social Housing Subcommittee's August 17 [agenda packet](#).)
- **"High quality:** beautiful and durable construction, ample community spaces, and permanently guaranteed maintenance budgets."

Finally, I would encourage you to explicitly recommend two other key guidelines:

- **Large-Scale:** Berkeley is suffering from a catastrophic lack of affordable housing. While building 100 new units of affordable housing, or even 1000 units of new affordable housing, would help some people, it simply is nowhere near enough given the size of the problem. Revenue bonds and the People's Policy Project model would allow us to produce as much social housing as we need to completely solve the crisis. We must not pass up this opportunity. We must implement the project to the fullest.
- **Full Support for Student Housing:** Students make up a significant (and due to the UC Berkeley campus's callous over-enrollment, increasing) percentage of Berkeley's population. With essentially all federal programs and various state and county programs excluding students from affordable housing programs (and the campus seemingly only interested in raw numbers of housing units, students' demands over affordability and location be damned), the City of Berkeley is (unfairly) students' only potential hope of funding for affordable housing. Especially in recent years, the Berkeley Student Cooperative has been an incredibly successful model of social housing for students (not to mention meeting most if not all of the key guidelines of East Bay DSA). Unfortunately however, the Berkeley Student Cooperative is not large enough to meet the demand for affordable student housing. The city must support students by ensuring the social housing framework includes explicit support for students through the Berkeley Student Cooperative.

In summary, through the use of revenue bonds to finance mixed-income social housing developments, the City of Berkeley can easily implement the social housing framework far beyond just 30% of housing being permanently affordable. Please support the social housing framework, including with an explicit recommendation to incorporate universality, permanent affordability, democratic control, high quality developments, large scale implementation, and full support for student housing in the new construction portion.

Sincerely,

Matthew Lewis

Former Housing Advisory Commissioner and Housing Trust Fund Subcommittee Chair*

Current "Invited Expert"*** to the Housing Advisory Commission Social Housing Subcommittee*

Steering Committee Member and Social Media Coordinator, Yes on Measure U1 Campaign*

* Titles for identification purposes only

** Informal title used by the subcommittee chair

P.S. If you are currently reading this communication on a (black and white) physical print-out and wish to view the color versions of the figures from the white paper's appendix, please go to tinyurl.com/vc4jfkvm.

SOCIAL HOUSING IN THE UNITED STATES



PETER GOWAN
& RYAN COOPER

People's Policy Project

COVER & SECTIONS

Bauer, Paul. *Study #2.*

Photographs of Alt-Erlaa in Vienna. Images appear through license by the artist.

PAULBAUER.NET

ABOUT

People's Policy Project is a think tank founded in 2017. The primary mission of 3P is to publish ideas and analysis that assist in the development of an economic system that serves the many, not the few.

PEOPLESPOLICYPROJECT.ORG

AUTHORS

Peter Gowan is a Dublin-based researcher. His work has appeared in *Jacobin*; and he has performed research on housing and labor markets for the Irish Social Democrats.

Ryan Cooper is a National Correspondent at *TheWeek.com*. His work has appeared in the *Washington Monthly*, *The New Republic*, and the *Washington Post*.

COLOPHON

Titles are set in Futura PT.
Body is set in Neutraface Text.
Data values are set in Franklin Gothic.

Design by **Jon White.**



America faces a major shortage of affordable housing. Nearly half of all renters are paying 30% of their income on rent—or more. And the number of households who are renting is near postwar highs. Meanwhile, private market-focused policies have proven completely inadequate for ameliorating this problem.

In this paper, we shall argue that large-scale municipal housing, built and owned by the state, is by far the best option for solving the affordability crisis. In **PART I**, we will examine the history and policy failures that created the crisis. In **PART II**, we will make the case for municipal housing.



1

THE AFFORDABILITY CRISIS

THE AMERICAN POOR AND WORKING CLASS HAVE NEVER BEEN WELL-housed, but the 2008 financial crisis made a bad problem worse. It dramatically expanded the population of people seriously burdened by the need for shelter. The crash was rooted in the housing market, and the ensuing tidal wave of foreclosures (see People's Policy Project report: *Foreclosed*) resulted in a drop in the homeownership rate of 6 percentage points.¹

Most of those people ended up on the rental market. A 2017 study by Harvard's **Joint Center for Housing Studies (JCHS)** details how the population of renters has grown over the last decade to a total of about 43 million households. That increase of about 9 million² since the financial crisis roughly matches the number of homes lost during and after the crisis,³ and the growth in demand drove up rents across the country.

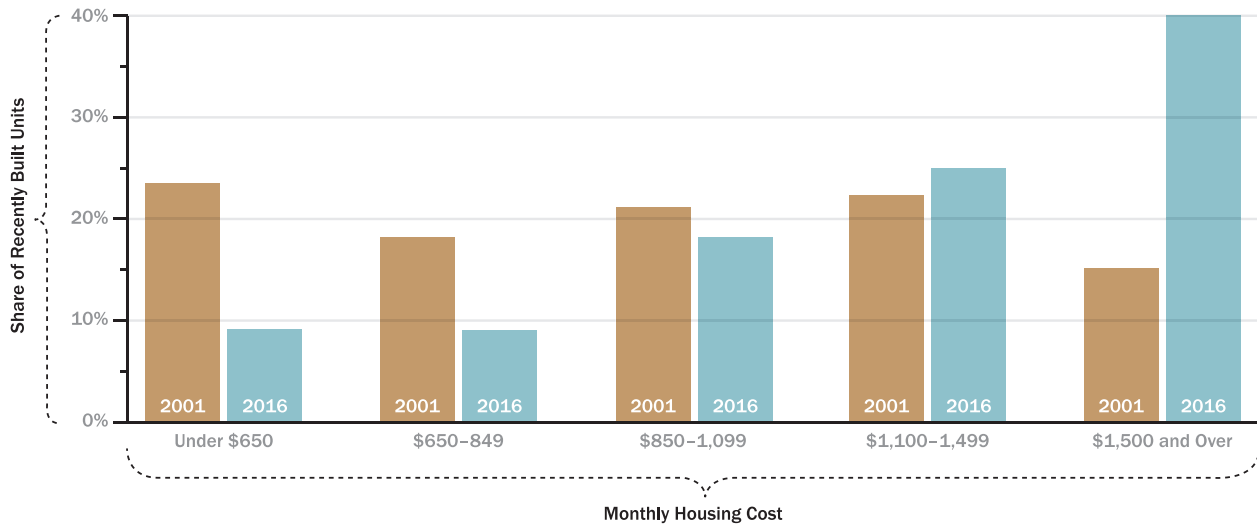
The growth in demand, in tandem with federal government stimulus spending,⁴ eventually sparked a construction boom. After an initial collapse to record lows for years after the crisis, residential investment increased sharply, led by new rental construction. By 2015, however, new unit construction had only reached 400,000 per year⁵—this matches unit construction levels in the late 1980s, when the population was 25 percent smaller.⁶

Meanwhile, new construction has been heavily concentrated in the luxury markets in major metropolitan areas. Where in 2001, construction was fairly equally distributed between cheap, mid-range, and luxury rentals, now the luxury market is by far the largest:

FIGURE 1 ON NEXT PAGE >

FIGURE 1

Additions to the Rental Stock Are Increasingly at the Higher End



NOTES: Recently built units in 2001 (2016) were constructed in 1999-2001 (2014-2016). Monthly housing costs include rent and utilities and are in constant 2016 dollars, adjusted for inflation using the CPI-U for All Items Less Shelter. Data exclude vacant units and units for which no cash rent is paid.

SOURCE: JCHS tabulations of US Census Bureau, 2001 and 2016 American Community Survey 1-Year Estimates.

Over the last year, the growth in rental households has stopped or even reversed—but rent prices are still growing (at 2-4 percent in 2017, down from 3-6 percent in 2015). And the number of burdened renters remains substantially above its pre-crisis level. In 2007, 8 million households spent 30-50 percent of their income on rent; in 2017, that number was at 9.8 million. In 2007, 9 million households spent 50 percent or more of their income on rent; in 2017, that number was at 11 million. These burdened renters (paying 30 percent of their income or more on rent) now account for 47 of all renters.⁸ Meanwhile, some people who would have been homeowners in decades past now appear leery or incapable of home buying. The share of households making over \$100,000 and renting has increased from

12 percent in 2006 to 18 percent in 2016,⁹ while stagnant or declining wages for many demographics mean a down payment is simply out of reach.¹⁰ Both developments mean further pressure on rental markets.

