

APPENDICES

Appendix C. Complete Strategy Reports Of the Regional Affordable Housing Strategy

June 2000



METRO

1. H-TAC SUBCOMMITTEE MEMBERS

Cost Reduction Subcommittee	
<i>Charge:</i> Continue work begun by the previous Strategies Subcommittee, developing programmatic approaches for addressing and developing strategies for implementatin of the cost factors affecting affordability, as well as address and develop strategies for other tools as assigned in the Regional Framework Plan.	
Chair: David Bell, <i>GSL Properties</i>	For-profit housing provider
Gail Brownmiller, <i>City of Hillsboro</i>	Cities of Washington County
Diane Luther, <i>Northwest Housing Alternatives</i>	Nonprofit affordable housing provider- Clackamas County
Pat Ritz, <i>Oregon Title</i>	Business community and major employers
Mindy Sullivan, <i>Oregon Title</i>	Business community and major employers
Vicki Thompson, <i>City of Gresham</i>	Cities of Multnomah County
Andree Tremoulet, <i>City of Gresham</i>	City of Gresham
Land Use and Regulatory Strategies Subcommittee	
<i>Charge:</i> Address and develop strategies for implementing the land use and regulatory approaches outlined in the Regional Framework Plan Policy 1.3 included in the H-TAC meeting packet of June 21, 1999.	
Chair: Jeff Condit, <i>Miller Nash</i>	Land-use professionals
Helen Barney, <i>Housing Authority of Portland</i>	Multnomah County Public Housing Authority
Liora Berry, <i>Cascade Aids Project</i>	Residents of affordable housing
Gail Brownmiller, <i>City of Hillsboro</i>	City of Hillsboro
Vince Chiotti, <i>Oregon Housing and Community Services</i>	Oregon Housing and Community Services Dept.
Doug Draper, <i>Genstar</i>	For-profit housing provider
Tasha Harmon, <i>Community Development Network</i>	Residents of affordable housing
Dave Lawrence, <i>City of Hillsboro</i>	Cities of Washington County
Doug McClain, <i>Clackamas County</i>	Clackamas County local government
Richard Ross, <i>City of Gresham</i>	City of Gresham
Mike Saba, <i>City of Portland</i>	City of Portland
Mindy Sullivan, <i>Oregon Title</i>	Business community and major employers
Steve Weiss, <i>Community Alliance of Tenants</i>	Residents of affordable housing
Regional Funding Subcommittee	
<i>Charge:</i> Develop options for the regional funding of affordable housing, considering possibilities outlined in the Regional Framework Plan as well as other ideas advanced by H-TAC.	
Co-Chair: Rob Drake, <i>Mayor, City of Beaverton;</i>	Metro Policy Advisory Committee
Co-Chair: Erik Sten, <i>Commissioner, City of Portland</i>	City of Portland
Vince Chiotti, <i>Oregon Housing and Community Services</i>	Oregon Housing and Community Services Dept.
Tom Cusack, <i>HUD</i>	Federal Housing Administration
Gary DiCenzo, <i>Clackamas County Housing Authority</i>	Clackamas County Public Housing Authority
Sheila Fink, <i>Community Partners for Affordable Housing</i>	Nonprofit affordable housing provider- Clackamas County
Margaret Nelson, <i>Key Bank</i>	Financing Institution
Doug Obletz, <i>Shiels, Obletz, Johnsen</i>	For-profit housing provider
Dave Summers, <i>Bank of America</i>	Financing Institution

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CHANGE IN TERMINOLOGY

The strategy reports included in this appendix were developed prior to the decision by H-TAC to change the term “fair share targets” to “affordable housing production goals” as described below and discussed in the main body of the RAHS on page 15.

CHANGE OF TERM
Affordable Housing Production Goals (Fair Share Targets)
H-TAC decided to replace the term “fair share targets” with “ <u>affordable housing production goals</u> ” because the latter conveys properly the region’s cooperative effort towards achieving livable communities within our region.

Density Bonus: Land Use Tool

Finalized at the Land Use and Regulatory Subcommittee Meeting: October 20, 1999

Approved by H-TAC: November 15, 1999

PURPOSE

To determine the “best practices” for the implementation of a density bonus for affordable housing units that could be recommended for implementation in the Metro region. As part of the Subcommittee analysis, program information was collected from jurisdictions implementing similar strategies.

DESCRIPTION

The density bonus is a land use incentive that allows the developer to construct more units than would otherwise be allowed in a specified residential zone in exchange for the provision of affordable housing units. The assumption is that with additional units the developer is able to achieve a higher profit level on the housing development. When density is increased, the marginal costs per unit are generally lower, since the land prices, soft costs, and foundation costs can be amortized over more units.

A density bonus could be used as an incentive for increasing the production of affordable housing units. Various restrictions may apply, such as the income level at which the units must be affordable, the time period when the “bonus” units must be developed, and design standards requiring affordable units to appear similar to the market-rate units.

Regional Issues Related to Density

Many affordable housing tools considered innovative in other states (outside of Oregon) are tools that may be taken for granted in Oregon. For instance, including a housing element in a comprehensive plan has been identified as an important step towards providing more opportunities to create affordable housing. Comprehensive plans, including a housing element, have been required in all Oregon cities and counties since the early 1970's.

Density is a tool that is used as an incentive to provide affordable housing in many jurisdictions outside of Oregon. In many cases, the underlying zoning does not allow for much multi-family or even smaller lot single family units. Allowing increased density in such cases may provide the developer with a needed incentive to produce more units. In other cases, high demand for multi-family housing and developers searching for economies of scale, density bonuses may provide the incentive to develop housing that may not otherwise make sense.

In the Portland metro area, efforts to meet the housing needs of the region within the existing urban growth boundary have led to more dense development standards than are to be found in many other places. The Metropolitan Housing Rule requires that all jurisdictions in the Metro region provide the opportunity for 50 percent of new housing to be multi-family. Metro's functional plan also mandates minimum and maximum density standards, whereas outside of this region many jurisdictions only identify a maximum density standard. These efforts have led to zoning in the region that does not provide much opportunity for a workable density bonus to serve as an incentive to development. In general, the underlying zoning already allows for as much density as the market (developers, buyers, and renters) will bear, with the exception of certain locations in the Metro region.

EXAMPLES OF DENSITY BONUS INCENTIVES

Clackamas County

Clackamas County has had provisions in the Zoning Ordinance since 1980 that allow an increase in density if affordable housing is provided. The percentage increase in density varies with the Comprehensive Plan category as follows:

- for low-density (single-family) zones, the incentive increase is up to five percent;
 - for medium and high-density (multi-family) zones, the incentive increase is up to eight percent.
- The increase is allowed at a rate of one additional unit per assisted housing unit provided, up to the maximum allowable density increase. The density bonus increase is allowed for:

Low-Cost Housing: Living units qualifying and approved for housing for low-income families assisted or for the elderly under a federal, state or local program will be provided in the development. (Clackamas County Zoning and Development Ordinance, 1012-6).

The County has yet to have a housing project take advantage of the density bonus incentives, although they are currently in the pre-application conference stage with a potential developer who may be interested.

City of Portland

The City of Portland has provided density bonus incentives for elderly and disabled housing since 1993. The regulations allow for increased density in specific multi-family residential zones, and only apply to new developments and projects that involve major remodeling.

These regulations provide opportunities to integrate housing for elderly and disabled citizens with other types of housing, and to increase the ability of the elderly and disabled to live independently and close to where services are generally available. (Title 33, Planning and Zoning, Chapter 33.229)

Projects in R3, R2, R1, and IR zones are allowed unlimited density as long as the project complies with the development standards of the base zone, accessibility standards, and the lot is at least 10,000 square feet. Projects in the RH zone are allowed to develop to a FAR (floor area ratio) of 4 to 1 if the same aforementioned conditions are met.

The units that are allowed through the density bonus program must be restricted to occupancy by households with a disabled member, or with a member aged 55 years or older. The units are restricted by a covenant with the city. The covenant includes occupancy restrictions, adaptable features in the units, installation of specialized equipment by the property owner, and rental requirements if no eligible applicants are on the waiting list. The covenant lasts for the life of the project.

A number of subsidized HUD 202 projects have utilized the density bonus allowed here, which has increased the supply of elderly and disabled housing in Portland. The city has not yet developed a density bonus for affordable housing.

City of Ashland

The City of Ashland has provided density bonus incentives for affordable housing since 1993 under the City's Land Use Ordinance. According to Title 18 (d) of the Ashland City Code:

Affordable Housing - for every percent of units that are affordable, an equivalent percentage of density bonus shall be allowed. Affordable Housing bonus shall be for residential units that are affordable for moderate income persons in accord with the standards established by resolution of the Ashland City Council and guaranteed affordable through procedures contained in said resolution. Maximum bonus of 35%.

The units designated for affordable rental housing in developments that receive density bonuses under the above ordinance must be rented to households whose annual income does not exceed 80 percent of the median income for households in the area. This is called the “qualifying family income” and is determined each year by the City’s Department of Community Development in accordance with data from the U.S. Department of Housing and Urban Development. The owner of such housing must sign a 20-year agreement with the City that guarantees these rent levels will not be exceeded and that the units will be rented only to qualifying families. This agreement also binds subsequent owners who purchase the rental housing within the 20-year period.

State of California

The California State Density Bonus Law (Government Code Section 65915 to 65918) was created in 1984 to offer a land use based option to facilitate the economic feasibility of affordable housing development. In 1989 the law was amended to require all cities and counties in the state to adopt density bonus ordinances.

The Density Bonus Law provides that local governments shall grant density bonuses as follows:

- at least 25 percent (over the otherwise maximum allowable residential density), plus an additional incentive(s) or equivalent financial incentives, to housing developers who agree to construct at least:
 - 20 percent of the units affordable to lower-income households (60% MHI),
 - 10 percent of the units affordable to very low-income households (50% MHI), or
 - senior housing.
- The density bonus applies to developments with five or more units.

Developers receiving a density bonus must agree to ensure continued affordability of all the lower-income density bonus units for 30 years or longer if required by another program, but if the local government does not grant at least one additional incentive (not including the density bonus) the developer is only required to ensure affordability for 10 years.

The California State Department of Housing and Community Development provides a model density bonus ordinance to facilitate local government efforts to adopt and implement density bonus ordinances. Jurisdictions that refuse to provide a density bonus to developers planning a qualifying development can be legally held to the state requirement.

HOW SHOULD DENSITY BONUS INCENTIVES BE APPLIED?

Density bonus incentives could be used in some parts of the Metro region as an incentive to provide affordable housing developers an option to facilitate the development of rental units needed to meet fair share housing goals, as well as to provide homeownership units for first time homebuyers.

Density bonus of a varying percentage could be given to developers who agree to construct:

- a) 20 percent of the units affordable to households at 31% - 50% MHI; or
- b) 10 percent of the units affordable to households at less than 30% MHI; or
- c) senior housing;
- d) disabled housing; or
- e) a certain percentage of for sale units affordable to households at 80% - 120% MHI.

Other requirements may also be tied to the affordable units allowed under a density bonus incentive, such as:

- either long-term or permanent affordability requirements for rental units;
- location: either the units could be interspersed with the market rate units, or it could be allowed to construct them at another location;
- time frame: the affordable units may be required to be constructed at the same time as the market rate units;

- design standards: the affordable units may be required to be of a similar design and layout as the market rate units.

POTENTIAL STRATEGIES

- *Local.* Encourage local jurisdictions to consider implementing a density bonus incentive to facilitate the development of affordable housing. Local jurisdictions could consider tying the amount of bonus provided to the targeted income group to encourage the development of affordable units to meet the housing needs of that income group.
- *Regional.* Develop a regionwide density bonus guideline and standards similar to that used in the State of California. Local jurisdictions would be expected to provide a density bonus if a developer agreed to provide a certain percentage of affordable units targeted to income groups outlined in fair share goals. However, local jurisdictions could implement the density bonus in a way that best fit local conditions.
- *First time homebuyer.* Include some type of density bonus to developers that provide opportunities for households earning less than 120% MHI to purchase homes.
- *Linkage to other strategies.* A density bonus for affordable housing units might be especially effective when linked to transit-oriented development.

OTHER CONSIDERATIONS

- The “density” factor is relatively unimportant in the basic decision-making process for developers in the Metro area, due to the fact that in general base zones provide enough density for current market demand. Questions such as financing are far more significant.
- In most cases, there is enough density provided by the base zone. In suburban areas like Clackamas County, developers have historically underbuilt, although the trend has changed in recent years as smaller lots have become more accepted and land prices have risen. A density bonus in this case is not an incentive, as long as developers believe that the market demand for density higher than what is already allowed does not exist.
- A density bonus may not be effective in encouraging the development of more affordable housing in the region except in specific circumstances. Using a density bonus to target specific populations, similar to Portland’s ordinance, may be more effective.

RECOMMENDATION FOR IMPLEMENTATION

Since a density bonus is tied to land use, Metro has the authority to implement regionwide density bonus incentives for affordable housing. However, due to reasons stated previously, a mandatory density bonus for affordable housing is not likely to be effective in this region. Thus, the subcommittee recommends that density bonus provisions be determined by local jurisdictions. A regional voluntary guideline or model ordinance for providing density bonus incentives may be considered by local governments in order to facilitate progress towards meeting the region’s fair share goals.

Strategies outlined below would help jurisdictions in the Metro region move towards meeting regional fair share goals.

A. Regional

1. Model Ordinance

Develop a regional density bonus voluntary guideline model ordinance, including a model ordinance, for varying percentages tied to certain income groups and permanent affordability. For example:

- 20 percent of the units affordable to households at 31% - 50% MHI; or
- 10 percent of the units affordable to households at less than 30% MHI; or
- senior or disabled housing;
- permanently affordable housing.

As noted above, a density bonus for affordable housing may not be effective in the region due to the high densities already required in the comprehensive plans for each jurisdiction. However, if local jurisdictions are not already maximizing available land capacity, they would be encouraged to provide a density bonus if a developer agreed to provide a certain percentage of affordable units targeted to income groups outlined in affordable housing production goals. However, local jurisdictions could implement the density bonus in a way that best fit local conditions.

2. *First Time Homebuyer*

Recommend that a density bonus proposal, whether local or regional, include some type of density bonus to developers that provide opportunities for households earning less than 120% MHI to purchase homes.

3. *Best Practices*

A compilation of “best practices” in implementing density bonus incentives should be compiled to enable jurisdictions to determine what models would work best locally.

B. Local

Encourage local jurisdictions to implement a density bonus incentive to facilitate the development of affordable housing. Local jurisdictions could consider tying the amount of bonus provided to the targeted income group to encourage the development of affordable units to meet affordable housing production goals.

FACTUAL INFORMATION

Clackamas County Zoning and Development Ordinance.

Memorandum from Doug McClain, Clackamas County Planning Director, *Density Bonus Incentives for Affordable Housing*, August 17, 1999.

City of Ashland Land Use Ordinance, Title 18.

City of Ashland, Resolution No. 93-39.

City of Portland Code. Title 33, Planning and Zoning, Chapter 33.229 Elderly and Disabled High Density Housing, updated July 1, 1997.

Chapter 4.3 Density Bonuses and Other Incentives, California Government Code, Sections 65915 – 65918, 1998.

Memorandum from Cathy Creswell, Program Manager, California Housing Policy Development Division, *Model Density Bonus Ordinance*, August 6, 1996.

Zoning for More Housing: Proposed Changes to San Francisco's Planning Code and Zoning Map, San Francisco Planning and Urban Research Association, <http://www.spur.org>, April 1998.

Replacement Housing: Land Use Tool

Finalized at the Land Use and Regulatory Subcommittee Meeting: February 2, 2000

Approved by H-TAC: February 14, 2000

PURPOSE

To prevent the involuntary displacement of low-income (<50% Median Household Income) residents from existing affordable housing which is lost from the inventory because of demolition, conversion, or price inflation. It is often part of a three pronged approach to deal with displacement that includes preservation and mitigation strategies. Preservation strategies, which can include long term affordability commitments, and mitigation strategies, which include tenant based relocation assistance, are discussed elsewhere. The focus here is on low-income housing replacement strategies. As part of the Subcommittee analysis, program information was collected from some jurisdictions implementing similar strategies.

DESCRIPTION

Briefly defined, replacement strategies require the restoration of lost housing units by, typically, an equal number of similarly sized, priced, and located units by an agency or individual deemed responsible for the loss of the original units. Such strategies can be broadly applicable or more narrowly associated with a particular funding source, geographic area, or a particular housing type.

In the purest example, a jurisdiction could require that all housing affordable to a defined income group must be replaced in kind by an entity engaged in public or private development that results in the loss of this protected housing. Such a strategy could mandate that the replacement housing match the lost units by location, size, cost, etc. Such a strategy could also require that the replacement housing be reserved for those households displaced from the original units.

EXAMPLES OF REPLACEMENT HOUSING PROGRAMS

In practice, replacement strategies typically have been more limited in scope. Examples of these strategies are described below.

A. By funding source

Federal Funding

The federal requirement that low-income housing demolished by CDBG funded activities be replaced by housing units with the same number of bedrooms, in the same or proximate neighborhood, and affordable to a comparable income household. This law pertains to all entitlement jurisdictions and was established to prevent the widespread demolition within low-income neighborhoods by publicly funded development activities, often as part of urban renewal programs, without the consequent redevelopment of replacement units.

In practice, this requirement can be met fairly easily if a jurisdiction limits publicly funded housing demolition and keeps adequate records of housing that has been built or rehabilitated using federal funds. The City of Portland has met this requirement by keeping records of housing built with federal funds and not using CDBG funds to demolish property.

Local Funding/Incentives

The City of Seattle requires any new construction project applying for property tax exemptions that is built on a site that contained four or more occupied dwelling units to replace any units that were rented to tenants receiving a tenant relocation assistance payment (Seattle Municipal Code 5.72.040). Additionally, the replacement units are required to be affordable at or below fifty percent of median income for the first ten calendar years of operation. The replacement units may be

provided as part of the new construction, through additional units built at another location, through the substantial rehabilitation of vacant multifamily housing, or through the preservation of housing that is rented to tenants at fifty percent median income or less that would otherwise be converted. The enabling ordinance was passed in February 1999.

B. By location

In Minnesota there is a state requirement that the cities of a certain size (over 100,000 people) that adopt neighborhood revitalization programs must replace demolished housing in redevelopment areas with comparable housing units. This requirement applies to specific cities and designated redevelopment areas within these cities. Recent amendments to this law have excluded the replacement of housing that has been vacant for more than a year.

C. By housing type

The cities of Seattle and San Francisco have requirements that owners of existing single room occupancy (SRO) or residential hotels in their central cities replace units lost as a result of redevelopment by the owners. In Seattle, the original Housing Preservation Ordinance was held to be unconstitutional. Thus, in 1990 the Seattle City Council passed an ordinance requiring that tenants be provided with a relocation assistance payment.

San Francisco's Hotel Conversion Ordinance (HCO) has been in place since 1979, and has persevered through several legal challenges including a case as recently as 1997. The HCO prevents the conversion of existing residential hotel units to tourist hotel units without the one-to-one replacement of the units. The units must be replaced either by adding replacement units to San Francisco's residential housing stock, or by paying an amount equal to the costs of rebuilding an equal number of legal, comparable units.

The closest Portland has come to this practice was the since repealed requirement that existing SROs planned for demolition undergo a delay while the Portland Development Commission examines the financial feasibility of preserving the units and preventing their demolition. This requirement was replaced by an overall residential demolition delay for units on residentially designated sites.

D. Variations on the theme

An alternative to the replacement requirement has been the option for payment in lieu of actual development to an established housing development fund most often administered by the jurisdiction. The in lieu payment, typically figured on a per unit or on a floor area basis, is substantial in order to realistically fund the replacement of a number of new units equivalent to those lost.

Example of Mitigation/Preservation Strategy

The City of Hartford, Connecticut Municipal Code requires that owners of residential units to be demolished must contribute to a fund that aids in the "rehousing" of current tenants. If tenants occupy a unit, then they are entitled to a rehousing allowance of \$2,500. However, if the housing has been vacant for 120 days or less, the owner will be required to make a contribution to the housing fund of an amount not less than \$2,500 for each vacant residential unit in the building. Money that is deposited in the housing fund shall be used only for costs related to the preservation of housing. Hartford adopted the current ordinances in 1996, prior to that they had a specific housing preservation and replacement program.

OTHER CONSIDERATIONS

The major limitations on replacement housing strategies in their purest form, as described above, are their political controversy and legal uncertainty. As a recent example of political backlash, the fairly limited replacement components of Portland's Housing Preservation Ordinance ignited sufficient controversy to result in the passage of a State legislative prohibition on the assignment of

per unit replacement fees for expiring Section 8 projects whose owners did not wish to sell to the City.

Regarding legal issues, contradictory court decisions have resulted from challenges to replacement ordinances enacted in various cities. The challenges cite the unfair assignment of responsibility for a community wide problem to individual owners of low-income housing; that such strategies constitute a tax on the owners beyond the legal authority of a local government; and a general accusation of taking by the government. It is not known how such a strategy would fare in Oregon courts.

In a discussion of recommended replacement housing strategies before HTAC, members expressed concern that such a strategy not result in a "changing of the rules" for property owners by imposing regulations that limit or negate the uses of the property allowed under current zoning. In considering this concern, Subcommittee members stress that the recommendation pertains to zone changes requested by the property owner which would result in a loss of existing affordable housing. The Subcommittee suggests that adopting replacement housing criteria as part of the review process for considering a zone change or Plan Map amendment would not be a change in rules when the change in zoning is sought by the property owner.

Subcommittee members expressed concern that Section 8 Vouchers not be viewed as an adequate replacement housing strategy since these depend on individual household qualification rather than ensuring a new unit of housing added to the region's affordable housing stock.

POTENTIAL STRATEGIES

Recommend a Regional Replacement Housing Strategy

Metro's authority over the non-land use functions of local government is limited. However, a regional strategy recommending a replacement housing commitment tied to specific funding sources could be part of the Regional Affordable Housing Strategy. Such a program arrangement would be understood as a component of a funding agreement and expressed in a mutually agreeable contract between funder and developer. The effect of this commitment on the pool of potential applicants for funding would have to be considered.

Replace Housing Lost in Urban Renewal Areas

Local jurisdictions could consider developing policies to prevent the loss of affordable housing through demolition in urban renewal areas by implementing a replacement housing ordinance specific to urban renewal zones.

A Land Use Alternative: No Net Loss

A variation on this theme is employed locally and based on land use law. This is Portland's No Net Loss Housing Policy 4.2 that imposes a replacement obligation on applicants for Comprehensive Plan Map amendments from a residential to a non-residential Plan designation. This policy requires the replacement of lost housing potential through on or off-site development of a minimum number of units **or** the rezoning of another site that replicates the residential development potential removed by the approved Plan amendment. In theory, this preserves the planned housing unit capacity of the jurisdiction as a whole.

The limitations of this policy for the purposes of affordable housing preservation are several and include:

- the policy merely preserves planned housing potential rather than guaranteeing replacement of lost housing;
- the policy does not pertain strictly to low-income housing; and

- the requirement can be met by drawing from a “housing pool” designed to assist existing small businesses that need local expansion opportunities and can demonstrate increased job opportunities.

However, the policy has achieved its primary goal to discourage the widespread loss of housing development potential through incremental Plan Map amendments and, because it is founded on Oregon’s growth management law, it is worth considering as a more focused affordability tool by Metro and local jurisdictions.

RECOMMENDATIONS FOR IMPLEMENTATION

Metro does not have the authority to require local jurisdictions or other government entities to adopt a replacement housing ordinance. However, a regional recommendation that affordable units that are lost be replaced could be included in the functional plan for voluntary adoption by local governments.

A No-Net-Loss housing policy approach for local jurisdiction review of comprehensive plan changes focused on affordable housing would be based on land use and would therefore fall under Metro’s land use authority. Possible strategies are outlined below.

Regional

1. Regional Recommendation to Adopt Replacement Housing Strategies

Include replacement housing strategies as part of a menu of voluntary affordability tools in the Regional Affordable Housing Strategy plan. Jurisdiction’s replacement strategies that are closely associated with a specific funding source may have the most chance of success.

2. No Net Loss Housing Policy

Encourage the use of a No-Net-Loss Housing Policy for local jurisdictional review of requested quasi-judicial Comprehensive Plan Map amendments with approval criteria that would require the replacement of existing low-income housing that would be lost through the Plan Map amendment. The Subcommittee members are sensitive to the concern that this strategy not result in a “changing of the rules” for property owners by imposing regulations that unreasonably limit or negate the uses of the property allowed under current zoning. This recommendation pertains to zone changes requested by the property owner that would result in a loss of existing affordable housing. Adopting the replacement housing criteria as part of the review process for considering a quasi-judicial zone change or Plan Map amendment would not be a change in the rules when the change in zoning is sought by the property owner.

Local

1. Replace Housing Lost in Urban Renewal Areas

Local jurisdictions could consider developing policies to prevent the loss of affordable housing through demolition in urban renewal areas by implementing a replacement housing ordinance specific to urban renewal zones.

FACTUAL INFORMATION

- City of Hartford, Connecticut. Municipal Code. Article IV. Rehousing Assistance Program.
- City of Portland. Housing Preservation Ordinance, 1998.
- City of Portland Municipal Code. Title 33, Planning and Zoning; Chapter 33.810, Comprehensive plan Map Amendments. (No Net Loss Housing Policy).
- City of Seattle. *Ordinance Number 119371*. February 1999.
- City of Seattle. Municipal Code 5.72.040.
- Lambert v. City and County of San Francisco*. 758 Cal. App. 1997.
- Metro. *Memorandum from Ken Helm, Assistant Counsel to Larry Shaw, Senior Assistant Counsel: Low-Income Housing Replacement Ordinance*. October 8, 1997.
- Koebel, C. Theodore, Ph.D. "Urban Redevelopment, Displacement, and the Future of the American City." Center for Housing Research, Virginia Polytechnic Institute and State University, May 1, 1996. <http://www.rich.frb.org/comaffairs/mw2.html>
- Minnesota Statutes. Economic Development Chapter, Section 469.201, 1998.

Inclusionary Housing/Zoning: Land Use Tool

Finalized at the Land Use and Regulatory Subcommittee Meeting: January 13, 2000

Approved by H-TAC: February 14, 2000

PURPOSE

To evaluate options for the implementation of inclusionary zoning or housing programs to increase the production of affordable housing that could be recommended for implementation in the Metro region. As part of the Subcommittee analysis to reach conclusions, program information was collected from jurisdictions implementing similar strategies.

DESCRIPTION

Inclusionary zoning (or inclusionary housing) is the term most frequently used to describe a wide variety of techniques that link construction of low- and moderate-income housing to the construction of market rate housing. Typically, the lower-income units are included in an otherwise market-driven development. The principal objective of inclusionary housing is to increase the supply of affordable housing while also fostering greater economic integration.

Inclusionary housing can be defined as a city or countywide mandatory requirement or voluntary objective that assigns a percentage of housing units in new residential developments with a specified minimum number of units, to be sold or rented to lower- or moderate-income households at an affordable rate (usually below the market rent).

Most inclusionary housing programs, whether voluntary or mandatory, rely on a combination of incentives to ensure that affordable units are constructed. Some incentives frequently used in conjunction with inclusionary housing programs include density bonuses, financial subsidies, development fee waivers, option to produce inclusionary units off site, relaxed development standards, reduced impact fees, and donations of land or fees in lieu of providing affordable units.

Legal Issues in Oregon

The Oregon State Legislature passed and the Governor signed House Bill (HB) 2658 in the 1999 legislative session. The bill amends ORS Chapter 197.295 to 197.313 to add the following provisions:

- (1) Except as provided in subsection (2) of this section, a city, county or metropolitan service district may not adopt a land use regulation or functional plan provision, or impose as a condition for approving a permit under ORS 215.428 or 227.178, a requirement that has the effect of establishing the sales price for a housing unit or residential building lot or parcel, or that requires a housing unit or residential building lot or parcel to be designated for sale to any particular class or group of purchasers.
- (2) Nothing in this section is intended to limit the authority of a city, county or metropolitan service district to adopt or enforce a land use regulation, functional plan provision or condition of approval creating or implementing an incentive, contract commitment, density bonus or other voluntary regulation, provision or condition designed to increase the supply of moderate or lower cost housing units.

This bill has the effect of prohibiting mandatory inclusionary housing programs, as such a program would have “the effect of establishing the sales price...or...requir[ing] a housing unit to be designated for sale to...a particular class.”

Local Land Use Attorney Analysis

On November 9, 1999, a group of local government land use lawyers in the Metro region met at Miller Nash LLP to discuss the scope of HB 2658. Attending were Larry Shaw, Assistant Metro

General Counsel; Rick Faus, Deputy Gresham City Attorney; Evan Boone, Deputy Lake Oswego City Attorney; Peter Kasting, Senior Assistant Portland City Attorney; and Alan Rappleyea, Assistant Washington County Counsel. All have significant experience in the area of local land use planning. Following are some of the thoughts, ideas and conclusions that came out of this meeting.

The Issue: The H-TAC Land Use and Regulatory Subcommittee's chief concern has been over the breadth of Subsection 1 of the new law, particularly the prohibition against a land use regulation or condition that "has the effect of establishing the sales price" of a unit of housing. The subcommittee was worried that a broad reading could effectively prevent any local regulation that had the effect of requiring housing at affordable levels.

Analysis: The lawyers concluded that the prohibition is not as broad as the subcommittee had feared.

The Supreme Court has established a three-level test for statutory construction: *PGE v. Bureau of Labor and Industries*, 317 Or. 606, 859 P.2d 1143 (1993). First, you look to the text and context of a provision, next to legislative history, and lastly to the legal maxims of statutory construction. The Subcommittee's concern focused on the phrase "have the effect of," reasoning that almost any zoning regulations can have an effect on price. The lawyers focused on the phrase "establishing the sales price." The dictionary definition of "establish" is to make firm or fixed. Thus a requirement "that has the effect of establishing the sales price" is one that directly or indirectly fixes the actual price at which a dwelling unit must be sold. The lawyers reasoned that a regulation that reduces or affects the price in less determinable way, such as mandatory minimum density or a maximum square footage requirement, does not "establish a sales price."

The context supports this reading of the text. Subsection (2) limits the scope of subsection (1) to clearly permit regulations that "establish a sales price" or require sale to a particular income class as long as the regulation is contractual, attached to an affordable housing incentive, or attached to some other voluntary regulatory structure.

In addition, the HB 2658 provisions were specifically added to ORS 197.295 to 197.313, which generally require local governments to assure that there will be adequate needed housing. HB 2658 did not amend ORS 197.303, which defines "needed housing" as "housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels." HB 2658 also did not amend ORS 197.296, which requires a local government to amend its zoning regulations to ensure that its identified need is met. See ORS 197.296(4)(b), (5). Finally, it did not change ORS 197.307(1) which states that "availability of affordable, decent, safe and sanitary housing opportunities for persons of lower, middle and fixed income...is a matter of statewide concern. If the legislature had intended HB 2658 to be broadly prohibitory of regulations designed to require or ensure that affordable housing is provided, these provisions would have been substantially amended.

Although it is not necessary to refer to legislative history if the text and context is clear, the legislative history is also helpful in concluding that HB 2658 was intended to have a relatively narrow reach. The most extensive recorded public testimony on the bill occurred at the February 25, 1999, meeting of the House General Government Committee meeting, chaired by Rep. Carl Wilson. John Chandler and Wendie Kellington spoke for the bill's sponsor, the Oregon Building Industry Association (OBIA). They made it clear that the bill was intended to target classic inclusionary zoning – regulations that require a developer of a subdivision or multi-family housing project to set aside a certain percentage of housing units for sale at a fixed below-market price or to a specific income class. Testimony from another OBIA member, Larry Medinger, further clarified that the bill was not intended to affect inclusionary requirements tied to voluntary incentive-based programs, possibly leading to the development of Subsection 2 of the new law.

Possibilities without HB 2658

The subcommittee did not spend much time talking about the potential value of mandatory inclusionary zoning (which would require the removal or modification of HB 2658) since figuring out what was possible under the limitations of HB 2658 was so time consuming. Subcommittee members expressed varying opinions on imposing mandatory regionwide inclusionary zoning, however there was consensus at the subcommittee level that local jurisdictions should have the option to impose mandatory inclusionary zoning. Mandatory inclusionary zoning could be useful if it becomes clear after a reasonable period of time that voluntary measures are not being used or are not working. The subcommittee recommends that mandatory inclusionary zoning be included on the list of tools that might be explored in the future if the region or a local jurisdiction is falling short of its goals, noting that action could be taken to try to remove or modify HB 2658.

EXAMPLES OF INCLUSIONARY HOUSING PROGRAMS

Regional Inclusionary Housing Programs

State of California

California State law requires that local jurisdictions prepare housing elements that provide a plan to accommodate the existing and projected housing needs for residents at all income levels. (Section 65583 of California State Code). In response to this requirement, many jurisdictions in the State of California have developed inclusionary housing programs. According to a study completed in 1998, a majority (69 percent) of inclusionary housing programs implemented by local governments are mandatory, requiring developers to meet the terms of the program. However, several programs are voluntary, providing incentives to developers willing to include affordable units in market rate developments.

Voluntary inclusionary housing programs focus on providing incentives that will encourage developers to provide affordable housing units. A developer is free to take advantage of the incentives or not to use them and provide no affordable units. Voluntary inclusionary housing ordinances usually include a requirement that the developer meet a threshold requirement prior to taking advantage of any incentives. Such programs are typically only applicable to developments of a certain size, and may apply to both rental and for-sale housing units.

State of New Jersey

The New Jersey program is mostly used as a tool for the fair share distribution of affordable housing, and is a unique approach driven by the judicial system. However, it is useful to consider the approach.

Inclusionary housing programs in New Jersey have been driven by the landmark 1983 *Mount Laurel II* decision. The court-inspired solution to the problem of exclusionary housing has forced many unwilling jurisdictions and the state government to tackle social and racial integration through land use laws. Since 1985 the New Jersey Council on Affordable Housing (COAH) has imposed detailed state regulations that govern the scope, character and other key features of inclusionary development throughout the state. While inclusionary housing is not explicitly required under state law, the ramifications of the *Mount Laurel* decision that provide a “builder’s remedy” have led to inclusionary housing laws in most local jurisdictions in New Jersey.

The Council on Affordable Housing (COAH), under direction from the state legislature, created a process of certification for municipalities that developed acceptable fair-share inclusionary housing plans. The certification process, although it is voluntary, carries a substantial incentive for local governments by granting municipalities certified by COAH protection from exclusionary zoning suits for a period of six years. Thus, local governments are provided with a measure of predictability in seeking to address their legal obligations to provide their fair share of affordable housing.

Voluntary Inclusionary Housing Programs

City of Camarillo, California

The City of Camarillo has adopted a voluntary inclusionary housing program to further enable the city to meet the housing needs of its residents. The city adopted Chapter 19.49 Density Bonus and Other Incentives to “further encourage the provision of such housing by providing a density bonus or equivalent incentive.” To be eligible for the incentives provided under city code, developers must comply with terms outlined by the city and enter into an appropriate agreement.

