

From: [Paul Campos](#)
To: [Parker, Alicia](#)
Cc: [Flynn, Rachel](#)
Subject: Housing Element
Date: Monday, May 05, 2014 11:02:33 AM
Attachments: [Housing Element Letter FINAL.pdf](#)
[image003.jpg](#)

Dear Ms. Parker,

I write to follow up on the request by the Bay Area Business Coalition (including BIA Bay Area) to the City of Oakland to address the specific issues and questions in the letter we sent to Bay Area jurisdictions in November 2013 (see attached). We appreciated your prompt response (below) that the City would address the issues in the first draft of the Housing Element. I have reviewed the initial draft (as well as several staff reports) in advance of Wednesday's Planning Commission meeting but do not see any mention of the Coalition's letter or specific responses to it. While the draft element touches tangentially on some of the broader categories addressed in the letter, neither it nor any staff report appear to respond in any detail to the specifics.

If I have missed or overlooked a specific reference and response to the Letter, I apologize and would ask that you point me to it.

We would appreciate your including a copy of the original letter we sent addressed to Oakland in the meeting materials Wednesday and that it be posted on the housing element web site if there is a public comments received section.

And, of course, we would very much like to receive a written response to each of the questions the Coalition raised in the letter as soon as practicable, if the City has not already done so.

I look forward to your response.

Best regards,

Paul Campos

From: **Parker, Alicia** <AParker@oaklandnet.com>
Date: Tue, Nov 26, 2013 at 10:07 AM
Subject: City of Oakland Housing Element
To: pcampos@biabayarea.org
Cc: "Flynn, Rachel" <RFlynn@oaklandnet.com>

Hi Mr. Campos,

Thank you for your detailed comments and questions on the City's 2015-2023 Housing Element. We will address the issues you raised as part of our first draft

Housing Element. We have added you to our interested parties list and invite you to attend one of the public meetings we will have on the topic. Public meetings will begin in February. We will send out emails with meeting details as the dates approach.

Thanks for your insight and continued involvement.

Best,

Alicia Parker

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November 26, 2013

Housing/Planning Director
Jurisdiction
Via email



Re: Housing Element Update



The undersigned members of the Bay Area Business Coalition advocate for a vibrant regional economy and outstanding quality of life for existing and future residents of the San Francisco Bay Area. A necessary—though by no means sufficient—condition to achieve these goals is for the region to provide an adequate supply of housing within the region. State housing element law generally—and the governmental constraints component in particular—can be important tools to advance these goals. With Bay Area cities and counties currently updating their housing elements, our organizations respectfully request that your jurisdiction consider and address the following comments as part of the public review process.



We recognize that the housing element process can be resource intensive and sometimes difficult. We hope that by identifying certain priority issues and questions, this letter will assist in focusing resources on policies and practices that are of significant and recurring interest to the regulated community. We also would support incorporating these standardized issues into the framework for local jurisdictions to be able to take advantage of the housing element certification streamlining developed by the California Department of Housing and Community Development (HCD).



I. Overview of the statutory provisions.



The California Department of Housing and Community Development (HCD) has prepared formal guidance interpreting the constraints analysis portion of housing element law (http://www.hcd.ca.gov/hpd/housing_element2/CON_home.php).



HCD's overview of the requirements and their purpose provides: *The element must identify and analyze potential and actual governmental constraints to the maintenance, improvement, or development of housing for all income levels, including housing for persons with disabilities. The analysis should identify the specific standards and processes and evaluate their impact, including cumulatively, on the supply and affordability of housing. The analysis should determine whether local regulatory standards pose an actual constraint and must also demonstrate local efforts*



to remove constraints that hinder a jurisdiction from meeting its housing needs.... The analysis of potential governmental constraints should describe past or current efforts to remove governmental constraints. Where the analyses identifies that constraints exist, the element should include program responses to mitigate the effects of the constraint. Each analysis should use specific objective data, quantified where possible. A determination should be made for each potential constraint as to whether it poses as an actual constraint. The analysis should identify the specific standards and processes and evaluate their impact, including cumulatively, on the supply and affordability of housing.

II. Requested specific areas of focus

We have identified certain policies that generally represent significant potential constraints in the Bay Area and we request that as you conduct the constraints portion of your housing element review, these issues in particular be addressed:

- **Did your jurisdiction commit to addressing specific constraints as a condition of HCD certification of the existing housing element?** If so, what was the constraint and what has been done to address it?
- **Does your jurisdiction have a mandatory inclusionary zoning policy?** If so, has an analysis been done that measures the economic impact? Does it contain meaningful and regularly available incentives, and is its implementation flexible so that there are alternatives to a “like for like must build requirement” such as payment of reasonable in lieu fees, land dedication, or acquisition and rehabilitation of existing units with provision affordability covenants? Are such alternatives available at the developer’s option or with staff approval—but without need for Council or Board approval on a project-by-project basis?
- **Has your jurisdiction adopted a density bonus ordinance consistent with governing state law (Gov’t Code Section 65915)?** Does the density bonus ordinance count mandatory inclusionary zoning units toward the density bonus threshold as required by the recent court of appeal decision in *Latinos Unidos del Valle de Napa y Solano v. County of Napa*, 217 Cal. App. 4th 1160 (2013)?
- **What is the cumulative fee and exaction burden on new housing in your jurisdiction?** This analysis should include not only development fees that are “formally” reflected in published fee schedules, but also include exactions imposed via housing allocation program/ “beauty contests,” community benefits/amenities agreements, CFD annexation requirements, and the like. The analysis should also include fees imposed by other agencies, for example school fees, sewer and water fees, and fees imposed pursuant to an applicable regional Habitat Conservation Plan. The analysis should determine the % of the sales of price of new housing in the jurisdiction is represented by the cumulative fee/exaction burden, as well as the % of costs for rental housing units represented by the cumulative fee/exaction burden.
- **Does your jurisdiction have any recently adopted, proposed, or under consideration new or increased fee or exaction, such as an affordable housing impact fee?**
- **Has your jurisdiction required new housing projects, including multifamily/attached projects, to pay a fee or special tax for ongoing general governmental services?**

- **Does your jurisdiction have a designated Priority Development Area (PDA)? Is it a “planned” or “potential” PDA?** Have the number of residential units and densities shown in the PDA application been incorporated into the General Plan? Has the CEQA process been completed for the PDA so that no additional CEQA review is necessary for a proposed project consistent with the PDA? Have development restrictions and processes been streamlined in the area covered by the PDA?
- **What were the sites relied on for the adequate sites compliance of the existing housing element?** What has been the entitlement/development activity for these sites during the prior planning period? Were any of the sites subject to “by right” development procedures?
- **Does your jurisdiction have any type of cap or limitation on the number or type of housing units that may be permitted or constructed jurisdiction wide or in specific areas of the jurisdiction—including a cap or limitation tied to a specified level of new job creation in the jurisdiction?**
- **Has your jurisdiction provided for “by right” housing development in any areas?**
- **Are there zoning or other development restrictions (such as voter approval requirements, density limits or building height restrictions) that have impeded infill and/or transit oriented development?**
- **Has your jurisdiction consistently demonstrated compliance with both the letter and spirit of the Permit Streamlining Act?**
- **What are your jurisdiction’s historic preservation policies and review procedures and have they had a significant impact on the permit and entitlement processes for new development projects?**
- **Has your jurisdiction adopted an ordinance pursuant to the Quimby Act that gives developers credit for private open space?**
- **In implementing the Quimby Act, does your jurisdiction provide for consistency between the calculation of the existing neighborhood and community park inventory, and the criteria and procedures for determining whether to accept land offered for parkland dedication or to give credit for private open space?** For example, has your jurisdiction refused to accept an area in whole or in partial satisfaction of the parkland dedication ordinance on the basis that it is unsuitable for park and recreational uses even though the area is substantially similar to areas included in the overall parkland inventory used to calculate the parkland dedication requirement and fee?
- **In the project review process, has your jurisdiction required developers to use the Bay Area Air Quality Management District’s CEQA Thresholds of Significance for Toxic Air Contaminants (TAC Receptor Thresholds)?** Has your jurisdiction explored alternative procedures for addressing project siting and air quality concerns, such as in the general plan or zoning code?