Despite the fact that rent pressure remains severe and future growth prospects for rental construction remain fairly strong, the construction boom is already slowing. As the Joint Center for Housing Studies concludes, “The rental market thus appears to be settling into a new normal where nearly half of renter households are cost burdened.” That includes many middle and upper-middle class households: 50 percent of those making \$30,000-45,000, and 23 percent of those making \$45,000-75,000.¹¹

The situation for poor and working-class households, of course, is even worse. An Urban Institute study identified 11.8 million **extremely low-income (ELI)** renter households (defined as those making less than 30 percent of the median income in their area), and only enough “adequate, affordable and available” housing for 46 percent of them—even when accounting for USDA and Housing and Urban Development subsidy programs¹² (see below).

In Los Angeles, the homeless population increased nearly 26 percent last year.

Naturally, this tends to push people onto the street. Obama administration programs for homeless shelters and similar institutions precipitated a substantial decline in the number of homeless people between 2007 and 2016, but skyrocketing rents are overwhelming those programs in some cities. From 2016-17, homelessness increased by 0.7 percent overall,¹³ an increase driven mostly by West Coast cities experiencing spectacular rent increases. In Los Angeles, for example, rents have increased by roughly a quarter since 2010—and the homeless population increased nearly 26 percent last year. By itself, the city accounted for well over half of a 9 percent increase in the national unsheltered homeless population.

Efforts to remedy the housing shortage and ease the rent burden have been pitifully inadequate, both at the city and fed-

eral level. The nation's major program to ease rents is the Section 8 voucher program administered by HUD, which assists about 2.5 million ELI households by subsidizing a portion of their market-rate rents.¹⁴ While that is certainly better than nothing, the program only covers about 22 percent of the 11.8 million ELI households who are eligible. Another 21 percent have been able to find market-rate housing, 2.5 percent are covered under the USDA Section 515 program, and the remaining 54 percent are simply left out.¹⁵

Thus, these programs are restricted to ELI households, and only help about a quarter of even that small population. They simply do not touch the vast majority of people trapped by the affordability crisis. What's more, like any open-ended subsidy to private providers, these sorts of rental subsidies can stoke the rental market further, raising prices overall and exacerbating the affordability crisis.



MEANWHILE, THE MAJOR STRATEGY TO CREATE MORE AFFORDABLE UNITS

is to coax the private market using tax incentives and zoning rules. The largest such program is the federal **Low-Income Housing Tax Credit (LIHTC)**, under which some 90 percent¹⁶ of new affordable housing is built. This gives a tax credit to developers for building low-income housing.

Once again, one of the biggest problems with this program is its pitiful size: it only provided about \$300 per rent-burdened household in 2017, at a total investment of just \$8 billion.¹⁷ This would not be remotely adequate to make a serious difference in the size of the housing stock even if the program were exceptionally efficient. But it isn't efficient, either: on the contrary, research suggests¹⁸ that at least some of the new housing created under the tax credit would have been created anyway. Crime also undermines the program's efficiency: a Frontline investigation discovered substantial corruption in the LIHTC process, helping to account for the fact that while the cost of the credit has increased by 66 percent from 1997-2014 the number of units created under the credit has actually fallen from over 70,000 per year to less than 60,000.¹⁹

Moreover, because subsidized units are often placed in poor neighborhoods to avoid political resistance, they tend to increase segregation and concentrate poverty.²⁰ The program also amplifies segregation in the other direction, according to a study from the Institute on Metropolitan Opportunity,²¹ which found that subsidized units occupied by white people (often designated especially for artists) tended to be placed in white neighborhoods.

Finally, the affordability requirements under LIHTC generally lapse after either 15 or 30 years. And the 2017 Republican tax bill also dented the usefulness of the credit (see below).



THE SECOND PRONG OF THIS HOUSING STRATEGY IS “INCLUSIONARY ZONING,” which mandates that new residential projects include some fraction of affordable units. There are a huge variety of approaches under this umbrella, but once again they are plagued by problems of scale and efficiency.

Some cities have tried a smaller version of the federal approach—most importantly New York City, which has a similar tax credit costing the city \$1.4 billion in 2016.²² The program has created some new housing, but some developers have also gamed the system by forcing tenants out of existing affordable units, destroying those buildings, and then collecting city tax money to build a new party high-end development. This is a waste of money and a waste of space: the luxury units private developers naturally include in their inclusionary projects tend to be much larger than affordable or mid-range units, meaning less housing per unit of land overall.

Efficiency problems aside, none of these programs are remotely big enough to match the scale of demand. For example, a

A Brooklyn development that was 80 percent affordable had over 87,000 applications for its 200 affordable units.

Brooklyn development that was 80 percent affordable—a far greater fraction than the usual scheme²³—had over 87,000 applications for its 200 affordable units.²⁴ Between 2013 and October 2017, the NYC government financed a mere 78,000 units.²⁵ And the vast majority of those units weren't new construction; they were existing units maintained at an affordable rate rather than lapsing into the upscale market.

Another strategy is rent control, which has been adopted in various forms in many cities. With "hard" rent control, the rate of rent increase is restricted based on a formula (typically tied to inflation), regardless of occupancy. With more common "weak" rent control, increase is restricted during a period of continuous occupancy, but when the tenant leaves, rent can be reset, typically at the then-prevailing market rate.²⁶

Rent control is a reasonable policy for allowing people to remain in their homes and preserve existing affordable units, especially in the face of a spike in demand.²⁷ However, it does little to enable the construction of new units; and stronger forms may actually impede new private construction when they cut into potential profits.

Many liberals and libertarians argue these sorts of housing regulations are actually a major culprit behind the affordable housing crisis.²⁸ In traditional economic models, if there is a spike in demand but restrictions on supply—in the form of a slow permitting process, low-density zoning requirements mandating single-family homes, parking requirements, setbacks, rent control, and so forth—then the price will increase. Therefore cities should deregulate their housing markets and enjoy cheaper rents.

There are many problems with this argument, however. First, "deregulation" is a questionable concept in general as all economic activities of any kind, market ones included, are fundamentally backstopped by the state. American zoning restrictions are often ludicrously anti-density and pro-automobile,²⁹ but that could easily be ameliorated by changing the zoning rules rather than removing them altogether.

Second, even in a best-case scenario it's not at all clear that removing restrictions on private market activity will lead to a more

affordable neighborhood. If a desirable neighborhood is removed from all market controls, builders will naturally build new luxury units due to greater profits and the simple fact that new buildings command higher rents, as seen above. Construction takes a long time and buildings last even longer—even if market processes do work, it could take decades for such units to “filter” down to lower market segments.³⁰

Private market construction is also self-limiting: it puts downward pressure on rents, which reduces expected future profits. Indeed, that appears to be precisely what has happened in the rental construction market over the past year, long before all potential profitable buildings have been built. (Whether private real estate investors are consciously colluding or not, it is clear that private real estate investors are quite happy with very tight rental markets and a steady stream of easy profits.)

In practice, a simple “deregulatory” agenda can easily create a worst of all worlds scenario that simply replaces affordable neighborhoods with expensive ones, pushing poor and working class families into far-flung exurbs or older houses built with hazardous materials. Owners of new high-end housing will naturally resist new affordable construction that might cut prices and lower their wealth (very often fueled by racist resentment of disproportionately-minority rental households³¹), as will owners of luxury businesses attracted by new development. Indeed, they will push for any new building to be similarly high-end, so as to keep property values up. And wealthy people living in a neighborhood naturally have far more political influence than low-income people who might someday move into that neighborhood, making it relatively easy to block new development once the whole area has been re-developed.

In other words, a neighborhood that is “deregulated” from explicit zoning and rent control can quickly become re-regulated by influential private residents. It is one major method by which neighborhoods become locked in a high-rent, no-change equilibrium—that is, gentrification. Several neighborhoods in New York City selected by then-Mayor Michael Bloomberg for deregulation, notably former industrial neighborhoods in Greenpoint and Williamsburg, have ex-

perienced precisely this process.³²

It's also worth noting that in many high-end cities, foreigners who are using real estate as a sort of safe deposit box—many of them almost certainly criminals laundering money³³—make up a substantial portion of the people buying housing. The American Community Survey conducted by the Census Bureau found that certain tony neighborhoods in Manhattan were over 50 percent vacant at least 10 months a year.³⁴ That adds pressure on rents by further restricting supply.



FINALLY, THE LAST PRONG IN THE US HOUSING STRATEGY IS PUBLIC HOUSING.

This is no longer a major priority for any city, but there are many legacy buildings still housing over 2 million people.³⁵ Despite over 40 years of disinvestment—the nationwide backlog of maintenance in such projects amounts to over \$26 billion³⁶ as of 2010—public housing is virtually the only available housing for poor people in many cities.