To qualify for a density bonus and other incentives, a developer must provide:

- at least 20% of total units for lower income households; or
- at least 10% of total units for very low income households; or
- at least 50% of total units for seniors.

The density bonus allowed is 25% over the otherwise allowable residential density, and incentives include but are not limited to:

- a reduction in site development standards, modification of zoning code requirements or architectural design requirements that exceed the minimum building standards adopted by the city; and
- other regulatory incentives or concessions proposed by the developer or the city that result in identifiable cost reductions.

The city also requires specific affordability periods depending on the combination of density bonus and incentives received by the developer. The property owner is required to enter into an agreement with the city that requires that restricted units remain available to qualified households for the required period of time. This “affordable housing agreement” must be approved by the city attorney and the agreement runs with the land.

City of Orange, California

The City of Orange provides incentives to developers for the production of lower income housing units to meet the affordable housing goals of the city’s housing element. Chapter 17.14.340 – 17.14.420 of the city’s municipal code describes the affordable housing program adopted by the city. The code applies only to qualifying housing developments, which are defined as new construction of rental or for-sale housing developments consisting of five or more dwelling units that include:

- at least 10% of the total units are for “very low income” households, or
- at least 20% of the total units are for “lower income” households.

A developer that meets the above requirements is entitled to a density bonus of at least 25% over the maximum allowable density and one additional incentive. The additional incentive may include any of the following:

- a reduction in one site development standard that exceeds the minimum State building code requirements such as lot coverage, frontage, or depth, building setback or height, or a substitution of covered parking for enclosed parking, public recreational amenities for private open space;
- allow for mixed use in conjunction with the housing development on properties zoned for commercial, office, or industrial use;
- a regulatory incentive or concession resulting in identifiable cost reductions such as a reduction, waiver, or reimbursement of planning review fees, development fees, or building plan check and permit fees;
- allow for a density bonus greater than 25% or more than one regulatory incentive provided a higher percentage of units are designated as affordable;
- other incentives of equivalent financial value based upon the land cost per dwelling unit.

The city requires that the affordable units are distributed throughout the project and that they include a mixture of unit types and amenities similar in character to the entire project. The city also requires that the developer sign a written agreement with the city that identifies the affordable units, includes a term of affordability, determines the maximum allowable rent or sales price, and outlines a monitoring program to ensure affordability throughout the length of the agreement.

Mandatory Inclusionary Housing Programs

Montgomery County, Maryland

In 1974 the Montgomery County Council introduced legislation in response to the shortage of affordable housing in the county, the Moderately Priced Housing (MPH) Law. This legislation addressed both inclusionary zoning and density allowances. It proposed that builders of most residential housing make a portion of the housing units available at below-market rate sales prices or rental rates. This program is believed to be the first mandatory inclusionary zoning law that specified a density bonus allowance to builders for providing affordable housing. The density bonus was included as a method of avoiding constitutional takings.

A provision of MPH Law required that between 12.5 percent and 15 percent of the houses in new subdivisions of 50 or more units be moderately priced dwelling units (MPDUs). The law is applicable to property zoned one-half acre or smaller. Subdivisions in large lot zoning categories, which are not normally served by public water and sewer, are exempt from the requirement because higher densities are considered difficult to achieve when installing well and septic systems. The zoning ordinance allows a density increase of up to 22 percent above the normal density permitted in the zone. The law also requires that 40 percent of the MPDUs be offered to the Housing Opportunities Commission (HOC) and other nonprofit agencies for use by low and moderate-income families.

The county imposes restrictions on the resale and occupancy of the MPDUs for a period of 10 years. After the time restriction expires, there is a split between the county and the owner of any “windfall” profit obtained through the sale.

The goals of the MPDU program are:

1. To produce moderately priced housing so that County residents and persons working in the County can afford to purchase or rent decent housing;
2. To help distribute low and moderate-income households throughout the growth areas of the County;
3. To expand and retain an inventory of low-income housing in the County by permitting the Housing Opportunities Commission (HOC) and recognized nonprofit housing sponsors to purchase up to 40 percent of the affordable units (HOC is limited to one-third);
4. To provide funds for future affordable housing projects by sharing the windfall appreciation when MPDUs are first sold at the market price after expiration of the resale price controls. (Montgomery County).

The MPH Law has fostered the production of over 10,000 affordable housing units. Housing constructed as MPDUs now constitutes approximately three percent of the total housing stock in Montgomery County. The program also contributes to the economic and racial integration of the county through marketing to a diverse group. A limitation of the MPDU program is its reliance on a strong residential construction market to create affordable housing.

City of Bellevue, Washington

The City of Bellevue enacted a mandatory inclusionary housing program under the mandate of the State Environmental Policy Act and Washington State’s Growth Management Act that required cities to consider the housing needs of all economic segments of the community. The inclusionary

housing requirements apply to all new residential development, all subdivisions, and all rezone applications. Requirements are outlined below.

1. **Multifamily Development:** At least 10% of the units in all new multifamily development proposals of ten units or greater must be affordable units. In addition, one bonus market rate unit is permitted for each affordable unit provided, up to 15% above the maximum density permitted in the underlying zoning district.
2. **Subdivision Development:** At least 10% of the units in all new subdivision proposals of ten lots or greater must be affordable units. In addition, one bonus market rate unit is permitted for each affordable unit provided, up to 15% above the maximum density permitted in the underlying zoning district.
3. **Rezoning:** All rezone proposals for an increase in residential zoning density must provide that at least 10% of the units buildable under the original maximum density be affordable units and that at least 20% of the units buildable as a result of the increase in density from the original maximum density to the total number of approved units must be affordable units. In addition, one bonus market rate units is permitted for each of the affordable units provided to meet the minimum 10% requirement of the original maximum density, up to 15% above the original maximum density. (Bellevue Municipal Code, 20.20.128).

HOW SHOULD AN INCLUSIONARY HOUSING PROGRAM BE APPLIED?

Mandatory inclusionary housing programs are currently illegal in the State of Oregon. However, a voluntary inclusionary housing program tied to a menu of incentives that are optional for a developer probably does not violate the provisions in HB 2658. A voluntary inclusionary housing program could be used in the Metro region as formal method of providing developers with incentives to facilitate the development of affordable units in conjunction with market rate housing development.

Incentives

Developers could be allowed to choose from a menu of incentives once entering into an agreement to provide the affordable units. Incentives may include:

- a density bonus;
- a reduction in one site development standard that exceeds the minimum State building code requirements such as lot coverage, frontage, or depth, building setback or height, or a substitution of covered parking for enclosed parking, public recreational amenities for private open space;
- allow for mixed use in conjunction with the housing development on properties zoned for commercial, office, or industrial use;
- a regulatory incentive or concession resulting in identifiable cost reductions such as a reduction, waiver, or reimbursement of planning review fees, development fees, or building plan check and permit fees;
- allow for more than one regulatory incentive provided a higher percentage of units are designated as affordable;
- other incentives of equivalent financial value based upon the land cost per dwelling unit.

Developers of new construction in housing projects of more than 5 units may be provided with incentives if they agree to provide a certain percentage of:

- a) units affordable to households at 31% - 50% MHI; or
- b) units affordable to households at less than 30% MHI; or
- c) senior housing; or
- d) disabled housing; or
- e) for sale units affordable to households at 80% - 120% MHI.

Other requirements that may be tied to a voluntary inclusionary housing program are:

- either long-term or permanent affordability requirements for rental units;

- location: the units could be interspersed with the market rate units, or it could be allowed to construct them at another location;
- time frame: the affordable units may be required to be constructed at the same time as the market rate units;
- design standards: the affordable units may be required to be of a similar design and layout as the market rate units.

POTENTIAL STRATEGIES

- *Local.* Encourage local jurisdictions to consider implementing a voluntary inclusionary housing program to facilitate the development of affordable housing.
- *Regional.* Develop a regionwide voluntary inclusionary housing guidelines and performance standards.
- *Linkage to other strategies.* A voluntary inclusionary housing program might be most effective when combined with key incentives, especially those that reduce the costs of developing and providing affordable housing.

Analysis of Tools Under HB 2658 by the Local Land Use Attorney Analysis

1. Mandatory legislative or quasi-judicial requirements that a developer set aside a certain portion of units/lots in a development to sell to a certain income class or at a specific below-market price. Such regulations are clearly prohibited by HB 2658, unless tied to a voluntary application for an incentive by the property owner (see discussion below).
2. Mandatory consideration of the impacts on affordable housing as a criterion for any legislative or quasi-judicial zone change, or could be potentially expanded to include the approval of a conditional use permit for a non-residential use in a residential zone. The consensus was that such regulations would be allowable under HB 2658. Such regulations do not set price or require sale to a particular income class. Rather, they require the consideration of negative impacts on affordability generally. The test would not be qualitatively different from considering the impact of a change on needed housing and the mix of housing types currently required under Goal 10 and state statute.

Local governments would need to be careful when crafting the review criteria to implement this concept that they do not create a de-facto mandate for inclusionary zoning of the type prohibited by HB 2658. Application for a zone change, however, is a voluntary act by the property owner – in essence the applicant is asking the local government to change the rules to allow the applicant to develop in a manner not allowed under the existing zoning. To the extent that such zone change negatively impacts affordable housing, denial of the zone change or imposition of a condition requiring the loss to be mitigated would not violate HB 2658 – the applicant can avoid the condition by developing under the existing zoning. Indeed, because "permits" are expressly differentiated from "zone changes" in ORS 215.428 (counties) and 227.178 (cities) the HB 2658 prohibitions on attaching "inclusionary zoning" conditions on the former may not be applicable to the latter.

Imposing such a review process on conditional use permits would require more care, because a conditional use is use allowed under existing zoning and is a "permit" as used in ORS 215.428 and 227.178, and so direct "inclusionary zoning" conditions would be prohibited by HB 2658. The rationale for an "affordable housing" impact review for a conditional permit would be instead based on the nature of such permits and could be implemented by tools other than those prohibited by HB 2658. A "conditional use" under most zoning codes is a use allowed in the zone, but which requires a review process to ensure that approval does not negatively impact primary permitted uses in the zone. A conditional use permit can be approved if will not negatively impact the primary uses or if the impacts can be mitigated by the imposition of conditions. In most codes,

conditional use permits can be denied if such impacts cannot be adequately mitigated. Since housing in general is the permitted use in a residential zone, adding a condition that would require review for impacts on affordable housing would be justifiable. Such a permit could be denied if those impacts were unacceptable.

Another variation on this theme that would not run afoul of HB 2658 would be to adopt zone change criteria making it easier to obtain a zone change if an applicant can demonstrate that the change would have positive impact on needed affordable housing. For example, many comprehensive plans require applicants for a zone change to demonstrate that a substantial change in circumstances has occurred since the existing zoning was imposed, and/or require a demonstration that the change will better implement the Comprehensive Plan. A local jurisdiction could adopt an alternate criterion that would permit the zone change if the applicant constructed X% of the project at affordable levels. This type of criterion would essentially create an incentive to propose an inclusionary project to avoid the more subjective and problematic standard zone change criteria. To any degree that zone changes fall within the HB 2658 prohibition, this approach would thus fall within the Subsection 2 "incentives" exception.

3. Enactment of "Fair Share" affordable housing targets/goals/benchmarks. Fair share targets are not prohibited by HB 2658. In essence, Metro's determination of the "Fair Share" targets is a determination of the regional need for a particular type of "needed housing." Such a determination is not only authorized by ORS 197.296, it is mandated, as are regulations to achieve the targets. ORS 197.296(5). As noted above, this regulatory structure is unchanged by HB 2658.
4. Designation of certain urban growth boundary or urban reserve territory for affordable housing. To the extent that a general legislative designation would require development of the property for housing at a particular price or for sale to a particular income class, it would violate HB 2658. To the extent that the designation occurred at the request of a property owner that based its application on a "special need" to provide affordable housing and whose property would not otherwise qualify for inclusion in the UGB or urban reserve, such a zoning designation is arguably a voluntary incentive under HB 2658(2). Mandatory inclusionary housing conditions could be imposed (see discussion on incentive-based programs, below).
5. Mandating construction of affordable housing based upon housing characteristics, rather than price or income levels of purchasers. Such regulations would not violate HB 2658. Examples include: Mandatory minimum densities; Maximum square footage limits; single garage requirements; a mandatory percentage of granny flats; requiring certain percentages of attached or multifamily development; and similar regulations. Such requirements would tend to increase the supply of affordable housing but would not establish a sales price or require the units to be sold to a particular income class. This would expand housing choices and opportunities in the region, but probably will not by itself address the needs of households below 50 percent of the median household income.
6. Mandates tied to incentives. HB 2658(2) clearly authorizes the imposition of mandates, including price and income-based requirements, if such mandates are tied to a voluntary incentive program. The key is that application for the incentive has to be voluntary on the part of the developer. Examples include:
 - a. Money: Inclusionary requirements can be attached to local government funding. For example, the fund could be used as a tool to encourage mixed-income projects and to encourage more market-rate developers to participate in the production of affordable housing.
 - b. Applications for inclusion in the Urban Growth Boundary: See discussion above (#4).

- c. Redevelopment Agreements. In urban renewal districts that include housing, mandatory inclusionary housing can be tied to redevelopment agreements for public investment, use of condemnation power, and/or financial support.
- d. Regulatory incentives. Examples include SDC deferral, relaxation of design requirements (e.g. setbacks, infrastructure design standards, lot coverage, FAR, parking requirements, height limits)¹, density bonuses, use bonuses, and fee waivers.²
- e. Property tax abatements/deferral.
- f. Priority/expedited application processing.³

OTHER CONSIDERATIONS

- Inclusionary programs may reduce potential opposition from neighbors expressing NIMBY (not-in-my-back-yard) concerns. Under an inclusionary housing program, lower income units are often constructed and occupied concurrently, so there are no pre-existing organized groups to oppose the affordable units.
- Developers tend to oppose inclusionary housing programs for several reasons. First, many see it as a governmental interference in their business of providing housing. Secondly, developers argue that the losses they incur by providing below market rate housing are passed on to the purchasers or renters of market rate housing in the form of higher prices, decreasing housing affordability for middle income people.
- Linkages: The prohibition of direct mandatory inclusionary housing by HB 2658 increases the need to develop a regional funding source and regulatory incentives to achieve the region's affordable housing (fair share) goals.
- One of the important values of inclusionary housing programs is the ability to decrease concentrations of poverty and increase the mix of incomes in new developments.

RECOMMENDATION FOR IMPLEMENTATION

Since a voluntary inclusionary housing program could be tied to land use, Metro has the authority to implement a regionwide voluntary inclusionary housing program for affordable housing. However, due to differences in housing needs and development standards across the region, the incentives needed to create a successful program are not likely to be the same in all jurisdictions. Thus, the subcommittee recommends that voluntary inclusionary housing programs, especially the type of incentives that are offered, be determined by local jurisdictions. A regional voluntary guideline or model ordinance and performance standards for a voluntary inclusionary housing program should be developed in order to facilitate progress towards meeting the region's affordable housing goals. However, a loophole may exist in that there is nothing to preclude a buyer from buying at a low rate, then turning around and selling at a higher rate. One way to mitigate this is to combine an inclusionary housing program with long term or permanent affordability requirements, such a restriction on the deed that recaptures a portion of the equity or a community land trust model.

¹ Any relaxation of design requirements has to be carefully balanced against the policies that such requirements are designed to achieve – typically compatibility with the surrounding neighborhood. Relaxation of some design requirements may increase neighborhood resistance to an affordable project, having the effect of reducing costs in one area (construction, unit density), but increasing them in another (appeals, contested applications).

² Any regulatory incentives proposed by Metro must be carefully crafted to accommodate other limitations applicable to local programs (e.g., bond covenants prohibiting waiver of fees or discounted service).

³ Cities and counties are subject to statutory deadlines for action on land use applications (ORS 215.428, 227.178). Violation of these deadlines enables an applicant to go to court to compel approval – and have their attorney fees paid. Most local governments struggle to meet these deadlines under current law. Expediting applications for affordable housing projects could have the effect of increasing costs for local governments by requiring higher staffing levels, or by delaying other applications and thus inviting litigation. Local jurisdictions could first look to reducing the level of review (from Type III to Type II, for example) for affordable projects.

Strategies outlined below would help jurisdictions in the Metro region move towards meeting regional fair share goals.

A. Regional

1. Voluntary Inclusionary Housing Guideline and Model Ordinance

Develop a regional voluntary inclusionary housing guideline, including a model ordinance, for varying percentages tied to certain income groups and permanent affordability. Developers of new construction in housing projects over a certain size may be provided with incentives if they agree to provide a certain percentage of:

- units affordable to households at 31% - 50% MHI; **OR**
- units affordable to households at less than 30% MHI; **OR**
- senior or disabled housing.

However, local jurisdictions could implement a voluntary inclusionary housing program in a way that best fits local conditions.

2. Tie Inclusionary Housing Requirements to a Regional Fund

If a regional funding source is established, some of the funds could be used as a tool to encourage mixed income projects and to encourage more market-rate developers to participate in the production of affordable housing.

3. Consider Inclusionary Housing when Amending the Urban Growth Boundary

Decisions on the designation of certain urban reserve areas and urban growth boundary expansions currently allow for consideration of special land needs such as for affordable housing. However, no enforcement mechanisms are in place. One possible strategy could be if a developer applies for inclusion in the urban growth boundary based on a special need for affordable housing, the decision should be conditioned on inclusionary zoning requirements.⁴

4. Best Practices

A compilation of “best practices” in implementing voluntary inclusionary housing programs should be compiled to enable jurisdictions to determine what models would work best locally.

B. Local

1. Voluntary Inclusionary Housing Program Tied to Incentives

Encourage local jurisdictions to implement a voluntary inclusionary housing program to facilitate the development of affordable housing, using the regional voluntary inclusionary housing guideline and model ordinance. Local jurisdictions could consider tying a variety of incentives to the targeted income group to encourage the development of affordable units to meet affordable housing production goals.

2. Zoning requirements that lead to affordable housing

Encourage local government housing requirements such as minimum densities, maximum square footage limits, single-car garage requirements, percentage of accessory dwelling units, percentage of attached or multi-family development, which tend to result in affordable housing.

3. Tie Inclusionary Housing Requirements to Zone Changes

Encourage local governments to consider the impacts on affordable housing as a criterion for any legislative or quasi-judicial zone change, which could potentially be expanded to include approval of conditional use permits for a non-residential use in a residential zone.

⁴ The Subcommittee expressed concern that this strategy could become a tool to enable poor land use planning. Implementation of this strategy may require coordination between Metro and local governments to ensure that affordable housing is developed (e.g., development agreements, etc.).

4. Tie Inclusionary Housing Requirements to Urban Renewal Zones

Encourage local governments, when creating urban renewal districts that include housing, to tie inclusionary zoning requirements to redevelopment agreements for public investment, use of condemnation power, and/or financial support.

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Transfer of Development Rights: Land Use Tool

Finalized at the Land Use and Regulatory Subcommittee Meeting: January 5, 2000

Approved by H-TAC: January 24, 2000

PURPOSE

To examine the use of transfer of development rights (TDRs) as a regulatory strategy for the preservation, production, or replacement of affordable housing and to determine the utility of this regulatory strategy in the context of Metro's Regional Affordable Housing Strategy. This paper defines the concept, provides some examples, and recommends approaches that H-TAC may propose to Metro. As part of this subcommittee analysis, program information was collected from jurisdictions implementing similar programs.

DESCRIPTION

The simplest definition of a TDR regulation is a zoning strategy designed to direct development from one site to another in order to preserve a publicly valued resource. Examples of such a resource include agricultural land; natural environments such as coastal mountain ranges, forests, wetlands; historic structures; cultural institutions; or affordable housing. The premise is that the excess development rights that would otherwise encourage the destruction or redevelopment of the resource at the "sending" site constitute a marketable commodity that can be sold to a "receiving" site that places a value on additional development density. Within this regulatory framework the public benefits derived by the preservation of the resource work in concert with private goals of greater return on investment generated by increased development opportunity at the receiving site.

The bundle of development rights are usually expressed as the additional air rights granted under existing zoning to a structure or site which does not currently take advantage of these rights. These potential development rights such as additional height or floor area or housing units may pose a threat to the current land use that the zoning authority may wish to preserve. By allowing the marketability of these excess rights, it is hoped that the transferable value of this development potential may be an incentive to preserve the current land use.

TDRs are distinguished from floating development rights such as those associated with planned unit developments (PUDs) in which development permitted under the base zone can be clustered or dispersed on contiguous and commonly owned sites in order to preserve open space, protect environmental resources, carry out transit orientation policies or take advantage of physical infrastructure efficiencies. TDRs, on the other hand, typically involve separate sites under separate ownership.

EXAMPLES OF TRANSFER OF DEVELOPMENT RIGHTS

Most examples of TDRs pertain to the preservation of farmland or natural resources. However, there are some examples designed for the preservation of low-income housing.

City of Seattle

According to a 1989 Urban Land Institute report, the City of Seattle effectively requires all new office development built within the downtown core at an FAR⁵ between 15:1 and 20:1 to obtain development rights from a housing TDR pool. The housing TDR pool is collected from sending sites of existing and rehabilitated low- and moderate-income rental housing. The sending site must retain the housing at a specified affordability level for twenty years. The sending sites can be located in

⁵ FAR = Floor Area Ratio. Floor area ratio is a way to measure how much of a piece of land is taken up with building. In other words, it refers to the ratio of building area to the lot size. For example, if a building is 15 stories and covers an entire lot, the FAR would be 15:1.

most areas of downtown, but the receiving sites are limited to the office core and the mixed/commercial sector near the Denny Regrade. The strategy had resulted in the preservation of 274 housing units at the time the report was published (1989), most of which were due to the construction of one new office building, the Washington Mutual Tower. The Seattle TDR strategy works with several other replacement and preservation strategies, some of which have since been invalidated by the Washington Supreme Court. The ULI report deems the Seattle strategy a modest success.

City of Portland

With the adoption of the 1988 Central City Plan, Portland has employed a TDR designed to preserve existing single room occupancy (SROs) hotels by allowing the sale and transfer of excess FAR to a receiving site within the Central City. Since the adoption of this strategy there has been one successful use of this tool. The former Athens Hotel at NW Everett and Sixth Avenues was purchased by a local nonprofit development corporation for rehabilitation into housing and treatment services for very low-income individuals. The excess development opportunity on the site of the Athens amounted to 50,000 square feet of floor area. This floor area was sold, at an unspecified amount, to the adjoining owners of the rest of the block, who some years later developed the mixed-income Fifth Avenue Courts apartment project. The rehabilitated SRO, now called the Sally McCracken Building, is required by a covenant signed by both parties, under review by the City, to remain as very low-income housing indefinitely. Should the housing be destroyed, the owners are obligated to replace the housing.

OTHER CONSIDERATIONS

A major advantage of the TDR strategy is, assuming the local government does not institute a TDR pool, that the owners of the sending and the receiving sites decide between themselves the value of the transferred development rights. The local government's role in this case is limited to reviewing the terms of the covenants to ensure that the basic regulations are recorded with the deeds of both properties. On the other hand, the local government needs adequate legal resources to ensure that the covenant is clear and enforceable.

The alternative approach, such as that used in Seattle, is to require the office developer to pay a cash payment to nonprofit housing developers in which case the value of the transferred rights is established by the local governing body.

The use of TDRs may work best with a variety of other strategies that serve the purposes of preserving or increasing the supply of affordable housing. Subcommittee members also observed that TDR strategies work best in a contained area planned with this strategy in mind rather than applying it throughout a jurisdiction.

The local government must plan the overall base level of permitted development to ensure that development made possible at the receiving site does not exceed the intensity envisioned for that site resulting in structures that violate other goals to preserve views, light, or promote other aspects of design compatibility.

This strategy may be less effective under a regulatory scheme with already generous base height and floor area zoning. TDRs adopted in central business districts are often preceded by a downzoning of development potential as in the case of New York's system.

RECOMMENDATIONS FOR IMPLEMENTATION

A. Regional

1. Include on List of Recommended Tools

Metro should include TDRs as part of the list of recommended practices to help carry out regional housing goals. There are a variety of TDR approaches that can be tailored to the conditions of a particular jurisdiction. H-TAC concluded that such approaches should be examined and, if found to be legally or administratively sound, promoted as models for local jurisdictions.

2. Housing TDRs Coordinated with Regional Goals

The use of TDRs should also be considered in conjunction with open space and environmental preservation strategies to further overall development capacity goals.

3. Best Practices

A compilation of “best practices” in implementing TDR programs should be compiled to enable jurisdictions to determine what models would work best locally.

B. Local

Encourage local jurisdictions to implement TDR programs to facilitate the development of affordable housing when planning for Main Streets or Town Centers involving upzonings. Local jurisdictions could take into account the utility of TDRs in the ultimate zoning pattern of these districts.

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Local Regulatory Constraints: Land Use Tool

Finalized at the Cost Reduction Subcommittee Meeting: February 22-23, 2000

Approved by H-TAC: February 28, 2000

PURPOSE

To analyze the feasibility of reducing regulatory constraints and discrepancies in planning and zoning codes in the development approval and permitting process in order to reduce the cost of creating affordable housing.

DESCRIPTION

The local development permit approval process is meant to ensure that a residential development meets established standards that enhance community characteristics and property values. The process is driven by a number of ordinances, standards and regulations that are geared towards: a) acceptable structural design and characteristics; and b) environmental enhancement and protection. The structural-oriented regulations include new building construction to rehabilitation codes, adequate water and sewage disposal standards, and handicapped provisions, among others. The environmental-oriented regulations include zoning codes for minimum lot sizes, density and open spaces, subdivision standards, and planning codes for tree preservation, parking, growth controls.

Those regulatory constraints related to the permit approval process and the environmental issues are described further below. The regulatory constraints related to the structural issues have been addressed in other strategy reports.

Permitting Approval Process

According to a report by the President Bush Advisory Commission on Regulatory Barriers to Affordable Housing *“Not in My Back Yard” Removing Barriers to Affordable Housing* (1991), in most jurisdictions across the country the approval process is not a logical point-to-point process. The process leads to delays that force builders and developers to pay extra interest on borrowed money and therefore increases the overall cost of housing. Some studies found that the point-rating system approval process in Orange County, California typically added \$20,000 to the cost of a single family home, and in New Jersey, permitting time increased from few months to three years in some jurisdiction. According to Debra Bassert of the National Association of Home Builders, some studies in the 1980s found that every month of delay in the approval process added one to two percent to the final price of a home.

Discrepancies in Planning and Zoning Codes

Discrepancies between local comprehensive plans, zoning codes, and Metro’s Urban Growth Management Functional Plan can impact the cost of producing affordable housing in a variety of ways. While a city’s comprehensive plan may have been adopted several years ago, the zoning code may be constantly evolving. Ordinances may be adopted over time to address specific issues that arise through the development process, such as a tree cutting ordinance to preserve valuable urban forests. The incremental adoption of a variety of ordinances, some of which may have conflicting goals, can have a significant impact on the cost and feasibility of developing affordable housing.

While a city’s zoning code may contain a variety of items focused on meeting the community’s goals, sometimes the code can conflict with itself. A city may have adopted a setback requirement that conflicts with the level of density the jurisdiction wants to obtain using minimum lot sizes, or the local density goals may conflict with those outlined by Metro. For example, a city may have adopted minimum lot sizes that do not allow for the construction of a single-family house due to setback requirements (the distance a structure is set back from a street, another structure, or the rear end of the lot). Some of the types of zoning codes that may conflict with each other are:

- Setback requirements
- Minimum lot sizes
- Design standards
- Density
- Open space requirements
- Tree preservation/tree cutting requirements
- Parking requirements

These discrepancies can impact the cost of development by reducing the number of units that can feasibly be built on a parcel. For instance, if a jurisdiction requires minimum setbacks, open space, tree preservation, and minimum parking spaces there may not be much room left on a parcel for housing units, regardless of the density that is allowed. This also may impact the ability of builders to provide small houses under the current regulatory system in some communities. Due to setback distances and minimum lot size requirements, small houses may not be economically feasible, as well as possibly precluding “new urban” developments of small bungalow type houses with front porches close to the street.

The need for strategies to address the above issues related to regulatory constraints will grow as more developments are expected to occur in this region to accommodate the projected increase in population and employment.

EXAMPLES OF METHODS TO REDUCE REGULATORY CONSTRAINTS

Local Permitting Approval Process

City of Portland

The City of Portland permitting process was viewed by some citizens and the press as an anachronistic and inefficient process that was in need of modernization. The modernization process was initiated through a Stakeholders Team recommendation (Blueprint 2000) submitted to the City Council in April 1998. The City Council’s goal was to “create a system that presents a predictable, seamless delivery of City development review functions and provides a clear point of accountability for the performance of review responsibilities.”

The Stakeholders Team recommendations were based on the following desired outcomes for the City development review system:

- a) implementation of City goals and policies through consistency in the interpretation of codes;
- b) communication of regulations, requirements and process in clear, early and consistent manner;
- c) staff responsiveness and service to customers and other stakeholders using service benchmarks that are measured as part of an ongoing customer service;
- d) predictability of process and results for everyone involved using performance standards that are reviewed periodically;
- e) accountability for quality and consistency of decision-making through timely and clear resolve of conflicts.

The recommended improvements in the City’s development review system and process were organized as follows:

1. Core business process that establishes the primary entry point or location for information and application intake for projects, provides a process “roadmap” for project approvals and requirements, including inspection and enforcement process and methods for resolving conflicts early;
2. People interactions-oriented system that reinforces a culture of customer service and identifies coordinated reviews teams including primary point of contact, technical review teams and project approval teams;

3. Integrated computer system accessible to all stakeholders that provides real time and accurate information;
4. Co-locate all staff with primary responsibilities for development review activities;
5. The effectiveness and impact of proposed regulations and existing regulations should be analyzed, reviewed and modified if necessary with public input.

The City's new Office of Planning and Development started operating in January 2000. The new Office was the first step in the implementation of the Stakeholders Team recommendations.

POTENTIAL STRATEGIES

Permitting Approval Process

- Regionally consistent permitting process
- Metro may serve as a technical resource including development of a model for an objective design review criteria (could be required by the region)
- Provide one contact person who is responsible for guiding a project through the entire permitting process
- Redesign the coordination element of the review processes as follows:
 - One stop permitting that provides a road-map of requirements and approval process
 - Cross training of staff
 - Interdepartmental review committees
 - Clearly stated time frames for reviews, approval and extensions
 - Computerized tracking system
 - Concurrent rather than sequential reviews
 - Coordinated public hearing by various sections or departments involved in permitting
 - Concurrent (or combined) hearing by different sections or departments
- Reduce the *number* of appeal opportunities
- Encourage more communication with neighborhoods – region, local governments, developers
- Encourage better communication with staff – building, planning, fire, public works, etc. Identify small number of themes to be addressed regularly.
- Encourage better coordination between State and local design review requirements.

Discrepancies in Planning and Zoning Codes

- Regularly review existing codes to determine their usefulness and impact on new developments
- Review existing codes for conflicts between local code and state or regional goals as well as internal conflicts (e.g., between setbacks and minimum lot sizes)
- Reduce the *number* of land use appeal opportunities
- Require that improvements be related to and commensurate with the impact that will result from the specific development; especially where there are *already* improvements needed but the entire cost of it falls on the specific development (i.e., the first development in should not pay for all of a needed improvement, conversely the “last straw,” or last development in should not pay for all of a needed improvement)

RECOMMENDATION FOR IMPLEMENTATION

A. Regional

1. Regional Guidelines for the Permitting Process

Develop regional guidelines for the permitting process, with the goal of creating a regionally consistent permitting process to enable developers to more easily produce housing in all parts of the region.

2. Metro as a Technical Resource

Metro may serve as a technical resource for local jurisdictions and funders to develop a compilation of “best practices” for design and development criteria.

3. Metro review of regional policies and regulations

Metro can review its goals for consistency in its overall regional planning policies and their impact on local planning and zoning activities. Metro should consider using a cost-benefit analysis to determine the impact of new regulations on the activities related to housing production at the local level.

4. Better coordination

Encourage better coordination between State and local design review requirements, especially in terms of timing. (This issue is also identified in the *Local/State Coordination Strategy*).

B. Local

1. Revise permitting approval process

Encourage local governments to revise their permitting approval process as follows:

- Provide a single contact person to shepherd each project through the process
- One stop permitting that provides a road-map of requirements and approval process
- Cross training of staff
- Interdepartmental review committees
- Clearly stated time frames for reviews, approval and extensions
- Computerized tracking system
- Concurrent rather than sequential reviews
- Coordinated public hearing by various sections or departments involved in permitting
- Concurrent (or combined) hearing by different sections or departments

2. Review existing codes

Local governments can review their development and design standards criteria for consistency and their impact on affordable housing developments. Local governments should also be encouraged to regularly review existing codes to:

- determine their usefulness and impact on new housing developments, and
- identify conflicts between local code and state or regional goals as well as internal conflicts (e.g., between setback and minimum lot size requirements).

3. Cost/benefit Analysis

Local governments should consider using a cost-benefit analysis to determine the impact of new regulations on the activities related to housing production at the local level

4. Reduce number of land use appeal opportunities

Encourage local governments to work towards reducing the number of land use appeal opportunities for each development.

5. Consider Fast Tracking Affordable Housing Applications

As a strategy for fast-tracking affordable housing applications, local governments should encourage developers to come in with a conceptual design to discuss applicable requirements and other major issues before finalizing and submitting a final application for a permit or rezoning.

6. Consider consolidating survey offices

Cities and counties should consider consolidating survey offices so that developers will only visit one surveyor per jurisdiction.

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Housing for Elderly & People with Disabilities: Land Use Tool

Finalized at the Land Use & Regulatory Subcommittee Meeting: February 2 & 9, 2000

Approved by H-TAC: February 28, 2000

PURPOSE

To determine the “best practices” for the implementation of strategies to encourage the development of housing for seniors and people with disabilities that could be recommended for implementation in the Metro region. As part of the Subcommittee analysis, program information was collected from jurisdictions implementing similar strategies.

DESCRIPTION

Seniors

The nation’s elderly population, or seniors, (60 years old and above) is increasing rapidly. In 1900 the elderly population equaled four percent of the population, grew to 12 percent in 1990, and is projected to increase to 20 percent by 2020. Data maintained by the Metro Data Resource Center shows that the population of persons 65 and older grew by 6.5 percent between 1995 (162,662) and 1999 (173,221).

Most seniors typically live on a fixed income, including Social Security Benefits (SSB), pensions, and retirement investments. Some seniors depend solely on SSB, and receive approximately \$500-800 per month. Seniors may also receive Supplemental Security Income (SSI) if they receive SSB below \$520. Meanwhile, the U.S. Department of Housing and Urban Development (HUD) fair market rent for a studio is \$463 and a one-bedroom apartment is \$569⁶. According to Multnomah County Aging and Disability Services, nearly half of elderly renters in Oregon spend over 35 percent of their income on rent, often making a choice between food, utility bills, and even medication to afford housing. The need for strategies to address issues seniors face in finding affordable housing will only grow as the population continues to increase over the next several years.