- **Has your jurisdiction adopted a Climate Adaptation Plan that is more stringent with respect to the per capita GHG reductions for the land use sector/transportation sector than the equivalent per capita targets established for the region by CARB pursuant to SB 375?**

Our organizations intend to monitor housing element updates throughout the region, and we respectfully request that your jurisdiction formally respond to these questions early in the update process. We also ask that you send a paper or electronic copy of the responses to:

BIA of the Bay Area
Attn: Paul Campos
101 Ygnacio Valley Road, Suite 210
Walnut Creek, CA 94596
pcampos@biabayarea.org
415-223-3775

Yours very truly,



John Coleman
Bay Planning Coalition
Council



Paul Campos
BIA Bay Area



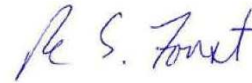
Tom Terrill
East Bay Leadership



Gregory McConnell
Jobs & Housing Coalition



Cynthia Murray
North Bay Leadership Council



Rosanne Foust
SAMCEDA



Jim Wunderman
Bay Area Council



Joshua Howard
California Apartment Association

From: Paul Campos [<mailto:pcampos@biabayarea.org>]
Sent: Tuesday, June 10, 2014 11:20 AM
To: Sargent, Maryann
Cc: McDougall, Paul@HCD
Subject: Comments on City of Oakland Draft Housing Element

Maryann Sargent
Housing Development Coordinator
City of Oakland

Dear Ms. Sargent:

The Building Industry Association of the Bay Area (BIA) respectfully submits these comments on the City of Oakland's draft 2015-2023 Housing Element. BIA is a non-profit trade association that represents hundreds of companies and thousands of employees in the building, development, and construction industries throughout the Bay Area. BIA has builder members that are currently building and entitling projects in Oakland, as well as members that were previously active in Oakland but are not now.

Goals, Policies, and Actions

- BIA supports Policy 1.1.5 calling for creation of a Housing Incentive Zoning program. BIA believes this implementation measure should be written in a way that the City commits to work with market rate housing developers (those currently active in Oakland and those that may be interested if certain policy reforms are enacted) to develop an incentive program that when adopted will result in a meaningful increase in the number of market rate units built in Oakland. In implementing this measure, BIA believes it is imperative to describe the effort as one that will provide true incentives to build--rather one that takes the perspective of "what additional exactions/fees/amenities can the City get if we modify or remove constraints to development?" This is an important distinction and BIA believes only the former approach will lead to fulfillment of the City's oft-stated goal of becoming a major destination for private sector residential development investment. BIA is concerned that the way this program is currently described in the May 15, 2014 staff report falls on the wrong side of this distinction. This is especially important for the areas Oakland has designated as Priority Development Areas (PDAs) in Plan Bay Area, as the purpose of PDAs is to identify areas where development will be streamlined and encouraged through the removal of building constraints because it is in the appropriate location and of the proper place type. The purpose of PDA designations is not to impose additional fees or extractions on PDAs in "exchange" for developing at the height and density that makes sense economically and environmentally.
- Along these lines, for those areas in the City that are Priority Development Areas (PDAs) in Plan Bay Area, BIA suggests that the Housing Element contain an implementation measure that commits to developing a program for development "by right" under appropriate circumstances. The appropriate circumstances could be fleshed out as part of developing the Housing Incentive Zoning program.

- The Housing Element should commit to revising building height restrictions citywide so that they are no longer a constraint to housing development. Developers have specifically identified building height limitations as a significant constraint and BIA suggests that the Housing Element commit to address this issue. Considering both construction cost and building code issues, BIA recommends the following height limitation categories:
 - 35'-40' for 3 stories
 - 65' for 5 over 1 story podium
 - 85' for 5 over 2 story podium
 - 120'
 - Above 120'
 - For every 1' of retail clear height above 12', the building height should increase a commensurate 1' (e.g., if a developer proposes a 15' clear, then the building height can increase by 3')
- The Housing Element should include an implementation measure that commits to reducing parking ratios wherever a TDM plan is required and for transit corridors and where care sharing programs exist.
- BIA strongly opposes including a reference to studying an affordable housing impact fee in the Housing Element. Including this measure in the Housing Element sends precisely the wrong signal to private developers looking to invest in Oakland. These fees are effectively taxes on new housing construction and are strongly opposed by the building industry. In contrast, Oakland could send a very strong positive signal to the development community region wide by deleting this language from the draft Housing Element and putting this idea to rest for at least the current Housing Element cycle. As the City's own statistics show, in the last 7 years over 33% of all new units in Oakland have been for Low AMI households. This far exceeds what other communities in the Bay Area have done. And this has been done without an affordable housing fee imposed on new market rate housing. Certainly, providing for affordable housing in the future is important but it should not be financed by imposing what is essentially a tax on market rate housing.
- Similarly, the Housing Element should be clear that the City will not attempt to extract "community benefits" or other exactions based on a City calculation of developer profitability/feasibility. Fees and exactions should only be considered and assessed in order to mitigate the the need for public facilities specifically caused by the new development.
- With respect to exploration of developing a formal transportation impact fee program, BIA is generally supportive of this approach as it allows for individual projects to pay their fair share of needed infrastructure improvements in an efficient manner. Again, however, the fee program should be supported by a rigorous nexus study and environmental review (so that it can satisfy CEQA case law on the use of fee programs to mitigate project and cumulative transportation impacts).
- The Housing Element should commit to seek a balance between the respective rights of tenants, their neighbors, and building owners/landlords with respect to significantly disruptive tenants. A lack of balance between tenant due process and the peace and

enjoyment rights of other building residents is a constraint to the development of additional market rate rental housing.

Thank you for the opportunity to comment,

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BUILDING INDUSTRY ASSOCIATION

From: Nur Kausar [<mailto:nur.kausar@eahhousing.org>]
Sent: Thursday, June 12, 2014 4:18 PM
To: Sargent, Maryann
Cc: Benny Kwong
Subject: EAH Housing comments on draft Oakland Housing Element

Hi Maryann,

Benny Kwong attended yesterday's housing element meeting on behalf of EAH Housing. To follow up, EAH has the following comments on Section 7 - Goals, Policies and Actions:

2.5 More specific language that encompasses lower income to very low income senior housing preferred

2.7.2 We support the expedited commission of an affordable housing impact fee nexus study, and subsequent adoption by Oakland, as surrounding jurisdictions such as Berkeley, San Francisco and Emeryville either have the fee or have completed a nexus study and are implementing

2.10.1 is a bit unclear – are these areas with low concentrations of poverty going to be part of the PDAs identified? And will there be some regulations in place to ensure homeless, at-risk, extremely low and very low income populations will have access to such developments, along with low and moderate? In other words, will these projects be mixed-income so a high concentration of one population over another doesn't occur?

2.10 in general, what about areas with high concentrations of poverty, in terms of future development and incentives for equity?

7.2.4. Will goals and rules in the housing element for promotion of water conservation include new city-wide rebate programs?

7.3/7.3.5 According to report by the California Housing Partnership Corporation, AFFORDABLE transit-oriented development would have the greatest impact on reducing carbon emissions and this section should include an action specific to affordable TOD, not just TOD. See report here: <http://www.chpc.net/dnld/AffordableTODResearchExecSummary.pdf>

That's all for now. Thank you for taking the time to collect this information from the public. We truly appreciate it.



