



Neighborhood Housing and Community Development

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Date: August 8, 2016

To: Mayor and City Council

From: Rosie Truelove, Interim Director, Neighborhood Housing and Community Development (NHCD) 

Subject: Response to Resolution 20160407-024 regarding strategies for homeownership opportunities in Austin

This memorandum and attached report is responsive to Resolution No. 20160407-24 directing the city manager to convene a working group to develop recommendations regarding options that would create more homeownership options in Austin within the income brackets ranging from 80% to 120% Median Family Income (MFI) and approaches for incorporating permanent affordable housing homeownership opportunities in future bond packages.

The resolution directed the city manager to research a wide variety of approaches to boosting homeownership, including but not limited to: proposed zoning and land use changes, considerations for future CodeNEXT regulations, subsidies that can be applied to a sliding scale income bracket, and potential methods to finance housing options. Additionally, the resolution also directed the city manager to develop recommendations for incorporating permanent affordable housing homeownership opportunities for future bond packages.

Please see the attached report of the recommendations and a summary of the process used to develop them. The recommended strategies regarding homeownership will be included in the City's Strategic Housing Plan, the document that will include housing goals, as well as strategies to achieve the goals. It is anticipated that the Strategic Housing Plan will be presented to City Council this fall for possible adoption as an amendment to the City's Imagine Austin Comprehensive Plan.

Should you have questions regarding this item, please contact Erica Leak, NHCD Policy & Planning Manager, at 512-974-9375.

cc: Marc A. Ott, City Manager
Bert Lumbreras, Assistant City Manager

Attachment

Report on Strategies for Homeownership Opportunities in Austin

Process:

Survey of Other Cities' Strategies. Staff initially researched strategies undertaken by other cities, paying particular attention to cities that are experiencing growth with the same rapidity as Austin. After summarizing the strategies used by other cities, staff incorporated strategic suggestions and invited housing advocates, members of the development community, and other stakeholders to comment on the ideas, highlight any they found likely to be effective in Austin, and add promising strategies and approaches not included in the initial list.

Working Group Meetings. The working group first convened on May 10, 2016. Attendees discussed the list of strategies that had been developed, as well as ideas they recommended, then reported on the strategies they viewed as most feasible or impactful. NHCD staff incorporated new recommendations proposed by stakeholders into the list of potential strategies and removed strategies that did not have a high likelihood of significant impact in Austin. This effort resulted in a revised list that was sent to stakeholders before the second working group meeting, held on May 23, 2016.

Findings:

Following the second working group meeting, staff distilled the strategies into the following list, categorized by type of approach (i.e., mortgage and financing tools, regulatory and zoning tools, strategies that aid existing homeowners, and bond-related approaches). The recommended strategies related to homeownership and the feasibility of using General Obligation (G.O.) Bonds to fund permanent affordable housing homeownership are below.

Potential strategies to create income-restricted ownership housing through mortgage and financing tools:

- **Community Land Trusts (CLT) / Shared Equity:** Current CLT legislation generally limits the MFI of households served to 80% MFI, but has an exception to 80% MFI cap such that trusts may sell no more than 20% of housing units to families with incomes between 80% and 120% MFI. CLTs could therefore be used to boost homeownership opportunities for a limited number of households that earn up to 120% of the median family income. Legislative changes would be necessary to increase the percentage of CLT housing units that could serve households between 80% and 120% MFI.
- **Modify Homestead Preservation District CLT Legislation:** Tax Increment Reinvestment Zones (TIRZ) in Homestead Preservation Districts (HPDs) could potentially be refocused to better address homeownership uses. Currently, these address income brackets lower than 80-120% MFI.
- **Expand partnerships to create mixed-income developments:** The City should consider targeted expansion of relationships with land conservancies, nonprofit community developers, and private developers to increase the amount of units that these organizations create.
- **Engage lending establishment:** The City should engage lending establishments to develop more mechanisms that make it easier for Austinites with incomes between 80% and 120% MFI to receive loans.

- **Explore creation of Tax Increment Financing District(s):** The City should explore creating Tax Increment Financing Districts to serve households up to 120% MFI, while potentially raising the City’s self-imposed TIF cap of 5 percent of the city’s total assessed valuation of real property. This could be raised to match the state cap of 10 percent of the City’s total assessed valuation of real property.
- **Use sales of public land as a means to fund housing:** The City should consider putting a significant portion of the funds raised through the sales of public lands into a fund that contributes to affordable housing production.

Potential strategies to create income-restricted units through regulatory / zoning tools:

- **Modify S.M.A.R.T. Housing™ Program for higher incomes:** The City should consider strategies such as fee waivers and an expedited review process for developers that will provide affordable units outside of the City’s Full Purpose Jurisdiction in exchange for affordable units to serve households up to 120% MFI.
- **Modify density bonus programs for higher incomes:** The City should consider simplifying density bonus programs and make a portion available for higher MFI levels.
- **Create a small-scale density bonus program for residential lots:** The City’s revision of density bonus programs should address the possibility of creating programs for residential lots.
- **Create mixed-income housing using public resources:** The City should explore using public land, and public money, for bolstering homeownership in Austin.
- **Require income-restricted units in re-zoning cases:** Explore the concept of requiring re-zoning cases with increased residential entitlements to include income-restricted units.
- **Allow more diverse housing options within most form-based code districts:** The City should consider adjusting lot size minimums and maximums to accommodate a diversity of housing options including “missing middle” housing types.
- **Simplify the permitting process for developments with 3 to 10 units:** The City should streamline the permitting process for developments of this size.
- **Develop a catalog of “pre-approved” missing-middle product types than can receive expedited approval:** The City should consider developing pre-approved housing types to expedite housing development.
- **Allow very small homes that can be added on to over time:** The City should consider allowing homeowners to build low-cost, minimal starter houses that can be added on to over time within designated parcels of Austin.
- **Allow more flexible housing options:** The City should consider modifying regulations to support the production of cooperatives, prefabricated housing, group homes, mobile and manufactured homes, RVs, tiny homes, temporary and permanent shelters.