Seniors frequently live in the following types of housing: single family homes, mobile home parks, apartments, or licensed options (nursing homes, assisted living facilities, adult foster homes, or residential care facilities). Seniors often live on a fixed income. If seniors live in their own single family home, they may be “overhoused” (e.g., living alone in a three bedroom home) and may also require assistance for maintenance and upkeep due to increased costs and decreased physical ability. Many other seniors live in apartments. Many seniors in the region bought mobile homes located in mobile home parks as an affordable housing option for their retirement years. While these homes presented an affordable option at the time, typically the house is owned while the space for the house is rented. Rents for lot space have increased dramatically over time, creating a large burden for seniors on limited fixed incomes.

People with Disabilities

The household budgets of many people with disabilities are so low as to make apartment rental extremely difficult. A majority of people with disabilities are at 30 percent or less of the median household income. Many people with disabilities subsist on SSI benefits of \$500 per month. A study conducted in 1999 found that SSI in the region is only 18.3 percent of the median income, which equals full time hourly rate of \$3.09.⁷ In 1999, rent for an efficiency apartment took 86 percent of SSI and a one bedroom was not obtainable, at 105.9 percent of SSI. This inability to afford rental

⁶ Published in the October 1, 1999 Federal Register.

⁷ “Priced Out in 1998 – The Housing Crisis for People with Disabilities.” The Technical Assistance Collaborative, Inc. and The Consortium for Citizens with Disabilities Housing Task Force, March 1999.

payments contributes to many people with disabilities living in difficult conditions, such as in a friend or relative's home, or inaccessible apartments (on a second floor with no elevator when the person must use a wheelchair). Accessible and affordable apartments available in the region for this population are not sufficient to meet the need.

People with disabilities generally do not exist in isolation, they have families and may also be children. Families with a disabled member and individuals with disabilities often have difficulty finding affordable housing that is suitably accessible. People with disabilities may have functional limitations, vision impairments, difficulties hearing, problems with mobility, or a combination of disabilities including substance abuse. Many people with disabilities have difficulty going outside alone, and may also be unable to work due to their disabilities. The 1996 American Community Survey Profile for Multnomah County estimates the number of people with disabilities to be 37,912 or six percent of the total county population. According to Clackamas County Community Development, the total number of people with disabilities in Clackamas County is 25,736. Similar data is not available for Washington County.

One subset of people with disabilities includes those with "psychiatric disabilities," or people whose serious mental illness limits their ability to perform some activities of daily living. People with psychiatric disabilities may have special housing issues, including a lack of affordable housing. The prevalence of people with psychiatric disabilities is thought to range from one to three percent of the general adult population in the state. In 1999, the number of people with psychiatric disabilities served with state dollars was 1,742 in Clackamas County, 10,469 in Multnomah County, and 1,688 in Washington County.

Another subset of people with disabilities includes those with "developmental disabilities," or people with mental retardation, autism, cerebral palsy, epilepsy, or other neurologically disabling conditions that have been attained before the age of 22. The total number of people with a developmental disability in Multnomah County is estimated to be 19,250 (three percent of the total population), and in Clackamas County is estimated by Clackamas County Mental Health to be 4,300. Similar data is not yet available from Washington County.

EXAMPLES OF STRATEGIES TO ENCOURAGE HOUSING FOR SENIORS AND PEOPLE WITH DISABILITIES

Subsidized Housing

Both seniors and people with disabilities are frequently well served by housing units that are subsidized to keep costs down. Waiting lists for these units are generally long, and the population of seniors is projected to increase substantially. Thus, an increase in subsidized units designated for these populations would help reduce the affordable housing needs of seniors and people with disabilities in the region.

Mobile Home Courts

As mentioned above, many seniors found housing in mobile home courts to be an affordable option when they retired and downsized from the family home. However, many of the mobile home courts have increased rents for lot space dramatically, while seniors continue to live on fixed incomes. Many of the mobile homes are older and not easily marketable, thus seniors remain in them and pay higher rents. According to Elders In Action, rents in some parks have increased by over 50 percent since 1992. Estimates suggest that approximately 85 percent of mobile home courts residents are sixty and above. Table 1 below shows the number of mobile home courts in the region.

Table 1. Mobile Home Courts in the Metro Region

County	Number of Mobile Home Courts	Number of Mobile Home Spaces in the Courts
Clackamas	122	7,237
Multnomah	103	5,219
Washington	58	5,202
Totals	283	17,658

Source: Elders In Action, December 1999.

Three strategies identified by Elders In Action to address the issue of rising rents for seniors in mobile home courts are:

1. Legislative lobbying for rent stabilization.
2. Pursue land trust options for mobile home courts.
3. Encourage nonprofit ownership of mobile home courts.

Shared Attendant Model

The Shared Attendant Model is utilized by the Multnomah County Aging and Disability Services Department (in conjunction with the Housing Authority of Portland) to address the needs of clients who need services to stay independent in their housing. Many seniors and people with disabilities need assistance with taking complex medications, bathing, or getting to medical appointments. Without the services of an attendant, they would need to be in a care facility. However, finding competent attendants is very difficult, as they earn minimal wages, receive no benefits, and the job is physically and emotionally demanding.

The objective of the Shared Attendant Model is to stabilize the Client Employed Provider (CEP) – an attendant to assist in the activities described above – and increase the job retention time of the CEP by providing stable housing. This model provides for more efficient use of the CEP’s time, and provides the clients with better accessibility to the CEP by locating the clients and the CEP in the same building. This model gives the CEP steady hours, at least a forty-hour work week, and removes transportation costs. The CEP receives an apartment (with utilities paid) in exchange for caring for 4-6 residents, in addition to a salary. A case manager and a contract nurse support the CEP. The CEP is screened by the case manager and interviewed by the clients.

The Shared Attendant Model could be utilized in many senior or disabled housing situations in which there are a number of these populations in need of similar care.

Development Practices

Current development practices do not always specifically provide for the needs of elderly and disabled people, even in housing targeted for those groups. Costs of development may also be exceptionally high due to the need to comply with the Americans with Disabilities Act (ADA), which requires special fixtures such as wide doors, accessible showers, and specially designed kitchens.

Location of Housing for Seniors and People with Disabilities

Many seniors and people with disabilities are able to lead independent lives by relying on public transportation. Transit enables them to go shopping, visit friends and relatives, and go to medical appointments. Development of housing for elderly and disabled people could be focused in transit-friendly, location efficient areas. This could be used as a criterion for utilizing public dollars for the development of housing for these groups, such as CDBG funds.

Type of Housing for Seniors

Some of the housing developed for the low- and moderate-income elderly people on the private market is created in separate enclaves removed from the surrounding community. This can contribute to increasing isolation between generations as well as dependency of the residents on

services provided by the developer, such as private bus service. This type of development could be discouraged through the land use process.

Density Bonus for Housing for Seniors and People with Disabilities

The City of Portland has provided density bonus incentives for housing for seniors and people with disabilities since 1993. The regulations allow for increased density in specific multi-family residential zones, and only apply to new developments and projects that involve major remodeling.

These regulations provide opportunities to integrate housing for elderly and disabled citizens with other types of housing, and to increase the ability of the elderly and disabled to live independently and close to where services are generally available. (Title 33, Planning and Zoning, Chapter 33.229)

Projects in R3, R2, R1, and IR zones are allowed unlimited density as long as the project complies with the development standards of the base zone, accessibility standards, and the lot is at least 10,000 square feet. Projects in the RH zone are allowed to develop to a FAR (floor area ratio) of 4 to 1 if the same aforementioned conditions are met.

POTENTIAL STRATEGIES

- Link strategies for increasing affordable housing opportunities for seniors and people with disabilities to other tools. For example, the City of Portland allows a density bonus for housing developed for seniors. However, this tool should not be utilized to concentrate populations of seniors or people with disabilities.
- Use community land trusts as a tool to stop the increase in rents for seniors living in mobile home courts.
- Increase the total amount of affordable housing in the region so as to benefit specific populations such as seniors and people with disabilities.
- Encourage continued independence and mobility of seniors and people with disabilities by focusing development of housing for them in transit-friendly areas.
- Encourage the development of integrated communities, while discouraging enclaves of housing for seniors and people with disabilities in isolation from the surrounding community.
- Provide technical assistance for developers to carry out construction that complies with ADA requirements in the most cost effective manner.

RECOMMENDATION FOR IMPLEMENTATION

While some strategies for seniors and people with disabilities could be tied to land use, these strategies would be difficult to implement regionwide. Strategies to address the needs of these specific groups may be best implemented at the local level. Regional guidelines could be developed to further enable local jurisdictions to make progress towards meeting regional fair share goals.

A. Regional

1. If a regional fund is created, consider the needs of vulnerable populations, including seniors, people with disabilities, and other populations when allocating funds. Fair share goals focus on housing needs for households earning less than 50 percent of the regional median income; many of these vulnerable populations fall into this income level.

B. Local

1. Encourage local governments to tie the use of funds for these types of housing to locational decisions, such as: 1) focusing development of housing for low and moderate income seniors and people with disabilities in transit-friendly areas to encourage continued independence and mobility; and 2) encouraging the development of integrated communities, while discouraging enclaves of housing for seniors or people with disabilities in isolation from the surrounding community.

2. Encourage local governments and nonprofit community land trusts to utilize the community land trust model as a tool to stop the increase in rents for seniors living in mobile home courts.
3. Encourage local governments to use other planning tools and strategies (such as density bonus, transfer of development rights, etc.) to increase affordable housing opportunities for seniors and people with disabilities.
4. Encourage local governments to examine their zoning codes for conflicts in meeting locational needs of seniors and people with disabilities (i.e., allowing mixed-use developments in commercial and residential areas).

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Parking: Land Use Tool

Finalized at the Cost Reduction Subcommittee Meeting: February 22-23, 2000

Approved by H-TAC: February 28, 2000

PURPOSE

To identify parking as a significant cost in the production of affordable housing and discuss current efforts to reduce parking requirements in the Metro region.

DESCRIPTION

Parking can be a very large component of the cost of developing housing. Parking spaces are expensive to build, especially where land values are high. The cost of providing structured parking in high density areas such as downtown can add \$20,000 to \$30,000 or more to the cost of a housing unit. Conversely, minimum parking requirements in suburban areas can increase the cost of individual units by decreasing the amount of land available for housing. Parking in suburban areas is typically surface parking, which is relatively cost-effective but not efficient in the use of land. Environmental impacts of increased impervious surface are also important.

While it is important to minimize the impact of providing housing with fewer parking spaces on existing neighborhoods, there are types of housing that justify lower parking requirements. Assisted housing for seniors, many of whom do not drive, may require a minimum number of spaces for residents and guests. Housing for people with certain disabilities may require less parking. Additionally, housing located in transit efficient neighborhoods that do not require the use of a car for everyday activities also justify lower minimum parking requirements.

As described above, parking is an important cost consideration in the provision of affordable housing. The requirements for parking are not found at the local level, but are placed on developments by lenders. Many lenders will not fund a project that they believe may not be successful due to insufficient parking. However, much work has already been done in the region to address the costs associated with the provision of parking.

METRO'S REGIONAL FRAMEWORK PLAN PARKING REQUIREMENTS

The State's Transportation Planning Rule calls for reductions in vehicle miles traveled per capita and restrictions on the construction of new parking spaces as a means of responding to the transportation and land use impacts of growth. The Metro 2040 Growth Concept calls for more compact development as a means to encourage more efficient use of land, promote non-auto trips and protect air quality. Additionally, the federally mandated air quality plan adopted by the state relies on the 2040 Growth Concept to fully achieve its transportation objectives. The air quality plan relies on reducing vehicle trips per capita and related parking spaces through minimum and maximum parking ratios. Title 2 of Metro's Urban Growth Management Functional Plan addresses these state and federal requirements.

A compact urban form requires that land be used efficiently. Parking, especially that provided in new developments, can result in a less efficient land usage and lower floor to area ratios. In areas where transit is provided or other non-auto modes (walking, biking) are convenient, less parking can be provided and still allow accessibility and mobility.

Title 2 of the Functional Plan requires local jurisdictions to amend their comprehensive plans and implementing regulations to meet or exceed specific minimum standards. Regional parking ratios are outlined in the attached **Table 2 (Regional Parking Ratios)** of the Functional Plan, attached. Cities and counties are allowed to vary from these standards if they provide findings to show substantial compliance.

Local Government Compliance with Regional Parking Requirements

The table below indicates the compliance status of local governments with Metro's regional parking requirements.

Jurisdiction	Compliance Status with Title 2	Comments
Beaverton	Adopted	
Cornelius	Extension	
Durham	Adopted	City has requested an exception to commercial parking maximums
Fairview	Adopted	
Forest Grove	Adopted	
Gladstone	Adopted	
Gresham	Extension	June 2000
Happy Valley	Extension	
Hillsboro	Adopted	
Johnson City	Extension	
King City	Adopted	
Lake Oswego	Adopted	
Maywood Park	Adopted	
Milwaukie	Adopted	
Oregon City	Extension	June 2000
Portland	Extension	April 2000
Rivergrove	Adopted	
Sherwood	Extension	
Tigard	Adopted	
Troutdale	Adopted	
Tualatin	Adopted	
West Linn	Extension	
Wilsonville	Extension	
Wood Village	Adopted	
Clackamas Co., uninc.	Adopted	
Multnomah Co., uninc.	Extension	March 2000
Washington Co., uninc.	Extension	July 2000

RECOMMENDATION FOR IMPLEMENTATION

A. Regional

1. Encourage lenders to consider unique parking needs

Encourage lenders to consider parking needs for proposed housing on a project by project basis, accounting for the special needs of residents, when evaluating funding applications.

B. Local

1. Review parking requirements

Encourage local governments to review parking requirements to ensure they meet the needs of residents of all types of housing.

2. Coordinate strategies

Encourage local governments to coordinate strategies with developers, transportation planners and other regional efforts to reduce costs of providing parking for affordable housing.

3. Evaluate off street parking requirements

Encourage local governments to evaluate off street parking requirements for infill housing developments, ensuring that their requirements are not greater than what currently exists.

FACTUAL INFORMATION

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Long-Term or Permanent Affordability: Non-Land Use Tool

Finalized at the Land Use and Regulatory Subcommittee Meeting: October 6, 1999

Approved by H-TAC: November 29, 1999

PURPOSE

To determine the “best practices” for long-term or permanent affordability requirements on affordable housing that could be recommended for implementation in the Metro region. As part of the Subcommittee analysis, program information was collected from jurisdictions implementing similar strategy.

DESCRIPTION

Long-term or permanent affordability requirements on affordable housing protect the investment made by the public and retain affordable units for many years of use. When governments invest public funds to create affordable housing options the goal should be to ensure that these units remain affordable for a specific period. While this type of requirement serves to preserve the value of the public investment over the long-term, some concerns have been expressed. One area of concern is the involuntary displacement of tenants that occurs when long-term (rather than permanent) affordability restrictions expire.

Long-Term or Permanent

Although long-term and permanent affordability requirements may sound like two terms for the same concept, the two types of requirements are fundamentally different. Both are used to retain affordability, but are based on different legal structures.

Long-term affordability requirements retain the affordable units for a specified period of time, such as 10, 20, 40, or 60 years. While 60 years may seem almost permanent now, in the 58th year such an affordability requirement means little to the tenant. Many HUD Section 8 projects that were built with 20 year affordability requirements are now reaching their “affordability expiration date,” and some owners are “opting out” to raise rents or even convert apartments to condominiums. Long-term affordability requirements are often tied to the funding source; for instance the City of Portland now requires new projects utilizing city funds to be affordable for a 60-year period.

Permanent affordability requirements are generally based on either ownership or a deed restriction on the land. Nonprofit or public ownership of housing is often though not always synonymous with permanent affordability. A housing project or single family unit may have deed restrictions requiring a specific “affordable” sales price or rental rate; this method is typically tied to a funding source. Another form of permanent affordability is a community land trust (CLT), which retains ownership of the land beneath a single family home, manufactured home, or an apartment building. By removing the land from the market and placing resale restrictions on the home (or building), the affordability of the housing is permanently retained.

Rental or Owner-Occupied Affordability Requirements

Strategies to retain affordability for homeowners and renters are very different. Rental units can be retained as affordable through a variety of strategies. There are two key differences between market rate units and rent-restricted units:

- 1) there are requirements that the units be rented only to those who income qualify, and
- 2) the owner of the building is prevented from raising the rents beyond a certain predetermined amount each year and may not sell the building as though it could be used as a market rate rental.

If the units are permanently affordable, these restrictions are in place for the life of the unit. If they are affordable for a limited time period (e.g., 30 years), the restrictions apply for the designated period and then the units may be rented on the open market.

For a homeowner, on the other hand, a strategy that aims for permanent or long-term affordability typically implies some form of limited equity ownership for the individual purchasing the home. The subsidy provided allows a household that is not currently able to qualify to purchase a house to move into homeownership for less than would typically be required, and the value of that subsidy is retained when the home is sold through agreements in the deed that limit the price at which the home may be sold. This allows another income qualified person to purchase the home without additional subsidies being required.

Preservation and Affordability Requirements

There is a connection between long-term or permanent affordability requirements and a housing preservation ordinance, but the two target different types of housing. A housing preservation ordinance is aimed at retaining the affordability of *existing* affordable units, while long-term or permanent affordability requirements focus on *new* affordable units that are funded with public dollars.

LONG-TERM OR PERMANENT AFFORDABILITY MODELS/TOOLS

The following housing models are all privately owned and price-restricted in order to preserve future affordability for low- and moderate-income households.⁸

1. Deed-Restricted Owner Occupied Housing

The occupant owns the house and land, but some type of restrictive covenant in the deed prevents the property from being sold in the speculative market. When the property is sold it must remain affordable to future low- and moderate-income homebuyers and the amount of equity that the seller can realize is limited. In some cases, the deed restriction lasts for a limited time period, after which the owner is permitted to sell the home on the open market to any buyer (not income qualified). When intended to provide permanent affordability, the deed restriction runs with the land permanently. This tool is often used in conjunction with a community land trust to ensure permanent affordability.

2. Community Land Trust

A community land trust (CLT) is a democratically controlled community based, nonprofit organization established for the purpose of removing land permanently from the speculative market and maintaining it as a community resource. The CLT serves as a trustee or steward in perpetuity of the land it controls. CLT property is separated into two components: the land and the buildings on it. Individuals, families, cooperatives, or other legal entities may own the buildings and enter into long-term ground leases for the use of the land. When a leaseholder moves they may retain the value of their initial investment, any improvements made during their tenure, and some portion of any additional equity created by changes in the market, but the equity they may realize is limited by a resale formula. The rest of the equity remains with the land to preserve housing affordability for future residents. The CLT retains the first option to purchase and resell the building. This model is often used in conjuncture with the other models listed below, since ownership of the land by the CLT provides a structure that both ensures permanent affordability and makes an independent entity responsible for enforcing affordability requirements and assisting land leaseholders (owners of buildings on CLT land) if they have difficulties. CLTs can also dramatically increase community involvement in, and acceptance of, affordable housing.

⁸ Community Development Network, 1999.

3. Limited Equity Condominium

Condominiums are clusters of housing in which the owner occupants own and control the interior space of their dwelling units, but the grounds, structural components, and common areas are jointly owned and controlled by all residents. In the limited equity model, resale price restrictions preserve future affordability. As with #1 above, resale restrictions can either be limited in duration or permanent, and this model may also be used in conjunction with a community land trust.

4. Limited Equity Cooperative

The land and dwelling units are cooperatively owned and managed by a legal corporation composed of residents of the project. Occupants are tenants, but also shareholders, who generally enjoy greater security and participation in decision making about their dwelling units than public or private rental tenants. Since the occupants are legally tenants, not owners (the corporation owns the units), tenant based Section 8 certificates and vouchers may be used. When beginning a limited equity cooperative and purchasing an apartment building, the corporation qualifies for the mortgage, not the individual tenants, which dramatically lowers the up-front costs to co-op shareholders and may allow less credit-strong households to participate. This model was popular in New York City and San Francisco early this century. Long-term affordability is preserved through restrictions on resale value of shares. In Oregon, currently there is no enabling legislation in place that allows banks to underwrite cooperatives. Resale restrictions can either be limited in duration or permanent, though equity restrictions in the case of co-ops are almost always permanent. This model may also be used in conjunction with a community land trust.

5. Mutual Housing Association

Mutual housing associations (MHA) may take a variety of forms, but generally a single nonprofit corporation (the MHA) owns residential buildings which are formally or informally controlled by an association of the occupants. Residents are tenants, but usually have voting membership in both the building level association and the nonprofit MHA. Long-term affordability is preserved through provisions of the MHA's bylaws. This model is often seen as a bridge between rental and owner-occupied housing. Some MHA's are combined with programs such as Individual Development Accounts (IDAs) that allow a tenant to pay a little extra with each month's rent to be put in savings and matched by grant funds, for use in purchasing a home, starting a business, getting a degree, or some other specific purpose.

6. Nonprofit Rental Housing

Residential buildings that are owned or controlled by nonprofit entities that rent units to tenants at below market rents. Generally long-term affordability is preserved through organization mission, financing commitments and sometimes deed restrictions.

7. Publicly Owned Rental Housing

Housing that is owned by public housing authorities is permanently affordable as long as it is not sold. Housing authorities are required to rent units to households at below market rates.

EXAMPLES OF LONG-TERM OR PERMANENT AFFORDABILITY REQUIREMENTS

Public Funds with Affordability Period

State of Oregon

Multi-family projects using funds from the Oregon Housing and Community Services Department are required to remain affordable for a period of 30 years.

City of Portland

Under the Housing Preservation Ordinance, any units built with funds from the City of Portland must remain affordable for a period of 60 years.

State of Vermont

Nearly all of the housing subsidies provided by the State of Vermont require permanent affordability.

Community Land Trust

Sabin Community Land Trust was the first land trust developed in Oregon. In Sabin, home buyers will purchase their home with a 99-year renewable ground lease for the land, for which they will pay \$25 per month. Families must earn no more than 70 percent of the area median income to qualify to purchase a home owned by the Sabin CLT.

Clackamas Community Land Trust is a community based membership nonprofit organization established in 1999. Their mission is to buy and build homes to sell to lower income buyers, with the land held in trust for the community.

Portland Community Land Trust (PCLT) is a new community land trust that will provide a wide array of homeownership and neighborhood stabilization strategies. PCLT is a nonprofit membership organization that was incorporated in December 1999.

HOW SHOULD LONG-TERM OR PERMANENT AFFORDABILITY REQUIREMENTS BE APPLIED?

Low-income households that rent or own could benefit from the implementation of long-term or permanent affordable housing requirements in the region.

- ***Renters:*** Households earning less than the area median household income now and in the future would benefit from rental units that are developed as long-term or permanently affordable units. Such requirements would also provide for greater tenant stability (rents would not be raised abruptly, units would not be converted to market-rate).
- ***Homeowners:*** Households earning less than 80% MHI are generally unable to purchase homes in the current market. Homeownership programs developed with an equity retention requirement that balances an equity return to the purchaser with retention of the public subsidy such that upon resale a household with the same income level can purchase the home without additional subsidies being required may allow households to become homeowners who would not have the opportunity otherwise. Such permanent affordability requirements will ensure that the house subsidized will remain in the jurisdiction's affordable housing inventory over the long haul, thus benefiting more homeowners.

Since it is the goal of this Metro process to move the region towards a future in which there is a much larger stock of housing affordable to the lower-income residents of the region, and since we must assume relatively limited public resources and limited land with which to accomplish this goal, the length of affordability requirements imposed on publicly-subsidized housing is important. Generally speaking, the longer-term the affordability requirement the more low-income households will be served by the housing over time, and the more bang is provided for the public dollar. In addition to preserving the investment of public dollars, preserving the affordability of subsidized housing permanently lengthens the payback for the time and energy used in the public involvement process for siting this housing, and preserves the land as dedicated to that purpose. Given our region's recent (and ongoing) experience with the expiration of affordability requirements on buildings subsidized using HUD's Project-Based Section 8 program, and an assumption that there will continue to be a gap between incomes and housing prices for a significant portion of our population well into the future, this committee recommends that jurisdictions implement permanent affordability requirements wherever possible on publicly-subsidized housing.

Recognizing that the immediate housing crisis requires that we avoid taking actions that would reduce the commitment of private investment in affordable housing, there may be some cases in which jurisdictions should use long-term affordability requirements instead. In such situations, we recommend instituting the longest affordability requirements possible.

Permanent affordability requirements can be applied in mixed-income buildings. The requirements could apply to only some units while other, non-subsidized units, are allowed to float with the market, or they could apply different maximum prices or rents for different units. This approach may better suit the goals and needs of some neighborhoods or projects than approaches using a single income goal for an entire building.

Relationship of long-term or permanent affordability strategies to reaching regional fair share goals

Fair share goals are focused on providing housing for households in the greatest need, households earning 50% or less of the regional median income. The following permanent affordability strategies will be most useful in meeting the needs of this income group:

- Limited Equity Cooperatives
- Permanently affordable rental housing, owned by either nonprofits or a housing authority
- Mutual Housing Associations

Any of the above strategies could be combined with a community land trust to further retain both affordability and public investment.

POTENTIAL STRATEGIES

- Encourage that all new publicly funded developments in the region for H-TAC defined highest need households (those in the less than 50% of the region median income category) remain permanently affordable whenever possible and, in the event that this is not feasible, have the longest affordability requirement possible.
- Encourage the development of community land trusts and other limited equity affordable housing options.
- Encourage local governments to consider adopting more flexible PUD (planned unit development) codes that would allow for different structural types in the same area. This could be used to provide both permanently affordable housing and permanently protected open space through a community land trust.
- Encourage Metro and local governments to lobby the State Legislature to provide enabling legislation that would allow banks to underwrite mortgages for cooperative housing ventures.
- In accounting towards a jurisdiction's progress in meeting fair share goals, give different credits for units that are affordable for longer time periods, or permanently affordable.
- If a regional funding source is created, tie those funds to permanent affordability.

OTHER CONSIDERATIONS

Some of the limitations of imposing long-term or permanent affordability requirements are as follows:

- Long-term or permanent affordability requirements on new rental housing may have the effect of discouraging for-profit developers from developing needed affordable units. For-profit developers often build affordable housing units with the expectation that after a specified time period they will be able to "roll-over" the units to rent or sell at market level prices. An option may be to focus on models in which for-profit developers build the housing, but then ownership is turned over to a nonprofit to retain long-term or permanent affordability.
- Long-term or permanent affordability requirements on owner-occupied housing may raise equity issues for the households who take part in such a program. Some oppose limited equity arrangements on the grounds that low-income people should be able to benefit from the increased

equity in their home. Allowing households to capture the equity gain removes the opportunity to retain the public subsidy for future use, but may provide some low-income households more help in moving into market-rate housing.

- Nonprofit or resident ownership coupled with long-term or permanent affordability requirements may be an especially useful tool to mitigate the impact of climbing rents in manufactured home parks.

RECOMMENDATION FOR IMPLEMENTATION

Metro does not have the authority to require local jurisdictions or other government entities to tie long-term or permanent affordability requirements to affordable housing subsidies. However, a regional voluntary guideline for long-term or permanent affordability may be considered by local governments in order to ensure progress towards meeting the region's fair share goals. For instance, if affordable units in one jurisdiction have 10-year affordability restrictions and those in another have 60-year restrictions, the relative effects on the affordable housing stock over time would be quite different.

Strategies outlined below would help jurisdictions in the Metro region move towards meeting regional fair share goals while providing the most public benefit for public and private dollars invested in affordable housing.

Regional

A. Public Investment

Encourage that all new publicly funded developments in the region, especially for H-TAC defined highest need households (those in the less than 50% of the region median income category), remain permanently affordable whenever possible. In the event that this is not feasible, or that private investment and development activity is being discouraged, encourage the use of the longest affordability requirement possible.

1. If public dollars are invested, then *permanent* affordability is strongly encouraged to be required.
2. If other benefits are given to the project, such as a tax exemption, then *long-term* or *permanent* affordability requirements are encouraged to be required.
3. If a regional funding source is created, use of those funds should be tied to permanent affordability.

B. Legally Enable Local Governments and Nonprofits to Utilize Certain Strategies

1. Encourage local governments to consider adopting more flexible PUD (planned unit development) codes that would allow for different structural types in the same area.
2. Encourage Metro and local governments to lobby the State Legislature to provide enabling legislation that would allow banks to underwrite mortgages for cooperative housing ventures.

C. Accounting for Progress Towards Fair Share Goals

In accounting towards a jurisdiction's progress in meeting fair share goals, give different credits for units that are affordable for longer time periods, or that are permanently affordable.

D. Best Practices

A compilation of "best practices" in implementing long-term and/or permanent affordability requirements should be compiled to enable jurisdictions to determine what models would work best locally.

Local

A. Strategies to Meet Fair Share Goals

Some of the long-term or permanent affordability strategies identified in this report are better suited to homeownership efforts, community building, and neighborhood revitalization. Other strategies

can be utilized to help meet regional fair share goals by providing housing for households earning 50% of regional median income or less. The strategies below can be easily tailored to meet the needs of this income group, especially if combined with a community land trust.

1. Limited Equity Cooperatives
2. Permanently affordable rental housing
3. Mutual Housing Associations

B. Strategies to Mitigate Impacts of Increasing Rents in Manufactured Home Parks

Some of the long-term or permanent affordability strategies identified here are especially well suited to mitigating the impacts of increasing rents in manufactured home parks. Key strategies in this situation include:

1. Community Land Trusts – a non-profit organization may purchase the manufactured home park in order to hold the land costs down over time
2. Cooperative Ownership – residents of a manufactured home park could purchase the land and operate as a limited equity cooperative

FACTUAL INFORMATION

Burlington Community Land Trust. *Introduction to Community Land Trusts*. 1999.

City of Portland. Housing Preservation Ordinance, 1998.

Clackamas Community Land Trust. *Brochure*. 1999.

Community Development Network. *Continuum of Privately Owned Affordable Housing Models*. 1998.

Oregon Administrative Rules. *813-090: Low-Income Housing Tax Credit Program*. April 2000.

Oregon Administrative Rules. *813-120: HOME Investment Partnerships Program*. April 2000.

System Development Charges: Non-Land Use Tool

Finalized at the Cost Reduction Subcommittee Meeting: September 8, 1999

Approved by H-TAC: November 29, 1999

PURPOSE

To analyze the feasibility of reducing system development charges (SDCs) in order to create more affordable housing. As part of the Subcommittee analysis, program information was collected from jurisdictions implementing similar strategies.

DESCRIPTION

State law (ORS 223.299) defines system development charges as follows:

4.

(a) "System development charge" means a reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement or issuance of a development permit, building permit or connection to the capital improvement. System development charge includes that portion of a sewer or water system connection charge that is greater than the amount necessary to reimburse the governmental unit for its average cost of inspecting and installing connections with water and sewer facilities.

(b) "System development charge" does not include any fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed upon a land use decision, expedited land division or limited land use decision.

System development charges are limited by State law (ORS 223.299) for capital improvements related to:

- (A) Water supply, treatment and distribution;*
- (B) Waste water collection, transmission, treatment and disposal;*
- (C) Drainage and flood control;*
- (D) Transportation; or*
- (E) Parks and recreation.*

As can be seen from the definitions in State law, there are two types of SDCs: Improvement Fees and Reimbursement Fees. The Improvement Fees are SDCs that are applied to improvement costs associated with capital improvements to be constructed. Reimbursement Fees are SDCs applied to improvement costs for capital improvements already constructed or under construction.

State law (ORS 223.304) also limits the methodology that may be used to impose SDCs as follows:

The methodology shall promote the objective of future system users contributing no more than an equitable share to the cost of existing facilities.

Examples of SDCs in the Metro Region

Jurisdictions break down system development charges differently. Below are some examples of system development charges found in a sample of jurisdictions in the Metro region. The jurisdictions are not identified due to the fact that the charges change and the purpose of the information is to provide a range of SDCs to consider the impact they have on the development of affordable housing. Four communities were sampled, with SDCs ranging from \$5,935 to \$8,950 for single family housing and \$3,610 to \$4,639 for multi-family units.

A. Single Family Dwelling SDC: Examples of SDCs charged by jurisdictions in the Metro region are provided in Table 1.

Table 1
Sample SDCs for Single Family Dwelling Development*

Type of SDC	City A	City B	City C	County X
Transportation	\$1,202	\$2,010	\$1,365	\$2,112
Parks	\$1,038	\$1,499	\$1,479	\$950
Sewer	\$1,900	\$2,300	\$1,828	\$2,200
Water	\$2,200	\$2,535	\$917	\$2,112***
Storm drainage	\$0.00**	\$606	\$346	\$250
Total	\$7,367	\$8,950	\$5,935	\$7,624***

Source: Metro, 1999.

***Assumptions:** single family home, approximately 1500 sq. ft. living space, 400 sq. ft. attached garage with two bathrooms.

** City A does not have SDC on storm system. The city uses a formula that deals with the impervious surface for the land related to building footprint and ratios. The basic formula is given to utilities for a monthly billing related to storm system.

*** Many water districts manage the water SDCs for developments in the County X and the fees differ slightly by district.

B. Multi Family Dwelling SDC: Examples of SDCs charged for apartment buildings by jurisdictions in the Metro region are provided in Table 2.

Table 2
Sample SDCs for Multi Family Dwelling Development: Fee Per Unit*

Type of SDC	City A	City B	City C	County X
Transportation	\$750	\$1,153	\$953	\$1,463
Parks	\$1,038	\$1,499	\$915	\$339
Sewer	\$1,414	\$0.00	\$1,376	\$1,760
Water	\$428	\$1,124	\$236	\$975
Storm drainage	\$401	\$235	\$130	\$102
Total	\$4,031	\$4,011	\$3,610	\$4,639

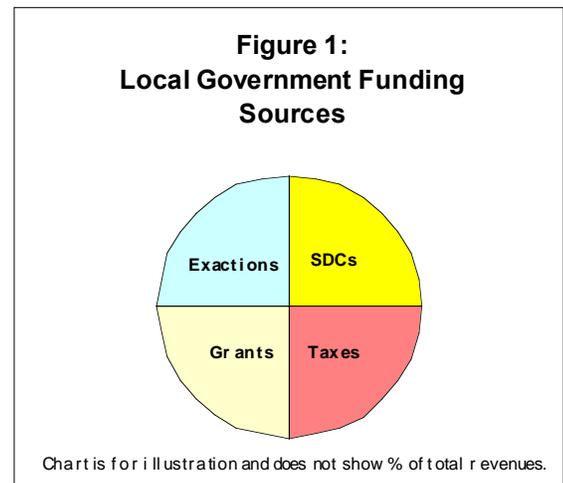
Source: Marathon Management –January 1999

***Assumptions:** The information in Table 2 is based on the following assumptions: 8 multi-family buildings with a total of 112 units; Construction valuation total = \$6.16 million; Description of unit = 2 bedroom, 2 bath, 950 sf, with washer and dryer hookup; Total Land Area = 6acres = 261,360 sf w/ 255 lineal ft of road frontage; 5% State Surcharge for mechanical, electrical and plumbing charges; 25% Plan Review Fee. Other utility assumptions are impervious surface = 1,250 sf /unit; water meter = one 2" water meter serves two buildings (28 units) = 4 total meters; 11 Plumbing Fixture Units (6 bath PFUs, 3 kitchen PFUs, 1 washing machine and 1 water heater; 100 feet of service for water, sewer and storm drain; 200 amps/unit of service (electrical).