However, the American approach to public housing is also inadequate and has severe negative side effects. Two million units is simply not very many in a nation of over 320 million people. Where they do exist, means-testing units to only poor people means that rents will be very low, thus placing a large budgetary burden on cities and the federal government. As a result, even with strict qualifications and vast spending, there are not, in many cities, nearly enough units to house even the officially poor population. In Washington DC, for example, the waiting list for the meager 8,000 public units was closed to new applicants in 2013 when the total number waiting reached 70,000.³⁷

Worse still, poor-only public housing concentrates poverty in particular locations—directly creating³⁸ one of the worst social ills in American cities.³⁹ Concentrated poverty is associated with higher crime, racial segregation, poor educational outcomes, drug abuse, gang violence, and a host of other problems.

Finally, the expense and poor reputation of public housing

have fueled efforts to get rid of public housing altogether. The **HOPE IV** program helps demolish severely dilapidated units and replaces them with mixed-income lower-density ones,⁴⁰ while the **Rental Assistance Demonstration (RAD)** program sells them to private developers outright.⁴¹ As a result, the number of public units has eroded steadily over time, falling by 60,000 between 2006 and 2016.⁴²

Despite the terrific demand for public housing, and the fact that those units continue to provide functional shelter for many people, it is no coincidence that “the projects” are a notorious place in most cities where they exist. Applicants are driven by economic desperation, not a desire to live in run-down apartments in dangerous neighborhoods.

So all the existing policy approaches to fix the housing crisis have failed the American people. What should be done?

2

THE CASE FOR MUNICIPAL HOUSING



THERE IS A PRESSING NEED FOR POLICYMAKERS TO CONSIDER

new approaches for delivering affordable housing. An over-reliance on the for-profit private sector has led to underinvestment in communities which produce less profit—and to state subsidies to developers and landlords, simply to maintain some sense of a social fabric. Today, our housing policy bears a marked resemblance to our healthcare policy: an expensive band-aid over a gaping hole, left by the absence of a public sector alternative.

The international community has increasingly recognized that private-only housing models adopted in the 1970s and 1980s have failed. The recently-elected government in New Zealand has committed to restart the construction of state housing,⁴³ the Scottish Government resumed construction of state housing after 2011,⁴⁴ and the Labour Party under Jeremy Corbyn has promised to build 100,000 social houses every year if it wins the next election.⁴⁵ The centre-right Irish government faces mounting criticism from progressive opposition parties for not going further in spending on direct construction of municipal housing.⁴⁶

The United States is almost alone in the fierce resistance of the overwhelming majority of both its major parties to the involvement of federal and local government in the direct provision of affordable housing. We present below a review of several models from developed countries which may prove informative and helpful to campaigners and policymakers wishing to challenge the political consensus—one built on false premises—and to advocate for the development of sustainable, affordable, high-quality housing for all Americans.



INTERNATIONAL MODELS

WE HAVE BROADLY SOUGHT TO EXAMINE MODELS WHICH ADDRESS the flaws and issues with existing housing policy in the United States. To that end, we have selected three jurisdictions whose municipal housing policies have been designed to cater to people of various income levels, rather than just serving the “deserving poor”: **Vienna, Finland** and **Sweden**.

The purpose of this section is to establish that municipal housing does not need to be plagued by inefficiency, deterioration, segregation or poor planning. Throughout the world there are examples of all these things evident in both the public and private sectors. It is of course incumbent upon politicians to learn lessons not just from the United States’ own past, but from challenges and failures of other nations too; thus, the section on Sweden will discuss some problems which should be kept in mind while developing a 21st century housing policy.

To this date, the United States has failed to learn from the successes that many countries have experienced in providing affordable, integrated, and well-maintained municipal housing. It is time that changed.



VIENNA

“Living Side by Side”

The success of municipal housing when pursued as a policy goal with the necessary political will can be clearly seen in Austria’s capital city, where 3 in 5 residents live in houses owned, built or managed by the municipal government.

Austria is a federal republic, and for the last hundred years the Viennese state government has always been led or controlled by the Social Democratic Party, apart from the fascist period from 1934-45. After the First World War, when the party first took pow-

er, housing became their first priority and they began establishing massive publicly-owned housing complexes called *Gemeindebauten* or “municipality buildings.” The planners of what became known as “Red Vienna” started from nothing—and built high quality housing developments which are often still in use today.

By 1934, one in ten residents of Vienna lived in publicly-owned housing. The next eleven years, which saw a fascist coup, the annexation of Austria by Hitler, and the devastation of Second World War, took a massive toll on the city. Despite all this, however, when democracy was restored the new state government immediately got back to work on rebuilding social housing infrastructure.

Unlike the United States, Austria has never treated municipal housing as an option of last resort or a welfare program exclusively for the poor. No less than 80% of the country’s population is eligible to receive social housing by their income.⁴⁷ In Vienna, this threshold is about twice the average annual income.⁴⁸ Welfare recipients, politicians and sports stars live side by side in projects like Alt-Erlaa, which houses approximately 10,000 residents in a visually impressive and spacious community. The municipal government invests in upgrading older properties and in new developments such as SMART flats which have sliding partition walls, allowing residents to change the layout of their home in order to give them a unique character.⁴⁹

In addition to municipal housing, Vienna funds large non-profit housing cooperatives that house almost as many individuals as directly state-owned properties, all under strict conditions set by the government. Consequently, the per-capita living space for Vienna residents rose from 22m² to 38m² between 1961 and 2011.

Unlike public housing in the United States, subsidized rents in Vienna are based on the cost of the property and its maintenance. This has ensured a much higher quality of life in publicly-owned housing than exists in the United States, and indeed in much of Europe. The following table shows the various components of rent in a typical Viennese housing project as calculated by **CECODHAS**, the European Social Housing Observatory.

	€/M ² /MONTH	€/HOME/MONTH	DETAILS
Construction, land, interest payments on loans	5.13	394.9	Falls to €3.29/m ² /month after loans mature.
Maintenance and repairs	0.30	23.1	Statutory maximums increase over time.
Provision for vacancies	0.11	8.4	2% of cost rent, maintenance and repairs.
Cost of management	0.22	17.3	Statutory upper limit.
Utilities	1.50	115.5	Actual costs.
Value Added Tax	0.73	55.9	10% of rent before VAT.
Total	7.99	615	

Source: CECODHAS, July 2013.

The rents are linked to costs over the course of an approximately 35-year maturity period, after which this component falls to a statutory limit. Other components such as utilities, maintenance and repairs increase over time. The rents remain extremely reasonable compared to other major European capital cities, but the small number of residents who are unable to afford rents are covered by the welfare state (though it should be noted that austerity measures adopted after the financial crisis have caused difficulties in meeting costs for some welfare recipients).⁵⁰

Initial financing for social housing development is primarily accomplished through a combination of public and subsidized private loans: public loans with interest rates between 0 and 2 percent cover an average of 35% of construction and land costs, and bank loans (subsidized through tax incentives so as to ensure interest rates that are 50 basis points lower than ordinary loans) cover an average of 43% of the costs. Much of the remainder is financed through “tenant equity”, a quasi-loan by the prospective tenant. If they cannot afford this contribution a public zero-interest loan is provided to them by the provincial government.⁵¹

The Viennese model is attractive insofar as it prevents long-term deterioration of the social housing stock. The upkeep of homes is financed by their residents, who receive social assistance from the welfare state where necessary.

Vienna implements rent controls on many houses, but even those which are exempt from rent controls end up finding that the mass intervention of the state in the supply of housing sets effective caps on market rents, creating a more affordable rental market for everybody, whether renting privately or from the municipal housing system. The Viennese model interacts with the private rental market in a way that functions similarly to American proposals for a robust “public option” in the healthcare market—an initiative supported not just by the most progressive elements in the Democratic Party but by the vast majority of centrist and centre-left politicians.



FINLAND

“Diversity of Dwellers”

The Finnish housing system is remarkable for its success in combating a recent international trend of increasing homelessness. In 2008, the Finnish government officially adopted a model known as **“Housing First”**, which focuses on the provision of permanent supportive housing to long-term homeless individuals. This model has gained some international attention for its considerable success in pushing down the rate of long-term homelessness.

Housing First works by targeting homeless groups with specific needs and providing unconditional housing support to them—much like smaller-scale initiatives undertaken by the Bush and Obama administrations (primarily targeted at those with disabilities). Those programs have seen some success,⁵² though falling well short of the progress needed to meet Obama’s commitment to end homelessness within ten years.⁵³

What is important to note, however—and what has been ignored by some of the international advocates of this model—is that this program works in tandem with other measures that support those who are not adequately served by existing social housing structures. Before Housing First, the number of homeless people in Finland had already fallen to 8,000 people in 2007 from over 18,000

in 1987, when the country first began collecting statistics. Since then, that number has fallen to below 7,000 under the new Housing First program.⁵⁴ (It is worth noting that Finland uses a considerably broader definition of homelessness than the United States; these figures are not comparable on a cross-national basis.)