Nur Kausar
Policy and Communications

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www.eahhousing.org | [Twitter](#) | [Facebook](#)

"Creating community by developing, managing and promoting quality affordable housing since 1968"

From: Carlos Castellanos [<mailto:Ccastellanos@ebaldc.org>]

Sent: Monday, June 16, 2014 4:53 PM

To: Sargent, Maryann

Cc: Jared Wright; Ener Chiu

Subject: RE: Comments on 2015-2023 Housing Element

Maryann,

Please accept the following comments by EBALDC on the 2015-2023 Oakland Draft Housing Element:

As the City considers amending its NOFA scoring criteria to reflect prioritization of projects located in Priority Development Areas (PDAs), we request that:

1. EBALDC projects located in close proximity to existing PDAs, or within planned PDAs, will continue to be considered for future funding allocations.
2. The planned PDA along International Boulevard between the Downtown/Jack London Square and Fruitvale PDAs be included in future NOFA scoring criteria. The City has placed a priority on the OSNI effort to provide affordable housing and this Planned PDA includes a very important segment of International Blvd.

Thanks for soliciting feedback on the Housing Element. I hope you will continue to consult with Jared, Ener and myself from EBALDC as the process continues.

Carlos

Healthy Neighborhoods start with you! Help build vibrant communities by making a donation to EBALDC today.

Mark Your Calendar for:

EBALDC's 39th Anniversary Celebration on October 16th

Carlos Castellanos
Director Real Estate Development
East Bay Asian Local Development Corporation
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ccastellanos@ebaldc.org

From: [Jared Wright](#)
To: [Sargent, Maryann](#)
Subject: Priority Development Areas Clarification
Date: Thursday, June 12, 2014 4:56:45 PM

Hi Maryann,

Just a quick point of clarification:

The Priority Development Areas-Planning Area Boundary Map on page 337 of the Housing Element shows about nine separate boundary areas, covering most of Oakland. I think you mentioned at the meeting that six PDAs have been officially adopted or approved. On the City website, six PDAs are listed here:

http://www2.oaklandnet.com/Government/o/CityAdministration/d/EconomicDevelopment/s/BID_CBD/index.htm

. Only West Oakland shares the same label with the map on page 337 and none of the areas specified on the website correspond exactly with the map. Are PDAs going to encompass these large areas represented by the housing element map or very small, specific focus areas as represented by the six PDAs listed on the website?

Thanks,

Jared Wright
Project Assistant
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EBHO

EAST BAY HOUSING ORGANIZATIONS

www.ebho.org

June 16, 2014

Maryann Sargent
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City of Oakland
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Oakland, CA 94612

RE: City of Oakland Draft Housing Element for 2015-2023

Dear Ms. Sargent:

Thank you for the opportunity to comment on Oakland's draft Housing Element for 2015-2023. We appreciate the hard work that City staff has done to prepare this document, and we applaud the City's ongoing efforts to preserve and expand affordable housing opportunities for lower income residents of Oakland.

East Bay Housing Organizations (EBHO) is a nonprofit, membership-based organization with over 350 members. For 30 years we have been engaged in education and advocacy on affordable housing issues in communities throughout the East Bay.

Our concerns are outlined below, followed by comments on specific Goals, Policies and Actions in the draft Housing Element. We urge the City to include these changes in the draft prior to submission to HCD for review.

A. Prevention of Displacement and Preservation of Affordable Unrestricted Housing Units

Throughout the Bay Area we are seeing tremendous pressure on rents of existing apartments, including many unsubsidized/unrestricted units that have historically been affordable to lower income households. Oakland is no exception to these pressures. There are two issues here – the impact of displacement on lower income residents and on the fabric of the communities from which they are displaced, and the loss of previously affordable housing resources.

The draft Housing Element does not assess the risk of displacement of lower income households from general increases in market prices and from the impact of new market-rate development. This is of particular concern in areas such as the Priority Development Areas,

where the City, through Specific Plans and through investment of public resources for infrastructure and other improvements, is incentivizing intensive development and actively promoting attraction of higher income housing. Nor does the draft Housing Element assess the impact of losing unassisted housing units that are currently affordable to lower income households. While the City has identified displacement of residents as a key issue and has listed a number of programs that may address it in some way, no plan or program is offered for preventing or mitigating the loss of these valuable assets.

State Housing Element law, at Government Code Section 65583(c)(4), requires housing elements to contain programs to “conserve and improve the condition of existing affordable housing stock,” including units lost to demolition by private or public actions. This provision has been interpreted by the courts and HCD to require programs that conserve and improve the affordability of existing market rate housing as well as programs that conserve the physical condition of the housing.

Recommended policies and programs to prevent displacement and preserve affordable housing:

1. The City should include programs and policies to monitor potential and actual displacement of lower income renters.
2. The City should include programs and policies to assess the risk of loss of affordable market-rate housing, and programs and policies to either prevent such losses or replace such housing with comparable affordable housing, above and beyond any net additions to the housing supply.
3. The City should strengthen anti-displacement programs such as rent stabilization, condominium conversion controls, and relocation requirements in various ordinances including Condo Conversion, Ellis Act, Housing Code Enforcement Relocation, and SRO Conversion.
4. The City should require private developers - particularly in PDAs, Specific Plan Areas, and other areas targeted for development - to adhere to the same relocation and replacement housing requirements that applied to the Redevelopment Agency prior to dissolution of redevelopment. The City through its land use regulations and investments in infrastructure and other improvements is actively targeting areas of the City for development of market-rate housing. These actions have the potential to displace lower income residents. For example, the Broadway-Valdez Specific Plan would destroy 94 units of existing modestly priced housing, displace the current residents, and break up a healthy community.

B. Mixed-Income Housing in Priority Development Areas and Other Areas Targeted for Development

The City has designated large areas of Oakland as either Potential or Planned Priority Development Areas (PDAs), and is preparing Specific Plans and Area Plans throughout these areas. PDAs are intended to be "complete communities" that include housing for a range of income levels. At present, the plans for these areas fall short of this goal because they contain no actual strategy to ensure that housing affordable to very low, low and moderate income residents will be part of the build out of these areas.

The City's strategy for attracting new and more affluent residents to the City should not come at the expense of serving the needs of existing residents. Moreover, many of the jobs that will be created in the PDAs will be relatively low-paying sales, service and clerical occupations, none of which provide sufficient income to afford ever-rising market rents and home prices. Failure to include affordable housing in these areas will only serve to create a jobs-housing imbalance, particularly for lower income households.

Throughout the process of preparing the various Specific Plans, EBHO and other Oakland community members have called on the City to include *mandatory* requirements for developer contributions for affordable housing, through mechanisms such as inclusionary zoning, housing impact fees, and affordable housing overlay zones that allow higher density only if affordable housing is included. In each case, City staff has responded that such policies cannot be adopted for a single PDA or Specific Plan, and that there needs to be a citywide policy. The draft Housing Element is the appropriate document for identification of such a citywide policy, and yet it fails to do so.

Establishment of mandatory contributions for affordable housing will not constrain new development. Cities throughout the Bay Area and throughout the State have established inclusionary housing requirements, impact fees, and other measures that require developer contributions. These have not been a hindrance to development. Oakland's consultant for the Downtown Development Feasibility Study has also indicated that market conditions have improved tremendously in the past year and that the City should adopt a consistent citywide fee policy to secure community benefits.

Several of the City's Specific Plans have been funded in part by MTC's PDA Planning Grant program, which requires that funded PDA Plans include an affordable housing and anti-displacement strategy. Yet the plans currently contain little more than an aspiration that affordable housing will be built in these areas, without any concrete programs identified to ensure that such housing will actually be built.

MTC's grant guidelines call for the following:

Develop a strategy to provide existing and future plan area residents with a range of housing options that are affordable to households at all income levels. The strategy should describe the existing demographic and housing profile of the area, quantify the need for affordable housing, identify specific affordable housing goals for the plan, assess the financial feasibility of meeting the need for affordable housing, and identify strategies needed to meet the affordable housing goals.

To limit or prevent displacement in the area, the strategy should identify how non-subsidized affordable housing units in or neighboring the plan area may be impacted by the plan build-out. The plan should describe existing preservation policies to maintain neighborhood affordability and additional zoning changes or policies needed. The anti-displacement strategy may also include the maintenance and enhancement of small businesses, services and community centers that serve lower-income residents.