SDCs are generally required at the start of a project, prior to other permit approvals or construction. This increases the amount of cash that a developer must have up front, which also increases the total cost of the housing unit.

Local Funding Issues

One key factor in analyzing the SDC fees is to examine the larger funding base for all improvements. The sources usually include SDC fees, taxes, exactions such as local improvement districts (LIDs), and grants. Depending on the mix of funding sources, the SDC fees are adjusted to ensure sufficient funding for the improvements. If a local government has a well-established infrastructure that has been capitalized over a long period of time, one might expect lower SDC fees. However, if a city is in a rapidly growing area that has required major new infrastructure expenditures to meet the needs of new and existing residents SDC fees may be higher.



According to the study *Issues in Designing System Development Charges for Salem, Oregon (1997)*:

“...SDCs can be analyzed in terms of the amount paid by landowners, by developers or by the ultimate users: however, it is incomplete to consider the SDC in isolation. SDCs may have a variety of impacts depending on how the money is used and what the alternative source of financing for infrastructure would be. In general, the alternative would be to delay construction of infrastructure or to rely on more general sources of revenue, such as property taxes. Hence, analysis of the impact should be done relative to reduced infrastructure or alternative taxes.”

EXAMPLES OF REDUCED SDCS

Several options have been discussed to address the SDC fees in relation to affordable housing development. One is to create a regional or state funding source to pay SDC fees for affordable housing and another is a waiver or reduction of some fees for affordable housing. Below are some examples of jurisdictions in Oregon that reduce or waive SDCs for affordable housing. (Note: Some jurisdictions may be paying the SDCs on “exempted development” from other sources, such as the general fund).

SDC Waiver or Exemption

City of Salem

The SDC imposed under the City Code Chapter 41 exempts the following types of housing developments:

- any development which is undertaken by the Housing Authority of the City of Salem, and
- any housing unit which is located in a housing project of one or more housing units, if the project receives federal housing funds administered by the city and is affordable to families at or below the city’s 80% median income level.

City of Eugene

The SDC is exempted for:

- rental housing for low-income persons with an income at or below 60% of the area MHI, and
- home ownership housing for low-income persons with an income at or below 80% of the area median income.

The City Manager or designee is authorized to waive a base amount (totaling \$115,000 annually) of SDCs for affordable housing. Unallocated portions of the annual base amount shall be added to the authorized base amount for the next fiscal year. In the event that within five years from the date

the exemption was granted the property ceases to be utilized for low income persons or is sold or transferred for another type of use, the person to whom the exemption was granted will have to pay to the city the amount of the exempted SDC, plus interest.

SDC Deferred

City of Lake Oswego:

The City Code, Chapter 39.06.105, authorizes the City Manager to defer SDCs for: a) non-profit, state or federally assisted low- to moderate-cost housing for elderly and disabled persons so as to make the project economically feasible within the maximum rental rate established by the funding agency; and b) projects with interest rate subsidies only, so as to bring the monthly rental rates within 10% of the prevailing rates for similar housing in the Portland SMSA.

In the event that property changes status to a person who will not qualify for a deferral, the person to whom the exemption was granted will have to pay to the city the total amount of the deferred SDC.

City of Gresham:

The City has a program that allows for deferring payment of SDCs or financing of SDCs for new development over a period of up to 10 years. The program is not necessarily tied to affordable housing developments. The objective of the program is to offer all property owners an opportunity to pay SDCs in monthly or lump sum installments as an alternative to absorbing SDCs into long term permanent financing of projects. Property owners are expected to pay the City of Gresham the amount plus simple interest rate of the unpaid balance at the rate set forth by the City for a period of less than 10 years. The City must obtain a superior lien on the property in order for the project to qualify.

City of Ashland:

Since 1991, the city's affordable housing program has used deferred SDCs as an incentive to increase affordable housing supply. The deferred SDC is secured by a second mortgage (in the form of a Trust Deed) which is recorded and treated as a loan and accrues 6% interest per year. The accrued interest and principal are only due upon the sale of the property to a buyer that does not qualify for affordable housing and/or the property is sold for more than the maximum purchase price, which is adjusted every year May 1st. If the property is sold and it remains in the affordable housing program, the deferred SDC plus the interest rolls over to the qualified buyer. If the property remains in the affordable housing program for 20 years, the fees are canceled and forgiven by the city.

SDC Graduated

City of Lake Oswego:

The City Code, Chapter 39.06.105, authorizes that a SDC may be proportionately reduced if "Evidence indicates that the construction, alteration, addition, replacement or change in use does not increase the parcel's or structure's use of a system or systems to the degree calculated in or anticipated by the methodology for the particular system development charge." The code does not specify that this graduated SDC apply to any type of housing development, however, it could be regarded as a good incentive for affordable housing development.

HOW SHOULD SDC REDUCTIONS BE APPLIED?

Below are types of housing and services to which SDC reductions could be applied:

A. Need Based Reductions

- *H-TAC defined income groups:* Housing based on H-TAC defined income levels, especially to meet fair share goals focused on households in the lower two categories.
 - 0-30% of MHI

- ❑ 31-50% of MHI
- ❑ 51-80% of MHI
- ❑ 81-120% of MHI

B. Facilities Based Reductions

- *Senior Housing.* Reduction of park and road SDCs for senior housing (assumption: fewer trips and less park use).
- *Disabled Housing.* Reduction of road SDCs for very disabled housing (assumption: fewer trips by car).
- Other identified categories that use roads less.

POTENTIAL STRATEGIES

1. *Deferred and Forgiven SDCs:* A deferral and ultimate forgiveness of fees for housing serving persons at 50% of the MHI. The deferral might be all or a percentage of the fees, to be determined by the local jurisdiction. (Note: Implementation must be in conformance with state law that requires an equitable methodology).
2. *Defer SDCs until permanent financing is in place:* This helps to reduce the cost of financing the housing project, which will reduce the overall cost or rent of individual units.
3. *Graduated SDCs that are linked to the impact of the project:* For instance, seniors may not use parks to the same extent as large families living in multi-family units.

OTHER POTENTIAL STRATEGY

Regional Funding Source: A regional funding source could be used to reimburse jurisdictions for revenue forgone due to deferred/forgiven or deferred SDCs under the need-based reduction approach.

OTHER CONSIDERATIONS

- Waiving fees for affordable housing developments may have the impact of increasing costs for market-rate housing, as the cost of capital improvement projects would be born by the market-rate housing.
- Local governments need funds to pay for the cost of infrastructure that is a result of growth – funds to pay for capital improvements must come from someplace if SDCs are waived or reduced for affordable housing. Many governments are not able to fund needed projects without SDCs.

RECOMMENDATION FOR IMPLEMENTATION

Regional

A. Legal Opinion on Implementation

Request legal opinion from the Metro General Counsel on Metro authority on the implementation of SDC reduction strategies.

B. Guidelines for Implementation

The intent of reducing SDCs is to reduce the cost of producing and operating housing and thereby increase the affordability of housing for the “end user.” If one element of development costs is reduced (such as SDCs), it is possible that the other elements of the development equation (construction costs, developers fees, etc.) could rise quickly to absorb the reduction.

Federal, State, and some local funding programs often include a review process to ensure that construction, development and operating costs conform to acceptable benchmarks. However, some local jurisdictions do not currently have a method of ensuring that cost reductions provided by the jurisdiction (such as deferred and forgiven SDCs) result in an increase in housing affordability for the “end user.” A mechanism needs to be developed so that a jurisdiction can be assured that the

reduction in the cost of an element of the development process is retained in reduced development and operating project costs, rather than being absorbed by increases in the cost of other elements of the development process.

Local jurisdictions should have their legal counsel review any potential SDC reduction programs to ensure conformance to state law.

Local

Items A and B below are types of housing and services to which SDC reductions could be applied.

A. Need Based SDC Reduction Strategies

1. *Defer and Forgive SDCs:* Fees could be deferred for affordable housing projects serving persons in the highest need income group – those in the less than 50% of the regional median household income category. The fees could be forgiven and canceled by the local government if the property remains in the affordable housing program for a period of time (20 years or more) to be determined by the local government. All or a percentage of the fees may be deferred and the local governments may secure the deferred fees by a second mortgage (in the form of a Trust Deed) which is recorded and treated as a loan and accrues a determined interest per year. In the event that the property is taken out of the affordable housing program before the forgiven period, the owner would be required to pay the principal and accrued interest. (Note: State law limits the methodology that may be used in implementing SDCs. Local governments should ensure that any program conforms to state law).

2. *Defer SDCs until permanent financing is in place:* Fees could be deferred during the development of affordable housing projects. The property owner would be responsible to pay the SDCs when permanent financing is in place (e.g., certificate of occupancy, tax credit equity arrives, etc.). The property owner would be responsible for payment of SDCs within a defined time frame.

3. *Defer SDCs until sufficient project cash flow becomes available.* Local governments may decide to charge or not charge interest on the deferred SDCs.

B. Facilities Based SDC Reduction Strategies

1. *Graduated SDCs that are linked to the impact of the project on public facilities.* Transportation and parks SDCs for housing developments built for seniors or disabled who make fewer trips and use parks less than large families living in multi-family units may be proportionately reduced by the local government. The assumptions are that: a) seniors living on fixed incomes from social security, pensions, or retirement plans and disabled persons who are unable to work to supplement their income have less need to use roads; b) seniors and disabled persons will use parks less frequently than families with children.

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Permit Fees: Non-Land Use Tool

Finalized at the Cost Reduction Subcommittee Meeting: September 8, 1999

Approved by H-TAC: November 29, 1999

PURPOSE

To analyze the feasibility of reducing permit fees in order to create more affordable housing. As part of the Subcommittee analysis, program information was collected from jurisdictions implementing similar strategies.

DESCRIPTION

Building construction has been regulated to protect life, health and property of citizens for many years. State law requires local jurisdictions to provide comprehensive building code enforcement services, including plan reviews and site inspections (ORS Chapter 455). Permit fees are therefore charged to support the review of construction plans and building site inspections to ensure safe buildings that comply with state and local codes.

The amount of a building permit fee is based on the construction type and anticipated market value of the proposed project. Jurisdictions often base permit fees on formulas provided by the State Department of Consumer and Business Services, Building Codes Division. However, jurisdictions do have flexibility in the amount charged for various permit fees as long as they provide the State with a surcharge on fees collected. The surcharge enables the State to administer building codes. Jurisdictions do not require permission from the State to set or change permit fees from year to year, however, jurisdictions must notify the State Building Codes Division of changes in their fee schedule. For instance, the City of Portland raises permit fees each year in accordance with the increase in the COLA.

Building permit fees include charges for all site, plumbing, electrical, mechanical, land use, fire and life safety reviews, as well as subsequent inspections and processing. In general, a permit is required to construct, enlarge, alter, move or demolish any one- or two-family dwelling or related structure. For example:

- Add a room.
- Build, demolish, or move a carport, garage, or shed more than 120 square feet in area.
- Finish an attic, garage, or basement to make additional living space.
- Cut a new window or door opening, or widen existing openings.
- Move, remove, or add walls.
- Apply roofing material when all of the old roofing material is removed and new sheathing is installed.
- Build a stairway.
- Build a retaining wall more than four feet high.
- Build a deck more than 30 inches above grade.
- Put up a fence more than six feet high.
- Move more than 50 cubic yards of earth or any amount of cut/fill on sites affected by waterways or slope hazards.

Examples of Permit Fees in the Metro Region

Below are some examples of permit fees found in a sample of jurisdictions in the Metro region. The jurisdictions are not identified due to the fact that charges may change and the purpose of the information is to provide a range of permit fees to consider the impact they have on the development of affordable housing. Three communities were sampled for single family housing, with permit fees ranging from approximately \$1,377 to \$1,686 and four communities were sampled for multi-family units, with permit fees ranging from \$753 to \$1,364.

A. Single Family Dwelling Permit Fees: Examples of permit fees charged by jurisdictions in the Metro region are provided in Table 1.

Table 1
Sample Permit Fees for Single Family Dwelling Development (1)

Type of Permit Fee	City A (3)	City B	City C (4)
Building	\$531.80	\$443.00	\$789.69
Plan Check (Zoning)	\$345.67	\$288.00	\$146.00
Fire & Life Safety	NA	Commercial only	(5)
State Surcharge (2)	\$37.23	\$71.00	\$33.50
Site Design Review	\$25.00	Commercial only	(6)
Mechanical	\$110.00	\$35.00	\$85.17
Electrical	\$160.00	\$130.00	\$176.55
Plumbing	\$440.00	\$410.00	\$455.06
Totals	\$1,649.70	\$1,377.00	\$1,685.97

Source: Metro, 1999.

- (1) Assumptions: single-family home, approximately 1,500 sq. ft. living space, 400 sq. ft. attached garage with two bathrooms.
- (2) State surcharge is currently 7%, but will soon be raised to 8% in the tri-county area.
- (3) *City A*: assumes a valuation of \$95,000.
- (4) *City C*: assumes \$80,970 valuation (approximately half of construction and/or market price).
- (5) *City C*: Fire & Life Safety not necessarily required for one single family home – would be 40% of building permit fee.
- (6) *City C*: Assumes no City design review.

B. Multi Family Dwelling Permit Fees: Examples of permit fees charged for apartment buildings by jurisdictions in the Metro region are provided in Table 2.

Table 2
Sample Permit Fees for Multi Family Dwelling Development: Fee Per Unit

Type of Permit Fee	City A		City B		City C		County X	
	Amount	Explanation	Amount	Explanation	Amount	Explanation	Amount	Explanation
Building	\$148.06	\$550.80 1 st \$100,000 + \$3.20 each additional \$1,000/112 Units	\$115.70	\$433 1 st \$100,000 + \$2.50 each additional \$1,000/112 Units	\$148.45	\$550.80 1 st \$100,000 + \$3.20 each additional \$1,000/112 Units	\$115.70	\$433 1 st \$100,000 + \$2.50 each additional \$1,000/112 Units
Plan Check (Zoning)	\$96.23	65% of Building Permit Fee	\$75.21	65% of Building Permit Fee	\$118.45	65% of Building Permit Fee (Plan Check) + 15% of Building Permit Fee (Zoning)	\$75.21	65% of Building Permit Fee
Fire & Life Safety	\$59.22	40% of Building Permit Fee	\$46.28	40% of Building Permit Fee	\$59.22	40% of Building Permit Fee	\$40.50	35% of Building Permit Fee
State Surcharge	\$7.40	5% of Building Permit Fee	\$5.79	5% of Building Permit Fee	\$7.40	5% of Building Permit Fee	\$5.79	5% of Building Permit Fee
Site Design Review	\$51.91	[\$1,260 + (.5% of Building Valuation between 500K & 1 Million) + (.05% of Building Valuation over 1 Million)]/112 Units	\$26.79	\$3,000/112 Units	\$136.88	Construction Cost (((\$5,110,000)*.003)/112 Units	\$142.35	.312% of Construction Cost/112 Units
Mechanical	\$127.05	\$13/Heater*4 + \$5/Vent Fan*3 + \$10/Hood + 5% State Surcharge + 60% Plan Review Fee	\$61.75	\$10 Permit Issuance + \$6/Heater*4 + \$3/Vent Fan*3 + \$4.50/Hood + 5% State Surcharge + 25% Plan Review Fee	\$107.25	(\$10/Heater*4 + \$5/Vent Fan*3 + \$10/Hood)*1.65	\$61.75	\$10 Permit Issuance + \$6/Heater*4 + \$3/Vent Fan*4 + \$4.50/Hood + 5% State Surcharge + 25% Plan Review Fee
Electrical	\$221.00	\$110 for Wiring + \$60 for Service + 5% State Surcharge + 25% Plan Review Fee	\$175.50	\$85 for Wiring + \$50 for Service + 5% State Surcharge + 25% Plan Review Fee	\$270.40	\$135 for Wiring + \$73 for Service + 5% State Surcharge + 25% Plan Review Fee	\$249.60	\$120 for Wiring + \$72 for Service + 5% State Surcharge + 25% Plan Review Fee
Plumbing	\$374.40	\$15/PFU*11PFU s + \$41 Sewer + \$41 Water + \$41 Storm + 5% State Surcharge + 25% Plan Review Fee	\$245.70	\$9/PFU*11PFU s + \$30 Sewer + \$30 Water + \$30 Storm + 5% State Surcharge + 25% Plan Review Fee	\$516.10	\$20/PFU*11PFU s + \$65 Sewer + \$56 Water + \$56 Storm + 5% State Surcharge + 25% Plan Review Fee	\$375.70	\$11/PFU*11PFU s + (\$27 1 st 50 Water + \$21 each additional 50) + (\$40 1 st 50 Storm + \$29 each additional 100) + \$53 Sewer + 5% State Surcharge + 25% Plan Review Fee
Totals	\$1,085.27		\$752.72		\$1,363.76		\$1,066.60	

Source: Marathon Management—January 1999

Assumptions: The information in Table 2 is based on the following assumptions: 8 multi-family buildings with a total of 112 units; Construction valuation total = \$6.16 million; Description of unit = 2 bedroom, 2 bath, 950 sf, with washer and dryer hookup; Total Land Area = 6 acres = 261,360 sf w/ 255 lineal ft of road frontage; 5% State Surcharge for mechanical, electrical and plumbing charges; 25% Plan Review Fee. Other utility assumptions are impervious surface = 1,250 sf /unit; water meter = one 2 water meter serves two buildings (28 units) = 4 total meters; 11 Plumbing Fixture Units (6 bath PFUs, 3 kitchen PFUs, 1 washing machine and 1 water heater; 100 feet of service for water, sewer and storm drain; 200 amps/unit of service (electrical).

EXAMPLES OF PERMIT FEE REDUCTIONS

Below are some examples of jurisdictions in Oregon that reduce or waive permit fees for affordable housing.

Permit Fee Waiver or Exemption for Affordable Housing

City of Portland

The Portland Development Commission administers the City of Portland's program for waiver of city development fees for nonprofit developers of affordable housing. Fee waivers are available for items including building permits and zoning fees. Each year the City sets aside a dollar amount to be used for permit fee waivers (recently the amount has been \$500,000).

The Bureau of Buildings has a separate policy that supports non-profit agencies that are doing projects with volunteer labor. Fees normally charged for inspections, plan review and other services are waived for qualifying agencies within certain guidelines. For example a maximum of \$500 per project and \$2,500 per agency per fiscal year will be waived for approved projects.

City of Eugene

The City of Eugene waives planning and development permit fees (building permit, etc.) for affordable housing projects, up to a total of \$50,000 each year. The amount of money allocated to permit fee waivers must be used during each fiscal year, and does not roll over to the next year. The program began in 1998 with an administrative decision and did not require City Council approval.

HOW SHOULD PERMIT FEE REDUCTIONS BE APPLIED?

Below are types of housing and services to which permit fee reductions could be applied:

- *Senior housing:* For seniors living on fixed incomes from social security, pensions, or retirement plans who are unable to find safe, decent housing that costs 30% of their household income.
- *Disabled housing:* For people living on SSI who are typically unable to work to supplement their incomes and are unable to find safe, decent housing that costs 30% of their household income.
- *H-TAC defined income groups:* Housing based on H-TAC defined income levels, especially to meet fair share goals focused on households in the lower two categories.
 - 0-30% of MHI
 - 31-50% of MHI
 - 51-80% of MHI
 - 81-120% of MHI

POTENTIAL STRATEGIES

1. *Deferred and forgiven permit fees:* A deferral and ultimate forgiveness of fees for housing serving persons at 50% of the MHI. The waiver might be all or a percentage of the fees, to be determined by the local jurisdiction. Jurisdictions may have to use other resources to cover the cost of forgiven permit fees.
2. *Defer permit fees until permanent financing is in place:* This helps to reduce the cost of financing the housing project, which will reduce the overall cost or rent of individual units.

OTHER POTENTIAL STRATEGY

Regional funding source: Use of Regional Fund to pay for permit fees for affordable housing.

OTHER CONSIDERATIONS

- Waiving or reducing permit fees for affordable housing may reduce the ability of local governments to carry out their duties.

- Equity issue – is it fair to reduce permit fees for a specific class of people and not others?

RECOMMENDATION FOR IMPLEMENTATION

Regional

A. Guidelines for Implementation

The intent of reducing permit fees is to reduce the cost of producing and operating housing and thereby increase the affordability of housing for the “end user.” If one element of development costs is reduced (such as permit fees), it is possible that the other elements of the development equation (construction costs, developers fees, etc.) could rise quickly to absorb the reduction. Federal, State, and some local funding programs often include a review process to ensure that construction, development and operating costs conform to acceptable benchmarks. However, some local jurisdictions do not currently have a method of ensuring that cost reductions provided by the jurisdiction (such as deferred and forgiven permit fees) result in an increase in housing affordability for the “end user.” A mechanism needs to be developed so that a jurisdiction can be assured that the reduction in the cost of an element of the development process is retained in reduced development and operating project costs, rather than being absorbed by increases in the cost of other elements of the development process.

Local jurisdictions should have their legal counsel review any potential permit fee reduction programs to ensure conformance to state law.

B. Legal Opinion on Regional Implementation

Request legal opinion from the Metro General Counsel on Metro authority on the implementation of permit fee reduction strategies.

Local

A. Need Based Permit Fee Reduction Strategies

1. *Defer and Forgive Permit Fees:* Fees could be deferred for affordable housing projects serving persons in the highest need income group – those in the less than 50% of the regional median household income category. The fees could be forgiven and canceled by the local government if the property remains in the affordable housing program for a period of time (20 years or more) to be determined by the local government. A local jurisdiction could consider designating a set amount in their budget each year to be used for permit fee waivers for low-income housing. After the set amount has been used up, then no additional waivers would be provided. Forgiven permit fees are paid for by the local jurisdiction from other funds. (Note: A local government is not required to pay the State a surcharge on fees not collected. In other words, the State surcharge only applies to fees that are *collected*).

2. *Defer permit fees until permanent financing is in place:* Fees could be deferred during the development of affordable housing projects. The property owner would be responsible to pay the permit fees when permanent financing is in place (e.g., certificate of occupancy, tax credit equity arrives, etc.). The property owner would also be responsible to pay the permit fees within a defined time frame.

3. *Defer permit fees until sufficient project cash flow is available.* Local governments may decide to charge or not charge interest on the deferred permit fees.

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Property Tax Exemption: Non-Land Use Tool

Finalized at the Cost Reduction Subcommittee Meeting: October 7, 1999

Approved by H-TAC: November 29, 1999

PURPOSE

To analyze the feasibility of providing property tax exemptions or abatements in order to create more affordable housing. As part of the Subcommittee analysis, program information was collected from some jurisdictions implementing similar strategy.

DESCRIPTION

All real property within the State of Oregon is subject to assessment and taxation in equal and ratable proportion (ORS 307.030) unless exempted as provided by State law. Local governments and the State collect percentages of the property tax collected, which is subject to voter-approved limits such as Measure 5 and Measure 47/50.

Property tax is one of the factors affecting the supply of affordable housing, hence some jurisdictions allow property tax exemptions to owners of housing units targeted for low-income residents, which in turn allows the owners to reduce rents.

There are several types of property tax exemptions for affordable housing that are available in Oregon by law. Statutes relevant to the H-TAC Cost Reduction Subcommittee evaluation of this strategy are outlined below.

1. The State offers funded property tax exemptions for elderly housing furnished by private nonprofit corporations (ORS 307.242).
2. The State offers property tax exemptions for homes of veterans or spouses of veterans (ORS 307.250), and homes provided to veterans (ORS 307.370).
3. The State allows local governments to provide property tax exemptions for low-income rental housing, subject to restrictions (ORS 307.515). The exemption is limited to the tax levy of the governing body providing the exemption, and may only be offered under the following conditions:

The exemptions...shall apply to the tax levy of all taxing districts in which property certified for exemption is located when, upon request of a governing body that has adopted the provision of ORS 307.515 to 307.523, the rates of taxation of such taxing districts whose governing boards agree to the policy of exemption, when combined with the rate of taxation of the governing body that adopts the provisions of ORS 307.515 to 307.523, equal 51 percent or more of the total combined rate of taxation on the property certified for exemption. (ORS 307.519)

A property tax exemption given to low-income rental housing under these provisions may be provided for a period of 20 years. Since one local government rarely receives 51 percent of the property tax levied on a property, these provisions generally require cooperation between two or more taxing districts to meet the requirements to provide a full property tax exemption. A jurisdiction is able to exempt only its own share of property taxes without approval from other taxing districts. The enabling legislation for this statute was extended and will now sunset in 2010, after which local governments using the program will be required to request that the legislature provide re-enabling legislation.

4. The State allows local governments to provide property tax exemptions for low-income rental housing owned by a nonprofit corporation, subject to restrictions (ORS 307.540 to 307.547).

The exemption is limited to the tax levy of the governing body providing the exemption, and may only be offered under the following conditions:

- (a) The property is owned or being purchased by a corporation that is exempt from income taxes...
- (c) The property is: (A) Occupied by low income persons; or (B) Held for future development as low income housing.
- (d) The property or portion of the property receiving the exemption, if occupied, is actually and exclusively used for the purposes [previously] described... (ORS 507.541)

A property tax exemption given to low-income rental housing under these provisions must be applied for each assessment year. The tax exemption applies only to the tax levy of the jurisdiction unless approval of other governing bodies is obtained, which together equals 51% or more of the total combined rate of taxation levied on the property.

5. The State enables cities to grant local property tax exemptions for newly constructed multiple unit rental housing located in proximity to central business districts, transit oriented areas and light rail station areas (ORS 307.600 to 307.690). Such programs shall result in the construction, addition or conversion of units at rental rates or sale prices accessible to a broad range of the general public. A city or county must designate areas in which to allow exemptions, and must develop standards and guidelines to be utilized in considering applications for property tax exemptions. The standards and guidelines may include rental rates or sales prices. The exemption only applies to multiple unit housing, and the property tax exemption may only be provided for 10 years.

The tax exemption applies only to the tax levy of the city unless approval of other governing bodies is obtained, which together equals 51% or more of the total combined rate of taxation levied on the property. The enabling legislation for this statute will sunset in 2006, after which local governments using the program will be required to request that the legislature provide re-enabling legislation.

6. The State allows local governments to provide property tax exemptions for single family housing in distressed areas (ORS 458.005 to 458.065).

458.010 (1) The Legislative Assembly finds it to be in the public interest to stimulate the construction of new single family residences in distressed urban areas in this state in order to improve in those areas the general life quality, to promote residential infill development on vacant or underutilized lots, to encourage homeownership and to reverse declining property values.

A city must adopt a resolution identifying the “distressed areas” in which to apply the property tax abatement, the total area of which may not exceed 20% of land in the city limits. The tax exemption applies only to the tax levy of the city unless approval of other governing bodies is obtained, which together equals 51% or more of the total combined rate of taxation levied on the property. Property tax exemptions provided under this statute shall be allowed for no more than 10 years. The enabling legislation for this statute will sunset in 2003, after which local governments using the program will be required to request that the legislature provide re-enabling legislation.

7. The State enables local governments to adopt legislation to provide property tax exemptions for rehabilitated residential property, single family and multi-family units that are located in distressed areas (ORS 308.450 to 308.481).

308.453 Policy. The Legislative Assembly finds that it is in the public interest to encourage the rehabilitation of existing units in substandard condition and the conversion of transient accommodation to permanent residential units and the conversion of nonresidential structures to permanent residential units in order to make these units sound additions to the housing stock of

the state. The Legislative Assembly further finds that cities and counties of this state should be enabled to establish and design programs to stimulate such rehabilitation and or conversion based on the incentive of a local property tax exemption.

A city must adopt a resolution identifying the “distressed areas” in which to apply the property tax abatement, the total area of which may not exceed 20% of land in the city limits. The tax exemption applies only to the tax levy of the city unless approval of other governing bodies is obtained, which together equals 51% or more of the total combined rate of taxation levied on the property.

Structures must not be in substantial compliance with local codes at the time of application, and are subject to a minimum rehabilitation improvement value of (1) five percent of assessed value of land and improvements for properties of less than 25 years of age or (2) 50 percent or more of the assessed value of land and improvements regardless of the age of the property. The taxation rate on a property under this program shall not be more than its assessed value prior to any rehabilitation improvements, and this reduced rate may be assessed for no more than 10 consecutive years. The enabling legislation for this statute will sunset in 2008, after which local governments using the program will be required to request that the legislature provide re-enabling legislation.

8. All property that is owned by a public housing authority is automatically exempt from property taxes (ORS 456.225). In lieu of property taxes, a housing authority “may agree to make payments to the city, county or any such political subdivision for improvements, services and facilities furnished...but in no event shall such payments exceed the estimated cost...”

PROPERTY TAX RATES IN THE METRO REGION

Property taxes collected from jurisdictions within the Metro region are shown in the table below.

Table 1. Property Tax Rates in the Metro Region – 1999

Jurisdiction	Low/High Range of Consolidated Property Tax Rates
Beaverton	15.0255 – 16.9965
Cornelius	13.8920 – 16.1257
Durham	10.8040 – 12.3290
Fairview	15.8273 – 15.9800
Forest Grove	15.2238 – 15.7406
Gladstone	14.1579 – 17.2718
Gresham	16.4434 – 17.4202
Happy Valley	14.1913 – 14.3439
Hillsboro	13.7007 – 16.1600
Johnson City	13.3000
King City	13.3624
Lake Oswego	15.5475 – 17.9884
Maywood Park	16.3452
Milwaukie	16.5240 – 17.4186
Oregon City	16.4051
Portland	13.2142 – 20.7872
Rivergrove	11.0177 – 12.0353
Sherwood	14.4650 – 15.9900
Tigard	12.9402 – 15.2174
Troutdale	16.3718 – 18.1952
Tualatin	14.2046 – 17.0504
West Linn	14.3436 – 17.2314
Wilsonville	14.8546 – 17.3832
Wood Village	15.6160
Clackamas Co., uninc.	12.4463
Multnomah Co., uninc.	11.4086 – 19.7659
Washington Co., uninc.	8.1591 – 14.8607

Source: Clackamas County Tax Assessor, Multnomah County Tax Assessor, Washington County Tax Assessor, 1999.

EXAMPLES OF PROPERTY TAX EXEMPTION PROGRAMS

City of Portland

The City of Portland has collaborated with the Portland School District and Multnomah County to gain the 51 percent valuation needed to authorize property tax exemptions for various programs. The City has developed a program that provides an array of property tax exemptions for affordable housing and transit-oriented development. (See Table 2 on page 71).

City of Eugene

The City of Eugene, after adopting ORS 307.600 to 307.690, offers a property tax exemption for multi-family low-income rental housing. The program is provided to enable the city to support the concept of a compact growth form, and increase multi-family development in the core business district.

The property tax exemption is available for housing on eligible property within the city limits of Eugene that is owned by a nonprofit corporation, and that is actually and exclusively occupied by low income people (at or below 60% MFI). Proposed developments must also include one or more public benefits, such as open spaces, recreational facilities, common meeting rooms, and day care facilities. The City Council must adopt a resolution to include a property in the property tax exemption program.

As outlined in City Code, the property tax exemption must be renewed each year. The property tax exemption is offered in the downtown and University areas of the city (Eugene City Code, Chapter 2, 2.910 to 2.947).

City of Tigard

The City of Tigard, after adopting ORS 307.540 to 307.547, has offered a property tax exemption for low-income housing owned by nonprofit corporations since 1996. The program is provided to further enable the city to meet affordable housing goals. To qualify for this property tax exemption, a property must be owned by a nonprofit corporation or by a partnership in which the nonprofit corporation is a general partner. The property tax exemption must be applied for each assessment year (Tigard City Code, 3.50.010 to 3.50.050).

Table 2. Summary of City of Portland Property Tax Abatement Programs*

	Non-Profit (3.101)	Rental Rehab (3.102)	Owner-occupied Rehab (3.102)	New Single-Family Construction (3.102)	Transit Oriented Development (3.103)	New Multi Family (Chapter 3.104)
Program Goal	Promote housing for very low-income renters	Promote rehabilitation of rental housing	Promote rehabilitation of housing in "Distressed Areas" as designated by the Planning Commission	Promote new housing in "Distressed Areas" as designated by the Planning Commission	Promote residential and mixed use development in transit oriented areas.	Promote new multiple unit housing in the Central City area
Household Incomes Served	Earn less than 60% of Median Area Income	High/moderate/low income	Mostly low and moderate income	Mostly moderate income	All income levels with some affordability component	All income levels
Applicant/ Project Eligibility	Non-profit housing developer certified by IRS as 501(c)(3) or (4) organization	For structures built before 1961, improvements at time of application must be worth more than 10% of assessed value; if built after 1961, improvements must be worth more than 50% of assessed value	For structures built before 1961, improvements at time of application must be worth more than 10% of assessed value; if built after 1961, improvements must be worth more than 50% of assessed value	Houses which meet geographic and value restrictions may qualify	For-profit or non-profit housing developer of 8 or more rental or for-sale multiple dwelling units.	For-profit or non-profit housing developer of 10 or more rental or for-sale multiple dwelling units.
Restrictions	Resident income must be at or below 60% or median area income	Owner signs "Affordability Agreement," keeping 20% of the units affordable to incomes of 60% or less of median area income	Houses in "Distressed Areas" only are eligible	City Council sets yearly maximum sales and appraisal price, as recommended by the Planning Bureau, for new homes in "Distressed Areas" (1999 price: \$145,425)	Owner must provide one or more public benefits listed in code. May include rent and sales price limits.	Owner must provide one or more public benefits listed in code. May include rent limits
Geographic limitations	Applicable within City of Portland	Applicable within City of Portland	City neighborhoods designated as "Distressed Areas"	City neighborhoods designated as "Distressed Areas"	Areas within 1/4 mile of existing light rail lines and other transit oriented areas shown on maps.	Central City Plan District boundary or any urban renewal or redevelopment area
Project Review & Approval	Planning Bureau (staff only)	Portland Development Commission (staff only)	Portland Development Commission (staff only)	Portland Development Commission (staff only)	Portland Development Commission and City Council resolution of approval	Portland Development Commission and Planning Bureau (PDC, Planning Commission and City Council approval required)
Length of Abatement	One year with annual renewals	Ten years	Ten years	Ten years	Ten years	Ten years
What is taxed?	Ineligible (e.g., commercial) land/improvements	Assessed Value before rehabilitation	Assessed Value before rehabilitation	Land and appreciation on the house	Land but not improvements	Land but not improvements
Application Fee	\$250 new, \$50 renewals	\$300 plus \$5 for every unit over two and appraisal fees	\$300 plus \$75 appraisal fee	\$300 plus \$75 appraisal fee	\$5,000	\$5,000

Revised June 9, 1999

***Please consult applicable City ordinance or program application materials for detailed requirements.**

HOW SHOULD PROPERTY TAX EXEMPTIONS BE APPLIED?