Finland's first postwar housing program established **ARAVA**, the National Housing Production Board. The board provided low-interest government loans for the construction of housing "for all Finns, not for low-income housing specifically."⁵⁵ Now called ARA, it primarily finances the construction of municipally-owned and non-profit housing through loans, guarantees and interest subsidies while also providing grants for upgrading the energy efficiency of older properties.⁵⁶

Finland has not been immune to the global intrusion of means-testing into universalist welfare states, and there are some concerning developments; though 73% of the population fall beneath the income requirements to obtain social housing, concentrated housing for the very poor has been introduced in some developments since the 1960s.⁵⁷ Nevertheless, the situation remains markedly superior to the United States and United Kingdom models, which are associated with the most extreme form of means-testing and concentrated poverty.

A 2013 CECODHAS study examined a typical ARA-funded property built by a municipally-owned holding company. Like all 43,000 dwellings owned by the Housing Company of the city of Helsinki, the property is built upon land owned by the municipality and leased to the holding company. ARA fixes nominal prices for social housing land at 60% of the market price in the area, and a yearly ground rent is charged to the Housing Company at 4% of that value. This subsidized access to public land is crucial to the viability of such projects, as are the subsidized loans from ARA, which has increased interest subsidies to enable cheaper borrowing by municipalities. For the property in the CECODHAS study, an ARA-subsidized bank loan comprised 95% of the funding, while a loan from the City of Helsinki made up the final 5%.

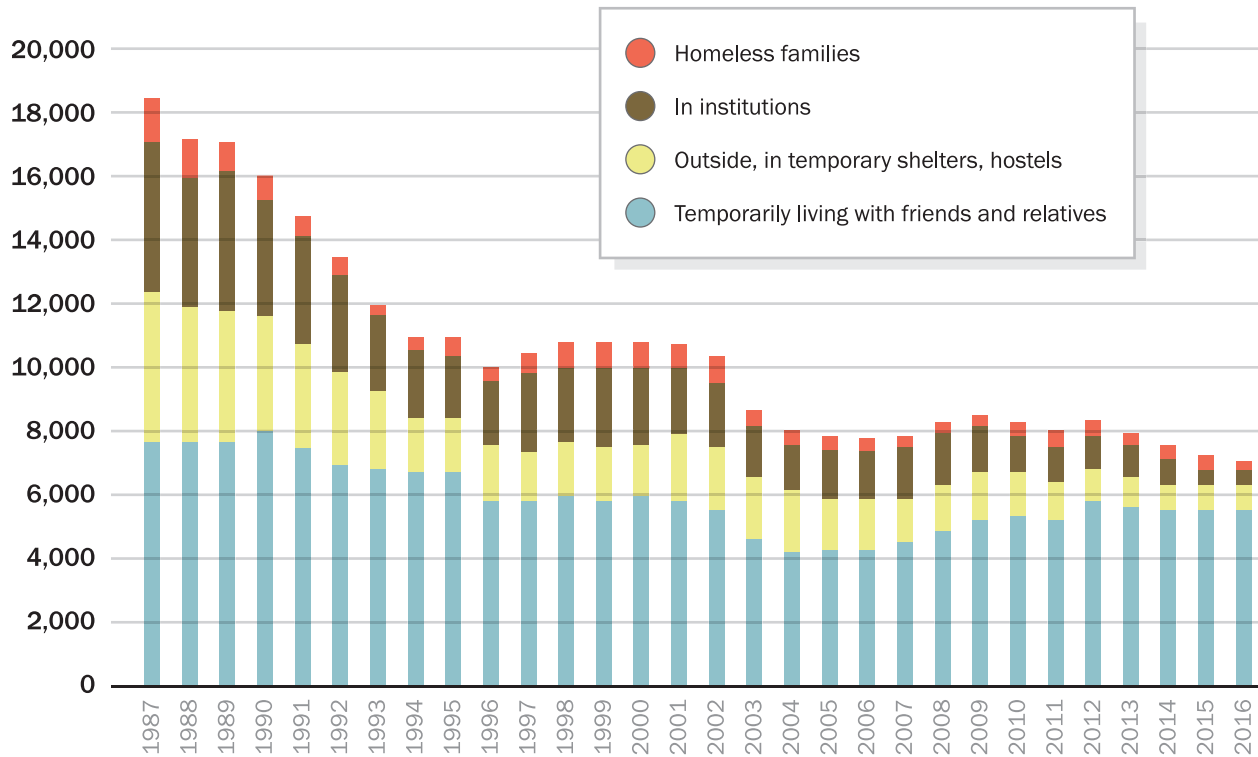
Like in Austria, rents are charged based on costs—divided relatively evenly between a “capital rent” and a “service rent”. The former is used to pay off interest on the property’s loans, and to amortize the old loan stock. The latter covers the cost of maintenance, management and renovations. Unlike Austria, however, properties built with public assistance can after 45 years be sold or let at market rates.⁵⁸

One positive form of targeting in Finland has been the increased recognition that housing policy must accommodate groups with diverse needs. Grants are provided by ARA to create housing specifically oriented towards groups such as the long-term homeless, refugees, students, people with mental health or substance abuse problems, disabled people, people suffering from memory illnesses and old people in poor physical condition—with subsidies between 10 and 50% of the cost of development depending on the number of accommodations required.⁵⁹

There is an important distinction between targeting housing at people because they are poor, and targeting housing at people because they need reasonable accommodations. The way to ensure people are not in poverty is to create a welfare state which eliminates poverty, and the way to ensure everyone has housing adequate to their needs is to build lots of houses, and tailor a portion of those houses to accommodate people who have specific needs. Finland’s Housing First and accommodative housing programs are the right kind of targeted social housing development, and this can be seen in the country’s success in relentlessly pushing down the rate of homelessness.

FIGURE 2 ON NEXT PAGE >

FIGURE 2



Source: Housing Finance and Development Centre of Finland

Rent per square meter per month in Helsinki averaged €10.55 during 2013.⁶⁰ This is higher than in Austria, but the same figure for Manhattan in 2016 was about \$60, and for Washington, D.C. about \$29.61. The Finnish housing development model—focused on providing housing rather than subsidising for-profit developers—has ensured greater levels of affordability and lower levels of homelessness than in countries whose housing models are reliant upon the free market and rental subsidies.



SWEDEN

“A Million Homes”

In the early 1960s, Sweden faced a severe housing shortage caused by an increase in incomes, migration from rural areas to cities, and the post-war generation reaching adulthood and requiring their own accommodation.⁶² Unwilling to tell young baby boomers they should simply live with their parents for the next decade, in 1965 the Social Democratic government embarked on a strikingly ambitious project to build one million homes over the course of ten years, demolishing 400,000 units of inferior or damaged housing stock in the process.⁶³ The scale of the challenge embarked on becomes apparent when one considers that “the total Swedish housing stock at the time was barely three million dwellings.”⁶⁴

To place that in context, the estimated total U.S. housing stock in late 2007 was 129.3 million homes—ten years later, it has risen to 136.7 million. In order to match the net increase in housing stock during the **Million Homes Program** of 600,000 (or 20%), the U.S. would have had to build an additional 18.5 million homes over the decade.