The full requirements for the PDA Planning Grants can be found at http://www.mtc.ca.gov/planning/smart_growth/stations/Planning_Elements.pdf. See pages 7-8 in particular.

Recommended policies and programs for inclusion of affordable housing in PDAs and other major development areas and projects:

1. The Housing Element should include specific programs that will be undertaken to ensure inclusion of affordable units in the PDAs and other major development projects. This must be beyond a simple recitation of existing housing policies (most of which are inadequately funded, especially in the wake of dissolution of redevelopment) and will make clear how and when affordable housing will be developed within these areas.

See recommendations below regarding Actions 2.7.2 and 3.3.2.

2. To the extent that the City's strategy includes the use of voluntary incentives and bonuses, the Housing Element should only allow greater height and density (or other incentives and bonuses) if such changes are accompanied by provision of affordable housing. If the City enacts such changes in the absence of an affordable housing requirement, then it will have even less to offer as bonuses and incentives. This should be clear from the fact that the City's existing density bonus has rarely been utilized by private developers because currently allowable height and density already exceed what developers seek to build.

C. Annual Public Review

For many years, the City has completed and submitted to the State an Annual Progress Report on Housing Element Implementation. However, this report is not subject to public review and comment. Essential to the successful implementation of a plan that extends over an eight-year time period is regular annual reporting that allows the public, staff, the Planning Commission and elected officials to see what progress is being made, and to assess what's working and what isn't and make adjustments if needed.

Recommended policies and programs for annual public review:

1. The City should include in the Housing Element a program that commits the City, by April 1 of each year, to prepare and submit to the California Department of Housing and Community Development (HCD) an Annual Progress Report on the Housing Element in the format prescribed by HCD. The City should also conduct annual review public hearings before the Planning Commission and the City Council that will include consideration of the Housing Element Annual Progress Report as defined in Government Code Section 65400(a)(2)(B).

D. Comments on Specific Policies and Actions in the Draft Housing Element

In addition to the general policy and program recommendations above, we urge the City to make the following changes in the chapter on Goals, Policies and Actions.

Action 1.1.3 – Sale of City-Owned Property. There is no provision for affordable housing. Note that State law requires cities to offer surplus property to affordable housing developers first.

We urge the City to include the following language:

In disposing of City-owned properties, the City will give first priority to affordable housing on these sites. For those sites that are sold without affordable housing requirements, 25% of the proceeds of such sales shall be deposited to the Affordable Housing Trust Fund.

Action 1.1.5 – Housing Incentive Zoning. Reliance on incentives alone is unlikely to be successful. This has already been confirmed by the City's own consultant on the Downtown Development Feasibility Study, AECOM. in its letter dated March 12, 2014, which explicitly recommends establishment of a citywide development fee rather than use of incentives and bonuses. City staff admits that existing density bonuses have not really been effective at incentivizing affordable housing. In the context of multiple Specific Plans that will provide

additional height and density to existing zoning, there are even fewer prospects for meaningful and effective incentives and bonuses.

Policy 1.3 - Appropriate Locations and Densities for Housing. Actions 1.3.1 through 1.3.6 indicate the potential for development of over 17,000 units in 6 planning areas, yet there is no plan whatsoever to ensure development of affordable housing. With the exception of Brooklyn Basin, there isn't even a plan to ensure that at least some opportunity sites will actually be used for affordable housing, and in Brooklyn Basin there is no feasible plan for financing development on the affordable housing sites.

The City should identify specific actions that would ensure that sites are not just adequately zoned for affordable housing, but that they will in fact be available for affordable housing development. The City should include specific actions to promote land-banking (or funding nonprofits to do site acquisition), as well as including in any mandatory housing requirement (inclusionary zoning, impact fees, etc.) an option that incentivizes private developers to dedicate land suitable for affordable housing within the PDAs and other major development areas, particularly in locations within 1/4 to 1/2 mile of transit.

We urge the City to include the following language in Policy 1.3:

The City will consider policies within these areas that (a) promote land banking for affordable housing development, (b) assist affordable housing developers to acquire sites, and (c) encourage and provide incentives to developers to make land available within these areas for development of affordable housing

Policy 2.2 - Affordable Homeownership Opportunities

Policy 2.4 - Permanently Affordable Homeownership

We encourage the City to modify these Policies and Actions to more explicitly support and encourage permanently affordable home ownership through support and coordination with Community Land Trusts, limited equity cooperatives, and other models, including recommendations that have been submitted by community land trust organizations.

To increase the supply of permanently affordable homeownership opportunities available to low-income residents and to retain the public's investment in affordable housing, we urge the city to assure the long-term affordability of these properties through the use of effective resale restrictions in partnership with local community land trusts or through other means.

Programs including ROOT, the Community Buying Program, and a potential Scattered-Site Acquisition and Rehab Fund have great potential to ameliorate the fallout from the foreclosure crisis, which is crucial. However, given significant investment of City resources in these

programs, we hope to ensure that the long-term affordability of assets in these programs be protected.

The City should also add, as a separate action, the following:

Action 2.2.6. Inclusionary Zoning

The City will consider adoption of an inclusionary zoning ordinance that requires new ownership developments to include a specified percentage of units with sales prices and resale restrictions that make such units permanently affordable to low income households. The City will also consider alternative compliance options, such as deposit of an in-lieu fee to the City's Affordable Housing Trust Fund, and dedication of land for development of affordable housing.

Actions 2.7.2 and 3.3.2 - Impact Fees. We appreciate that the City is moving forward to conduct a nexus study for a possible housing impact fee. However, there is no time frame specified for completion of the nexus study and presentation of recommendations to the City Council. State law requires that programs identified in the Housing Element must have a specific timetable for completion. The nexus study should be completed and policy recommendations presented to the City Council not later than Dec 2014. Given the uncertainty about the outcome of pending litigation challenging inclusionary zoning requirements for ownership housing, the nexus study should cover both rental and ownership development to allow the City to use impact fees for both types of development.

In the meantime, it is imperative that the City send a signal to the development community about potential policy changes. Developers of market-rate housing have indicated that they are willing and able to comply with mandatory requirements, provided they know in advance what those requirements are so they can incorporate those costs into their planning. Above all, developers want the City to provide predictability and consistency.

We urge the City to include the following language:

The City is committed to equitable development in Specific Plan Areas, Priority Development Areas (PDAs) and large development projects that provides housing for a range of economic levels to ensure the development of thriving, vibrant, complete communities

The City intends, as part of a citywide community benefits policy, to require developers in Specific Plan Areas, PDAs and large development projects to make contributions to assist in the development of affordable housing, through options that may include impact fees, land dedication, and inclusionary zoning. Among other actions, the City will conduct a nexus study and an economic feasibility study to evaluate new programs to

achieve this objective, including inclusionary zoning and impact fees for new housing development. The study will be completed no later than December 31, 2014.

The City will also consider programs for acquisition and land banking of opportunity sites in these areas to ensure that development of affordable housing takes place within the Plan Area, and doesn't simply generate fee revenue that builds affordable housing elsewhere.

Policy 4.3 – Housing Preservation and Rehabilitation. The draft Housing Element outlines a number of programs designed to assist lower income homeowners to preserve their homes, However, there is no discussion of the potential loss of privately-owned rental housing that is currently affordable to lower income families. State Housing Element law (Gov't Code 65583(c)(4)) requires inclusion of a program to mitigate the loss of units demolished by public or private actions. This is especially important since the Broadway Valdez Specific Plan entails demolition of 94 units of housing. This is also the appropriate place for inclusion of one or more programs to track the loss of unassisted housing that is currently affordable due to increases in rents and to mitigate such losses so as not to exacerbate existing needs.

We urge the City to include the following language:

The City will require one-for-one replacement, with units of comparable size and affordability, of any housing units lost to demolition, conversion or new development.

Policy 5.6 – Condo Conversion. We are opposed to any modifications to the Condominium Conversion Ordinance that would make it easier for such conversions to occur. Promotion of affordable homeownership opportunities must not come at the expense of losing valuable rental housing resources. Instead, the City should commit to considering changes to the ordinance that close gaps and loopholes that leave many rental units vulnerable to conversion.