Below are types of housing for which property tax exemptions could apply:

Rental Housing

- *Senior housing*: For seniors living on fixed incomes from social security, pensions, or retirement plans who are unable to find safe, decent housing that costs 30% of their household income.
- *Disabled housing*: For people living on SSI who are typically unable to work to supplement their incomes and are unable to find safe, decent housing that costs 30% of their household income.
- *H-TAC defined income groups*: Housing based on H-TAC defined income levels, especially to meet fair share goals focused on households in the lower two categories.
 - ❑ 0-30% of MHI
 - ❑ 31-50% of MHI

Owner Occupied Housing

- *Senior housing*: For seniors living on fixed incomes from social security, pensions, or retirement plans who are in danger of being displaced from neighborhoods due to increased property taxes.
- *H-TAC defined income groups*: Housing based on H-TAC defined income levels.
 - ❑ 51-80% of MHI
 - ❑ 81-120% of MHI

Transit Oriented Development

To encourage the development of transit efficient housing that both reduces congestion and provides some affordable units.

Preservation and Rehabilitation of Rental and Owner Occupied Housing

Communities should provide incentives to enable local and regional goals to be met. Fair share goals are currently targeted towards housing for households earning 50% of regional median income or less, which is the housing that costs the most to provide. Jurisdictions should consider providing incentives that allow for the preservation and rehabilitation of existing affordable units as the most cost effective way of meeting fair share goals. Tax abatements for both renter and owner occupied housing that is to be rehabilitated provide one of the few incentives that is not focused on the development of new units.

POTENTIAL STRATEGIES

1. *Provide information*. Some local governments do not know how to use their authority to provide property tax exemptions for affordable housing.
2. *Consider property tax exemptions for highest need housing – for households 50% and less MHI*. This would further enable the region to reach fair share goals.
3. *Consider providing property tax abatements or exemptions for renter and owner occupied housing rehabilitation*. Preserving and rehabilitating existing affordable housing is the most cost effective method available to provide affordable housing in this region.

OTHER CONSIDERATIONS

- It may be difficult for some local governments to form partnerships with other taxing authorities in order to reach the 51% needed to provide a full property tax exemption for low-income housing.
- Many jurisdictions are facing budget cuts after Measure 50, and may not be interested in foregoing additional revenue even for affordable housing.
- Phased in property taxes could address the “cold turkey” shock of paying taxes after reaching the end of a 10 year (or other time period) tax abatement.

- Currently there are numerous housing developments that are about to face the end of a ten year term of property tax abatements – it will be difficult for property owners to maintain these units as affordable without some sort of assistance. The 1999 Legislature passed HB 3211, which amended portions of ORS 307.600 - 307.691 to allow local jurisdictions to extend tax abatements past the 10-year time period.

RECOMMENDATION FOR IMPLEMENTATION

Regional

1. Provide information.

Some local governments do not know how to use their authority to provide property tax exemptions for affordable housing.

2. Guidelines for Implementation

The intent of providing property tax exemptions for affordable housing is to reduce the cost of producing and operating housing and thereby increase the affordability of housing for the “end user.” If one cost factor is reduced, it is possible that the other elements of the development equation (construction costs, developers fees, etc.) could rise quickly to absorb the reduction.

Federal, State, and some local funding programs often include review processes to ensure that construction, development and operating costs conform to acceptable benchmarks. However, some local jurisdictions do not currently have a method of ensuring that cost reductions provided by the jurisdiction (such as a property tax exemption) result in an increase in housing affordability for the “end user.” A mechanism needs to be developed so that jurisdictions can be assured that the reduction in the cost of an element of the development process is retained in reduced development and operating project costs, rather than being absorbed by increases in the cost of other elements of the development process.

Local jurisdictions should have their legal counsel review any potential property tax exemption programs to ensure conformance to state law.

Local

1. Consider property tax exemptions for highest need housing – for households 50% and less MHI.

This would further enable the region to reach fair share goals.

2. Consider providing property tax abatements or exemptions for renter and owner occupied housing preservation and rehabilitation.

Preserving and rehabilitating existing affordable housing is often the most cost effective method available to provide affordable housing in this region.

3. Consider providing property tax abatements or exemptions for owner occupied housing

- *Senior housing:* For seniors living on fixed incomes from social security, pensions, or retirement plans who are in danger of being displaced from neighborhoods due to increased property taxes.
- *H-TAC defined income groups:* Housing based on H-TAC defined income levels.
 - 51-80% of MHI
 - 81-120% of MHI

4. Consider extending tax abatements after the 10-year time period in return for a commitment by the property owner for long-term affordability.

This could provide additional units of affordable housing for lower income households that would not otherwise be available.

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Land Cost and Availability: Non-Land Use Tool

Finalized at the Cost Reduction Subcommittee Meeting: January 25, 2000

Approved by H-TAC: February 14, 2000

PURPOSE

To identify and analyze strategies to address land cost and availability in order to provide more opportunities to develop affordable housing in the Metro region. As part of the subcommittee analysis, program information was collected from jurisdictions implementing similar programs.

DESCRIPTION

When the supply of land available to develop for housing is limited, the funding for public improvements lacking and demand for additional housing is high, the cost of land increases. The cost of land is generally dictated by the workings of the market, while the availability of developable land that is zoned for housing is dependent on local, regional and state governments' policies as well as public investment in roads, sewers, and other public facilities.

The urban growth boundary (UGB) delineates the area in which urban development may occur. Outside of the UGB urban services such as sewer and water may not be provided, thus making more dense development impossible. This has the impact of reducing the overall land supply, therefore reducing the amount of land available for residential development and thus increasing the cost of land, unless more efficient use of land within the UGB is allowed and marketable.

Studies have shown that housing developers currently are having difficulties with the cost of land and scarcity of large pieces of land on which to build. These conditions reduce the opportunity for builders to develop economies of scale. These impacts are likely to affect single family units more than multi-family units, as a multi-family development is able to absorb the higher land costs by increasing density.

The *Oregon Housing Cost Study* (December 1998) showed that homebuilders in Oregon operate at a smaller scale than typical for other parts of the country. There are smaller companies producing homes at relatively low volumes. The fragmented building industry also contributes to a lack of economies of scale, which potentially results in higher costs to produce housing. Small builders may be hard pressed to produce affordable housing that is appropriate for infill lots located in existing neighborhoods due to the cost of plans and designs as well as difficulty in locating potential lots. Additionally, expectations for "starter homes" have changed over the years, with many builders operating under the perception that homes will not sell without certain amenities, which also increase cost.

EXAMPLES OF METHODS OF ADDRESSING LAND COST AND AVAILABILITY

Below are some strategies currently utilized in Oregon to reduce the cost of land used for the development of affordable housing.

A. Public Donation of Property for Affordable Housing

State law grants governmental bodies the right to transfer title of developed and undeveloped property that is no longer needed for public use to a different public agency or a nonprofit corporation for another public purpose as defined by the State (ORS 271.330). The law includes "transfers without consideration of property held by counties as a result of tax foreclosures."

ORS 271.330 (2)(a) Any political subdivision is granted express power to relinquish the title to any of its property to a qualifying nonprofit corporation or a municipal corporation for the purpose of providing any of the following:

- (A) Low income housing;

- (B) Social services; or
- (C) Child care services.

1. Donation of Publicly Owned Property

The statute outlined above enables local governments and other public agencies to donate property for use as affordable housing. Cities may be particularly interested in donating abandoned properties or properties with outstanding city liens for use as affordable housing. However, any publicly owned land that is no longer needed for public purposes may be donated for providing affordable housing.

2. Donation of Tax Foreclosed Property

ORS 271.330 enables counties to donate tax-foreclosed property to nonprofit corporations or other government agencies for low-income housing purposes.

Counties are sometimes in the position of foreclosing on developed and undeveloped property on which property taxes have not been paid for an excessive length of time. This land may be used or disposed of by the county after foreclosure procedures are complete. Thus, the county acquires foreclosed properties for much less than their market value. One strategy to address the need for additional affordable housing is to develop a program in which a county donates tax-foreclosed properties to other government agencies or nonprofit developers to use for affordable housing. This allows the housing to be developed at a much lower cost and provided at a much lower price or rent.

Clackamas County

The Clackamas County Policy for Sale and Transfer of County Surplus Real Property contains the guidelines for disposing of property that is acquired by the county and is not needed for county use. All such property must be declared surplus, except as otherwise provided for by statute or deed restriction. The properties are sold at either oral or sealed bid public auction.

Section V of the policy - Criteria for Transfers to Government Agencies - provides the guidelines under which tax foreclosed property (or other property that is placed on the list to be auctioned) may be transferred to another government agency. When evaluating whether or not to approve a transfer, the highest consideration is whether the use proposed by the requesting agency is the "highest and best use for the property." The use of tax foreclosed properties for affordable housing has occurred infrequently in recent years.

Multnomah County

Multnomah County's Affordable Housing Development Program (AHDP), revised in 1997, was created to "foster the development of affordable housing for lower income families using the inventory of County tax foreclosed property." County Ordinance 895 allows the no cost transfer of tax-foreclosed properties to nonprofit housing sponsors and sets notification, selection and transfer requirements. The County also allows the transfer of tax foreclosed properties for use as parks, open space, and community gardens.

A property list is published each year, and is mailed to local governments, neighborhood associations, and nonprofit housing providers. Eligible applicants have 45 days to apply for available properties, and must pay a \$50 application fee for each property. A technical review committee reviews applications and prioritizes them on the basis of a variety of criteria. The criteria focus on organizational capacity to develop, finance, and maintain the project; community support; and extra points are awarded for serving lower income groups and providing long term affordability.

The technical review committee makes recommendations to the Board of County Commissioners, public hearings are held, and then the transfers are approved or disapproved. For successful applicants, a \$200 nonrefundable transfer fee is charged for each property. Multnomah County

anticipates three different housing models, with differing contractual and lien documents, to result from the Affordable Housing Development Program.

Model #1 – Homeless Shelter or Special Needs Housing

- County and developer sign an Agreement, secured by a promissory note and trust deed in the amount of the tax arrears and penalties.
- The agreement and lien documents would stipulate that the face amount of the note be reduced by 20% per year to be completely forgiven after five years.
- If the property is sold or the use changes prior to the five year term, the balance of the note shall be payable to the County.

Model #2 – Affordable Rental Housing

- Performance is secured by an Agreement, secured by a note and trust deed as outlined above.
- Restrictions described in the encumbering documents will ensure low-income renters housing affordability.
- Term of restrictions will last 10 years.
- Total encumbrance would be due and payable only if the developer breaches the terms of the Agreement.
- Applicants are strongly encouraged to propose housing affordable to households earning 50%MHI or less.

Model #3 – Home Ownership

- County and developer sign an Agreement secured by a trust deed for the amount of tax arrears.
- Agreement specifies beneficiaries, project completion, and marketing term to qualified lower income buyer, two years from transfer to sale.
- At sale, the County’s trust deed would transfer to the property buyer as a second mortgage. The second mortgage would be performance based, enforcing a five-year occupancy and no sale or rental requirement.
- If the property is sold prior to the sunset of the second mortgage, title search at escrow would show the encumbrance due and payable. (Multnomah County Affordable Housing Development Program, p.5)

In 1999, Multnomah County had 65 properties on their list of tax foreclosed properties available to the AHDP/Openspace programs. Of these, 22 were transferred to nonprofits for affordable housing development.

Washington County

Although Washington County does not have a formal program to donate tax-foreclosed properties for affordable housing, they have adopted an ordinance that allows them to do so.

B. Private Donation of Land for Affordable Housing

There are many examples of situations around the country and in Oregon where private organizations have donated land for affordable housing. Such donations, when made to a nonprofit housing provider, may frequently be written off income taxes, and may also increase the positive public image of a corporation or private organization. Some private organizations find that their mission is well served by donating land to be used as housing for those in need, such as faith based or fraternal organizations. Local and regional governments can encourage programs such as those highlighted below.

Faith Based Organizations

The mission of faith based organizations is often well served by providing land for use as affordable housing. Some faith based organizations develop housing themselves; others either donate or lease land to nonprofit housing developers. Many housing units have been developed on property donated by faith based organizations in the region, including a group home for persons infected with

HIV/AIDS developed by Northwest Housing Alternatives in Milwaukie. An analysis of vacant tax exempt land in the Metro Regional Land Information System shows that faith based organizations own approximately 700 acres of undeveloped land in the Metro region (Clackamas County = 214 acres; Multnomah County = 282 acres; Washington County = 204 acres).

Private Developers

A housing developer planning to develop a large tract of land may wish to partner with a nonprofit to build affordable housing on a portion of the property. The land may or may not be donated. A program such as this would be more effective when combined with incentives such as a density bonus or fee waiver.

Employer related housing programs

Large employers have a big impact on the housing needs of a community, especially when the profile of their employees varies from that of the area in which the employer locates. Some employers have developed programs to address the needs of their employees. Emanuel Hospital is one example. *[Program information will be added soon, when available]*

C. Landbanking for Affordable Housing

The development of affordable housing depends, to a large degree, on the availability of sites. Landbanking is a technique whereby a city or county, in anticipation of future development, acquires vacant land, underutilized sites, or properties with the potential for reuse or rehabilitation. Landbanking gives a community direct control over the location, timing, and type of housing built. Jurisdictions are also able to assemble smaller properties over time to create sites for larger projects.

City of Eugene

The City of Eugene Landbank program was first established in 1982, and subsequently revised in 1990. The purpose of the program is to have a supply of vacant land available to support the development of public-purpose housing.

The program is designed to ensure that builders who participate in public-purpose housing programs will have appropriate sites available. The Eugene Planning and Development Department operates the program with policy direction from the Eugene Planning Commission. As funds become available, the city identifies appropriate parcels of land for subsidized or specialized housing projects. An appropriate property accounts for purchase price, location, conformity with city policies such as a housing dispersal plan, proximity to services, and land use designations. Once the city acquires title, the parcel is “banked” to await development proposals. Typically, the city uses an RFP process to identify nonprofit and for-profit developers, or public agencies that could best develop the land for affordable housing. Added consideration may be given to developers who propose to reimburse the city for investment in the land, but projects may receive a partial or total land cost write-down if such a subsidy is crucial to the success of the development.

Since the city holds title to the properties, developers are able to investigate potential development without incurring the costs associated with site search, zoning changes, land assembly, negotiations with multiple owners, or expensive options.

Appropriate developments include housing for low- and moderate-income households, housing for the disabled, or other public-purpose housing projects. “The availability of land in public ownership was the catalyst for the Uhlhorn Apartments (the 38 units currently under construction by the Housing Authority), the St. Vincent de Paul duplex, and the soon to be constructed Laurel Grove Apartments” (Eugene City Council Agenda, December 10, 1990).

The city allocates \$300,000 of CDBG funds each year to the Low-Income Housing Trust Fund to be used to purchase parcels for the Landbank Program. With these funds the city is able to purchase an appropriate site every one or two years, depending on the prices and market conditions.

Portland Regional Acquisition Fund: City of Portland/Enterprise Foundation

The Portland Regional Land Banking Program is a proposed partnership between The Enterprise Foundation and the Housing Development Center, with support and coordination provided by the City of Portland and other local jurisdictions. The purpose of the fund is to acquire and hold development sites throughout the region, preserving the opportunity for the creation of community-based developments. The fund may also provide an opportunity to the public sector to leverage private sector resources.

The Enterprise Foundation and the Housing Development Center will be the managers of the fund. Enterprise will provide general management and develop policies and procedures, while the Housing Development Center will be responsible for site identification and due diligence. The fund will function as a revolving account, providing local jurisdictions the opportunity to access the fund by providing loan guarantees to purchase property.

HOW SHOULD LAND COST AND AVAILABILITY STRATEGIES BE APPLIED?

Due to the lack of availability of large tracts of developable land in the Metro region, strategies to impact the cost and availability of land for housing should focus on increasing infill and redevelopment opportunities. A variety of strategies can be used, depending on the type of organization responsible for or receiving a benefit from the strategy.

Government

- Donation of publicly owned land, including tax foreclosed properties.
- Land Banking
- Public/private partnerships to develop designs and plans that meet local codes and neighborhood expectations.

Nonprofits/Foundations

- Donation of land by faith based organizations and other entities
- Community Land Trust is an important tool that can be used to address the cost and availability of land for affordable housing. This tool is being addressed by the Regulatory Strategies Subcommittee.

Builders/Private Industry

A public/private partnership could be designed to support smaller builders transitioning to infill by developing tools such as:

- Lot, infill locator
- Design/subdivision assistance (similar to the Portland Design Center)
- Design awards recognizing good infill examples
- Hold meetings with homebuilders/realtors/designers to coordinate more infill and redevelopment
- Internet or other database of possible sale opportunities

POTENTIAL STRATEGIES

- *Donation of publicly and privately owned property.* Jurisdictions could cooperate with nonprofits to identify and donate publicly owned land that is no longer in use to be used for affordable housing. Encourage increased donation of tax-foreclosed properties and donations by private organizations to nonprofits and public agencies to be used for the development of

affordable housing. Jurisdictions could also encourage private corporations and faith based organizations to donate land for affordable housing.

- *Land banking.* Jurisdictions could consider participating in the Enterprise Foundation's revolving fund land bank program, or consider establishing a local landbanking program using local or CDBG funds to support the development of additional affordable housing.
- *Support smaller builders.* Jurisdictions could consider the creation of several subregional, or one regional, program to support smaller builders in the creation of affordable housing. Efforts could be focused on infill and redevelopment opportunities, and local jurisdictions could provide direction on designs or plans that meet building codes and are appropriate for existing neighborhoods.

OTHER CONSIDERATIONS

- The market plays the largest role in determining the cost of land and often its availability, while government plays a much smaller part in impacting this cost factor. There are taxation and regulatory tools that could impact the market, but these are outside the scope of this report.

RECOMMENDATION FOR IMPLEMENTATION

Metro does not have the authority to require the implementation of any of the strategies to address land cost and availability that are described above. Strategies outlined below would help jurisdictions in the Metro region move towards meeting regional affordable housing production goals and encourage the development of additional affordable housing in the region.

Regional

1. Facilitate public/private partnerships.

Jurisdictions could cooperate to create subregional or regional public/private partnerships to facilitate the development of affordable housing, focused in redevelopment or infill areas. Examples include:

- *Support smaller builders.* Tools could be developed including, but not limited to, the following:
 - Inventory of infill lots available for redevelopment/new development
 - Design/subdivision assistance (similar to the Portland Design Center), including plans that meet codes and neighborhood expectations
 - Design awards recognizing good infill examples
 - Hold meetings with homebuilders/realtors/designers to coordinate more infill and redevelopment
 - Internet or other database of possible sale opportunities

Local

1. Donation of publicly owned property.

Jurisdictions could cooperate with nonprofits to identify and donate publicly owned land that is no longer in use to be used for affordable housing. Temporary use of such land could be considered by jurisdictions. Encourage increased donation of tax foreclosed properties to nonprofits and public agencies to be used for the development of affordable housing.

2. Donation of privately owned property.

Jurisdictions could encourage private corporations and faith based organizations to donate land for affordable housing.

3. Land banking.

Jurisdictions could consider participating in the Enterprise Foundation's revolving fund land bank program, or consider establishing a local landbanking program using local or CDBG funds to support the development of additional affordable housing.

4. Community Land Trusts (CLTs).

Jurisdictions could encourage the development of community land trusts and other limited equity affordable housing options. *(More information on CLTs may be found in the Long-Term and Permanent Affordability strategy).*

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Off Site Improvements: Non-Land Use Tool

Finalized at the Cost Reduction Subcommittee Meeting: February 15, 2000

Approved by H-TAC: February 28, 2000

PURPOSE

To analyze the feasibility of reducing requirements for off site improvements in order to reduce the cost of creating affordable housing. As part of the analysis attempts were made to collect information from jurisdictions that have off site improvement standards.

DESCRIPTION

Off site improvements are often required of developers to ensure that a development has adequate public facilities and services to serve the site and to extend the public facilities to provide for logical continuation of a local government or special district street and utilities systems. Off site improvements typically fall in two categories: 1) traffic or street related items, or 2) on-site storm drainage facilities. Traffic improvements may include traffic lights, sidewalks, and general street improvements. Storm drainage improvements may include storm drainage, on-site stormwater quality control, water distribution and fire protection.

In most cases a developer constructs the off site improvement. However, in some cases where the development is in a Local Improvement District, the developer may be given the option to pay the local government or special district to do the construction. It should be pointed out that when the developer chooses to pay off site improvements fees to the local jurisdiction to do the construction, such fees are not associated with system development charges and permit fees. Off site improvement fees differ from a general fee in that they are assessed for improvements that are directly related to a development site, rather than to pay for system wide improvements.

Private utilities may also assess additional charges on the development of housing. These charges must be related to the specific impact of the new development. Private utilities include telephone, electric, and gas services.

While off site improvements add to the cost of developing housing, frequently a local jurisdiction has no alternative for funding a needed improvement other than the new development. The key is to ensure that a specific development is only required to provide improvements commensurate with the level of impact imposed by the new development.

The need for off site improvements often is determined by timing – either the first or last developer in to an area is held responsible for improvements that are needed for a larger area. For instance, the first developer in an area may be required to construct a road, along with street improvements, that will serve other developments. The developer may or may not be provided with credit from future developments. For the last developer in, off site improvements that should have been required of previous developments may now be necessary, such as traffic lights.

EXAMPLE OF OFF SITE IMPROVEMENT REQUIREMENTS

City of Gresham

Any development is required to coincide with provision of adequate public facilities and services as stated in the City of Gresham Community Development Code, Section A5.000. Design and construction of any privately funded public improvement shall be performed in accordance with Section A5.000 of the Code, the “City of Gresham Public Works Standards.” The developer is required to provide a Guarantee of Completion and Maintenance Guarantee.

The Guarantee of Construction is 110 percent of the estimated construction cost of the public improvement. The Maintenance Guarantee, required prior to the City’s acceptance for ownership

and operation of the privately financed public improvement, is 10 percent of the construction cost. The Maintenance Guarantee remains in effect from the date of acceptance for ownership and operation for a period of two years. That means that repairs required within the maintenance period shall be guaranteed for two years from the date of completion of such repair.

In the case of a subdivision development, the City may approve issuance of up to 50 percent of the building permits after the public improvements are substantially complete. Substantial completion is defined in the “City of Gresham Public Works Standards.”

HOW SHOULD REDUCTIONS IN OFF SITE IMPROVEMENTS BE APPLIED?

Most cities and counties impose requirements for off site improvements on a case – by – case basis under the same general conditioning authority for on site improvements. The requirements may be worded as follows: “The [city/county] may impose conditions of approval to mitigate the impacts of the development on public facilities and infrastructure.” For example, if a development is going to generate traffic, a traffic study is typically required. If the study indicates that the traffic increase would warrant a traffic signal at an intersection up the street, the condition to install the signal (or contribute to the cost of installation) is imposed. Very few local governments have express off site improvement requirements because the need varies from development to development, and because *Dolan v. the City of Tigard* basically precludes blanket “one size fits all” exactions.

POTENTIAL STRATEGIES

- Reduction of the Guarantee of Completion could be made available to affordable housing developments in the form of a reduced percentage of the estimated construction cost of the public improvement that the developer is required to secure in bond or letter of credit.
- Reduction of the Maintenance Guarantee in the form of a reduced percentage of the estimated construction cost that the developer is required to pay the jurisdiction before the latter accepts ownership and operation of the privately financed public improvement.
- Target CDBG funds for public infrastructure for affordable housing. Local participating jurisdictions could develop a policy in their capital improvement programs to set aside a certain amount of CDBG funds to offset a reduction in the fees charged developers for public improvements constructed by the developer. Joint development of public infrastructure by a group of affordable housing developers could get reduced fee for public improvements constructed.
- Local governments could add a “Developer Assistance” line item in their Capital Improvement Program to support infrastructure development for affordable housing.
- Use a portion of a regional housing fund as a “bank” to fund off site improvements for an affordable housing development. The fund could be provided at varying low interest rate loans depending on the amount of affordable housing provided at the site.
- Work with utility commissions to educate them on the public benefit of affordable housing, to reduce the impact fees of providing utilities to affordable housing projects.
- If payments (in lieu of actually constructing the improvements) for improvements are made, then the benefit should be seen for that project. Fees should not be collected if the improvement is not on a list or plan to be completed within the next ten years. However, easements or land dedications could be required.
- Infill affordable housing projects should not be required to provide improvements that are significantly higher than existing neighborhood standards (unless redevelopment is expected soon). However, the local jurisdictions could require the dedication of some land for future public improvement purposes.
- Requirements for off site improvements should be directly related to the project design and development impact.

OTHER CONSIDERATIONS

- Local governments need funds to pay for the cost of infrastructure that is a result of growth – funds to pay for off site improvements must come from someplace if requirements are waived or reduced for affordable housing.
- On site stormwater detention can be a very expensive component of developing housing in many situations. The most cost effective method of addressing the need for on site stormwater detention facilities would be to develop a regional drainage system, rather than on a site-by-site basis. However, this would require a huge public investment that may be difficult to pass through the public approval process.

RECOMMENDATION FOR IMPLEMENTATION

A. Regional

1. Consider cost of off-site improvements when amending the UGB

Some of the undeveloped land inside the urban growth boundary tends to be harder and more expensive to develop because of their terrain. The cost impact of developing these types of land could be considered in the expansion of the urban growth boundary.

2. Use a Regional Fund as a “Bank” for Off-site Improvements for Affordable Housing

If a regional funding source is created, use a portion of the fund as a “bank” to fund off site improvements for affordable housing developments. The fund could be provided at varying low interest rate loans depending on the amount of affordable housing provided at the site.

3. Educate Utility Commissions

Work with utility commissions to educate them on the public benefit of affordable housing, to reduce the impact fees of providing utilities to affordable housing projects.

4. Address Stormwater on a Watershed Basis

Stormwater detention/runoff should be addressed on a watershed basis. On site stormwater detention is an important cost component of developing housing, and a water shed wide drainage system would be one of the most cost-effective method of dealing with stormwater runoff.

5. Consider Affordable Housing when Developing Natural Resource Protection Plans

Develop Goal 5 implementation policies that take into consideration the affordable housing needs of this region.

6. Legal Opinion on Implementation

Request legal opinion from the Metro General Counsel on Metro authority on the implementation of Off Site Improvement requirement strategies.

Local

1. Reduce the Guarantee of Completion

Encourage local governments to consider offering a reduction of the Guarantee of Completion to developers of affordable housing in the form of a reduced percentage of the estimated construction cost of the public improvement that the developer is required to secure in bond or letter of credit.

2. Reduce the Maintenance Guarantee

Encourage local governments to consider offering a reduction of the Maintenance Guarantee to developers of affordable housing in the form of a reduced percentage of the estimated construction cost required prior to the jurisdiction accepting ownership and operation of the privately financed public improvement.

3. Target CDBG Funds for Public Infrastructure for Affordable Housing

Encourage local governments to target CDBG funds for public infrastructure for affordable housing. Local participating jurisdictions could develop a policy to set aside a certain amount of CDBG funds to offset a reduction in the fees charged developers for public improvements constructed by the jurisdiction (instead of the developer). Joint development of public infrastructure by a group of developers could get reduced fee charged developers for public improvements constructed by the jurisdiction.

4. Allow Project Phasing

Encourage local jurisdictions to allow the development of projects in different phases, because phasing in of projects could save money for affordable housing developers.

FACTUAL INFORMATION

City of Gresham “Community Development Code, Section A5.000”

Building Codes: Non-Land Use Tool

Including recommendations from the State Building Codes Division: April 20, 2000

Finalized at the Cost Reduction Subcommittee Meeting: April 24, 2000

Approved by H-TAC: May 8, 2000

PURPOSE

To analyze the feasibility of reducing building codes constraints in order to reduce the cost of creating affordable housing. As part of the analysis, program information was collected from jurisdictions implementing similar strategies.

DESCRIPTION

Building codes are a set of regulations that govern the construction of buildings and other structures. States across the country develop building codes based various model building codes. In Oregon, the State Building Codes Division adopts various model codes including the International One and Two Family Dwelling Code printed by the International Code Council (ICC) and the Uniform Building Code written by the International Conference of Building Officials (ICBO). These codes are adopted and implemented statewide by the division and local jurisdictions (ORS 455.030 and 455.040). The state building code includes over a dozen specialty codes dealing with different aspects of a building such as structure, boilers, electrical wiring, elevators, plumbing, mechanical systems, etc. Developers and builders of housing must have building plans reviewed for compliance with applicable codes before a building permit is issued to start construction.

Although the mission of the State Building Codes Division “working with Oregonians to ensure safe building construction while promoting a positive business climate,” the codes and the building permit process has been criticized for contributing to higher housing costs and thus a shortage of affordable housing. Strategies for reducing the cost impact of the building permit process have been addressed in another strategy report “*Local Regulatory Constraints – Permit Approval Process & Discrepancies in Planning and Zoning Codes: Cost Reduction Factor for Affordable Housing.*” Building codes have been criticized specifically for:

- a) Lack of uniform interpretation, which contributes to difficulty obtaining plan review and permits, expensive contract corrections, and increases construction time;
- b) Penalizing owners of older buildings for renovations by requiring expensive upgrades;
- c) Lack of a cost/benefit analysis when code changes are adopted and implemented.
- d) Difficulty changing specific code standards when new technologies, building techniques and building materials could be used to reduce costs while maintaining safety.

While each individual code change may not have a large impact, the cumulative cost of increased requirements has a large effect on the cost of new construction and renovation of existing buildings.

EXAMPLES OF METHODS TO REDUCE REGULATORY CONSTRAINTS

The subcommittee reviewed national trends to determine potential strategies that could be used in Oregon. The National Home Builders Association has praised recent efforts by two states, Montana and New Jersey, to review and revamp their building codes.

A. Codes for New Construction – State of Montana

In 1997, the Montana Building Industry Association (MBIA) recruited the Montana Board of Housing to conduct a study on potential code amendments that could reduce the cost of housing without affecting life/safety. The Montana Board of Housing provided a \$20,000 grant for engineering consulting services to assist in the MBIA study. The study produced 18 separate recommendations on specific technical issues, including a request for universal code interpretation procedure, and was submitted to the Montana Building Codes Division.

In Montana, the state legislature created the Montana Building Codes Advisory Council. This council consists of 11 members that are appointed by the Department of Commerce and represent a cross section of the construction industry. The Montana Building Codes Division and the Montana Building Codes Advisory Council have a solid track record of supporting code reform for housing affordability. In this instance, the state agency addressed the proposed code changes related to universal code interpretation procedure, as well as a number of specific technical issues including: appropriate time to install basement wall insulation below uninsulated floors; diagrams for bracing engineering on narrow panel sections; and stairway lighting requirements. The state agency also developed a checklist for use by contractors who request to be notified within 10 days if their building permit has been approved.

According to the MBIA, these new amendments and interpretations are estimated to reduce the cost of an average home by \$5,300. The association also added that if theoretically applied to the state's average annual total housing starts of 3,500 homes, the package would result in potentially \$18 million in consumer cost savings annually.

B. Codes for Rehabilitation – State of New Jersey Rehabilitation Code

Apart from general building codes that address all types of construction, separate rehabilitation codes have been developed in some states, including Massachusetts, New York and New Jersey. The New Jersey rehabilitation subcode has been cited as a national model. The U.S Department of Housing and Urban Development adopted a rehabilitation code based on the New Jersey subcode for its properties around the country. Wilmington, Delaware also used the New Jersey model as a basis for developing standards for a rehab code to apply to a central business district.

The old New Jersey code specified how much an old building had to comply with new building standards based on the cost of the renovation project. Builders, planners and building officials often interpreted the codes differently, to the point that rehabilitation projects rarely resulted in the best use of the structure, and also substantially increased cost.

In 1996 the State of New Jersey set out to develop a new rehabilitation subcode of the existing Uniform Construction Code. The new rehabilitation subcode went into effect in 1998. The subcode is one of the strategies adopted by Governor Christine Todd Whitman for the revitalization of cities. A 60 percent increase in rehabilitation of old structures has been attributed to the new rehabilitation subcode. The subcode has reduced rehabilitation cost by as much as 50 percent, with the average around 10 percent, as reported by the state community affairs department.

The new 170-page rehabilitation subcode (organized like a cookbook to be user friendly) standardized and simplified the old rules. The subcode added reliable safety enhancements to rehabilitation jobs and shortened plan review time. Fire officials and inspectors apply consistent safety requirements to older buildings. A preliminary 1998 analysis shows that the new requirements have reduced the cost of rehabilitation dramatically. For example, under the new subcode the renovation of a senior citizen and day care center that has been vacant for eight years in Jersey City saved \$391,000. Under the new subcode the rehabilitation cost was \$1,145,000 instead of \$1,536,000 under the old code.

STATE OF OREGON

In 1999, the Oregon Building Codes Division along with the Oregon Department of Consumer and Business Affairs held a series of Open Forum Stakeholder meeting across the state. The purpose of the forum was to determine what was good about the current regulatory system and what needs to be changed in order to improve the system. According to the administrator of the division, the opinions are summarized as follows:

- Strong consensus on maintaining and strengthening Oregon's building code;

- ❑ Need for more and better compliance code at both the state and local levels;
- ❑ Violators should be dealt with in an effective fashion;
- ❑ Strong desire for consistency in interpretation and administration of the code;
- ❑ Need to achieve consistency (and reduce differences) in requirements among jurisdictions;
- ❑ Amendments made to Oregon's building codes are excessive;
- ❑ Need for effective partnership among the state and local regulators, contractors and various trade organizations involved in housing production and improvements.

The next step is to form a Steering committee to work with the division on identifying the task group topics that will be used by different work groups to develop strategies for addressing each of the above themes. The division intends to finalize its report by mid summer 2000 and forward the report to State Representative Carl Wilson's Interim Committee on General Government.

A. Response from State Building Codes Division

In reviewing H-TAC's recommendations, the State Building Codes Division sent the following clarifications and additions related to building codes in Oregon.

Building Codes in the State of Oregon

Oregon has recently taken steps to address the issues of code uniformity, timeliness of plan review and inspection and other related customer and industry concerns. Two Senate bills (SB 521 and 587) were passed by the 1999 Legislature. These bills are intended to help streamline permit processes and reduce costs for contractors, especially in the Metro area.

SB 521 created a Tri-County State Board for Clackamas, Multnomah, and Washington counties. The board was granted authority and responsibility to standardize forms, including plan requirement checklists, and certain plan review and permit procedures. The bill also created a Building Codes Division Service Center in the Tri-County area to provide specific centralized services including the label program for minor work that provides for a reduced number of inspections. The new rules will allow the labels to be used across county lines thereby reducing costs of minor work for contractors. First phases of this bill go into effect July 1, 2000, with subsequent phases on January 1 and July 1 of 2001. The provisions of the bill will help to standardize plan review and permit requirements in the Tri-County area thereby reducing confusion, time delays and expense to designers, contractors and building owners. There have been suggestions that the procedures developed here be expanded statewide in the future.