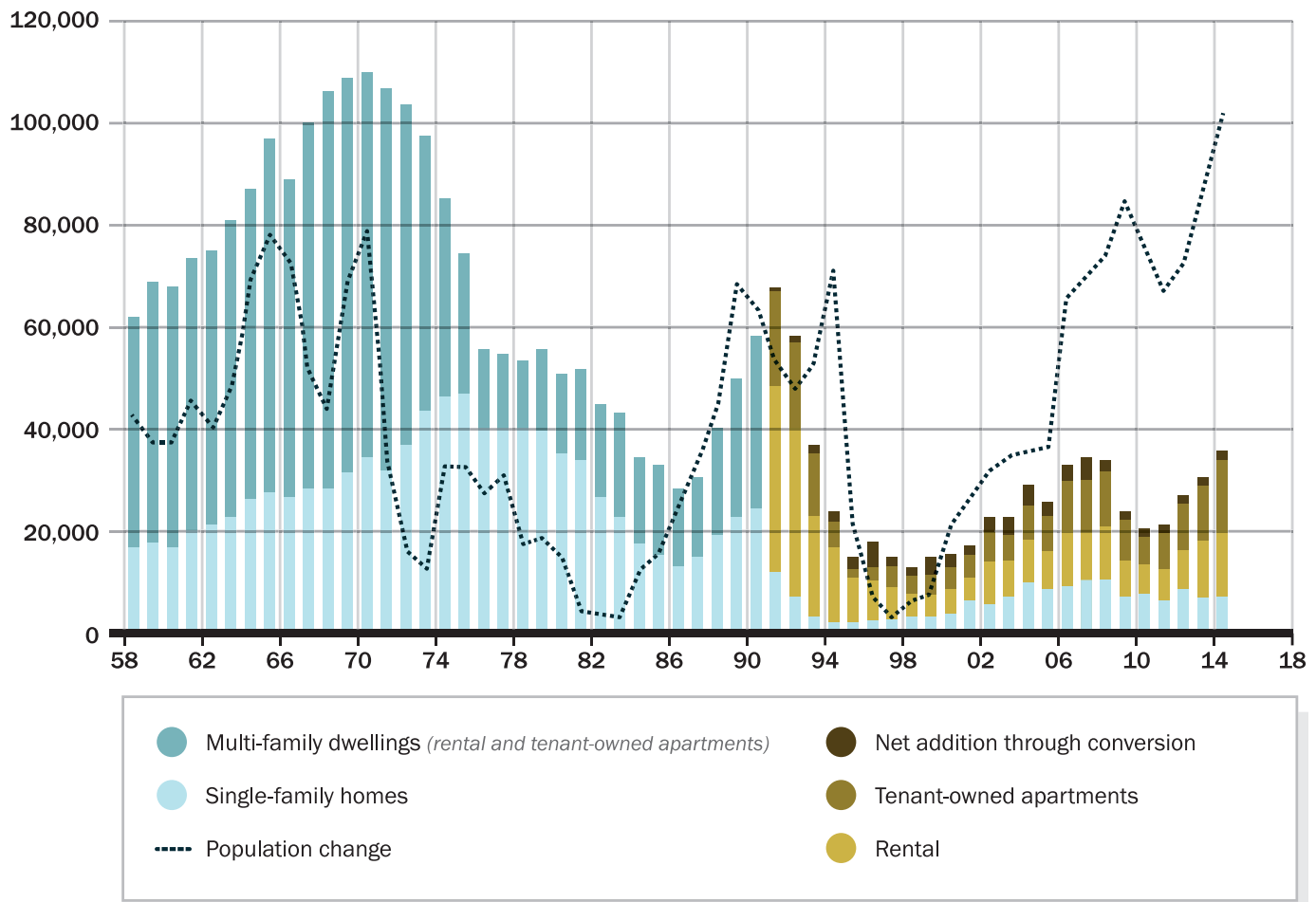
The scale of this accomplishment cannot be overstated: these were not luxury condominiums and McMansions built for the wealthy, they were municipal homes designed *allmännytt*a—“for the benefit of everyone,” not just the very poorest—and the rents charged in such housing became the norm for rent levels across the entire economy.⁶⁵ Even though it did not rely on the luxury McMansions and condominiums which created immense gains for property developers in the U.S. housing boom, the Million Homes Program still outperformed that boom in net per-capita housing construction by a considerable margin.

The actors who took on most of the responsibility for building the houses were housing authorities owned by cities, as well as housing cooperatives, such as the Riksbyggen cooperative established by construction workers’ unions in 1940. The central govern-

ment ensured that sufficient credit, capital and labour was available to those who were building the homes, even ordering the central bank to free up more credit for housing construction in 1967 after a drop in pace in 1966.⁶⁶ Throughout the late 1960s, demand continued to fill new houses with new households, and many families moved from “old, deficient and crowded accommodation” into much better-quality flats.

Sweden’s experience isn’t exclusively positive. The Million Homes Program addressed an issue of undersupply and unaffordability in the Swedish housing market, but it also ended up creating an over-supply of multi-family accommodation which caused many of the newly completed flats after 1970 to remain empty for prolonged periods.⁶⁷

FIGURE 3
Number of housing units completed and number of new inhabitants per year



Source: Emanuelson, 2015. Data from Statistics Sweden and the Riksbank.⁶⁸

The drastic reduction in the demand for new housing combined with complaints that the surroundings of many of the housing units were “monotonous” and that some homes had technical defects.⁶⁹ Public transport links were not always integrated into the projects, and in some cases rail connections for large populations were not delivered for years afterwards—in the case of Tensta in Stockholm, the first tenants moved in during 1967 while the Blue Line orbital route did not open until 1975.⁷⁰ Tensta, along with neighboring Husby and Rinkeby, became a centre of concentrated poverty among minority communities and was home to rioting in 2013.

Of course, one cannot dismiss the entire project due to these issues. The Million Homes Program rapidly rebuilt a third of Sweden’s entire housing stock, and any program of that scope is bound to have some unforeseen consequences. Nevertheless, it is important to learn lessons from what went wrong; it appears, for example, that there may have been too many homes built and too little spending on public transport, amenities, and urban beautification.

Such problems are not, as some suggest, inherent in or exclusive to the state funding of housing. Indeed, a review published in *Planning Perspectives* compared housing from the 1960s and 1970s in Sweden to housing in Berlin, Madrid, Rome, Paris, Riga, Budapest, Bratislava and the United Kingdom; it concluded that “in Sweden, the technical quality of the construction is higher, the flats are better planned and equipped, greater interest is devoted to the external environment and public and private services are better developed.”⁷¹

The lesson which should be drawn from the Million Homes Program is that state financing of municipal housing can eliminate a major housing shortage over a short period of time. Sweden still has a housing surplus in most cities, except for Stockholm where a shortage developed in 2011.⁷² Policymakers would be wise to study the allocative and infrastructural issues that caused oversupply, concentrated poverty and segregation in some Swedish developments—but the Swedish example still represents an efficient, ambitious and quantitatively successful example of mass construction of municipal housing.

HOUSING AMERICA

If we are to take the housing crisis in the United States seriously, after reviewing international models, we see only one conclusion—local governments, supported by the federal government, must build a very large amount of affordable, mixed income, publicly-owned housing, initially by developing existing publicly-owned land. Our policy proposal, outlined below, highlights specific targets, principles, and areas of concern.

1. Building Houses

WE BELIEVE THAT A TARGET OF TEN MILLION MUNICIPAL HOMES IN TEN years could be delivered with sufficient political will. This should be funded through a variety of federal policy instruments in addition to local resources. The most important of these would be the provision of low-interest loans and partial capital grants to municipal housing authorities, utilizing the government’s borrowing and taxation powers to close the gap between affordability and costs in the short run. In the long run, “solidarity rents” on wealthier tenants would ensure municipal housing developments are self-sustaining or even profitable.

The form of the federal programs would be as follows. First, the federal government would borrow funds at existing Treasury yields and loan those funds out as required to municipal housing authorities at that rate plus a single basis point. This would provide much-needed capitalization for local housing developments without costing the federal government anything, assuming the loans are repaid.

Secondly, the federal government would provide capital grants to municipalities who construct mixed-income housing developments. The capital grants would be equal in value to whatever a private sector developer would receive from the Low-Income Housing Tax Credit (LIHTC) program for a similar development. Put simply:

the inequality between public sector and private sector access to federal capital subsidies for housing construction would be eliminated. The Faircloth Amendment⁷³ capping the number of units for which local public housing authorities can receive federal subsidies should be immediately repealed.

Thirdly, additional capital grants should be allocated for developing accessible and supportive housing for groups with specific needs. These groups include the formerly homeless, people suffering from drug addiction, refugees, those with disabilities, and elderly people with mobility issues.

The local administration should be responsible for providing adequate sites for municipal housing developments and ensuring a streamlined planning process. Fixed rents for public land should be set to ensure that land is not severely misused, but these charges on housing authorities should be limited to incentivize municipal housing development.

We support the use of the vast quantities of existing public land for municipal housing—and where such sites are unavailable, unusable, or exhausted, we also support the requisitioning of abandoned properties and vacant sites for development (a 2000 survey found huge quantities of such land in most cities⁷⁴). Additionally, public land trusts could be established to identify new potential sites where they come up for sale, and to be responsible for maintaining a supply of viable sites for municipal housing construction.

The scale of the proposed program is moderate compared to major municipal housing initiatives in other countries, reflecting the fact that schemes like the Million Homes Program (which constituted an increase of 20% over the pre-existing housing stock, as against 7.3% in this proposal) were carried out in countries which already had a substantial public-sector housing delivery infrastructure. We see no reason why this target could not be revised upwards after a few years if policymakers decide it is insufficient. We do not anticipate any risk of the United States experiencing a housing oversupply at this juncture.

2. Ensuring Fairness

THERE SHOULD BE CONDITIONS PLACED UPON THESE INCENTIVES

to guarantee that federal money is spent effectively, to prevent discrimination, and to maintain standards and income profiles for housing, thus ensuring quality service provision into the future.

We would urge that the federal government resist the temptation to delegate responsibility for this to states by means of block granting—many states with large minority populations in urban areas are already responsible for de-facto discriminatory policies with regards to voting, welfare, and Medicaid. Instead, the federal government should partner directly with municipal governments who have a need for additional affordable housing in their communities: the administrations in Jackson and Houston are more likely to be willing partners than state governments in Mississippi and Texas.