We urge the City to include the following language:

The City will review the existing Condominium Conversion Ordinance and consider changes that include all 2-4 unit buildings within the scope of the ordinance, ensure that "conversion credits" are provided *only* by projects that permanently add rental units to the housing supply after an application for a proposed condo conversion is submitted, and that specify requirements for Tenant Assistance Plans that provide security of tenure and stability of rents for existing occupants.

Action 7.3.2 and 7.3.3 – Transit-Oriented Development and SB 375 Implementation. We applaud the City's commitment to using land use and development policy to reduce Greenhouse Gas (GHG) emissions by encouraging higher density housing close to transit. This

section should acknowledge that greater reductions are possible if affordable housing is included in TODs and PDAs, since lower income households are heavier users of transit. Please see the recent study by TransForm and California Housing Partnership Corporation, available at http://www.transformca.org/sites/default/files/why_creating__preserving_affordables_homes__near_transit_is..._report.pdf

In conclusion, we reiterate our appreciation for the City's past efforts to provide housing affordable to all Oakland residents. The City is currently undergoing substantial housing market pressures and significant interest from private developers. While such development can bring many benefits, it also carries the risk of displacement of lower income households, lost of affordable unassisted rental housing, and development of homogeneous upper income enclaves rather than vital, diverse complete communities serving all economic levels. We hope the City will make the changes we have outlined above prior to submitting the draft Housing Element to the State for review.

Sincerely,



Jeffrey P. Levin
Policy Director

cc: Oakland City Council
Oakland Planning Commission
Mayor Jean Quan
Henry Gardner, Interim City Manager



EAST BAY HOUSING ORGANIZATIONS (EBHO) FRAMING PAPER ON GENTRIFICATION, DISPLACEMENT AND PUBLIC BENEFITS IN OAKLAND MAY 2014

While a lot of attention is being paid to gentrification and displacement in San Francisco, these issues have become far more important in Oakland as well.

As the housing market rebounds, and with a regional focus on more intensive transit-oriented development, Oakland is actively seeking to develop 7,500 new units of housing. While we welcome new investment to Oakland, we must ensure that this investment benefits the existing residents of the city. Neighborhood revitalization that forces lower income people out of their neighborhood and their city is not sustainable community development.

Our efforts around this are two-fold. First, we support measures to ensure an expansion of affordable housing, particularly in the Priority Development Areas. Second, we support anti-displacement measures such as tightening the rent stabilization ordinance and strengthening the condo conversion ordinance in order to prevent displacement of lower income residents and preserve existing affordable housing resources.

Oakland already has a tremendous unmet need for affordable housing - something that's painfully obvious from the numbers of lower income households paying more than 30% of their limited income for rent, and often paying more than 50% of their income. Every day we hear stories of tenants pushed out by higher rents. And it is becoming increasingly difficult for lower income households to find affordable, quality rental housing, as they are being priced out by an influx of more affluent residents.

Oakland also has tremendous future needs - job growth in Oakland and the Bay Area will draw new residents to Oakland. Oakland is in the midst of updating its Housing Element, and for the 2015-2023 period, it must accommodate the development of new housing totaling nearly 15,000 units, including over 4,100 units for very low and low income households.

With the demise of redevelopment, Oakland no longer can finance affordable housing to the degree it could in the past. Developers of market-rate housing need to do their fair share and contribute to the development of affordable housing. Most new development will take place in Priority Development Areas (PDAs) and along transit corridors where new development is particularly attractive because of (a) public investment in transportation and infrastructure, and (b) rezoning to encourage higher densities. As a result, land values in these areas could rise significantly. We need a Community Benefits policy that ensures that the community gets some share of the new value that it is creating, by requiring the inclusion of affordable housing units or the payment of a housing impact fee to the City for the financing of new affordable housing. If such policies are implemented early, developers could absorb the cost of such contributions - most likely they would do so by not paying as much for land. In this way, instead of the benefits flowing primarily to owners of land, some of the value that is created by public action can be captured in the form of public benefits.

EBHO RECOMMENDATIONS FOR POLICIES ON EXPANSION OF AFFORDABLE HOUSING, PREVENTION OF DISPLACEMENT, AND PRESERVATION OF EXISTING HOUSING

EBHO advocates the establishment of citywide policies to ensure inclusion of affordable housing in PDAs and other major development areas, and to prevent displacement of lower income residents. We also seek inclusion of these policies in individual Specific Plans. **We recommend the following language:**

DEVELOPMENT OF HOUSING FOR A RANGE OF INCOMES AND NEEDS:

The City is committed to equitable development in Specific Plan Areas, Priority Development Areas (PDAs) and large development projects that provides housing for a range of economic levels to ensure the development of thriving, vibrant, complete communities

The City intends, as part of a citywide community benefits policy, to require developers in Specific Plan Areas, PDAs and large development projects to make contributions to assist in the development of affordable housing, through options that may include impact fees, land dedication, and inclusionary zoning. Among other actions, the City will conduct a nexus study and an economic feasibility study to evaluate new programs to achieve this objective, including inclusionary zoning and impact fees for new housing development. The study will be completed no later than July 1, 2015.

The City will also consider programs for acquisition and land banking of opportunity sites in these areas to ensure that development of affordable housing takes place within the Plan Area, and doesn't simply generate fee revenue that builds affordable housing elsewhere.

PRESERVATION OF AFFORDABLE HOUSING AND ANTI-DISPLACEMENT POLICIES

The City will take measures to ensure that higher density and mixed-use development close to transit avoids displacement of existing lower income communities and preserves existing affordable housing resources.

The City will strengthen existing policies and adopt new policies to prevent displacement of existing residents and preserve existing housing affordable to lower income residents, including both publicly-assisted and non-assisted housing that currently has affordable rents. This may include, among other policies, the following:

- Strengthen the Rent Stabilization Ordinance.
- Strengthen and harmonize relocation benefits under the City's Ellis Act Ordinance, Code Enforcement Relocation Ordinance, and SRO Preservation Ordinance.
- Strengthen the City's Condominium Conversion Ordinance by extending protections to 2-4 unit buildings throughout the entire City, eliminating provisions that allow condominium conversion credits to be generated by existing housing rather than newly developed housing, and establishing mandatory tenant protections as part of the requirement for Tenant Assistance Plans.
- Require one-for-one replacement, with units of comparable size and affordability, of all housing units demolished or converted to non-residential use by either public or private action. These replacement units should not be counted toward meeting the City's RHNA requirement, given that they maintain but do not increase the affordable housing stock.
- Develop and implement programs for the acquisition and rehabilitation of existing rental housing and its preservation as permanently affordable housing for lower income individuals and families.



KNOWING YOUR ROLE

HOW NONPROFITS CAN BE A PART OF THE FORECLOSED PROPERTIES CONVERSATION IN THE EAST BAY



A Report Produced by East Bay Housing Organizations (EBHO) with support from Citi.

By Andrew Matsas
February 2014

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Images: Formerly foreclosed homes developed by Hello Housing and owned and Managed by HCEB.

Document Design: Courtesy of Pyatok Architects

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INTRODUCTION

The foreclosure crisis hit half a decade ago but its repercussions are still being felt by cities across the nation. In November 2013, Bloomberg Businessweek questioned whether the United States is reentering another housing bubble, as markets such as the Bay Area are setting record high home prices which continue to rise beyond the reach of many households.¹ One of the most significant repercussions is the large volume of single family homes that have been acquired by institutional investors and others with access to private equity capital. This ownership concentration of single family housing stock has already significantly raised the market rate for rents in markets hit hardest by foreclosure.

These properties are coveted by private actors, the public sector, and nonprofit organizations alike as a significant real estate portfolio opportunity in the aftermath of the foreclosure crisis. Nonprofit developers and affordable housing organizations, along with federal and local governments have been seeking the acquisition and management of single-family homes in order to stabilize the housing market in local communities. With the collapse of Redevelopment Agencies in California and the general decline in federal funding for affordable housing, nonprofit developers and affordable housing organizations should consider the opportunity to use single-family properties on scattered sites as an alternative supply of affordable housing.