SB 587 has several facets applicable statewide that are intended to improve the effectiveness and timeliness of local building code services. First, fees received for plan review and permits must now be dedicated to the building inspection program. Funds can no longer be used for other municipal services, thereby protecting the viability of the inspection program. Fees are limited to those reasonable and necessary to carry out the program. Second, a revised appeal process goes into effect July 1, 2000 allowing an aggrieved party to appeal a code interpretation directly to the state code experts (chiefs) rather than be delayed by the current local and state appeals processes. This is expected to significantly reduce time delays and therefore costs, and provide more consistency in code interpretations statewide. Third, authorization for third party plan review and inspection has been created for use where a local jurisdiction is unable to provide timely service. Timely service for one and two family dwelling plan review is considered to be 10 business days. The program requires the jurisdiction to identify three third party providers acceptable to them that customers may use to perform plan reviews. The bill also creates a state administered licensing and quality control program for the third party providers.

Another activity currently underway by the Department of Consumer and Business Services and Building Codes Division is an interim study of statewide code administration. The goal is to identify

an ideal system that can be implemented over time to more effectively meet customer needs and protect public safety.

Oregon Code Adoption Process

Oregon has had advisory boards, similar to that in Montana, comprised of industry representatives, design professionals, affordable housing advocates and building owners serving various code programs since 1974. These boards review and approve adoption of code changes, make code interpretations, impose violation penalties and advise the Building Codes Division on administration of state building codes. During the 1999 Legislative session a proposal to consolidate several of the state's existing boards into one was submitted with the intent of streamlining Oregon's code adoption and interpretation processes. This bill (SB 803) was revised during the session to create a task force with representatives from the plumbing, electrical, boiler and structures board to study the feasibility of this change. The task force is charged with evaluating the advantages and disadvantages of consolidating the Board of Boiler Rules, the Plumbing Board and the Electrical and Elevator Boards and part of the responsibilities of the Building Code Structures Board into a single Electrical and Mechanical Board and report their findings to the 20001 Legislature.

Oregon has very active participation during its code change process from the Oregon Building Industry Association (OBIA) (previously the Oregon Home Builders Association) and other trade organizations. Extensive work was done several years ago to develop cost effective energy conservation standards for residential construction. The division also supported efforts of the OBIA to adopt alternate braced panel design provisions at both the state and national level that eliminate the need for costly engineering for narrow wall panels. The cost impact of each proposed code change is considered by the technical code change committees and the appropriate advisory board prior to adoption.

Oregon Requirements for Existing Buildings

Oregon's codes have provisions that allow exceptions to code requirements for rehabilitation of existing buildings under certain circumstances. For example, when the occupancy of the building is remaining the same, as in the case of dwelling alterations and improvements, only the new work is required to comply with the codes in place at the time of construction. When the occupancy of the building is changing, such as conversion of a warehouse to apartments, then the building is required to be brought up to current code. This ensures the building is safe and compatible to the new occupancy. The building official has authority to accept alternate methods of meeting the code requirements that take into consideration limitations of the existing building construction. Repairs, alterations and additions to historic buildings also may be made without complying with all of the provisions of the state codes.

POTENTIAL STRATEGIES

Notwithstanding the response from the State Building Codes Division, it is still not clear that the prevention of cost increases in housing is part of the building code adoption process. There should be a cost/benefit analysis mechanism that is institutionalized to keep the cost of building housing down while retaining safety.

1. Reevaluate the level of safety attributable to each code and apply a cost/benefit analysis during the exercise, including the use of new technologies and building materials.
2. Uniform code interpretation reduces the difficulty in obtaining approval of plans, reduces the number of expensive contract corrections, and also decreases construction time.
3. Separate the rehabilitation code from the general building code, and standardize and simplify the codes so as to promote reliable yet cost effective safety enhancements when renovating older buildings.

4. The state should strengthen the current educational system for code related matters that provides opportunities for all (many community colleges currently offer related course).
5. Develop a checklist of applicable code requirements for specific categories of work to be used by developers and other contractors. This would help to facilitate the permit and code approval process.
6. Improve partnership among state and local building officials, builders and other trade groups involved in housing production with the goal of improving regulatory activities to enhance affordable housing production and improvements.

RECOMMENDATION FOR IMPLEMENTATION

Building codes are developed at the state level and implemented by local jurisdictions. Metro can only draw attention to the large impact that building code changes have on the cost of producing new housing and renovating older buildings. H-TAC recommends that the state should be encouraged to consider the following recommendations:

1. Analyze current building codes.

A cost/benefit analysis of the existing building codes should be conducted that accounts for the high priority placed on providing affordable housing to residents of the state. Amendments to State and local buildings codes should be based on cost/benefit of implementing additional codes, weighing the safety issues with housing affordability.

2. Evaluate the effectiveness of SB 512 and 587 and implement appropriate standardized plan review and permit processes statewide.

Increase the use of technology and training to effectively implement more consistent code interpretations.

3. Consider developing a separate set of codes for rehabilitation of older buildings.

Compare the current Oregon code requirements for the rehabilitation of existing buildings to models used in New Jersey and elsewhere, and develop appropriate code changes for consideration by the Building Codes Division and appropriate advisory committees and boards. This could include developing a separate set of codes for rehabilitation of older buildings, as was done in New Jersey.

4. Improve coordination and cooperation.

Improve partnership among state and local building officials, builders and other trade groups involved in housing production with the goal of improving regulatory activities to enhance affordable housing production and improvements.

5. Independent Review Panel

Consider setting up an independent review panel to consider the cost impact of new and existing codes.

6. Strengthen the Educational System

The state should strengthen the current educational system for code related matters that provides opportunities for all (many community colleges currently offer related courses).

7. Develop a Checklist

Develop a checklist of applicable code requirements for specific categories of work to be used by developers and other contractors. This would help to facilitate the permit and code approval process.

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Local/State Coordination: Non-Land Use Tool

Finalized at the Cost Reduction Subcommittee Meeting: October 26, 1999

Approved by H-TAC: November 15, 1999

PURPOSE

To identify and analyze the need for better coordination between local governments and the State of Oregon to reduce the costs of providing affordable housing in the Metro region.

DESCRIPTION

Affordable housing funding is provided by many sources, including local, state and federal governments, as well as other private and public sources. Nonprofit and for profit affordable housing developers are faced with a complicated process when applying for the funds to develop housing.

The funders have varying:

- application processes,
- funding restrictions, and
- project monitoring requirements.

While all of these restrictions and requirements are important to ensure that funds are spent for the benefit of low-income tenants and that investments are secure, they often complicate the process of providing affordable housing and thereby increase its cost.

The application requirements and timing often vary, and are frequently co-dependent. For instance, applications for state and federal funds for a specific project may require a local match, but the application deadlines may not be consistent, the result often being a delay in months or years of the start of the project.

Additionally, sometimes State policies appear to have contradictory goals that increase difficulties for funding applicants. For instance, the State currently discourages the displacement of tenants in any state-funded project, regardless of the income of the displaced tenant. While this is an important policy, there are times when it contradicts goals of preserving and rehabilitating the existing affordable housing stock. Allocating scarce project funds to relocation assistance for tenants that do not meet applicable income restrictions sometimes has the effect of making a rehabilitation or preservation project financially unfeasible. This is especially an issue in housing markets like those in the Metro region, where tenants tend to relocate voluntarily due to factors other than displacement, such as an increase in income or a change in job location.

The State sets housing policy based on priorities, goals, and criteria it develops and in compliance with Federal restrictions, as understood by the State. The State then presents this housing policy for public comment. This tends to result in conflicts between the affordable housing goals of jurisdictions and the funding policy set by the State. A better system would provide a regular opportunity for regional housing authorities, agencies, and providers to share goals and perspectives with the State. Such a forum would enable those at a regional level to be more aware of the evolving Federal requirements with which the State must comply. This would also provide the State with more detailed knowledge of regional market conditions and community needs to form policy aimed to meet those needs.

POTENTIAL STRATEGIES

- Create an ongoing policy dialogue between local governments and the State. Local jurisdictions should coordinate funding decisions with the Oregon Housing and Community Services Department whenever possible.
- Develop a recommendation for state and federal agencies to consider to reduce the burden on nonprofit and for profit housing developers when using multiple funding sources to produce

affordable housing. Separate project monitoring by a variety of funders places a large burden on providers and tenants of affordable housing.

- Local and State funding agencies should coordinate policies and goals with funding requirements in order to meet the needs of local communities.

OTHER CONSIDERATIONS

- The requirements of many funders are not subject to change, local government requirements may be the simplest to revise to facilitate coordination.
- Application forms are not likely to be revised by various funders, as a consolidated form often may not meet the priorities and needs of different funders. For instance, the State has different priorities than the City of Portland, and thus may fund different types of projects. Coordination should aim to ease the development process, but complete consolidation will probably never be feasible.

RECOMMENDATION FOR IMPLEMENTATION

Regional

A. Ongoing Policy Dialogue

Create a stable platform for an ongoing policy dialogue between local governments and the State to ensure coordination between local policies and goals and State funding decisions.

- *Hold a regional forum.* Encourage a meeting to be held with the following participants: Participating Jurisdictions (jurisdictions that dispense HOME dollars), for-profit and nonprofit housing developers, housing authorities, and redevelopment agencies to discuss current coordination issues with the State and potential solutions.
- *Ongoing policy dialogue.* A regular (perhaps semiannual) policy forum should be instituted among Metro region housing authorities, the State (including the State Housing Council), housing providers, and redevelopment agencies. The forum should encourage open discussion among participants with the goal of developing and refining housing policy on a cooperative basis to meet regional affordable housing needs.

Local

A. Project Monitoring Requirements

H-TAC recommends that local HOME Participating Jurisdictions (jurisdictions that dispense HOME dollars) meet with the State to develop a recommendation for coordinated monitoring of a project, thus reducing the burden on nonprofit and for profit housing developers using multiple funding sources to produce affordable housing. Separate project monitoring by a variety of funders places a high burden on both the housing provider and the tenant.

The funder that is providing the largest amount of dollars could be given jurisdiction to monitor the project after occupancy. For instance, if Low Income Housing Tax Credits are involved, the State is required to monitor the project by the Internal Revenue Service. Hence, to reduce impact on the tenants and the housing provider, other funders could allow the State to be the sole monitor and receive reports from the State.

Regional Housing Resource/Database: Non-Land Use Tool

Finalized at the Land Use and Regulatory Subcommittee Meeting: March 20, 2000

Approved by H-TAC: March 27, 2000

PURPOSE

Provide information that would be used as follows:

- To evaluate implementation of the Regional Affordable Housing Strategy Plan, including assessment of the efforts of local governments, non-profits and for profit developers towards affordable housing production and preservation;
- To develop and implement future local governments' Consolidated Plans;
- To provide resources/data that could be used by housing developers to develop credible funding applications.

DESCRIPTION

H-TAC developed some options of regional and local affordable housing goals (fair share targets) and draft strategies that could be used by Metro, local governments, non-profit and for-profit developers and other entities to achieve the goals. The issues that arise therefore can be framed into the following questions:

- How should we measure our efforts towards the goals?
- What kind of resources do we need to measure our efforts?
- What kind of data currently exists at Metro?
- Where will the information or data come from?
- Do we need to consider some sort of reporting system?

We can answer these questions if we have the resources. As shown in Table 1, the current sources of data include, the U.S. Census, American Housing Survey, County Tax Assessor, the Realtors Multiple Listing Service (RMLS), and private sector property management companies like Marathon Management Inc. and The McGregor Millette company.

OTHER CONSIDERATIONS

- Local governments may be reluctant to take on additional data collection and reporting due to lack of resources. In addition, some of the data are available only at a price in the private market.
- Metro may have to budget for data that must be purchased on the private market.
- Some important sources of data, such as the US Census, are only updated every 10 years. However, the American Community Survey provides a lesser amount of data more frequently.

Table 1. Data Needs, Possible Sources, and Frequency of Updates

Description	Additional Information	Source	Update Frequency
<i>Housing Stock</i>			
Multi-family units	a) By size, location b) Tenure c) Rental amount, sale price or value d) Existing e) Newly produced	a) US Census ¹ b) US Census c) US Census d) US Census e) Marathon Management, McGregor Millette, Metro	a) 10 yrs. b) 10 yrs. c) 10 yrs. d) 10 yrs. e) ?
Single family units	a) By size, location b) Tenure c) Rental amount, sale price or value d) Existing e) Newly produced	a) US Census b) US Census c) Tax assessor, RMLS, Metro d) US Census e) Building permits	a) 10 yrs. b) 10 yrs. c) Sale price/value – each year d) 10 yrs. e) Each year
Publicly assisted units	a) By size, location, income group b) Number for seniors, people with disabilities, etc. c) Existing d) Newly produced e) Accessibility of newly produced units f) Rehab or new construction g) Cost of production by construction type, size (# of bedrooms) and location	a) local jurisdictions b) local jurisdictions c) local jurisdictions d) local jurisdictions e) local jurisdictions f) local jurisdictions g) local jurisdictions	??
<i>Land Supply</i>			
Buildable land	a) By jurisdiction b) Zoning type c) Ownership (publicly owned vacant land)	a) Metro b) Metro c) Metro	Every year
<i>Demographic Information</i>			
Households	a) Income groups b) Location	a) US Census b) US Census	10 years
Employment	a) Location b) Occupation c) Wage Levels	a) US Census b) US Census c) US Census	10 years
Jobs/Housing Balance	a) Place of residence b) Place of work c) Transportation to work	a) US Census b) US Census c) US Census	10 years

¹Other information collected by the U.S. Census is included in Attachment A.

RECOMMENDATIONS

Regional

1. Overall Data Analysis

- Metro should utilize US Census data, when available, to analyze housing needs in the region.
- A periodic survey could be used to determine what strategies are working or not working, including why a strategy is working well in one locality and not in another locality.

2. Data Necessary to Track Progress in Meeting Affordable Housing Goals

Efforts could be made to collect at the regional level the following data for measuring the contributions of various entities in the region:

- i) Multi-family rental units by size, location and rental amount
 - Currently existing
 - Newly produced
- ii) Single family rental units by size, location and rental amount
 - Currently existing
 - Newly produced
- iii) Publicly assisted rental units by size, location and income group
 - Currently existing
 - Newly produced
 - Number set aside for seniors, people with disabilities, other special demographic groups
 - Accessibility of newly produced units
- iv) Households by income groups and location
- v) Owner occupied units by size, location and value or sale price
 - Detached, attached and condos/coops
- vi) Buildable land available by jurisdiction and zoning
- vii) Employment by location, occupation and wage level

3. Data Necessary to Track the Cost of Producing Publicly Subsidized Housing

- i) Cost of production of new multi-family units by construction type, size (# of bedrooms) and location
- ii) Cost of production of new single-family units by construction type, size (# of bedrooms) and location
- iii) Cost of rehabilitation of units by construction type, size (# of bedrooms) and location

B. Local

Local jurisdictions should cooperate in the data collection process by providing the following pertinent information to Metro for compilation and analysis.

- i) Publicly assisted rental units
 - By size, location, income group
 - Number for seniors, people with disabilities, etc.
 - Existing
 - Newly produced
 - Accessibility of newly produced units
 - Rehab or new construction
 - Cost of production by construction type, size (# of bedrooms) and location

Final Draft Recommendations

Regional Funding for Affordable Housing

Finalized at the H-TAC Regional Funding Subcommittee Meeting: March 31, 2000

Approved by H-TAC: April 17, 2000

The Regional Funding Subcommittee recommends that H-TAC pursue the following implementation strategies to facilitate the development of affordable housing in order to meet affordable housing goals of the region.

A. Maximize Existing Resources

1. Training Program

Develop a training program for staff from local jurisdictions, nonprofit and for profit housing developers, and lenders to enable them to increase efficiency in producing affordable units. Possible components include:

- *Management of Program.* The program could be run through an existing organization that provides technical assistance for affordable housing development, such as the Neighborhood Partnership Fund.
- *Annual Training Sessions.* Annual 1-2 day training sessions focused on grant writing, resource management, effective tools and providing opportunities for jurisdictional coordination.
- *Internet Resource Site.* Add to the Enterprise Foundation web site, to provide information from annual training sessions as well as resources, best practices, and grant deadlines.
- *E-mail List Serve.* Compile an email list serve of those interested in receiving updates on funding opportunities, and to serve as a forum for issues related to increasing the supply of affordable housing in the region. The Enterprise Foundation website is a good start (www.enterprisefoundation.org)
- *Expanded Scope.* Annual training sessions and other resources could be focused specifically on funding opportunities or expanded to provide a forum for dispersing information on best practices for cost reduction and land use strategies.

2. Coordinate and Improve Federal Programs and Resources

A. Consistent Consolidated Plans in the Region

Entitlement jurisdictions currently working to develop consolidated plans (required by HUD) should include a letter or short memo in each Consolidated Plan that describes regional efforts to address housing issues. Efforts should be made to discuss further coordination in the future.

B. Allocation of HOME Funds

Recommended strategies for maximizing the effectiveness of HOME dollars in the Metro region.

- *Coordination.* Possibility of coordinating HOME funds with the cities and counties of the region – regional coordination as exemplified by A Regional Coalition for Housing (ARCH) in east King County, Washington.
- *Prioritize based on highest need.* Use HOME dollars in a way that meets highest priority regional needs.

C. Promote changes with HUD & other Federal Programs

Encourage the Oregon Congressional delegation to support changes with HUD and other Federal programs to encourage the development of affordable housing, especially as referenced below.

- *Change the length of the contract.* Federal budget accounting should be changed to permit longer-term contracts for all HUD rental assistance, even in the absence of an increase in total units, which should also be supported. This would give greater parity to programs that serve very low income tenants (other federally funded programs providing benefits for higher income tenants than rental assistance programs – such as the Low Income Housing Tax Credit program– provide 10-30 years of federal benefits).

- *Allow more discretion to local housing authorities to project base Section 8 vouchers.* Change administrative rules to permit simple project basing of vouchers, subject to 15% cap of total units. HUD estimates this would support \$90-120 million one time acquisition/construction of affordable and available units. (Note: HUD estimates that nationally 53% of units with affordable rents are not available because higher income renters occupy them).

Encourage elected leaders in the Metro region to execute an intergovernmental agreement to require that all publicly assisted projects accept voucher tenants using the same screening criteria as other tenants.

3. Enterprise Foundation Regional Acquisition Fund

Encourage all participating jurisdictions to utilize The Enterprise Foundation's \$20 million regional acquisition fund. While this is not a permanent funding source, it provides jurisdictions access to capital to acquire quality development sites when they are available. This fund is low cost patient capital that will allow jurisdictions to purchase and hold property for up to five years prior to development. However, the Enterprise Foundation does require a guarantee. The counties should work with Enterprise to develop a consistent mechanism for loaning the money.

B. New Funding Source

1. Employer Sponsored Housing

A. *Employer Based Programs.* Local governments, community and business leaders should encourage employers to consider developing homeownership and rental assistance programs for their employees.

2. Real Estate Transfer Tax

The real estate transfer tax provides the best opportunity to raise a relatively large amount of money for housing that could be controlled by the region. The concept generated strong support in a focus group H-TAC held to gather additional input from housing and financial specialists not involved in the H-TAC process. A proposal describing the RETT has been circulated among all the local elected officials in the region. Local elected officials and development industry representatives have expressed support for a RETT, with the Realtors providing the only significant objection. Although implementation of a regional real estate transfer tax does face some major hurdles, H-TAC concluded that the revenue potential and connection to affordable housing provide reason enough to pursue the RETT as a funding source. It is important to note that the implementation of a RETT would raise a substantial amount of revenue to be directed towards meeting affordable housing production goals proposed by H-TAC.

Implementation of a RETT would require several steps prior to funds actually being collected. Most importantly, the Legislature would have to change the law that prohibits local governments from collecting a real estate transfer tax. The Legislature may also choose to implement a statewide or metropolitan area real estate transfer tax dedicated to affordable housing. However, this is currently unlikely. There is general consensus that a coalition of local leaders will go to the Legislature to request a change in the current law that prohibits a RETT or to exempt the Metro region from the prohibition, and to allow a ballot measure to implement the RETT in the Metro region to be taken to the voters.

Funds raised through a real estate transfer tax could be allocated in a variety of ways, but would be focused on achieving the affordable housing production goals set by H-TAC.

3. Use and Administration of a New Regional Housing Fund

A regional housing fund could be allocated in a variety of ways. Key stakeholders should be involved in decisions regarding the use, allocation and administration of a regional housing fund. Strategies identified by other H-TAC subcommittees for the potential use of a regional fund should also be

considered. The following general principles are key in developing guidelines for the use and administration of a regional fund.

- ***Flexibility is crucial.*** A regional housing fund should allow for various options in the use of the funds to better meet the regional needs for affordable housing. These needs vary by jurisdiction and also may change over time, thus flexibility in utilizing the dollars is crucial to meeting regional housing needs.
- ***Target regional fund dollars to help meet specific needs.*** Guidelines for the general disbursement of the regional fund dollars should target specific housing needs in the region such as meeting regional fair share goals, aiding first time homebuyers, and helping seniors and people with disabilities find affordable housing.
- ***Final decisions should be delayed until more work has been done.*** Negotiations over how the fund should be allocated and administered should not be conducted until after further work has been done to get a regional fund in place.

Conclusion

If all of the above implementation strategies are carried through, local jurisdictions will be in a much better position to meet the affordable housing needs of residents of all income groups in the region.

FINAL DRAFT

Regional Affordable Housing Funding Report

REVISED FEBRUARY 2000

PREPARED BY THE H-TAC REGIONAL FUNDING SUBCOMMITTEE

PURPOSE

This report is intended to provide a list and brief analysis of possible regional affordable housing funding sources for H-TAC consideration. Federal and State governments have traditionally provided the bulk of funds for affordable housing. Some local governments, especially urban cities and counties, also allocate local funds towards affordable housing production. Using Metro's 20-year planning horizon, H-TAC has estimated the regional housing need by 2017 for new and existing households earning less than fifty percent of regional median household income or less to be 90,479 units. A regional housing fund would help meet this need.

Currently, the average production rate for assisted rental units is approximately 1,146 units annually for households earning 80%MHI and less. However, H-TAC's determined housing need focuses on households earning less than 50%MHI, and producing housing for this income group requires a significantly larger amount of subsidy. At this rate, it would take many years to meet the region's affordable housing need, especially with the level of resources currently available. A regional fund would enable local governments and other entities involved in the production of affordable housing to better meet the housing needs of local residents.

BACKGROUND

The Regional Framework Plan Policy (RFP) 1.3, Housing and Affordable Housing, charged H-TAC with developing fair share affordable housing goals for the region and identifying tools and strategies to implement the fair share goals. One of the strategies identified in the RFP is regional affordable housing funding. Following is the RFP housing policy language that relates to regional funding:

In developing the Regional Affordable Housing Strategy, the Affordable Housing Technical Advisory Committee shall also address the following:

"D) a variety of tools to ensure that the affordable housing to be accommodated is actually built, such as: affordable housing funding programs"

"I) consideration of a real estate transfer tax as a funding source for an affordable housing fund at the state, regional or local level when that option becomes available under state law..."

H-TAC and Metro Policy Advisory Committee members have recommended that the committee not finalize fair share affordable housing targets until funding strategies have been identified. H-TAC created a regional housing funding subcommittee to address this specific tool.

INTRODUCTION

The purchase of a home is generally the largest investment most Americans make in their lifetime, while the total cost of renting a home over a lifetime is monumental. Even affordable housing is a big ticket item. The state of a region's housing stock and the ability of the local citizens to find affordable housing has a very large impact on the overall economic and social health of a metropolitan area.

The cost of providing housing for households that cannot find safe, decent, and affordable housing is high, especially when focusing on those in greatest need. While the Federal government has set as a goal that households should not pay more than 30 percent of household income, many households in the region below the regional median household income pay more than this.

H-TAC's Fair Share Subcommittee developed draft fair share goals for the region that focused on the households in greatest need of housing assistance – those earning less than 50 percent of the regional median household income.⁹ This group, while needing the most immediate assistance, is also the most expensive to serve. Most of the housing for this group must be substantially subsidized to make it affordable, especially for households below 30 percent of regional median household income.

There are many resources currently available in the region to assist in the development of housing for low-income households. In working to meet the fair share goals of the region and to help those in greatest need, local jurisdictions would have to utilize all of the existing funding sources in the region effectively. However, even if all of the jurisdictions in the region efficiently used all of the potential State and federal funding sources for affordable housing, there would not be enough money available to meet the fair share goals. Thus, there is a need to identify new sources of funds for affordable housing that is focused on regional goals.

The following sections catalogue existing sources of funding in the region, provide potential strategies to maximize existing and potential funding resources, and identify recommendations for a regional funding strategy.

CURRENT & POTENTIAL FUNDING SOURCES IN THE REGION

Funding for affordable housing has been an issue for many years. Shelter is one of the basic human needs, and since the beginning of cities it has been necessary to focus time and resources on providing affordable housing.

Historically the federal government has taken the lead in providing funds for the provision of affordable housing. However, long term federal commitments from the federal government for lower income housing are declining, and public housing development funding has stopped, introducing uncertainties for tenants, owners, communities and lenders. The yearly possibility of program reductions to many US Department of Housing and Urban Development (HUD) programs introduces uncertainties not found in typical tax measures that are not subject to annual appropriations, and are instead regarded as “permanent.” Public housing authorities must use the private market, with support from other federal subsidies, for financing new development.

Consistent, year-to-year subsidies provide certainty. If affordable housing is based on HUD budgets, investors, residents, and communities need certainty in HUD appropriations. The absence of that certainty increases anxiety and costs as participants factor in additional risks to the cost of participation in HUD programs, leading, for example, to the exodus of owners in the Section 8 project based program.

Federal government funding for affordable housing is mostly funneled through states, counties and cities. With the reduction in federal funds for the construction of new public housing units through the public housing authorities, nonprofit community development corporations have stepped in to meet local needs for the provision of lower income housing construction. Nonprofits are generally community based and form to meet the needs of specific groups in a community, such as senior citizens, disabled people, or large families. Funds used to develop housing built by nonprofits are typically competitively allocated by the state or federal government, and may be combined with private dollars as well.

Table 1, below, shows the number of publicly assisted rental housing units produced in the Metro region as of January 1998.

⁹ It should be noted that even if these goals were met, only about 10 percent of the total need for affordable housing would be met in the next five years.

**Table 1
Distribution of Publicly Assisted Rental Housing (Jan. 1998)**

Jurisdiction	Number of Units
Uninc. Clackamas Co.	542
Uninc. Multnomah Co.	87
Uninc. Washington Co.	1,568
Beaverton	624
Cornelius	35
Durham	210
Fairview	525
Forest Grove	308
Gladstone	11
Gresham	1,194
Happy Valley	0
Hillsboro	598
Johnson City	0
King City	0
Lake Oswego	60
Maywood Park	0
Milwaukie	384
Oregon City	599
Portland	12,951
Rivergrove	0
Sherwood	134
Tigard	873
Troutdale	205
Tualatin	100
West Linn	0
Wilsonville	336
Wood Village	0
Totals	21,344

Source: *Work Group on the Inventory of Publicly Assisted Rental Housing*, Metro, March 1998.

H-TAC's Regional Funding Subcommittee identified a need to catalogue existing sources of funding and funding tools currently used in the region. Table 2 below shows the total resources from federal sources that have been allocated to the Metro region for potential use in housing development in 1998.

Table 2
Sampling of Federal Housing Resources for New Development in the Metro Region – 1998

Program	Amount
Multifamily Mortgage Insurance	\$45,579,405
Public Housing	\$14,187,512
Single Family Mortgage Insurance	\$435,497,459
Section 8 (Tenant & Project Based)	\$78,870,246
CDBG* (\$18,371,000)**†	\$3,674,200**
HOME* (\$5,786,000)**†	\$5,207,400***
HOPWA†	\$803,000
Totals	\$599,094,622
*Potential resources for housing production	\$9,684,600

Source: US Department of Housing and Urban Development, 1999.

*Potential resources that could be used for housing production.

**Varying amounts of the \$18,371,000 in CDBG funds allocated to local jurisdictions are targeted towards housing. For the sake of this analysis it is assumed that 20% of total CDBG funds are allocated for housing production (a total of \$3,674,200).

***Up to 10% of HOME funds, in this case \$578,600, may be used for administrative purposes.

† Administered by local governments.

Some federal resources, such as Community Development Block Grant (CDBG) and HOME dollars are allocated based on a formula to jurisdictions of a certain size. Other funds are allocated competitively to local governments and nonprofit organizations. Some programs require local governments to provide a match to receive some federal funds, and they also may fund programs through local funds. Tenant based support is channeled to low-income households through local housing authorities. On the other hand, State resources are mostly targeted to for-profit and nonprofit housing developers.

Table 3 shows the total State resources for housing allocated to the Metro region.

Table 3
Total Federal and State Resources Administered by the State Available for Housing in the Metro Region - 1998

A		B		C	
Capital Construction Subsidy		Operating Subsidy – <i>all benefit is passed on to the tenant</i>		Tax Exempt Bonds	
Program	Value of Subsidy	Program	Value of Subsidy	Program	Value of Subsidy
Housing Trust Fund*†	\$746,912	OAHTC ³	\$141,156 <i>This amount represents an interest reduction that is passed on to tenants annually for 20 years⁴.</i>	Multi-family loans* ⁵	\$903,423
9% LIHTC ¹ Equity*	\$12,914,888			Single family loans ⁶	\$3,491,038
4% LIHTC ² Equity*	\$15,944,288 (\$3,188,858)*				
HELP*	\$100,000				
Total	\$29,706,088	Total	\$141,156	Total	\$4,394,461
*Total resources available for housing production \$17,854,161.					

Source: Oregon Housing and Community Services Department, Metro, 1999.

*Items marked with an asterisk are used to calculate total resources available for housing production in the Metro region.

†These funds are state resources, all others are federal programs administered by the state.

¹Total amount of 9% tax credits in 1998 was \$1,721,985. 9% tax credits are generally used for housing that serves people at 50% MHI and less. Tax credits are allocated for a ten-year period. The amount of equity raised from the tax credits was calculated as follows: total amount of tax credits times 10 times \$0.75.

²Total amount of 4% tax credits in 1998 was \$2,125,905. 4% tax credits are generally used for housing that serves people at 60% MHI; H-TAC determined that a reasonable estimate of the amount that could be used for serving people at 50%MHI and below is 20% of the total, or **\$3,188,858**. Tax credits are allocated for a ten-year period. The amount of equity raised from the tax credits was calculated as follows: total amount of tax credits times 10 times \$0.75.

³The total amount of Oregon Affordable Housing Tax Credits in 1998 was \$4,588,998, which is the dollar amount of loans that banks are given tax credits on. To calculate the value of the subsidy, an 8% market rate interest rate was reduced to the 4% interest rate given on loans under the OAHTC.

⁴In 1998 230 units were financed using OAHTC, which amounts to a rent reduction of approximately \$51 per month for each tenant.

⁵The value of the subsidized loan is based on the net present value of a reduction in interest on State bond financing of 1% amortized over 30 years. The reduction in bond interest rates is often more than 1% as compared to a private bank's mortgage rate. Assumptions used in calculating the savings are a private bank interest rate of 8%, bond interest rate of 7%, and a 30-year time period. The amount of Multi-family Bond Funds used in the Metro area in 1998 was \$9,682,615.

⁶The value of the subsidized loan is based on the net present value of a reduction in interest on State bond financing of 1% amortized over 30 years. The reduction in bond interest rates is often more than 1% as compared to a private bank's mortgage rate. Assumptions used in calculating the savings are a private bank interest rate of 8%, bond interest rate of 7%, and a 30-year time period. The amount of Single Family Bond Funds used in the Metro area in 1998 was \$37,416,052.

The funds that are provided by the State are almost entirely federal dollars administered through State agencies, with the exception of the Oregon Housing Trust Fund. Thus, local governments have two basic sources of funding affordable housing: utilizing federal and State dollars administered through a variety of programs; or providing local funds. State funds are allocated on a competitive basis to housing developers throughout Oregon.

As shown in *Appendix A*, funding programs available in the region are broken down into Federal, State, and local categories. These and other programs have produced the 21,344 assisted housing units shown in Table 1. To successfully implement the fair share goals for the region, it is therefore imperative that local governments consider all of the available federal and State funds.

Total State and federal resources that potentially could be used for housing production in the region were \$27,538,761 in 1998.

Utilization of Funding Tools

As can be seen in the above tables outlining existing sources of housing funding in the region, some local governments utilize many funding methods.

Central cities have historically experienced the most demand for affordable housing nationwide – this trend has also proven true in Portland. The city of Portland has placed a high priority on providing affordable housing for local citizens. A combination of many factors including a high demand for affordable units has resulted in a strong program providing resources for affordable housing within the city.

Developing funding programs and using other tools to encourage the development of affordable housing effectively requires an understanding of funding resources available to local governments and of tools which can facilitate the development of affordable units. A local government often must reach a “critical mass” in terms of organizational size before having the staff resources to dedicate hours towards affordable housing. Only a few of the larger jurisdictions in the Metro region are able to dedicate a staff person to work on housing issues. Other local governments must take away staff time dedicated to other needs to focus on an issue that requires much understanding to develop an effective program or approach.

Existing funding resources in the region are currently not being utilized by all local governments. Most of the funds are used for developing affordable housing in only a few jurisdictions. If the region is to work toward fair share goals all local governments must be enabled to utilize the existing available affordable housing funds.

POTENTIAL STRATEGIES

To enable local governments to work toward fair share goals, methods for maximizing use of existing funding sources and the development of new funding sources are proposed as shown below.

A. Maximize Existing Funding Sources

H-TAC’s Regional Funding Subcommittee identified three main areas that could help jurisdictions in the region maximize use of existing funding sources.

1. Training Program

It takes a lot of time to learn about the various programs for affordable housing funding and to understand the application procedures. Many smaller jurisdictions do not have the resources to devote to searching for money for housing or to develop local funding programs or tools. Much of the knowledge and expertise needed to successfully apply for and manage funding resources is typically gained over a period of years, while the need for affordable housing in many communities has skyrocketed within the last decade.

Implementation Strategy

H-TAC’s Regional Funding Subcommittee recommends the development of a training program for staff, especially for smaller jurisdictions, to enable them to apply for affordable housing money that is currently available. The training program would be most effective if it was funded so that local jurisdictions would not have to choose between completing pressing local planning needs and learning about how to apply for housing grants. Following are possible components of a training program for affordable housing:

- *Management of Program.* The program could be run through an existing organization that provides technical assistance for affordable housing development, such as the Housing Development Center or the Enterprise Foundation.