Potential strategies to maintain affordability for existing homeowners:

- **Allow owners to convert existing interior residential space into a rentable apartment to help pay mortgage/taxes:** Similar to the City’s policies on Accessory Dwelling Units, the City should consider allowing residents to create Interior Dwelling Units.
- **Simplify/expedite remodeling processes for existing owners:** The City should try to streamline the process for assisting with in-home remodeling.

- **Dis-incentivize the construction of new big, expensive houses:** The City should encourage the construction of a variety of housing in Austin, while dis-incentivizing the kind of construction that makes the overall cost of housing in Austin more expensive.
- **Support increased wages for low-income Austinites:** Austin is becoming a more expensive city in many ways. While addressing the availability of affordable housing, the City should also work to proactively to develop policies that boost incomes for low-income Austinites.
- **Distribute housing and jobs throughout Austin to lessen the pressure on prices in central Austin:** Distribution of affordable housing options is paramount to making Austin a more vibrant and livable city; the City should strive to ensure that affordable options exist throughout Austin, while developing policies that mitigate the exponential price increases in central Austin.
- **Consider infrastructure costs of increased density:** The City should continue to develop affordable housing strategies that consider infrastructure costs.

Potential use of General Obligation (G.O.) Bonds for 80%-120% MFI:

Consultation with Bond Counsel. City staff consulted with City’s Bond Counsel regarding the potential for G.O. bonds to be used to support the production of income-restricted housing for households between 80% and 120% MFI. Bond Counsel provided the following information. To the extent that the City Council determines that providing affordable housing for low- to moderate-income families and individuals is a public purpose, the City Council may authorize the issuance of voter-approved G.O. bonds to finance affordable housing for low and moderate income families consistent with the public purpose requirements of Article VIII, Section 3, and Article III, Section 52 of the Texas Constitution. (See Texas Attorney General Opinion JM-805.)

Current Program Limitations. The Austin Housing Finance Corporation’s (AHFC) current guidelines for the Acquisition & Development - Homeownership Program provide that the purpose of the program is, in part, to provide affordably-priced homes for “low- to moderate-income homebuyers.” The guidelines state that a low- to moderate-income household is one having a total household income at or below 80% of the MFI as determined by the U.S. Department of Housing and Urban Development (“HUD”) for the Austin-Round Rock-San Marcos, TX Metropolitan Statistical Area. The guidelines established for the program in 2007 provided a similar standard, i.e., assistance is allowed for low- to moderate-income households with a total household income at or below 80% of the MFI as determined by HUD.

Attorney General Opinion, State Law & City Ordinance. As for the use of City resources to provide affordable housing for families or individuals whose income *exceeds* federal guidelines for low- and moderate-income households, JM-805 cited case law for the proposition that the authority of home rule cities to address conditions of substandard housing is not limited to general laws in carrying out these authorized public purposes.

Section 1331.052 of the Texas Government Code provides that a city may issue G.O. bonds for a public purpose in the amount and to the extent provided by its charter. The City’s charter contains a similar provision and does not limit the issuance of G.O. bonds for any particular type

of affordable housing. Staff has not identified any legislation expressly limiting the City's authority to provide affordable housing to its residents.

Based upon the foregoing:

- The City Council has broad discretion to determine a public purpose;
- There does not appear to be any provision in existing state law or in the City Charter prohibiting or limiting the authority of the City to provide financing for affordable housing; and
- To the extent that the City Council determines that a public purpose includes the provision of decent, safe, sanitary and affordable housing to its residents whose incomes are within a range (e.g., 80%-120% MFI) prescribed by the City Council, the City Council can authorize the issuance of the City's G.O. bonds for such purpose, subject to voter approval.

The requisite findings by the City Council might include empirical evidence and findings to support the determination that families and/or individuals whose incomes are within the specified range are unable to afford sanitary housing in the City.

Implementation of a program to support the provision of affordable housing for the targeted population could be effected through the use of specifically articulated language in the ordinance calling the bond election.

In light of the fact that the City's issuance of G.O. bonds for the contemplated purpose is subject to approval by the Texas Office of the Attorney General (OAG), the City of Austin must confirm that the Texas OAG concurs with this analysis.

Conclusion:

After researching strategies for increasing homeownership opportunities for those earning between 80% and 120% MFI, convening a working group and looking into the feasibility of these strategies, staff will include the following recommendations in response to the resolution in the City's Strategic Housing Plan.

Short Term Recommendations:

- Explore the inclusion of higher income limits in future General Obligation Bond elections
- Explore the potential for other new funding sources for this income category
- Consider amending NHCD/AHFC current program guidelines to allow tenants and homeowners with a MFI up to 120% that have been displaced to benefit from services through existing programs using non-federal, unrestricted funds

Long Term Recommendations:

- Incorporate code changes in the CodeNEXT process
- Explore requiring permanent affordability for this income level when developers seek increased entitlements, including in Planned Unit Developments (PUDs)
- Amend the S.M.A.R.T. Housing program to allow for households earning up to 120% MFI