This report aims to help guide nonprofits in the East Bay that are interested and engaged in foreclosure recovery and neighborhood stabilization with best practices to address the challenges of building a scattered-site rental portfolio. Even though this report focuses its findings on nonprofit developers in the East Bay, it is also important to acknowledge the various ways to approach these topics of affordable housing and the foreclosure crisis.

Some background on the current post-foreclosure situation in the East Bay is needed to provide context about the various conditions and highlight current challenges approaching these vacant and real-estate owned (REO) properties. From there, pragmatic solutions are recommended to help nonprofit groups figure out

what avenue is sensible, financially feasible, and will lead to a successful operation. These solutions highlight the need for nonprofits to have organizational flexibility, balance their community development mission with a private-sector mentality, and understand local market conditions and policies that factor into acquisition and management. The report concludes with interviews with four entities – Hello Housing, Housing Consortium of the East Bay, Federal Reserve Bank of San Francisco, and the City of Oakland – to highlight emerging best practices in the East Bay.

BACKGROUND CONTEXT OF EAST BAY

The Bay Area has been one of the hardest hit regions in California for foreclosed properties, leading to decreased property values and subsequent loss of tax revenue as well as a growing concern for blight and health for communities immersed in foreclosures. However, the East Bay has seen significant variation in current conditions. For example, in Richmond, over 400 homes are in some status of foreclosure.² Foreclosed properties are spread throughout Richmond, with a substantial amount in affluent neighborhoods such as Point Richmond and Marina Bay – but these neighborhoods have seen little blight due to their desirable waterfront locations and local amenities.³ The housing market there is bouncing back, whereas low-income communities of Richmond with many foreclosed homes, such as the Iron Triangle neighborhood, continue to struggle. According to UC Berkeley's Center for Community Innovation, cities with newer homes as a large segment of their real estate portfolio – such as Antioch and Richmond – are seeing the market recover more quickly. Cities such as Baypoint and Pittsburg, with older homes located in poorer neighborhoods, are having a tougher time bouncing back.⁴ Oakland, the largest city in the East Bay with a wide range of housing types and neighborhoods, has seen wild swings in value and great variation between neighborhoods. In many of these hard-hit cities, lenders have not provided security and maintenance for REO properties, perpetuating blight and decreasing the value of real estate nearby.

A growing issue for all involved is “zombie” properties – foreclosed homes lost in an intermediary state of vacancy

1. Weise, Karen. “Are We Already Back in a Housing Bubble?” Bloomberg Businessweek 07 Nov. 2013: n. pag. Bloomberg Businessweek. Bloomberg L.P., 07 Nov. 2013. Web. Nov. 2013.

2. Palomino, Joaquin. “Zombie Properties Spread in Richmond.” East Bay Express: 09 Oct. 2013. Web. Oct. 2013.

3. Said, Carolyn. “Pricey Homes in Richmond’s Eminent Domain Plan.” SF Gate. Hearst Corporation Inc., 20 Aug. 2013. Web. Oct. 2013.

4. Perkins, Kristin. A Snapshot of Foreclosure in Contra Costa County. Rep. Center for Community Innovation, July 2008. Web. Oct. 2013.

before a finalized foreclosure. Owners vacate their homes in the midst of the foreclosure process, abandoning the property without realizing they are still liable for property taxes and any other expenses that come with home ownership. During this process, the previous owner may still be liable for the property and the lenders following through with the foreclosure do not maintain the property. This backlog of properties is a growing issue in cities such as Richmond and Oakland, where the amount of underwater mortgages is high. With an abundance of “zombie properties” comes with a loss in potential revenue in taxes for the cities. Blighted properties also devalue the local housing market. During this process, not only are the homes in limbo but the postponing of foreclosures affects the ability for homeowners to recover. The families that were displaced also have a hard time rejoining the housing market, with their subsequent poor credit. With less real estate on the market due to zombie or vacant properties and demand still high, the costs of the small supply of local properties are rising sharply.

Distinctive in the East Bay is Oakland, a hot market with a housing stock averaging about 50 years old. During the second quarter of 2013, Oakland has become the city with the second highest increase in rising rents nationally, second only to San Francisco. Of the over 10,000 foreclosed homes in Oakland, 81% have reverted to REO status due to lack of capital. But due to its location and relative affordability, Oakland lately has been a very attractive market.⁵ Taking a closer look, private financial institutions and investors have been moving into Oakland with the cash needed to acquire real estate in bulk. Investors captured 42% of foreclosed homes in Oakland since 2007 and 93% of these homes are located in low-income communities. Private investor Community Fund LLC works primarily in East Oakland. It flipped 120 homes as of October 2011, where the average net profit from selling the home reached \$70,721. Another private investor, REO Homes LLC, acquired homes in West Oakland at an average cost of \$128,000 – selling them on average for \$315,000 for an average net profit of \$187,000 per home.⁶

This type of investment is not unique to Oakland. 2011 marked the year when financial institutions and investors started to buy REO real estate for a low price in bulk.

While private investors start acquiring REO and vacant properties, they tend to wait to rehab and sell them until the market recovers in order to capture higher value in their sales. During this process, homes continue to become a source of blight for communities. Simultaneously, the acquisition of real estate by these private developers is tightening the supply of available housing stock, driving up housing prices 64% from Q2 2012 to Q2 2013 in Oakland.⁷ Private investment has become a major source of concern for nonprofit developers, as private capital absorbs another opportunity for affordable housing and continues to destabilize the local economy. The transition of ownership to private investors, many of whom are based out outside of the areas where they are active, is changing the face of neighborhoods, especially places like West and East Oakland with historically high rates of homeownership by people of color. The speed of neighborhood change and displacement has quickened as out-of-town investors take control of local assets and new renters arrive, many of them transplants from San Francisco where skyrocketing rents are driving out both new and longtime residents.

ISSUES TO CONSIDER

These local conditions in the East Bay make it a challenge for nonprofit organizations and developers to participate in the single-family market, but it is imperative that they do so, to advance their mission of providing different types of affordable housing for residents in need. Given shifts and reductions in funding sources, managing foreclosed scattered-site housing is a relatively new area to explore for affordable housing. Nonprofits can help stabilize these communities by holding these properties as locally-managed, well-maintained affordable assets. Below are issues to consider for nonprofit developers in the acquisition, rehabilitation, and management of foreclosed scattered-site housing.

The foreclosure crisis in the East Bay created a wave of displacement among homeowners and left damaging effects on local communities. Yet, from this foreclosure crisis came an opportunity to provide affordable housing through single family homes. With new opportunities came new hurdles, as most nonprofit developers had little or no

5. Lin, Margaretta. “Demonstration of Oakland Property Registry.” Preserving Affordability through Property Management. Federal Reserve Bank of San Francisco, San Francisco. 16 Oct. 2013. Lecture.

6. King, Steve. Who Owns Your Neighborhood? The Role of Investors in Post-Foreclosure Oakland. Rep. Oakland: Urban Strategies Council, 2012. Who Owns Your Neighborhood? The Role of Investors in Post-Foreclosure Oakland. Urban Strategies Council, June 2012. Web. Sept. 2013

7. US Department of Housing and Urban Development. Office of Policy Development and Research. Comprehensive Housing Market Analysis for Oakland, CA 2012. HUD User, 01 Mar. 2012. Web. Sept. 2013

experience handling scattered-site properties, especially single family homes. Given the conditions of the East Bay housing market since 2007, nonprofit developers and other organizations had to consider various issues when acquiring, rehabbing, developing, or managing single-family REO properties. These issues are outlined below – and of course in each market, local nonprofits face external political and economic challenges along with these internal challenges. Many of these issues reoccur throughout the entire process.