- *Annual Training Sessions.* Annual 1-2 day training sessions focused on grant writing, resource management, effective tools used in the region and elsewhere, and providing the opportunity for coordination among jurisdictions.
- *Internet Resource Site.* Develop an internet web site that contains information provided at the annual training sessions as well as other pertinent information on resources, best practices, and grant deadlines.
- *E-mail List Serve.* Compile an email list serve of those interested in receiving updates on funding opportunities, and to serve as a forum for discussing issues related to increasing the supply of affordable housing in the region.
- *Expanded Scope.* The annual training sessions and other resources could be focused specifically on funding opportunities or expanded to also provide a forum for dispersing information on best practices in terms of cost reduction and land use regulatory strategies.

A training program that included the components outlined above would substantially maximize the use of existing resources available in the region, as well as allow all jurisdictions to participate in providing more opportunities to develop affordable housing. While the number of additional housing units that may be produced is not currently known, the additional effort should result in some increase and also may increase political will and awareness of housing issues across the region.

2. Consistent Consolidated Plan

Although housing is a regional issue, it is not addressed consistently throughout the region. Each entitlement community is required to produce a Consolidated Plan every five years in order to receive funds from HUD. The Consolidated Plan outlines the housing needs and priorities of the entitlement community and identifies areas most in need of funding for the five-year cycle. Jurisdictions within a county can cooperate to complete one Consolidated Plan, and dollars for communities with a population less than 50,000 are channeled through the county. The following entitlement jurisdictions complete a Consolidated Plan, which combined covers the Metro region: Portland, Multnomah County and Gresham (together); Beaverton and Washington County (together); and Clackamas County.

H-TAC's Regional Funding Subcommittee discussed the potential of completing each Consolidated Plan consistently so that the numbers and issues are comparable regionwide and a regional picture can be estimated from the combined totals from the local Consolidated Plan. Some of the benefits of coordinating are:

- *Innovative.* It would be innovative – it has not been done anywhere else in the nation. Such an effort might give the entitlement communities in the Metro region a competitive edge in applying for housing dollars.
- *Maximize efficiency.* It would reduce duplicate efforts – the regional picture could be easily derived.
- *Consistent format.* Currently, each jurisdiction (or coalition of jurisdictions) develops their Consolidated Plan in a unique fashion, using different data sources and different formats. This makes it difficult to use the Consolidated Plan to get a picture of what is happening on a regional level. It would be useful if all of the Consolidated Plans that are developed in the region use consistent data and a consistent format.
- *Coordination.* Housing programs and priorities could be consistent throughout the region, taking into consideration fair share goals and other regional issues such as jobs-housing balance and transportation.

Implementation Strategy

A first step toward coordinating the Consolidated Plan could be including a letter or short memo in each Consolidated Plan that describes regional efforts to address housing issues. Efforts should be made to discuss further coordination in the future.

3. Recommend use of HOME dollars for highest need housing (fair share targets)

HOME dollars are awarded by HUD through a formula to participating jurisdictions – each dollar of grant funds must be matched with 25 cents of local money. These funds are targeted for developing housing for households with incomes less than the regional median income. This is one of the only sources of money that is still available from the federal government to develop or retain housing.

Implementation Strategy

H-TAC's Regional Funding Subcommittee discussed the possibility of maximizing the effectiveness of locally available HOME dollars through the training program outlined above and through additional coordination. Following are recommended strategies for maximizing the effectiveness of HOME dollars in the Metro region.

- *Coordination.* Possibility of coordinating HOME funds with the cities and counties of the region – similar to a regional coordination as exemplified by a Regional Coalition for Housing (ARCH) in east King County, Washington.¹⁰
- *Prioritize based on highest need.* Use HOME dollars in a way that meets the highest priority regional needs (i.e., fair share targets).

4. Promote changes with HUD and other Federal Programs

Encourage the Oregon Congressional delegation to support changes with HUD and other Federal programs to encourage the development of affordable housing.

Implementation Strategy

- *Change the length of the contract.* Federal budget accounting should be changed to permit longer-term contracts for all HUD rental assistance, even in the absence of an increase in the total units, which should also be supported. This would give greater parity to programs that serve the very lowest income tenants (other federally funded programs providing benefits for higher income tenants than rental assistance programs – such as the Low Income Housing Tax Credit program – provide 10-30 years of federal benefits).
- *Allow more discretion to local housing authorities to project based Section 8 vouchers.* Administrative rules should be changed to permit simple project basing of vouchers, subject to a 15% cap of the total units. HUD estimates that this would support an estimated \$90-120 million one time acquisition or construction of affordable and available units. (Note: HUD estimates that nationally 53 percent of the units with affordable rents for low-income renters are not available because higher income renters occupy them).
- *All publicly assisted projects should accept vouchers.* Encourage elected leaders in the Metro region to execute an intergovernmental agreement to require that all publicly assisted projects accept voucher tenants using the same screening criteria as other tenants.

5. Enterprise Foundation Regional Acquisition Fund

The Portland Regional Land Banking Program is a partnership between The Enterprise Foundation and the Housing Development Center, with support and coordination provided by the City of Portland and other local jurisdictions. The purpose of the fund is to acquire and hold development sites throughout the region, preserving the opportunity for the creation of community-based developments. The fund may also provide an opportunity to the public sector to leverage private sector resources.

¹⁰ ARCH was established in 1992 through an inter-local agreement to serve east King County. ARCH has used a variety of devices to increase the affordable housing stock. The devices include use of ARCH Trust Fund to coordinate the allocation of community development block grants and local resources made available by member cities; helping member jurisdictions develop surplus public land, and implement land use incentives such as density bonuses and accessory dwellings; and contacting Section 8 providers so as to identify projects that community development corporations could buy and preserve as affordable housing in the member jurisdictions.

The Enterprise Foundation and the Housing Development Center will be the managers of the fund. Enterprise will provide general management and develop policies and procedures, while the Housing Development Center will be responsible for site identification and due diligence. The fund will function as a revolving account, capitalized with \$20 million from The Enterprise Foundation, providing local jurisdictions the opportunity to access the fund by providing loan guarantees to purchase property.

B. New Affordable Housing Fund

Need for a New Source of Funding

There is an overwhelming need for a new affordable housing fund in the Metro region. According to a National Home Builders study, the Portland metro area was the eighth least affordable housing market in the nation as of the first quarter of 1999. The median household income for a four-person household in the region has increased by 41 percent in the last 10 years. However, during the same period, the median sale price of homes increased by approximately 100 percent, while the average rent has increased by over 34 percent. According to the 1995 American Housing Survey, approximately 30 percent of residents in the region are paying over 30 percent of their incomes on housing (30 percent is the national standard for housing affordability). About 82 percent of households earning less than 30 percent of MHI and 65 percent of households earning 30-50 percent MHI are paying more than 30 percent of their income on housing. This data indicates that households with the highest need for affordable housing are not able to locate decent, affordable housing and thus pay much more than they can afford.

The housing situation in the region leads to other problems. Workers often have to commute long distances to work in areas where they cannot afford to live. Many low-income residents must forego other basic needs like health care and childcare due to the very large percentage of their income that must be devoted to rent. The lack of affordable housing is also a cause of homelessness. When housing costs continually outpace incomes, people will have to work harder just to make sure they do not lose ground – a situation that can make it difficult to realize dreams like a college education for a child, or homeownership.

Even if all of the jurisdictions in the region utilize all of the possible federal and State funds available, there will not be enough money to meet the affordable housing needs of the region. In the development of fair share goals, H-TAC determined a need for about 90,000 additional affordable units for households earning less than 50 percent MHI in the region over the next 20 years. In an effort to develop a reasonable but ambitious goal for housing production in the region, H-TAC looked at the past production of assisted housing in the region. As a more realistic target, H-TAC recommended a five year regional goal that doubles current rates of affordable housing production, which would translate to 7,500 – 10,000 units over the next five years. Without additional resources, the removal of barriers to affordable housing construction, or potential regulations, H-TAC determined that even the more realistic fair share goal is not feasible.

Funding Sources Considered

The Regional Funding Subcommittee discussed several potential sources for a regional fund devoted to affordable housing and helping to meet the fair share goals set by H-TAC. Many studies have been done both locally, statewide, and throughout the nation on methods of funding affordable housing. Some of the methods of funding affordable housing considered by the subcommittee are described below.

1. REGIONWIDE BOND MEASURE FOR HOUSING

The subcommittee considered a regionwide bond measure to raise money for affordable housing. The funds raised through the bonds could be deposited into a Regional Housing Trust Fund, which could be

managed in a variety of ways. A bond measure would be taken to the voters, and if it passed the funds could be administered by a regional body. Funds could be allocated on a competitive basis (like the State Housing Trust Fund) or allocated based on a jurisdiction's fair share goals.

Limitations

The subcommittee identified some limitations for the implementation of a regionwide bond measure for affordable housing. First, the amount of money that could be raised through this method is not as high as other methods, unless a particularly large bond measure is passed. Second, there is a connection or nexus between property taxes on all property in the region and affordable housing, but it is not as strong as other types of funding. Lastly, voter approval of additional property taxes is unlikely in a region that already has a high taxation level, even for a cause such as affordable housing.

2. EMPLOYER-SPONSORED HOUSING PROGRAMS

Housing is a pivotal issue for employees. The availability of convenient, affordable housing enhances a company's ability to attract, retain, and reward its workforce. In a National Survey by the Work/Life Institute¹¹, companies offering housing assistance reported an improved company image, higher employee morale and better employee retention. Employers are also able to use housing assistance as a recruiting tool for new employees, and generally the benefits of providing housing assistance outweigh the costs or are cost neutral. Employers can develop custom programs to enable employees to purchase homes and provide rental assistance near the workplace. The cost to the employer varies with the program design. Options for employers include grants, direct and fully repayable loans, forgivable loans, deferred payment loans, monthly payment assistance and guarantees, lender-financed loans and providing a site for homebuyer education classes. The employer can define the geographic boundary of the program area as well as determine the income levels of the participant employees.

Employer sponsored programs could be developed in a number of ways, ranging from programs offered through a single company to a regional trust fund established by large employers in partnership with local governments. The money raised from a regional fund could be used to provide: a) assistance to first-time homebuyers; and b) incentives to develop affordable multi-family units in various parts of the region. Following are some examples of employer-sponsored housing programs.

¹¹ Work/Life Institute Survey, November 1998 (preliminary results)

Examples of Employee Assisted Home Ownership

A. Wacker Siltronic Home Ownership Program (SHOP)

In 1996, Wacker Siltronic, one of Portland's largest manufacturers, developed the Siltronic Home Ownership Program (SHOP) in partnership with two non-profit housing developers, Home Ownership One Street at a Time (HOST) and North East Community Development Corporation (NECDC) and Fannie Mae. Under the SHOP program, eligible employees receive a loan of up to \$5,000 to be used toward the down payment or closing costs for their first home. In conjunction with the SHOP program, Fannie Mae will purchase loans made by local lenders. The loan is fully forgiven if the borrower remains employed at Wacker Siltronic for five years.

Homes for the SHOP program are located in North and Northeast residential neighborhoods and must be purchased through HOST or NECDC. To be eligible, the employee must have been employed by Wacker Siltronic for two years, have a good working record, qualify for a mortgage and complete a home buyer education course through the Portland Housing Center. If the home is sold within the first five years of ownership, or employment with Wacker Siltronic ends before the loan is paid in full, the remaining portion of the loan must be paid back in accordance with the loan agreement.

B. Legacy Emanuel Neighborhood Home Ownership Program (ENHOP)

In 1992, Legacy Emanuel Hospital created a program to assist employees in purchasing a primary residence within targeted North/Northeast Portland neighborhoods. The Emanuel Neighborhood Home Ownership Program (ENHOP) provides loans to qualified employees within identified geographic boundaries. Loans cannot exceed \$5,000 and can be used for down payment, pre-paid reserves, and closing expenses. The loan is forgiven based on 20 percent per year, and interest payments of 8.5 percent are deducted from the employee's paycheck.

The objectives of the ENHOP program, considered a model, pioneering program in the country, were identified as follows:

- To stimulate economic growth and stability within the inner North/Northeast Portland community surrounding the hospital.
- To improve the hospital's relationship with its immediate community, particularly regarding housing issues.
- To improve the hospital's relationship with its employees, employee retention, and employee stability.
- To provide an economic development/employee assistance program model for emulation by other employers, especially those in the North/Northeast Portland community.

To qualify for the ENHOP loans, an employee must be employed by Legacy for one year and must be in good standing. The maximum purchase price of a home under this program is \$130,000.

C. Santa Clara Countywide Housing Trust Fund

A few years ago, the City of San Jose and Santa Clara County, California hired a consultant to research and recommend options for funding affordable housing production in the Silicon Valley area. One of the recommended tools was a housing trust fund established in partnership with the private sector. The report recommendations were shared with the private sector. A meeting between the local governments and the private sector representatives including representatives of nonprofit foundations led to the creation of the "County-wide Housing Trust Fund."

The goal of the Santa Clara Countywide Housing Trust Fund is to raise \$20 million in two years. Those funds will be leveraged to bring in another \$80 million in government grants and loans. The funds will benefit: a) rental housing production for very low income households at 30% of the area's median household income; b) single family housing production for first time homebuyers; and c) shelter production. So far, the Santa Clara County has contributed \$2 million, and major employers and foundations such as Packard Foundation and James L. Knight have contributed money.

The Silicon Valley Manufacturing Group (representing employers of about 250,000 high-tech workers) now manages the Santa Clara Countywide Housing Trust Fund. According to the group, an Executive Director will be hired soon to start implementation of the trust fund.

Potential Limitations

- Identifying key employers' groups in the region to participate in discussions to determine the possibility of setting up a housing trust fund.
- Some attempts have been made to get businesses involved in parts of the Metro region, but these efforts have not yet been successful. Many business leaders have not yet identified affordable housing as a key priority or as a factor that has an impact on their business activities.

Implementation Strategies

- Business and community leaders, in coordination with local governments and Metro, initiate discussion with large employers in the region, providing information that quantifies why the concept of such a housing trust fund would be beneficial for business.
- Focus on the need to balance jobs and housing that is affordable for all levels of employment.

D. Portland School District "Homeroom" Program

In 1999, the Portland School District and the Portland Teachers Credit Union created the Homeroom Program to recruit potential teachers to Portland and to keep them working in the city's schools. Under the program, full-time teachers and administrators in their first five years working in the Portland Public Schools are eligible for mortgages that will allow them to buy a house or condominium with no down payment.

The credit union provides an interest-free loan on top of the mortgage to cover closing costs, and also allows the homebuyer to forgo mortgage insurance. The mortgages will be serviced directly by the credit union, and will go as high as \$200,000. If an employee leaves Portland Public Schools, the loan will revert to regular rates and the interest-free portion of the loan will no longer be interest free.

This program provides Portland Public Schools with a useful incentive to attract and retain teachers, and also provides the Portland Teachers Credit Union with additional clients.

Example of Employer Assisted Rental Program

A. The Summit at Government Camp Housing Project

The Summit apartment complex in Government Camp consists of 48 units designed to serve single working people earning less than 50% of Clackamas County's median household income. Sponsored by Government Camp Recreational Association, Inc., a non-profit organization, the complex is intended to meet the housing needs of workers from the three nearby ski resorts, Timberline, Mt. Hood Meadows and Ski Bowl.

The landowner, who operates the Timberline Ski Area, contributed the land on a 30 year land lease for \$400 a month (the amount of property taxes only) to keep capital costs down and rents affordable. The landowner also acts as the property manager.

3. REGIONWIDE REAL ESTATE TRANSFER TAX

One commonly mentioned source of revenue for a new affordable housing fund is the Real Estate Transfer Tax (RETT). A RETT is paid by the seller of a residential, industrial, or commercial property. The only time the tax is paid is when the property is sold. The tax is calculated as a percentage of the purchase price of the property.

The subcommittee discussed the possibility of implementing a regionwide RETT. Subcommittee members agreed that this funding method showed the most potential for raising a large amount of money for housing. There is a strong nexus between taxing the transfer of property and providing affordable housing for those residents in the region in need of assistance. A real estate transfer tax is not a regressive tax; meaning that the tax is not the same for a less expensive property sale as it is for a very expensive property sale. Thus, those more able to afford to help provide the most assistance for those in need. The real estate transfer tax is also cyclical – when the economy is strong and property sales are up, the amount of tax collected will be higher than when the economy is in a downturn. This means that funds raised by the tax will be higher when housing affordability is more of a problem, and lower when overall housing prices are lower.

The Regional Funding Subcommittee concluded that a RETT shows the most promise of providing needed funds for affordable housing development in the Metro region.

Examples of RETT Programs

Washington County has levied a Real Estate Transfer Tax since 1977. Authority to continue collecting a real estate transfer tax was grandfathered in to the 1999 Oregon State Legislative Bill that prohibits local jurisdictions from collecting such a tax. Funds raised through the tax are deposited in the county's general fund. The tax rate is 0.1% (\$1.00 per \$1,000) of the property's selling price. The county's real estate transfer tax program is described in Washington County Code, Chapter 3.04 "Real Property Transfer Tax," which was last updated in 1997. The tax is collected upon the transfer of a deed, with certain exemptions. For instance, all transactions of \$13,999 or less are exempt from the tax. Other examples of exemptions include all transactions effected by condemnation procedures by any government, transfers of property through inheritance, or transfers between spouses due to marriage dissolution or separation proceeding.

The Washington County Tax Assessor's Office provides an informational packet explaining the tax, along with applications for exemption. Failure to either pay the tax or file for an exemption within 15 days of recording a transfer results in an automatic penalty equal to the amount of tax owed or \$50, whichever is greater, and interest accrues on delinquent accounts at a rate of 1_ percent per month until paid.

The following states have RETTs, or similar fees, that are committed to their state housing trust funds: Florida, Hawaii, Illinois, Iowa, Maine, Nebraska, Nevada, New Jersey, South Carolina, and Vermont.

Connection to Housing

The connection of a real estate transfer tax to affordable housing is clear: over the past 10 years, the total market value of real estate in the Metro region has increased from \$36.81 billion (1988) to \$105.60 billion (1998), an increase of 186.9%. While this has been good for both investors and people who have worked hard to own a home and pay off their mortgages, there is another side to the coin. As more and more people move to the region, driving up demand for housing and land, rents and home prices have surged out of the reach of many working people. The theory behind a RETT is that a very small percentage of the benefit of increased land and housing values is dedicated to affordable housing, to ensure that rising rents and housing prices do not leave some people unable to afford a home.

As shown in Table 4 below, the amount of revenue that could be raised by a real estate transfer tax could be substantial. Two options for implementing a RETT are shown: 1) excluding the first \$120,000 of the listed sales price of a house, and 2) exempting the tax on all homes sold for less than \$120,000. Two potential taxation rates are shown 0.50% and 0.75%, as well as potential revenues in both a strong and weak economy. As can be seen in the table, potential revenues range from \$4.8 to \$40.6 million.

Table 4
1998 Real Estate Sales Volume by County and Expected RETT Revenue
at High and Low Sales Volume @ .50% and .75% Rates*

Land Use Class	County	Parcels Sold	Listed Sales Price	Option 1: Excluding First \$120,000 of Listed Sales Price		Option 2: Exempting Sales of Less than \$120,000
Commercial	Clackamas	346	\$82,221,000	NA		NA
	Multnomah	610	\$331,069,000	NA		NA
	Washington	380	\$174,653,000	NA		NA
Subtotals		1,336	\$587,943,000	NA		NA
Industrial	Clackamas	141	\$75,626,000	NA		NA
	Multnomah	192	\$89,061,000	NA		NA
	Washington	28	\$14,560,000	NA		NA
Subtotals		361	\$179,247,000	NA		NA
Multi-Family	Clackamas	488	\$73,760,000	NA		NA
	Multnomah	1,766	\$208,295,000	NA		NA
	Washington	125	\$108,439,000	NA		NA
Subtotals		2,379	\$390,494,000	NA		NA
Single-Family	Clackamas	9,091	\$1,196,902,000	\$523,022,000		\$1,103,697,000
	Multnomah	14,032	\$1,992,388,000	\$585,865,000		\$1,510,457,000
	Washington	13,755	\$1,721,697,000	\$662,082,000		\$1,648,353,000
Subtotals		36,878	\$4,910,987,000	\$1,770,969,000		\$4,262,507,000
Totals		40,954	\$6,068,671,000	\$2,928,653,000		\$5,420,191,000
Low Volume - Weak Economy:						
RETT Revenue Generated @ .0050			\$10,013,307	\$4,832,277		\$8,943,315
RETT Revenue Generated @ .0075			\$15,019,961	\$7,248,416		\$13,414,973
High Volume - Strong Economy:						
RETT Revenue Generated @ .0050			\$30,343,355	\$14,643,265		\$27,100,955
RETT Revenue Generated @ .0075			\$45,515,033	\$21,964,898		\$40,651,433

Source: Metro RLIS 1999, County Tax Assessor's Data Files, 8/99.

*Includes two options: 1) Exclusion of first \$120,000 for single-family sales and 2) Exemption of all sales single-family sales under \$120,000.

Assuming that a real estate transfer tax was instituted in this region, how much would it help in meeting the fair share goals? Table 5 looks at the progress that could be made in meeting fair share goals if both existing resources (assuming constant funding) and revenues from a real estate transfer tax were used for that purpose.

Table 5
Number of Units that could be built¹ with Existing Funding Resources² & Potential RETT Revenue³

Existing Resources (1998) (from Tables 2 & 3)		Number of Units that Could be Built		RETT Taxation Rate	Revenue Potential (Option 2 – excluding sales <\$120,000)	Number of Units that Could be Built	
		<30%	31-50%			<30%	31-50%
Federal (total) ⁴	\$9,684,600	87	82				
State (total) ⁵	\$17,854,161	161	151				
Totals	\$27,538,761	248	234				
Low Volume – Weak Economy							
				.50%	\$8,943,315	80	76
				.75%	\$13,414,973	121	114
High Volume – Strong Economy							
				.50%	\$27,100,955	244	230
				.75%	\$40,651,433	366	345

Source: Metro, 1999.

¹**New construction.** Based on cost estimates prepared for H-TAC Fair Share Subcommittee (April 7, 1999 Memo from Metro Staff: Cost of Developing Housing, including Needed Subsidies). The amount of subsidy needed for a multi-family rental unit <30% MHI = \$80,000. The amount of subsidy needed at 50% MHI = \$33,000. **Income groups.** The percentage of units allocated to <30% MHI and to 31-50% MHI is based on the fair share formula: <30%MHI = 72% and 31-50%MHI = 28%.

²Assuming all available resources from State and Federal governments that could be dedicated to housing are used for that purpose, and that resource funding levels remain constant.

³Assuming that all of the revenues from a RETT are dedicated to affordable housing. Previous versions of RETT proposals have included funding for public infrastructure. The Regional Funding Subcommittee has determined that infrastructure connected to housing might appropriately be funded by a RETT proposal, but calculations are not included here.

⁴Includes CDBG, HOME, and HOPWA. Assumes that 20% of CDBG resources are used for housing production.

⁵Includes Housing Trust Fund, LIHTC, HELP and Multifamily Loans.

Table 6 below shows progress that could be made in meeting the regional affordable housing production goals with both existing resources and the previously described RETT scenarios.

Table 6
Progress that could be made in reaching Affordable Housing Production Goals with Existing Resources and RETT Revenue**
Five-Year Affordable Housing Production Goal = 9,048 units
Annual Affordable Housing Production Goal = 1,810 units

Low Volume Sales – Weak Economy

Income Group	Annual Affordable Housing Production Goal (IN UNITS)	Existing Resources (State & Federal)	RETT Revenues		Balance of unmet affordable housing production goal (annual production goal –units built with existing resources – units built with RETT revenues at each tax rate)	
			.50% tax rate	.75% tax rate	.50% tax rate	.75% tax rate
<30%	1,303	248	80	121	975 (75%)	934 (72%)
31-50%	507	234	76	114	197 (39%)	159 (31%)

High Volume Sales – Strong Economy

Income Group	Annual Affordable Housing Production Goal (IN UNITS)	Existing Resources (State & Federal)	RETT Revenues		Balance of unmet affordable housing production goal (annual production goal –units built with existing resources – units built with RETT revenues at each tax rate)	
			.50% tax rate	.75% tax rate	.50% tax rate	.75% tax rate
<30%	1,303	248	244	366	811 (62%)	689 (53%)
31-50%	507	234	230	345	43 (8%)	-72 (0%)

Source: Metro, 1999.

**Using the same assumptions outlined in Table 6.

There is a high leveraging ratio in housing development, with private investment adding substantially more than double every public dollar spent. This means that funds raised through a RETT could produce more units than shown in the above table with the inclusion of private investment.

Affordable housing development has an overall positive impact on the regional economy. According to the National Association of Home Builders, residential construction stimulates the economy directly by generating jobs, wages and tax revenues and indirectly as the demand for goods and services created by the construction of new homes “ripples” through the economy. Housing development produces construction jobs; requires the purchase of building materials from local merchants; leverages private financing and creates jobs for architects, Realtors, engineers, landscapers, and others.

Potential Limitations

As stated in the RFP, H-TAC is expected to consider a real estate transfer tax as a funding source for an affordable housing fund at the State, regional or local level when that option becomes available under State law. The “sunset” provision currently in ORS 306.815 has been eliminated by the adoption of HB 2139, which was signed by the Governor on July 14, 1999. ORS 306.815 prohibits the adoption by any local government of any real estate transfer tax. Prior to this legislative session, this prohibition did not apply to the adoption of a real estate transfer tax that would go into effect after July 1, 2000. Thus, current State law prohibits the implementation of a regionwide RETT, although it is authorized and utilized by Washington County.

Metro's charter also imposes limitations on spending for non-voter approved taxes. This spending limitation during FY 1999-00 will be just over \$15 million, with the current Metro annual budget authorizing expenditures of over \$8.0 million from these sources. In order for Metro to impose and collect taxes beyond \$7 million a year, approval would need to be received from the region's voters.

A RETT can be tailored to ensure that the costs do not fall on moderate-income people. Exemptions can be built into the RETT so that the average home pays little or no tax, addressing concerns that middle class people would be overly taxed to help those in poverty. For example, all residential property sales of homes affordable to a household earning the median regional household income or less could be exempted from the tax.

Implementation Strategies

Although implementation of a regional real estate transfer tax does face some major hurdles, the Regional Funding Subcommittee concluded that the revenue potential and connection to affordable housing provide reason enough to further pursue the RETT as a funding source. The implementation of a RETT would raise a substantial amount of revenue to be directed towards meeting the fair share affordable housing goals that have been identified by H-TAC.

Implementation of a RETT would require several steps prior to funds actually being collected. Most importantly, the Legislature would have to change the law that prohibits local governments from collecting a real estate transfer tax. The Legislature may also choose to implement a statewide real estate transfer tax dedicated to affordable housing. However, as this is currently unlikely, the Regional Funding Subcommittee identified two possible options for implementing a regionwide real estate transfer tax, as outlined below.

1. Work with the three counties in the region to develop an intergovernmental agreement on a plan to implement a regionwide real estate transfer tax. Representatives from the counties and H-TAC would work with the Legislature to have the prohibition removed, at least for the Metro area.
2. H-TAC, with agreement from the three counties, could recommend that Metro implement a regionwide real estate transfer tax. This option would first require a ballot measure to meet Metro's charter requirements on spending limits. If the region's voters approved the ballot measure, then the Legislature would be approached about removing the prohibition.

Implementation of a RETT should not increase the costs of providing affordable housing. Thus, the Regional Funding Subcommittee recommends that implementation plans include a policy that exempts affordable multi-family dwelling units that are sold from the RETT, similar to the proposed exemption of all single family sales of less than \$120,000.

4. HOUSING LINKAGE FEE

The attraction of employees to an area by new industrial and commercial developments creates a need for housing. The demand for affordable housing is increased by those businesses at the new developments that attract low-wage jobs, including non-living wage jobs (less than \$10-\$16 per hour, depending on family size in the Portland area). Businesses benefit from the availability of a well-housed and accessible labor force. A linkage policy requires that new (or sometimes existing but expanding) commercial or industrial development not shift the entire burden of addressing the affordable housing need it helps to create onto the public sector (and low-income people themselves).

A housing linkage fee program could be implemented through an overlay zone, targeted to specific areas such as regional centers identified on the 2040 Growth Concept Map.

Options for addressing the new affordable housing need include adding affordable units to a mixed use development, building new units, paying a fee in lieu of construction, or making equity contributions (such as land) to a low income housing project. This requirement is a condition of obtaining

development permits and rezoning. Linkage fees have been applied to both limited downtown areas and more broadly in high job-growth areas. This tool may be particularly important in parts of the region that are job rich and affordable housing poor.

Examples of Linkage Fee Policies:

San Francisco

San Francisco was the first city to adopt linkage policies in 1981. Their original policy required all developers of commercial buildings over 50,000 square feet in the Central Business District to either provide new or rehabilitated housing or pay an “in lieu” fee of \$5 per square foot to the city for housing. Between 1981 and February 1985, office developers agreed to subsidize 3,793 residential units, 71 percent of which would be designated for low and moderate-income people. The policies were revised in 1985, tightening up the affordability requirements, eliminating a controversial system for giving commercial developers credits for units they had not helped to create, and raising the “in lieu” fee to \$5.34/sq. foot.

In 1996, Section 313 of the San Francisco City Code was update, setting forth the requirements and procedures for the “Office Affordable Housing Production Program.” A study conducted in 1994 by the San Francisco Department of City Planning¹² demonstrated that construction of new housing units in the city had decreased to a low of 500 units in 1993 compared to an average annual production of 1,600 units over the previous ten years. This study and a previous nexus study conducted in 1984 showed the validity of: 1) the nexus between new office development and the increased demand for housing in the city, and 2) the numerical relationship between new office development and the formulas for provision of housing set forth in city code. The city also enforces affordability requirements on housing developed through the OAHPP through mechanisms such as shared appreciation mortgages, deed restrictions, enforcement instruments, and rights of first refusal exercisable by the city.

The current ordinance applies to office development projects proposing the net addition of 25,000 or more gross square feet of office space. The developer must construct housing or pay an in-lieu fee to be used for the development of low cost housing. The formula used to determine the number of housing units required through the program is:

$$\text{Net Addition Gross Sq. Ft. Office Space} \times .000386 = \text{Housing Units}$$

The formula used to determine the fee to be paid if the developer does not wish to construct housing units as of January 1, 1995 was:

$$\text{Net Addition Gross Sq. Ft. Office Space} \times \$7.05 = \text{Total Fee}$$

This formula is revised in January each year based on average housing prices in the San Francisco region.

Santa Monica

A basic linkage fee policy adopted in 1981 was revised as part of a new land use element of the master plan for downtown development in October 1984. The land use plan creates a linkage formula that requires developers of large office projects to pay impact mitigation fees for housing and parks. “Developers can either provide housing or parks or pay in lieu fees of \$2.25 per square foot for the first 15,000 square feet and \$5 per square foot for the remaining space.”¹³ This policy may never have been implemented due to political changes in Santa Monica.

¹² *Analysis of the OAHPP Formula*, prepared by the San Francisco Department of City Planning, November 1994.

¹³ Keating, Page 136

In 1998, the City of Santa Monica adopted a housing linkage program called the “Affordable Housing Production Program.” This program links the development of market rate multi-family housing with the need for increased lower cost housing in the city. The city conducted a study of

“the relationship between the demand for goods and services created by households who occupy new market rate multi-family development...the number of low-wage workers in public agencies and businesses needed to satisfy this demand, and the costs of producing the affordable housing needed by these workers.” *Santa Monica City Code, Chapter 9.56.010.*

The study indicated a range per square foot that could be imposed on new market rate multi-family development to help finance the development of affordable housing needed to meet the demand created by the market rate development. While this requirement is similar to an inclusionary housing program, it has been identified as separate from Santa Monica’s Inclusionary Housing Program that requires 30 percent of new multi-family housing constructed within the city be affordable to low- and moderate-income residents.

Boston

The City of Boston established a linkage program in December 1983 to direct some of the benefits of downtown investment to the building of affordable housing in city neighborhoods. It requires that any commercial project larger than 100,000 square feet either pay a fee of \$6/square foot, of which \$1 per square foot goes to a job training fund and \$5 per square foot is used for housing purposes. Linkage payments into the Neighborhood Housing Trust are amortized over a period of either seven or twelve years, depending on the date of the initial agreement. Current agreements provide for a seven-year payment period. The seven-member Neighborhood Housing Trust holds public hearings and approves linkage grants to selected projects. As of December 1997, \$42.8 million had been allocated for the construction or renovation of 4,905 housing units in 70 projects in Boston’s neighborhoods.

Funds for the Neighborhood Jobs Trust come from the Jobs Linkage Fee of one dollar per square foot described above. This component of the Linkage Fee came from a 1986 amendment to the original legislation. Payments are made in two parts, with one half due at the time a building permit is issued, and the balance due one year later. Over the 1988-1997 time period \$3.9 million have been awarded, resulting in the creation of 56 programs. The Neighborhood Jobs Trust supports new and innovative education and training programs that result in high wage employment, new or non-traditional employment opportunities, and community based projects that respond to local educational and training needs. The Jobs Trust focuses on providing appropriate services to the residents of neighborhoods where (or adjacent to) a given development project.

Sacramento

The Sacramento Housing Trust Fund and the linkage fee program came about as a result of a joint City and County Housing Finance Task Force that analyzed many options in the late 1980’s. In 1987 the Housing Nexus Analysis, that analyzed relationships between growth, buildings, employees, lower income households and housing demand, was written. This document withstood court challenges once a housing linkage fee was instituted in Sacramento. Sacramento was the first major city in the country to apply a linkage fee to all commercial and industrial land uses in the city.

Sacramento City Code, updated in 1999, describes the Housing Trust Fund Program. The money collected through linkage fees is deposited in a citywide fund that is used to increase and improve the supply of housing affordable to low and very low income households. The funds are administered by the Sacramento Housing and Redevelopment Agency. Criteria are developed to determine the appropriate location of housing developed with these funds, the purpose of which is to: 1) ensure a reasonable geographic linkage between nonresidential development projects and the future residents of affordable housing; 2) ensure conformity with the fair share plan adopted by the city council; and 3) promote air quality goals (e.g., access to public transportation).

The housing linkage fee requirement applies to nonresidential development projects that propose construction, addition, or interior remodeling. The fee is determined as shown in Table 7 below.

Table 7: Housing Fee Requirement

Type of Use	Fee/Building Square Feet
Office	\$.99
Hotel	\$.94
Research & Development	\$.84
Commercial	\$.79
Manufacturing	\$.62
Warehouse/office*	\$.36
Warehouse	\$.27

Source: Sacramento City Code, Section 17.188.1001A Appendix A HOUSING FEE REQUIREMENT CITYWIDE.

*Warehouse buildings with a minor portion (25% maximum) of the space improved for incidental office use.

As an alternative to payment of the fee described above, a developer may elect to pay a reduced fee (20%) along with a proscribed number of housing units based on the proposed nonresidential square feet. This alternative is described in Table 8 below.