Mass incarceration has had a grossly disproportionate impact on low-income households and communities of color,⁷⁵ and existing policies by many public housing authorities barring those with arrest records or convictions (and often their families) from accessing affordable or subsidized housing should be repealed or drastically reformed.⁷⁶ Providing stable supportive housing for individuals who have been released from prison and treatment facilities will, in the long term, do more to address anxieties about criminality and drug abuse in public housing than the present failed strategy, which condemns such people to a cycle of homeless shelters and imprisonment.

Inaccessibility for disabled people has serious impacts on their quality of life, and authorities should seek to go beyond the requirements in the ADA to ensure that there is no implicit discrimination in their developments. Direct capital grants should be given out to assist in providing accessible units, and permanent supportive housing should be given to those who suffer from substance abuse issues—along the lines of the Finnish model.⁷⁷

Housing developments should be mixed-income, adequately served by public transport, and have easy access to amenities and shops. They should comply with strong regulations to prevent racial

segregation—including regulations that prevent disparate impacts through reviews. Such reviews are provided for in the Affirmatively Furthering Fair Housing guidelines recently delayed by the Carson HUD department.⁷⁸ The presence of some market-rate tenants in developments can help to ensure quality services and incentivize better-quality housing units and surroundings, as this will increase the potential revenues from each development.

The federal government should not permit its funds for municipal housing to be used for any development which displaces tenants or otherwise reduces the amount of low-income housing available on that site. The aim must be to increase the housing stock, not to socially cleanse areas which local governments consider a “problem.”⁷⁹

It is likely that this program will employ and train a large number of people in the variety of occupations needed to expand housing construction at this scale. One major benefit of an ongoing government investment in municipal housing is an increase in job security for people involved in municipal housing construction—while the supply of housing being built may vary somewhat over time, it need not do so to the same extent that any individual private developer’s workload fluctuates.

Working positively with labor unions to ensure a sustainable, productive and mutually beneficial settlement on increasing the size of the public service is very desirable. A nationwide collective bargaining agreement which regulates training, pay, and working conditions for those involved in publicly-funded housing developments would play an important role in ensuring the process runs smoothly and effectively while avoiding exploitative conditions for the workers involved in delivering affordable housing. Progressive policies should be delivered in a progressive way.

3. Local Initiatives

LOCAL GOVERNMENT COULD IMMEDIATELY BEGIN FUNDING PROJECTS

of this type before federal assistance becomes available. We understand that our target of ten million municipal homes over ten years will not materialize without considerably more support than that which can be offered by cities alone, but the municipal bond markets offer a way to immediately begin investing in new housing without subsidizing developers. (See the *Appendix* for a more in-depth discussion of the potential options for self-funding housing projects.)

The capacity of local governments to press ahead with such initiatives in the absence of federal assistance depends on specific conditions, such as their own land endowments, the cost of construction, the interest rates on municipal bonds, and their own willingness to provide shallow subsidies to the initiative to improve its viability where necessary. Though there may be circumstances where municipal housing is comparatively suboptimal, as federal incentives are stacked against them, there are almost certainly a large number of cases where municipal housing would be a beneficial investment even without federal incentives. Local governments struggling with profit-gouging developers should analyze the situation and consider the viability of doing it themselves—obtaining a sustainable asset and putting developers on notice that the administration will consider cutting them out in the future.

This is a long-term reward: a local administration which can build its own housing can never be held hostage by developers expecting an unreasonable profit margin again. Even if local authorities do not wish to end their public-private housing partnership schemes at this minute, developing a publicly owned alternative affords them greater autonomy and bargaining power in future procurement decisions; and it does not require them to release large amounts of public land which they cannot easily recover.

Local administrations might also seek investments from ‘anchor institutions’ such as schools, universities, and hospitals which are largely geographically fixed in the area,⁸⁰ on the understanding that helping to provide lower housing costs will have a positive

impact on both the reputation of those institutions and the cost of living for their locally-based employees. Some of these institutions already own underutilized land and capital endowments which could enable substantial housing developments at a limited cost to the local government.

4. Covering Costs

ASSUMING AN AVERAGE COST PER UNIT OF BETWEEN \$150,000-\$220,000, the government could finance and build ten million houses directly in a revenue-neutral fashion—simply by repealing the Republican tax plan.⁸¹

This is not our proposal; and we acknowledge that the final cost per unit will depend on a range of factors, and indeed may be higher than that range in some cases. What it highlights is the scale of funding available to federal policymakers if they adopted a serious political commitment to housing—indeed, our proposal for ten million houses costs a mere fraction of the giveaway to wealthy donors by Paul Ryan and the Trump administration.

Since tenants in these houses will pay rent that covers ongoing expenses, and since much of the construction costs will be returned through loan repayments, the long-term cost to the federal government will be far lower than the cost of building all the houses itself—and the continuing annual costs will only run as high as the amount of new loans or grants it decides to issue that year. Loans—whether subsidized or profitable—do not cost as much as grants, and issuing grants worth 10% or even 50% of construction costs is still less expensive than paying for the full total.

If we assume a capital cost per unit of \$300,000 and that the federal government absorbs 20% of this capital cost in losses (an immensely pessimistic estimate), ten million houses could be financed through less than half the revenue which would be raised simply by restoring the corporate tax rate to its pre-TCJA level.⁸²

Rents should be set such that a parcel of housing units is able to finance its operating costs, maintenance costs, and capital costs

after subsidies. In some cases, especially where it is difficult to make housing affordable otherwise, primarily market-rate developments may be used to cross-subsidize mixed-income developments, but inter-development subsidization should be strictly limited in its scope; federal authorities could set regional caps between 0–20% of long term operating and capital costs which can be covered through profits from other developments in each city depending on construction costs and market rents. Examples of self-financing rental models can be seen in the **Appendix**.

Investing in large-scale municipal housing developments will have long-term benefits to the public purse—once loans are paid off in a few decades, tenant rents that once merely covered costs will instead begin delivering substantial organic profits to the municipal housing authorities which own the houses, a dividend which could be shared between the existing tenants in the form of lower rents, and the city in the form of an additional funding source for the next generation’s housing developments.

Crucially, we do understand that this is not a simple task. Atrophied public sector housing institutions will take time to rebuild capacity and efficiency, and there is no need to immediately eliminate existing policies while this process takes place. LIHTC, section 8 vouchers, and other rental subsidies may be necessary in the immediate future, but as noted in **Section 1** we caution against over-reliance on their use—they only further deepen the dependence of government upon private developers, and the dependence of private developers upon ever-increasing subsidies.

However, it is our contention that once the public sector has rebuilt its housing delivery infrastructure, learning from a hundred years of lessons and practices at home and abroad, the benefits to the public could be immense: a country where high quality affordable housing is a right available to everyone, not a privilege of the wealthy few.

Building ten million homes in ten years wouldn’t get us all the way there—but it’d be a damn good start.

APPENDIX

**SELF-FINANCING
RENTAL MODELS**

THE FOLLOWING SECTION EXAMINES DIFFERENT SCENARIOS FOR AN entirely theoretical housing development of 500 units. These units are cost-neutral under the finance scheme at a mean rent of \$1,000 per month (or \$500,000 for the entire development). We will assume that market rents are constant at \$1,300 in all cases.

The **area median income (AMI)** is \$70,000, meaning the monthly affordable rent thresholds (30% of monthly income) for various income categories are as follows:

30% AMI	<i>ELI threshold</i>	\$ 525
40% AMI		\$ 700
50% AMI	<i>VLI, HCVP and 20-50 LIHTC threshold</i>	\$ 875
60% AMI	<i>40-60 LIHTC threshold</i>	\$ 1,050
70% AMI		\$ 1,225
80% AMI	<i>LI threshold</i>	\$ 1,400

The following diagrams represents alternative self-financing models for the development. For a municipal housing development to be self-financing, the green area (rents collected in excess of costs, or “profits”) must be the same size or larger than the red area (costs in excess of rents collected, or “losses”). The blue areas show rents paid up to the cost level for each tenant, and the brown areas show profitable rents which have been foregone.