CHALLENGES IN ACQUISITION

Access To Property – Competition with Private Investors and Lack Of Initial Capital

Due to poor credit scores following a foreclosure, tightening of lending standards, and the rise in price due to tightening of available housing stock, homeownership has moved out of reach for many moderate-income families. Nonprofits are facing similar challenges. Access to capital has been the crucial component for nonprofit developers in acquiring scattered-site foreclosed properties. Most nonprofit developers had relied on federal funding to acquire properties and current financing has been scattered throughout various programs. Without substantial capital accessible as one streamlined source, smaller nonprofits lose to private investors and private equity firms using cash to dominate the real estate market. Even with a short sale, which gives an opportunity to acquire a property at a lower price, private investors outbid cities and nonprofits.

The Neighborhood Stabilization Program (NSP), created in 2008 through the U.S. Department of Housing and Urban Development (HUD) as part of the federal stimulus package, aims to stabilize communities by providing grants for the acquisition and redevelopment of foreclosed homes. NSP targets specific geographies defined by census tracts on a basis of greatest need factors (e.g. highest rate of foreclosures, subprime mortgages, abandoned homes, etc.). However, these targeted tracts limit the geographic area and subsequent volume of properties nonprofit developers can work with. As a part of its implementation, NSP reevaluates where to allocate funds based on a formula that looks at the number of

foreclosures in vacancies in census tracts. Over time, NSP tracts can change to a new targeted geography, leaving a community that was initially within the census tract now without funding. As communities lose NSP capital, nonprofit developers also find themselves unable to continue their efforts in those communities, relocating to the new targeted neighborhoods. In addition, obtaining NSP funding required an initial 10% discount from the seller to the buyer. This has since then been negotiated down to 1%, but this discount is still a challenge for nonprofits.

Some nonprofits with specific real-estate expertise were able to capture REO homes in partnership with local jurisdictions and capital, but the numbers have been limited. For example, only 16 properties in Oakland were sold through the National Community Stabilization Trust's First Look program in 2012, and the NSP-funded Oakland Community Land Trust got off to a very slow start in reselling rehabbed homes (though as of February 2014, it had acquired 17 houses and have 15 of those under contract with lower-income families).⁸ While a crucial piece of the puzzle, municipal restrictions and federal funding also can inhibit quick and streamlined action. As this federal funding resource for acquisition winds down, nonprofit developers need to find new alternative sources of funding to flexibly compete with private investors.

New Type of Housing Portfolio

With most nonprofit developers accustomed to acquiring one large multifamily property, they now have to learn how to acquire multiple single-family properties. Nonprofit developers now have to work with multiple mortgages, multiple due diligence processes, and the like. Each home can be situated in a different local market, creating a difficulty in streamlining acquisition process. In addition, the sheer increase in volume for a nonprofit developer's portfolio requires more capital for not only the acquisition but the hard costs and soft costs that come with each site.

Regulatory and Policy Barriers

Nonprofit developers also encounter regulatory and external factors that make scattered-site housing tough properties for acquisition. As discussed, nonprofits cannot compete

8. Darwin BondGraham, "The Rise of the New Land Lords." East Bay Express, February 12, 2014.

with well-capitalized private investors solely on their own. Most turn to federal financing and partnerships with local municipalities for subsidies, loans, and grants. Nonprofit developers, when selecting what housing stock to acquire for their portfolio, need to be cautious of municipal boundaries, as properties in multiple cities and counties might create legal and ownership issues. With various governmental financing comes a variety in regulations. Each program has its own set of procedures and layers of approvals. The process of acquiring financing takes time and tends to be too slow to compete with private investors. Federal funding, as important as it is for nonprofits in competing for acquisition, is difficult to work with. Most policies and funding programs are implemented without the flexibility needed for adjustment with local economies and current housing market conditions.

CHALLENGES IN REHABILITATION

Once the properties are under the ownership of nonprofit developers, new challenges arise. Rehabilitation and development of REO homes becomes a difficult process as most REO and vacant homes are poorly maintained. Older housing stock, such as that in Oakland, often needs considerable renovations that require substantial capital. When acquiring multiple houses, nonprofit developers – many of whom are used to working with architects and contractors to create buildings designed to a specific program – now need to consider properties with various styles and materials. The lack of standardization between multiple properties and the new need to invest in multiple large purchases such as laundry machines and furnaces increase the cost of rehabilitation. Similar with the acquisition stage, policy regulations make it difficult for nonprofit developers in the stages of property rehabilitation and development. Code compliances for rehab such as those mentioned in FHA lending guidelines demand standards for nonprofit developers that go beyond what private investors have to accomplish.

CHALLENGES IN PROPERTY MANAGEMENT

Property management for nonprofit developers has traditionally been focused on large multifamily style complexes that bring some economies of scale. Now, as some developers are moving from managing from large multi-unit buildings to multiple single-family houses, the financial and operational challenges of management can become a hindrance to their work. The geographic location of each property is a new factor to consider for property management, as driving and gas mileage become a factor in budgeting. Unpredictable costs – such as carpet replacement – are also magnified and have a higher chance of occurrence with these separated and often vacant properties. With financial difficulties come new concerns for organizational capacity. Nonprofit developers have had a hard time with the need to operate various scattered-site housing units, as their staff was initially suited to manage one or a few locations. The increase of separate managed properties also increases the likelihood of various maintenance problems to arise concurrently, stretching staff thin. Scattered-site management typically can cost 25-30% more than managing traditional multifamily buildings. However, done right, scattered-site property management can break even with the more customary management of multifamily properties. Housing Consortium of the East Bay, a nonprofit developer dedicated to providing affordable housing for those with special needs, finds the operations cost of its NSP-funded Ashland properties to fall between two other small multifamily apartment complexes of theirs.⁹ This is possible due to improved energy efficient measures incorporated into the properties as well as efforts to encourage energy-saving behavior by tenants.

Strategies for Nonprofit Developers

Despite all these challenges, nonprofit developers can have success in capturing these scattered-site single family homes as affordable assets if they create a thorough plan for acquisition, rehabilitation, and management.

9. Lounds, Darin. "The Business Case for Property Management." Preserving Affordability through Property Management. Federal Reserve Bank of San Francisco, San Francisco. 16 Oct. 2013. Lecture.

Understand Regional Economy and Local Market

Before initiating acquisition, nonprofit developers need to understand the market conditions and current situation of potential properties. That means understanding the housing market and the local economy in targeted neighborhoods – as discussed before, rents or home prices can vary quite a bit from one neighborhood to the next especially in mixed-income places like Oakland and Richmond. Internal factors of the neighborhood such as supply and demand, the desirability of stock, public safety, transit accessibility, and area's current economic stability are important to assess. Job growth, population trends, and the community's relation to the city at large are also important factors to consider in the selection of REO homes. Partnering with data-focused organizations such as Urban Strategies Council, or paying for proprietary market information may be worthwhile to gain deep knowledge of “micro-markets.”

Develop a thorough Acquisition Strategy

Nonprofit developers should know not to push the limit of how many properties an organization's staff and capital can handle. During the acquisition process, it is imperative to understand the targeted volume of properties for a developer. Depending on financial feasibility and capacity, it might make sense to bundle mortgages or look into other parallel tracking of purchases. By pooling or having multiple properties in the same timeframe, the program income and revenue gained from one property can cross-subsidize others in a nonprofit developer's portfolio.

Streamline Renovation and Development

Rehabilitation and renovation can become beneficial instead of a hurdle through streamlining and efficiency measures. For example, selecting and purchasing standard fixtures might bring higher up-front costs but easier maintenance and a smaller inventory during the management process. Developers should take into consideration overhead costs and code compliance during renovation stages. A thorough plan before acquisition will help streamline costs. For example, know the style of kitchen, appropriate a budget for new appliances, and salvage items that do not need much repair.

Property Management as Asset Management

Long-term asset management is at the heart of a nonprofit's success. Even before initial acquisition and transaction, nonprofit developers need to plan for long-term property maintenance. Efficiency is key for management: items

such as a maintenance truck, planning routes, and fixed maintenance schedules all help consolidate costs. If the capacity is not feasible, nonprofit developers should look to contract their property management elsewhere.