Table 8: Housing Fee and Construction Alternative

Type of Use*	20% Fee/ Building Square Feet	Housing Unit Factor/ Square Feet
Office	\$.20	.000127
Hotel	\$.19	.000042
Research & Development	\$.17	.000091
Commercial	\$.16	.000106
Manufacturing	\$.12	.000042
Warehouse/office*	\$.07	.000021
Warehouse	\$.07	.000021

Source: Sacramento City Code, Section 17.188.1002A Appendix A HOUSING FEE AND CONSTRUCTION ALTERNATIVE.

*Nonresidential development projects that do not fall within a specific type of use category will be evaluated on a project-by-project basis to determine an appropriate fee and housing unit factor.

Potential Limitations

- In areas where linkage fees have been proposed only in the downtown of the central city there have been major concerns that “the resulting increase in development costs and commercial rents will deflect commercial development from the central city to the suburbs. This is particularly true, (critics) suggest when those suburbs not only do not impose linkage requirements but have lower land costs and lower taxes and enjoy other competitive advantages.”¹⁴ This argues strongly for using a more regional approach to linkage fees if possible.
- Keating suggests that linkage policies are most likely to be implementable in areas where “state-imposed limitations on ad valorem taxes restrict the ability of cities with downtown development booms to raise revenues from new development to address (the) problems (such development creates).” Measures 5 and 50 effectively create such a situation in the Portland metro area.
- “Jobs Housing Nexus Analysis” a 1997 report from Keyser Marston Associates (a consulting firm) for the City and County of San Francisco, provides an analysis of the nexus between commercial and industrial development and the need for very low-income housing. The study found a strong and demonstrable nexus, and furthermore quantifies this nexus for the San

¹⁴ Keating. Page 134.

Francisco area. Similar studies have been conducted for Sacramento, and such a study should be conducted for the Portland metro region if this tool is to be implemented.

- Is a housing linkage fee actually considered a tax or a fee? There may be legal implications if a linkage fee is implemented at the local level since it may be considered a System Development Charge (SDC). If considered an SDC, the linkage fee would not be one of the five types of SDCs that are allowed in Oregon by state law. However, Metro may be able to impose such a fee as a tax.
- Linkage fees could be imposed on the number of low wage jobs created by a commercial or industrial development. Most examples of linkage fees are a one-time fee paid at the time of development, but a linkage fee could be assessed annually based on the number of low wage employees. This approach may serve to encourage businesses to provide “living wage” jobs.

Implementation Strategy

A housing linkage fee program could be implemented as an overlay zone, targeted to specific areas such as the regional centers identified on the 2040 Growth Concept map. A linkage fee could also be considered a “tax.” Imposing a linkage fee similar to the one imposed in San Francisco (or Sacramento) on the development of commercial or industrial development inside the UGB could provide a pool of funds for affordable housing. A housing linkage fee could be pursued on a regional or local level.

An alternative approach would be to recommend that individual jurisdictions impose a linkage fee on commercial or industrial development inside their boundaries. However, this piecemeal approach would probably be far less effective for two reasons. First because it would be less likely to be implemented in most of the region. Second, because creating the fee in one part of the region but not in others could result in companies choosing to locate in jurisdictions without these fees – a much easier decision for them if that jurisdiction is right next door with similar location amenities than if they would need to locate outside the Portland metropolitan region to avoid the fee.

5. USE AND ADMINISTRATION OF A REGIONAL HOUSING FUND

A regional housing fund could be allocated in a variety of ways. The Regional Funding Subcommittee discussed numerous possibilities, and concluded that the following general principles are key in developing guidelines for the use and administration of a regional fund.

- **Flexibility is crucial.** A regional housing fund should allow for various options in the use of the funds to better meet the regional needs for affordable housing. These needs vary by jurisdiction and also may change over time, thus flexibility in utilizing the dollars is crucial to meeting regional housing needs.
- **Target regional fund dollars to help meet specific needs.** Guidelines for the general disbursement of the regional fund dollars should target specific housing needs in the region such as meeting regional fair share goals, aiding first time homebuyers, and helping seniors and people with disabilities find affordable housing.

**Table 9
Suggested Options for Use and Administration of a Regional Fund**

OPTIONS FOR USE OF A REGIONAL FUND		
Multi-Family Rental Housing <i>(focused on construction, preservation, & rehabilitation of housing for <50% MHI)</i>	First Time Homebuyer <i>(focused on eligible homebuyers (80%MHI) to provide down payment assistance)</i>	Infrastructure <i>(focus to be determined in consultation with the stakeholders)</i>
OPTIONS FOR DISTRIBUTION OF A REGIONAL FUND		

<p>A. Fair share method</p> <ul style="list-style-type: none"> - Possibly based on sub-regional allocations (counties) - Fair share targets could be used as a guideline for allocating funds <p>B. Number of real estate transactions in a jurisdiction</p> <p>C. Population</p> <p>D. Projected population growth</p> <p>E. Poverty statistics</p>	<p><i>Ask the Stakeholders:</i> What should funds be used for?</p> <p><i>Subcommittee recommendation on possible use of funds:</i> Reimburse local governments for reduced or waived SDCs</p>
<p>OPTIONS FOR ADMINISTRATION</p>	
<p><i>Preliminary Recommendation of the Subcommittee:</i></p> <ul style="list-style-type: none"> • Existing Participating Jurisdictions (those jurisdictions that already administer HOME funds) <p><i>Other options:</i></p> <ul style="list-style-type: none"> ➤ State (Oregon Housing and Community Services Department) ➤ Portland Development Commission ➤ Metro ➤ Clackamas, Multnomah, and Washington Counties 	

Other H-TAC subcommittees have also identified uses for a potential regional fund. Possible uses for a fund identified by the Cost Reduction Subcommittee include:

- *System Development Charges:* Use a regional fund to reimburse jurisdictions for revenue foregone due to deferred or forgiven SDCs.
- *Permit Fees:* Use a regional fund to pay for permit fees for affordable housing.
- *Off Site Improvements:* Use a portion of a regional fund as a “bank” to fund off site improvements for affordable housing developments. The fund could be provided at varying low interest rate loans depending on the amount of affordable housing provided at the site.

Possible uses for a fund identified by the Land Use and Regulatory Subcommittee include:

- *Long-Term or Permanent Affordability:* Tie the use of a regional fund to permanent affordability.
- *Inclusionary Housing/Zoning:* If a regional funding source is established, some of the funds could be used as a tool to encourage mixed income projects and to encourage more market-rate developers to participate in the production of affordable housing.

RECOMMENDATIONS

The Regional Funding Subcommittee recommends that H-TAC pursue the following implementation strategies to facilitate the development of affordable housing in order to meet affordable housing production goals.

A. Maximize Existing Resources

1. Training Program

Develop a training program for staff from local jurisdictions, nonprofit and for profit housing developers, and lenders to enable them to increase efficiency in producing affordable units. Possible components include:

- *Management of Program.* The program could be run through an existing organization that provides technical assistance for affordable housing development, such as the Neighborhood Partnership Fund.
- *Annual Training Sessions.* Annual 1-2 day training sessions focused on grant writing, resource management, effective tools and providing opportunities for jurisdictional coordination.
- *Internet Resource Site.* Add to the Enterprise Foundation web site, to provide information from annual training sessions as well as resources, best practices, and grant deadlines.
- *E-mail List Serve.* Compile an email list serve of those interested in receiving updates on funding opportunities, and to serve as a forum for issues related to increasing the supply of affordable housing in the region. The Enterprise Foundation website is a good start (www.enterprisefoundation.org)
- *Expanded Scope.* Annual training sessions and other resources could be focused specifically on funding opportunities or expanded to provide a forum for dispersing information on best practices for cost reduction and land use strategies.

A training program that included the components outlined above would substantially maximize the use of existing resources available in the region, as well as allow all jurisdictions to participate in providing more opportunities to develop affordable housing. While the number of additional housing units that may be produced is not currently known, the additional effort should result in some increase and also may increase political will and awareness of housing issues across the region.

2. Coordinate and Improve Federal Programs and Resources

A. Consistent Consolidated Plans in the Region

Entitlement jurisdictions currently working to develop consolidated plans (required by HUD) should include a letter or short memo in each Consolidated Plan that describes regional efforts to address housing issues. Efforts should be made to discuss further coordination in the future.

B. Allocation of HOME Funds

Recommended strategies for maximizing the effectiveness of HOME dollars in the Metro region.

- *Coordination.* Possibility of coordinating HOME funds with the cities and counties of the region – regional coordination as exemplified by A Regional Coalition for Housing (ARCH) in east King County, Washington.
- *Prioritize based on highest need.* Use HOME dollars in a way that meets highest priority regional needs, consistent with local priorities described in local Consolidated Plans.

C. Promote changes with HUD & other Federal Programs

Encourage the Oregon Congressional delegation to support changes with HUD and other Federal programs to encourage the development of affordable housing, especially as referenced below.

- *Change the length of the contract.* Federal budget accounting should be changed to permit longer-term contracts for all HUD rental assistance, even in the absence of an increase in total units,

which should also be supported. This would give greater parity to programs that serve very low income tenants (other federally funded programs providing benefits for higher income tenants than rental assistance programs – such as the Low Income Housing Tax Credit program– provide 10-30 years of federal benefits).

- Allow more discretion to local housing authorities to project base Section 8 vouchers. Change administrative rules to permit simple project basing of vouchers, subject to 15% cap of total units. HUD estimates this would support \$90-120 million one time acquisition/construction of affordable and available units. (Note: HUD estimates that nationally 53% of units with affordable rents are not available because higher income renters occupy them).

Encourage elected leaders in the Metro region to execute an intergovernmental agreement to require that all publicly assisted projects accept voucher tenants using the same screening criteria as other tenants.

3. Regional Acquisition Fund

Encourage all participating jurisdictions to utilize The Enterprise Foundation's \$20 million regional acquisition fund. While this is not a permanent funding source, it provides jurisdictions access to capital to acquire quality development sites when they are available. This fund is low cost patient capital that will allow jurisdictions to purchase and hold property for up to five years prior to development. However, the Enterprise Foundation does require a guarantee. The counties should work with Enterprise to develop a consistent mechanism for loaning the money.

B. New Funding Source

1. Employer Sponsored Housing

Employer Based Programs. Local governments, community and business leaders should encourage employers to consider developing homeownership and rental assistance programs for their employees.

2. Real Estate Transfer Tax

The real estate transfer tax provides the best opportunity to raise a relatively large amount of money for housing that could be controlled by the region. The concept generated strong support in a focus group H-TAC held to gather additional input from housing and financial specialists not involved in the H-TAC process. A proposal describing the RETT has been circulated among all the local elected officials in the region. Local elected officials and development industry representatives have expressed support for a RETT, with the Realtors providing the only significant objection. Although implementation of a regional real estate transfer tax does face some major hurdles, H-TAC concluded that the revenue potential and connection to affordable housing provide reason enough to pursue the RETT as a funding source. It is important to note that the implementation of a RETT would raise a substantial amount of revenue to be directed towards meeting affordable housing production goals proposed by H-TAC.

Implementation of a RETT would require several steps prior to funds actually being collected. Most importantly, the Legislature would have to change the law that prohibits local governments from collecting a real estate transfer tax. The Legislature may also choose to implement a statewide or Metro area real estate transfer tax dedicated to affordable housing. However, this is currently unlikely. There is general consensus that a coalition of local leaders will go to the Legislature to request a change in the current law that prohibits a RETT, or exempt the Metro region from the law, and to allow a ballot measure to implement the RETT in the Metro region to be taken to the voters.

Funds raised through a real estate transfer tax could be allocated in a variety of ways, but would be focused on achieving the affordable housing production goals set by H-TAC.

3. Use and Administration of a New Regional Housing Fund

A regional housing fund could be allocated in a variety of ways. Key stakeholders should be involved in decisions regarding the use, allocation and administration of a regional housing fund. Strategies identified by other H-TAC subcommittees for the potential use of a regional fund should also be considered. The following general principles are key in developing guidelines for the use and administration of a regional fund.

- ***Flexibility is crucial.*** A regional housing fund should allow for various options in the use of the funds to better meet the regional needs for affordable housing. These needs vary by jurisdiction and also may change over time, thus flexibility in utilizing the dollars is crucial to meeting regional housing needs.
- ***Target regional fund dollars to help meet specific needs.*** Guidelines for the general disbursement of the regional fund dollars should target specific housing needs in the region such as meeting regional affordable housing production goals, aiding first time homebuyers, and helping seniors and people with disabilities find affordable housing.
- ***Final decisions should be delayed until more work has been done.*** Negotiations over how the fund should be allocated and administered should not be conducted until after further work has been done to get a regional fund in place.

Conclusion

If all of the above implementation strategies are carried through, local jurisdictions will be in a much better position to meet the affordable housing needs of residents of all income groups in the region.

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APPENDIX

A. Sampling of Public Funding Sources for Affordable Housing

A. Sampling of Public Funding Sources for Affordable Housing *These tables are DRAFT*****

**Several programs use federal funds, but are planned and delivered by State or local government. The convention used here is to show these programs by the government level where they are delivered, not by the source of funds.

Source	Program	How does it work?	Type of housing/Who Benefits	Who can apply?	
Federal	HUD Formula Grants	Community Development Block Grants (CDBG)	Direct grants to entitlement communities from HUD to revitalize neighborhoods, expand affordable housing and economic opportunities, and/or improve community facilities and services.	Housing for households with incomes below 80% of regional median household income	<i>Entitlement communities.</i> CDBG is allocated by formula to jurisdictions over 50,000 people, and to counties for allocation to smaller jurisdictions
		HOME funds	HOME funds are awarded by HUD through a formula to participating jurisdictions — each dollar of grant funds must be matched with 25 cents of local money	Housing for households with incomes below 80% of regional median household income	<i>Cities/counties.</i> Allocated by formula — smaller jurisdictions may form consortiums to apply for HOME funds
		HOPWA — Housing Assistance to Persons With Aids	Provides housing assistance and supportive services for low-income people with HIV/AIDS and their families.	Housing for low-income people with AIDS, but also may provide services and information to anyone with HIV/AIDS	<i>Cities/counties.</i> 90% of funds are allocated by formula to cities with a specified number of AIDS cases; 10% is allocated competitively
		Emergency Shelter Grants	Supplements local efforts to fund efforts to address the homeless population.	Conversion, renovation, or rehabilitation of homeless shelters. People must be homeless to benefit from housing built with these funds.	<i>Cities/counties/states.</i> Allocated annually based on the CDBG formula. States do not have to match the first \$100,000; local governments must match grant funds.
	HUD Competitive Grants	Section 811: Supportive Housing for Persons with Disabilities Program	Provides funding for supportive housing for very low-income persons with disabilities who are at least 18 years old.	Capital advances to construct, rehabilitate, or acquire structures to be used for housing; contracts for project rental assistance	Non-profit organizations with 501(c)(3) designation from the IRS
		Section 202: Supportive Housing for the Elderly Program	Provides funding for supportive housing for very low-income persons 62 years of age and older.	Capital advance funds to construct, rehabilitate, or acquire structures to be used for housing — funds need not be repaid if units are kept as low-income elderly housing for 40 years or more; project rental assistance.	Private non-profit organizations and non-profit consumer cooperatives
		Brownfields Economic Development Initiative (BEDI)	Designed to help cities redevelop abandoned, idled, or underutilized industrial and commercial facilities where expansion or redevelopment is inhibited by real or perceived environmental contamination — brownfields.	Must increase economic activity for low or moderate income persons, may be used for mixed-use housing	Local governments
		Supportive Housing Program	Provides competitive grants to develop supportive housing and services that will enable homeless people to live as independently as possible.	Program funds help homeless people live in a more stable place, increase their skills or income, and gain more control over decisions that affect their lives.	Government agencies, public or private non-profits — must provide a match
	Tenant Based	Section 8 Vouchers and Certificates	Tenant-based Section 8 provides rent assistance to very low-income households who can then choose a property owned by a private for- or non-profit landlord. The recipient must find an owner willing to comply with the Section 8 program requirements.	Households up to 80% MHI are eligible, but the program is targeted to those under 50%. 75% of households served must be below 30%MHI.	Low-income renter households. HUD has issued proposed rules to permit discretionary use of vouchers for home ownership tied to workforce development & self-sufficiency strategies.
		Shelter Plus Care	Provides rental assistance that, when combined with social services, provides supportive services for homeless people with disabilities and their families.	Homeless people with disabilities often need more than just shelter to live independently; they often need medical care or social services.	Government agencies, public housing agencies — must provide a match
Source	Program	How does it work?	Type of housing/Who Benefits	Who can apply?	
State	Multi-	Oregon Housing Trust Fund	Created to expand the State's supply of housing for low and very low-income families and individuals by providing funds to construct new housing or to acquire and/or renovate existing structures.	Entire project need not be for low-income people, but the proportion of affordable units determines the level of the grant.	Housing developers, for profit and non-profit
		Low Income Housing Tax Credit Program (LIHTC)	Provides federal tax credits to developers of low-income housing projects, the developers can use the credits to directly reduce their own tax liability but typically sell the credits to corporations for cash with which to develop housing.	Must be used for low-income housing; units must remain affordable for a period of 30 years; must go through a design review process.	Housing developers, for profit and non-profit
		Oregon Affordable Housing Tax Credit Program (OAHTC)	OHCSA certifies tax credits for housing projects, allowing lending institutions to lower the interest rate on a loan by as much as 4%.	Housing or community rehabilitation projects serving low-income people. Savings on loan must be passed to tenants in form of reduced rents.	Housing developers must enter into restrictive covenants on rents charged to tenants.

	Elderly and Disabled Housing Loan Program	Issues tax exempt bonds to make below-market interest rate permanent mortgage loans	New construction, substantial rehabilitation, and acquisition of rental housing units	For profit and non profit housing developers
	Enterprise Predevelopment Loan Program	A revolving loan fund administered by the Enterprise Foundation in partnership with OHCS D	Predevelopment activities and property acquisition to facilitate the development of housing	Housing developers outside of Multnomah County
	Loan Guarantee Program	Established by the 1991 Legislature to provide loan guarantees for up to 25% of the original principal balance of a loan	New construction, acquisition or rehabilitation	Housing developers
	Risk Sharing Program (Multi-Unit Rental Housing)	Partnership between HUD and OHCS D for the credit enhancement of tax exempt bond financing to provide permanent first mortgage financing for affordable multi-family rental housing	New construction, acquisition with substantial rehabilitation	Non profit, for profit, government housing developers
	OHCS D Predevelopment Loan Program	Provides below market financing and flexible terms through a partnership between OHCS D and Fannie Mae.	Site acquisition and typical predevelopment expenses	Housing developers; preference given to projects that meet Oregon s Quality Development Objectives*
	Oregon Rural Rehabilitation Loan	A loan fund to meet the critical need for farmworker housing.	Can be used exclusively for farmworker housing	Housing developers
	Seed Money Advance Loan Program	A revolving loan fund that provides no-interest loans to qualified not-for-profits and interest-bearing loans to qualified for-profit sponsors from a \$250,000 revolving loan fund.	Recoverable preconstruction costs before construction loan proceeds become available	Housing developers
	PAE Preservation	Mortgage restructuring of specific FHA insured loans supported by project-based section 8 housing assistance and secured by those properties.	Goal is to preserve affordable housing in Oregon	
Single Family	First Time Homebuyer loans	Offers below market interest rate mortgages from the proceeds of tax-exempt mortgage revenue bonds	Home ownership	Eligible homebuyers
	Veteran s Loan Program	Offers below market interest rate mortgages to Oregon veterans	Home ownership	Eligible homebuyers

*Oregon s Quality Development Objectives (QDO s) include: compact developments within existing urban growth boundaries; mixed-use and energy efficient developments; a development mix that addresses community and economic goals; and developments providing a balance of jobs and housing to reduce commuting.

Source		Program	How does it work?	Type of housing/Who Benefits	Who can apply?	
City of Portland	Property Tax Abatement/Exemption Programs	Low Income Housing Held by Charitable Non-Profit Organizations	Goal is to promote rental housing for low-income renters	Land and improvements are eligible for a 1-year abatement if the housing is affordable to households earning 60% or less of median family income.	Non-Profit Housing Developers	
		New Construction of Single Unit Housing in Distressed Areas	Goal is to promote new housing in distressed areas designated by the Planning Commission	Property owner who meets geographic & housing price restrictions may apply for a 10-year abatement. Housing price limit set annually up to 120% of median sales price of single-family homes in city. Only improvement value is exempt.	Property owner, subject to income and geographic restrictions	
		Transit Supportive Residential or Mixed-Use Development	Goal is to support residential and mixed-use development in transit oriented areas	New construction of more than 8 units must meet a public benefit test that includes requirements for affordable housing — 10-year abatement period	Developers of new construction rental or homeowner projects with 8 or more units	
		Residential Rehabilitation	Goal is to promote rehabilitation of rental housing where the cost of improvement is greater than 50% of improvement value	Program requires that designated units must be occupied by and rented at rates affordable to tenants with household incomes of 60% MHI or less.	Property owners who rent their properties	
		Owner-Occupied Rehabilitation in Distressed Areas	Program encourages rehabilitation of owner-occupied housing in designated distressed areas	10-year abatement offered property owners if the improvement cost is greater than 50% of the value of the improvement (or 10% if the building is older than 32 years)	Property owners	
	System Development Charge Exemptions	Transportation SDC Waiver	Full SDC exemptions are allowed for 1) new development that does not generate more than 15% more vehicle trips than the present use of the property; and 2) low-income housing owned by a non-profit or the Housing Authority. Partial exemptions are allowed for designated Transit Oriented Developments within city.	Low-income housing developed by a non-profit or HAP must meet the following requirements to be fully exempt: for rentals the rent must be affordable to households earning less than 60% MHI, and for owner occupied the sales price must be affordable to households earning less than 100% MHI.	Non-profit housing developers, Housing Authority	
		Development Fee Waiver Policy	Fee waivers for the construction or rehabilitation of housing for low-income residents by nonprofit organizations.	Nonprofit organizations must provide homeownership for households at 80% MHI or less, or rental projects with a minimum of 51% of units targeted to 60% MHI or less.	Nonprofit, non-governmental organizations	
	Housing Finance Programs	Rental Housing	Housing Development Finance	Low interest loans for use in property acquisition refinancing, rehabilitation and new construction of rental housing units.	Loans may be used for gap financing, and/or for bridging the temporary financial need between acquisition, construction, permanent loans & equity to fund total development costs.	Housing developers
			Equity Gap Investment (EGI)	Funding available to nonprofit developers of rental housing where a project is undercapitalized or lacks sufficient debt service to qualify for an RHDL loan	Over 50% of the units must serve low and moderate income households	Nonprofit housing developers
			Predevelopment Loans	Financing for nonprofit developers for the costs necessary to perform specific activities related to site/project feasibility analysis or site preparation		Nonprofit housing developers
			Bond Allocation	City of Portland is an authorized issuer of both taxable & tax exempt bonds for multi-family housing projects	Must meet geographic, income & other requirements. PDC is responsible for processing applications & authorizing bonds.	Housing developers
		Homeowner & Homebuyer Programs	Neighborhood Housing Preservation Program	<i>Deferred Payment Loan:</i> An interest free loan to finance eligible home repairs	Available to homeowners earning less than 50% MHI.	Homeowners earning less than 50% MHI
<i>Low-Interest Loan:</i> To finance eligible repairs and other home improvements at an interest rate determined with a sliding scale to keep monthly housing expenses affordable				Available to Targeted Neighborhood homeowners earning less than 80% MHI	Homeowners in Targeted Neighborhoods	
First Time Home Buyers			PDC financing is available through selected nonprofit and for profit developers of owner occupied homes to be sold to First Time Homebuyers	Buyers must earn less than 80% of MHI	First Time Homebuyers	

Source	Program	How does it work?	Type of housing/Who Benefits	Who can apply?		
City of Gresham	Property Tax Abatement	Transit-Oriented Tax Abatement Program	Limited 10-year property tax exemptions to qualified new transit-oriented development in downtown Gresham, the Civic Neighborhood and Central Rockwood. Council approval of each project is required. Operated through Transportation Planning Department	Residential and mixed-use development — specific guidelines for each area	Developers (for-profit, nonprofit)	
	SDCs	SDC Financing Program	Payment of SDCs deferred until occupancy or financed over a period of 10 years. Requires superior lien on property.	Available to all commercial and residential development.	Developers (for-profit, nonprofit) may apply to the Business Assistance Program	
	Housing Finance Programs	Rental Housing	Special Needs Housing	CDBG/HOME grants to subsidize the development of special needs housing	Benefits households with special needs whose incomes are below 80% MFI. Typically, all are below 60% MFI and most are below 30% MFI.	Nonprofit agencies/ housing developers and for-profit developers may apply to the Community Revitalization Program
			Acquisition and Rehab of Existing Rental Housing	CDBG/HOME grants to subsidize the acquisition and rehabilitation of existing rental housing. 60 year affordability requirement after rehab.	Benefits households living in market-rate affordable housing in need of rehab and more responsible ownership. Targeted to benefiting households under 60% MFI. To avoid displacement, some households initially may have incomes higher than 60% MFI, but must be replaced with households with incomes below 60% MFI when units become vacant.	Non-profit and for-profit housing developers may apply to Community Revitalization Program.
			Pre-development Loans	HOME loan to provide up-front funds for feasibility analysis, site option, or other pre-development costs for projects that will fit into either of the two programs above. Recaptured when permanent financing is provided.	Typically benefits households earning less than 60% MFI.	Only Community Housing Development Organizations (CDHO s) may apply.
	Elderly/ Disabled	Adapt-A-Home	Grants of up to \$2,500 to help pay for improvements to make homes accessible to residents with disabilities.	Benefits households earning less than 80% MFI	Elderly or disabled households apply to Unlimited Choices	
	Homeowner & Homebuyer Programs	Rockwood Buyer-Initiated Homeownership Program	Shared Appreciation Mortgage provided to first-time homebuyers purchasing a home in the Rockwood neighborhood. Reduces monthly mortgage payments.	Benefits households earning less than 80% MFI.	First-time homebuyers may apply when funds are available.	
		Rockwood Developer-Initiated Homeownership Program	0% interest construction loan provided to developers building new housing in the Rockwood neighborhood that will be sold to qualified first-time homebuyers earning less than 80% MFI	Benefits households earning less than 80% MFI	Non-profit and for-profit housing developers may apply to Community Revitalization Program.	

Source	Program	How does it work?	Type of housing/Who Benefits	Who can apply?	
Clackamas County	Rental Housing Programs	Pre-development Loan Program	Funds will be used to complete the earliest pre-development activity necessary to determine whether the project is feasible. (HOME funds)	Multi-family rental housing that serves low- or moderate-income persons. Property must be located in Clackamas County.	Loans made to qualified Community Housing Development Organizations (CHDO) that demonstrate need for assistance.
		Rental Rehabilitation Loan Program	Provides low-interest loans to landlords for complete repairs or exterior repairs only. (CDBG funds)	Multi-family rental housing that serves low-income persons. Rent restrictions apply. Property must be located in Clackamas County, in need of repairing but suitable for rehabilitation.	Property owner with good credit and ability to repay the loan. Property taxes must be current. Sufficient equity required.
		Housing Development Finance	Low-interest and/or deferred payment loans used for gap financing in property acquisition, rehabilitation and new construction of rental units. (HOME funds)	Multi-family rental housing that serves low- or moderate-income persons. Property must be located in Clackamas County.	Housing developers.
	Housing Authority programs	Property tax exemption	Properties owned by the Housing Authority do not pay property taxes	All housing owned by the Housing Authority	Housing Authority
		Tax Foreclosed Property	Tax foreclosed property can be transferred to the Housing Authority	Used primarily for special needs housing	Housing Authority
		Housing Authority Bond Financing	The Housing Authority issues tax exempt bonds to acquire multi-family housing	Households earning up to 80% of area median income	Housing Authority
	Elderly/ Disabled	Adapt-A-Home	Grants of up to \$2,500 to help pay for improvements to make homes accessible to residents with disabilities.	Benefits households earning less than 80 % MFI	Elderly or disabled households
	Homeowner & Homebuyer Programs	County Homebuyer Assistance Program (<i>under development</i>)	Will provide 0% deferred payment loans of up to \$10,000 for down payment or closing costs. (HOME funds)	Homebuyers earning less than 80% of area median income. Property must be located in Clackamas County. Maximum price of home will be \$150,000.	Income eligible household that has not owned a home in the previous 3-year period.
		Home Repair Deferred Payment Loan Program	Provides low-income homeowners with deferred payment loans for complete repairs, exterior repairs only, or furnace/heating system repair only. (CDBG funds)	Homeowners earning less than 50% of area median income. Property must be located in Clackamas County, in need of repairing but suitable for rehabilitation.	Low-income owner/occupants. \$15,000 asset limit (\$50,000 if 62 or older). Property taxes must be current. Sufficient equity required.
		County Paint Program Grant	Provides paint grant to low-income homeowners for exterior house painting. Homeowner is responsible for applying paint. (CDBG funds)	Homeowners earning less than 50% of area median income. Property must be located in Clackamas County and in need of painting.	Low-income owner-occupants. Property taxes must be current.
		County Home Improvement Loan Program	Provides low-interest loans to low- and moderate-income homeowners for complete home repairs or exterior only home repairs. (CDBG funds)	Homeowners earning less than 80% of area median income. Property must be located in Clackamas County, in need of repairing but suitable for rehabilitation.	Low-income owner/occupants with good credit and ability to repay loan. Property taxes must be current. Sufficient equity required.

Source	Program	How does it work?	Type of housing/Who Benefits	Who can apply?		
Washington County (The Washington County Consortium allocates HOME funds for Beaverton; HOME & CDBG funds for all cities in the county other than Beaverton — including Cornelius, Durham, Forest Grove, Hillsboro, King City, Tigard, Sherwood, Tualatin, & Wilsonville)	Property Tax Abatement Programs	Payment in Lieu of Taxes (PILOT)	Allows for the calculation of PILOT payments according to HUD's public housing formula for projects in which the Housing Authority of Washington County is a general partner.	Benefits households earning up to 80% of MFI. Typically, all units are affordable to households earning up to 60% of MFI.	Nonprofit and for-profit housing developers	
	Density Bonus	Station Community Planning Ordinances	Density bonus for development in transit oriented areas.	Residential and mixed-use development.	Nonprofit and for-profit housing developers	
	Fee Waivers	Development Fee Waivers	Washington County and the cities of Tigard and North Plains have waived development fees for the construction or rehabilitation of housing for low-income residents by nonprofit organizations.	Benefits households earning up to 80% of MFI. Typically, all units are affordable to households earning up to 60% of MFI.	Nonprofit housing developers.	
	Housing Finance Programs	Rental Housing	Conduit Bond Financing	Washington County issues tax-exempt revenue bonds for multifamily housing projects to be acquired or built by private developers.	Benefits households earning up to 80% of MFI. Typically, all units are affordable to households earning up to 60% of MFI.	For-profit housing developers
		Housing Authority Bond Financing	The Housing Authority of Washington County issues housing authority bonds to acquire multifamily housing projects.	Benefits households earning up to 80% of MFI. Typically, all units are affordable to households earning up to 60% of MFI.	Housing Authority	
		Housing Development Finance	Deferred payment, low-interest (3%) loans to enable developers to acquire, rehab, and/or construct affordable rental and supportive housing. (HOME & CDBG funds)	Benefits households earning up to 60% of MFI. Assisted supportive housing is occupied by persons with special needs who typically earn no more than 30% of MFI.	Nonprofit and for-profit housing developers	
		Predevelopment loans	Zero-interest financing for developers to assist with project-specific predevelopment costs (e.g., feasibility analysis, sit control, etc.) (HOME funds)	Benefits households earning up to 60% of MFI.	Nonprofit housing developers	
	Elderly/Disabled	Housing Rehabilitation	The Home Access and Repair for the Disabled and Elderly (HARDE) Program provides low-interest loans (for households with incomes at 51-80% of MFI) or grants (for those with incomes up to 50% of MFI) for housing rehabilitation, specifically general repairs of an urgent nature and accessibility improvements. The maximum loan or grant is \$3,000. (CDBG funds)	<i>General repairs:</i> Single-family housing occupied by elderly homeowners with incomes up to 80% of MFI. <i>Accessibility improvements:</i> Single-family and rental housing occupied (or to be occupied) by homeowners (up to 80% of MFI) and renters (up to 50% of MFI) with disabilities.	Homeowners and renters	
	Homeowner & Homebuyer Programs	Housing Development Finance	Deferred payment, low interest (3%) loans to enable developers to acquire or construct housing for sale to low-income first-time buyers (HOME & CDBG funds)	Benefits households earning up to 80% MFI	Nonprofit and for-profit housing developers	
		Housing Rehabilitation	Deferred payment (3%) or interest-bearing (3-7%) loans of up to \$25,000 for housing rehabilitation. Deferred interest bearing loans are due on sale; interest-bearing loans have a maximum term of 20 years. (CDBG & HOME funds)	<i>DIBL:</i> Benefits owners of single-family housing who have incomes up to 60% of MFI and seniors 62 years and older with incomes up to 80% of MFI. <i>IBL:</i> Benefits homeowners with incomes up to 80% of MFI.	Homeowners	
Other	Housing Rehabilitation	Comprehensive and self-help weatherization programs. (CDBG funds)	Homes owned or rented by low-income persons who earn up to 50% of MFI.	Homeowners and renters		

Source	Program	How does it work?	Type of housing/Who Benefits	Who can apply?	
The following cities also participate in the Washington County Consortium:					
City of Beaverton	Housing Finance Programs Rental Housing	City Wide Rehab Program (Multifamily)	A portion of the rehab CDBG budget has been set aside, in the past, for assisting Tualatin Valley Housing Partners with multi-family rehab loans. They are the City's only CHDO partner.	Multi-family purchased by TVHP to keep units affordable in Beaverton.	CHDOs
	Homeowner & Homebuyer Programs	Deferred Payment Loans	Exact program terms now being worked out with PDC who will administer the City's program. Up to \$10,000 loans.	Available to owner-occupied homeowners citywide who earn less than 80% of MHI. Seniors, handicapped and single parent families are targeted.	Homeowners at or below 80% MHI
		Mobile Home Rehab Grants	Up to \$2,000 for health and safety code issues.	Same criteria as above except for loan amount.	Homeowners at or below 80% MHI
City of Hillsboro	Housing Finance Programs	Housing Development Finance	Deferred payment, low-interest (3%) loans to enable developers to acquire, rehabilitate, and/or construct affordable rental and supportive housing. (HOME & CDBG funds)	Benefits households earning up to 60% of MFI. Assisted supportive housing is occupied by persons with special needs who typically earn no more than 30% of MFI.	Nonprofit and for-profit housing developers
	Property Tax Abatement/ Other Exemption Programs	Station Community Planning Ordinances	Higher density encouraged for development in transit oriented areas, with wider flexibility of housing type and mix	Residential and mixed-use development	Nonprofit and for-profit housing developers
		SDC Deferral	Water, sewer, surface water management and park fees can be deferred for 60 days during construction	Benefits projects of 3+ units for all income levels	Nonprofit and for-profit housing developers