APPENDIX FIGURES BEGIN ON NEXT PAGE >

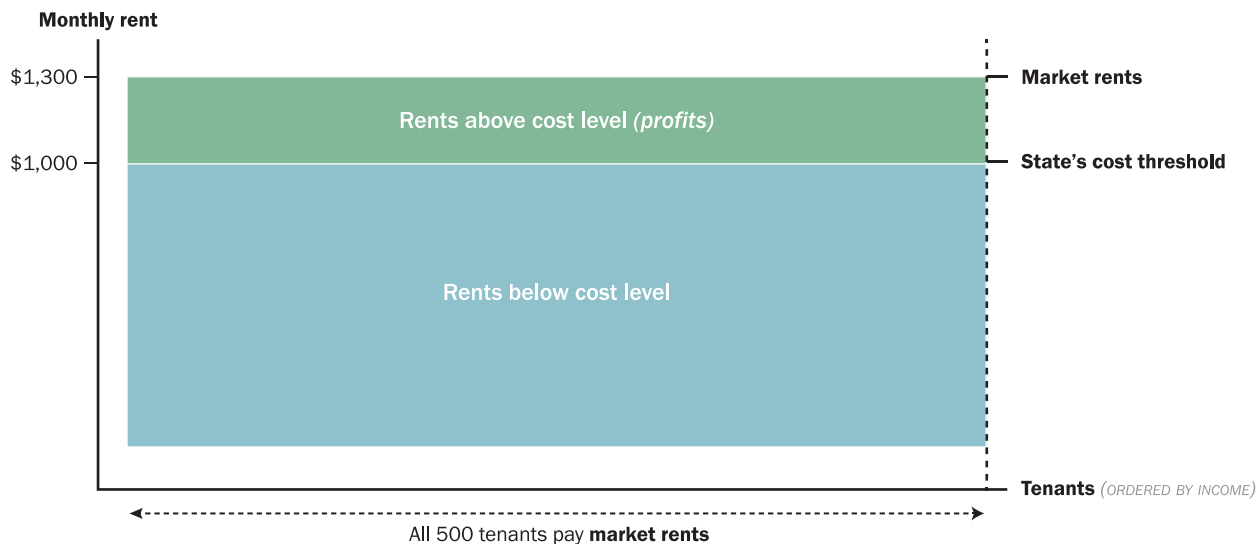


FIGURE 1 (above) shows a profit-maximising use of the development by the state. In this circumstance, the units are rented out at market prices and the profits are put back into the municipal housing authority. These properties are not affordable (at the 30% of monthly income standard) to many people below 80% AMI in the absence of other rental subsidies, but serve a social benefit insofar as they will introduce a supply-side constraint on overpriced rental housing in the private sector, in addition to the potential for using the profits to construct additional affordable housing elsewhere.

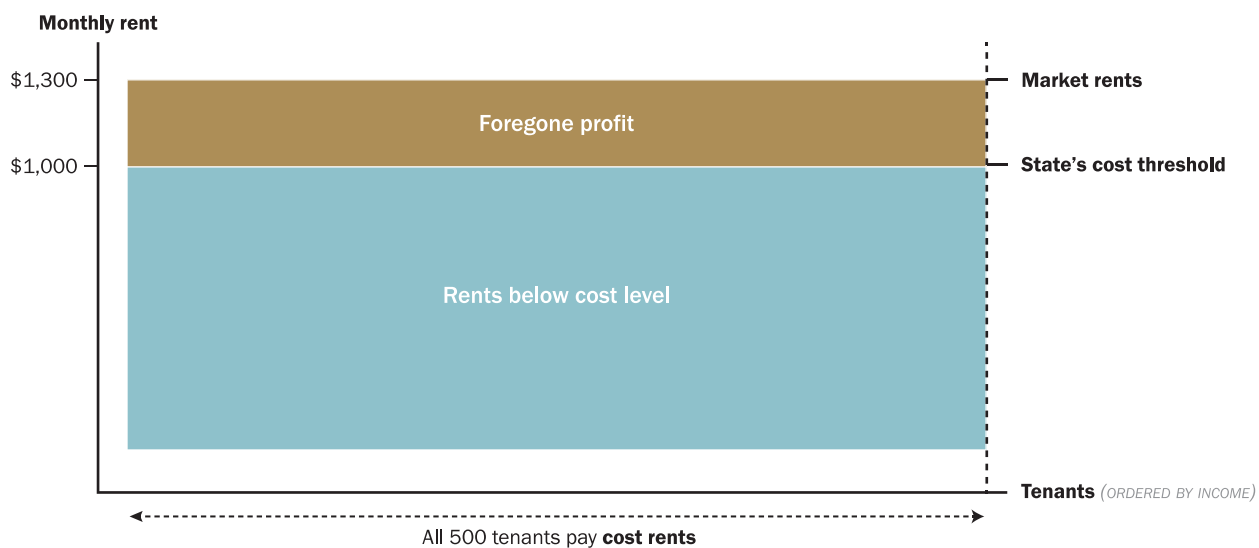


FIGURE 2 shows a Vienna-style cost rent system. In this case, 100% of the tenants pay cost rents of \$1,000—in this area affordable at 60%

AMI, but nobody is subsidized further than that through the rental system. The properties do not make any long-term profit (short-term profits may finance provisions for vacancies, maintenance and repairs over time). In the United States at present, this model may present access difficulties for those on very low incomes in some cities, as rental assistance programs are not universal entitlements.

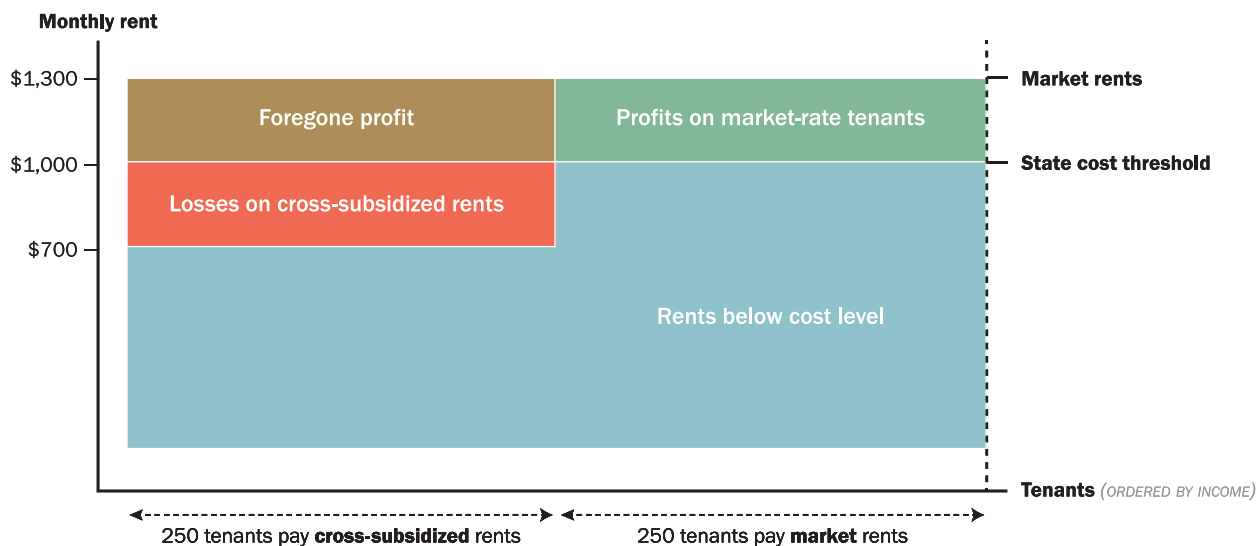


FIGURE 3 (above) shows a 50/50 cross-subsidisation. In this case, 250 market-rate tenants paying \$1,300 subsidize 250 tenants paying \$700, affordable at 40% AMI. However, this is a simple cross-subsidization model which has a rather steep drop-off between the two income categories. Though it is possible to use numerous developments to serve each particular set of housing needs, it is also possible to construct a more complex cross-subsidization model which performs the same role in a single development, as seen below.

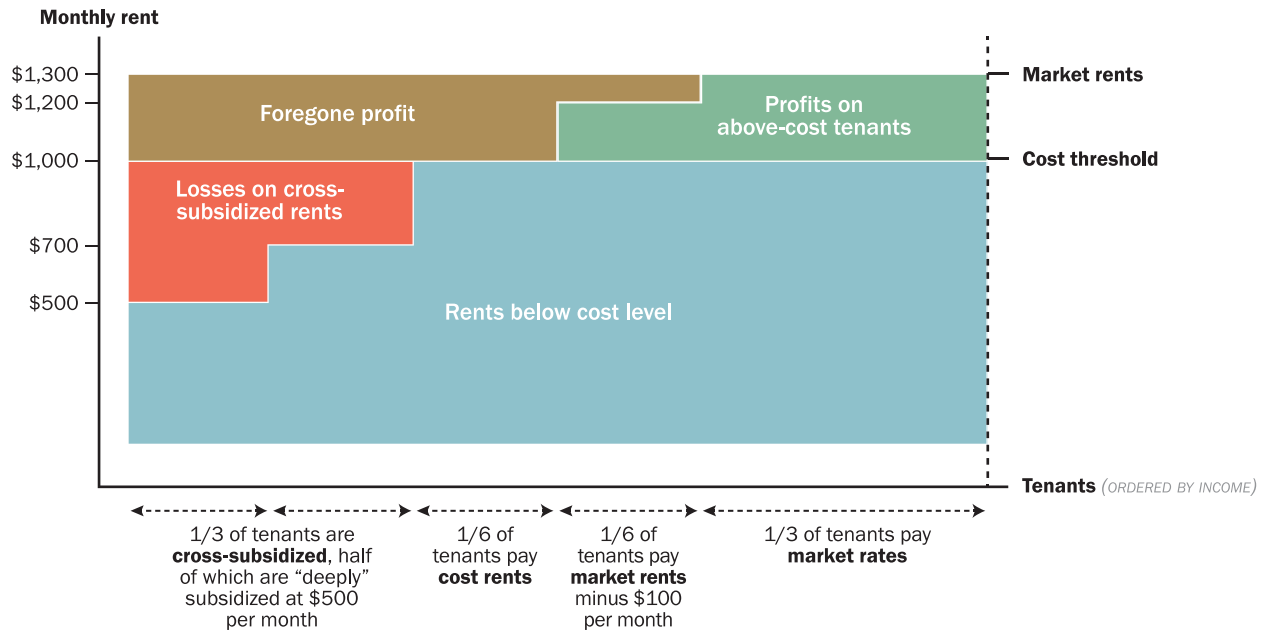
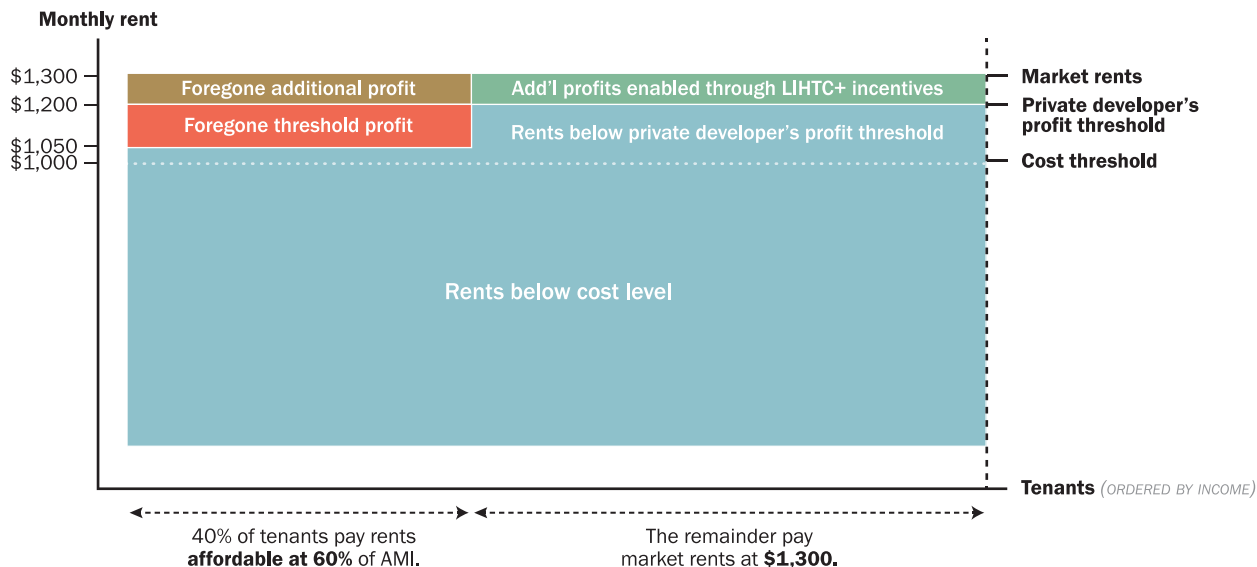


FIGURE 4 (above) shows a cross-subsidization model which serves a variety of low- to middle-income households. 1/6 of houses pay \$500 a month, affordable to ELI households in this area. Another sixth of households pay \$700 a month, affordable to households at 40% AMI. A sixth of households pay cost rents of \$1,000 a month, affordable at 60% AMI; a sixth of households pay limited-profit rents of \$1,200 a month, affordable at 70% AMI; and the final third of units pay market rents.

It is slightly more difficult to see on the graph here, but the profits on the wealthiest half of tenants are equal to the losses on the poorest third of tenants, making the development cost-neutral overall.

In the case of private developers, cost neutrality is largely meaningless. Developers almost always have many potential opportunities they consider, and an affordable housing project is almost always considered alongside other potential profitable developments. This means that the average rent threshold is not set at a self-financing level, but at a percentage above this level (in **FIGURE 5**, below, we assume it is 20%), which as you will see has a severe impact on the affordability of the housing made available.



The most notable thing here is that due to the profit requirement, LIHTC subsidies can be required in order to incentivise the construction of houses in which no tenants are causing the developer to make a loss. Their problem is not that they are unprofitable, but that they are not profitable enough to be worth housing without the state further subsidizing the developer's profit margins. In exchange for the state's investment, 200 housing units are rented out at a small profit while the other 300 are rented at market rates. None of the profits go to the state for further developments.

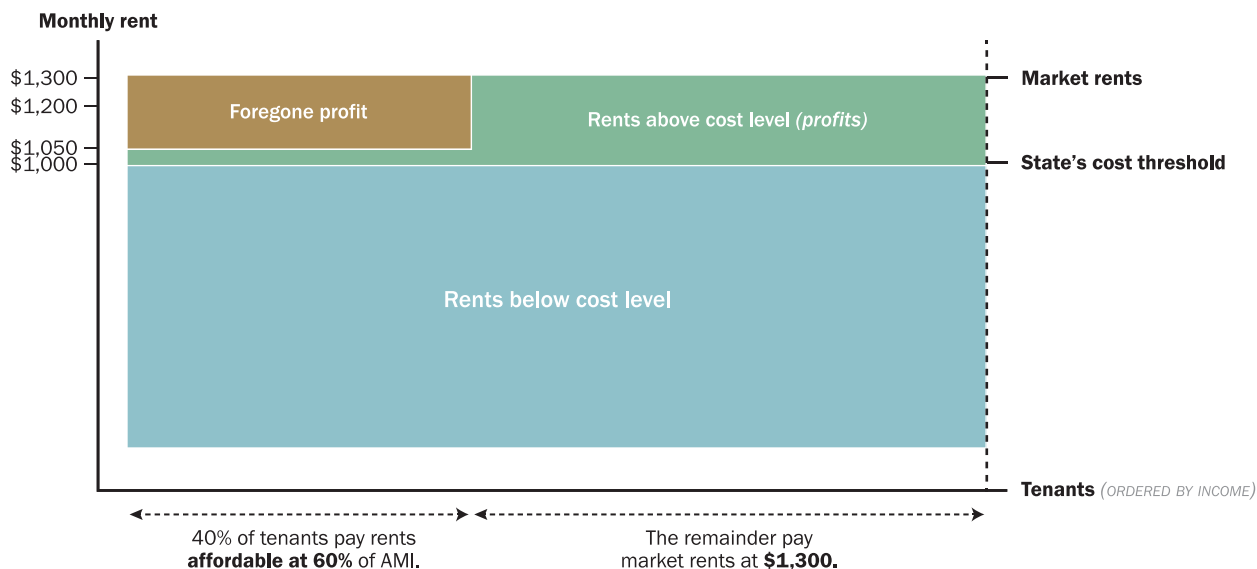


FIGURE 6 (above) shows the exact same development, with the exact same tenants paying the exact same rents, except this time the

property is held in public ownership. Instead of the state making a long-term loss on the property through subsidies, the 500 tenants make them an average \$200 profit each per month. That's \$1.2 million in profits for the local government every year.

Of course, this is not an exhaustive list of potential rental models for publicly-owned housing, but it is intended to demonstrate the manifest case for reducing our dependence on profit-oriented actors for generating affordable housing. Whether the state chooses to spend the developer's profit wedge on cross-subsidization, spends it on new housing developments, or whether it chooses to eliminate it entirely by charging Vienna-style cost rents, additional social benefits will come to be enjoyed by low- and middle-income members of the public rather than capital owners in the real estate sector.

As discussed in **Part II**, in some cities it may not be the case that all developments are fully self-financing, as the diagrams here are—and a proportion of costs (we suggest almost never more than 20%) could be covered out of revenues from connected profitable developments elsewhere. This should not be an ordinary occurrence under a national housing program as it has an inimical impact on both the mixed-income and self-financing principles behind such housing schemes, but in certain areas (especially without the introduction of federal incentives) it might be the case that building profitable houses on high-value land allows for the construction of deeply affordable housing which is sorely needed elsewhere.

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