Partnership is Key

Collaboration is essential in order for a successful nonprofit developer. Partnering with local jurisdictions, other nonprofit organizations, and private institutions will create a stronger platform for acquisition, rehab, and management. With public funds running dry or hard to obtain, public-private partnerships should be considered for initial acquisition capital, maintenance costs, or management costs. Collaboration provides the ability to highlight an organization's strength while the partner balances weaker points of expertise and experience. It is imperative that nonprofit developers know their role in partnerships. If you are a small developer, use your advantage of flexibility and partner up with larger organizations and private investors who have the capital for acquisition. If you know your niche, make it a strength that is attractive for partnerships. Collaboration with private developers needs to proceed with the utmost organization. Understanding motives behind each party involved and setting a concrete business strategy will help build a relationship where everyone can meet their goals.

Other strategies – Policy, Partnerships, etc.

Assist in other elements of the development process. Nonprofit developers need to assess the current conditions of their local markets in order to gauge if current financial and organizational capacity can fit those needs. If development is not feasible there may other opportunities to facilitate success with other organizations. Technical assistance and financial counseling with tenants is crucial in ensuring a successful operation. Community Housing Development Corporation (CHDC) and East Bay Asian Local Development Corporation (EBALDC) are just two of the important nonprofit entities that in addition to developing properties, provide financial education, down payment assistance and pre- and post-purchase counseling for qualified families of REO homes. Intermediaries like LISC and Enterprise Community Partners provide financing assistance but also can advise on issues like “green” property management and transit-oriented development. It is best to either collaborate with nonprofits with technical expertise or, if feasible, become another helping hand in counseling and assistance.

Advocate for Policies that Prioritize and Integrate Affordable Housing Development and Foreclosure Mitigation

As important as acquisition and development is local policy that helps facilitate success and includes nonprofits. Nonprofit organizations need to advocate for proactive policy that reflects and encourages collaboration with community-based organizations and local residents. Well-designed policy can help change private investor behavior, create leverage with financial institutions to ensure their community development investments are directed to city priorities, and can create more opportunity for affordable housing. For example, Oakland's vacant property registration ordinance was developed with the input of community-based organizations and has resulted both in revenue for the city through fees, and in lenders cleaning up their REO properties to avoid those fees (see the City of Oakland case study). "First look" programs, where occupants of REO homes and nonprofit organizations have the opportunity to purchase a property before it goes on the general market, have had some small-scale success. Oakland is pushing to bring this approach further through its Community Buying Program. Nonprofit developers and organizations that work in another East Bay city could reach out to their local municipality to implement policies and programs such as these.

Tap into Local Housing Elements

It is also important to inquire about Housing Elements in the cities you work in – this is the section of a jurisdiction's General Plan that deals with identifying sites, policies, and programs to accommodate housing needs at all income levels. Most municipal housing departments may have affordable housing policies in place for rental housing but might not have the same level of policies in place for homeownership, particularly in the realm of foreclosure response. Too often, creating or preserving affordable rental housing and promoting and preserving homeownership, are seen as completely separate endeavors. It is important for advocates and nonprofits to take a holistic look at the city's housing policies, as expressed in the Housing Element, planning and building codes, and other relevant ordinances. Housing Elements in local jurisdictions should include language that supports partnerships with nonprofit organizations, collaboration with the private sector, and robust input from community stakeholders. The

Housing Element may be of particular interest since cities are required by the state department of Housing and Community Development to update their Housing Elements in 2014.

Team Up with Cities and Community Organizations

With local jurisdictions handling high volumes of properties, nonprofits should present themselves as a resource for swamped city departments. Programs such as Hello Housing's Hello Stewardship assist in affordable housing program administration for local governments. It is important for nonprofits to engage with the range of affordable housing strategies with cities to see how city policies and partnerships can help nonprofits claim these foreclosed properties as affordable assets. In addition to establishing strong ties with local jurisdictions, nonprofit organizations should ensure that the community is involved from the start. This can involve reaching out to stakeholder groups as well as community-based institutions, including faith congregations, organizing groups, policy think tanks and other advocates. These groups add great influence and expertise to the technical and financial knowledge brought by nonprofit housing developers.

Share Successful Experiences and Strategies

The opportunity to share best practices and create relationships is a must for successful nonprofit developers. Events and talks give the chance to hear how other nonprofit developers are finding success – or tackling challenges – in acquisition, rehab, and management of scattered-site housing. Nonprofit organizations such as the California Reinvestment Coalition bring over 200 organizations together to collaborate on stabilizing local communities and advocating with financial institutions. Homeownership SF focuses more on practice, bringing together homeownership and foreclosure-oriented nonprofits in San Francisco. Working groups such as the City of Oakland's monthly Housing Strategies Group, the bi-monthly Foreclosures & Affordable Housing Committee convened by East Bay Housing Organizations, and continuing sessions and publications by the Federal Reserve Bank of San Francisco are existing platforms to create regional and local dialogue. Attending existing meetings, or creating new forums if needed, is crucial to figure out how affordable housing developers can help mitigate the foreclosure crisis.

FURTHER RESEARCH AND NEXT STEPS

This report specifically aims to provide nonprofit developers in the East Bay with insight in acquiring and managing single family homes in the wake of the foreclosure crisis. This is one of many complex issues surrounding the aftermath of the foreclosure crisis, and further research is needed. Future areas to study involve how nonprofits work with cities to obtain data sources about these properties. Sources of proprietary data are expensive and hard to obtain. Collaboration with municipalities is important to provide a relationship between nonprofits and mortgage servicers such as Nationstar and Selective Portfolio Servicing. It is also important to highlight the progressive and unique efforts of cities such as Oakland and Richmond by discussing their efforts in relation to work done nationally. The City of Oakland's Community Buying Program and its distressed mortgage notes and servicer agreement sales pilot program are fairly new. With time, it will be important to evaluate and perhaps re-tool these developing programs. Regular assessments of the work done by local governments and nonprofit developers will help not only showcase successful strategies but highlight next steps for all involved in providing affordable housing.



PROMISING PRACTICES

Interviews from the Field

Nonprofit developers, local city governments, federal agencies, and private organizations are responsible for working together to capture these foreclosed scattered-site properties as affordable assets for communities in the East Bay— collaboration is the key. While difficult, there has been some success already in converting foreclosed properties into affordable housing for local households. The following case studies and interviews demonstrate how some groups are mitigating the foreclosure crisis and developing strategies for nonprofits to acquire, rehab, and manage single-family housing.



Jennifer Duffy

*Director of Business Development
Hello Housing*

Flexibility and Nimble Actions; Private-Sector Mindset; Long-Term Scope and Strategy

Hello Housing started in 2005 as a developer that had a private-sector mentality from the beginning. In its first two years of operations, this nonprofit developer acquired and renovated sixty-one homes in nineteen cities across the Bay Area that had to be custom designed to meet the needs of individuals with physical limitations. Not only did the organization need to create a renovation strategy that would enable the complete redesign of an existing home, but the acquisition process required the approval of multiple stakeholders at a time when sellers were entertaining multiple offers and refusing to extend escrow timeframes to meet the regulated approval process required of the organization. This early experience created expertise and efficiencies within the team that positioned Hello Housing to hit the ground running when the foreclosure crisis hit and revitalization strategies were needed for single family homes across East Bay communities. Hello Housing conveyed ownership of these initial homes to three local, nonprofit developers who own the long-term affordable assets and conduct property management services for the residents.

Director of Business Development Jennifer Duffy takes pride in Hello Housing's ability to be flexible and work with changing housing policies and the landscape of the local housing markets. Due to its relatively small size, Hello Housing has the nimble internal capacity to work quickly and flexibly. They do not have the financial, regulatory, and organizational layers of a larger institution that can impede swift and selective decisions. Hello Housing also embodies not just a mission but a business-like

approach that guides its work. With this mentality, Hello Housing acknowledges its priorities while also adapting with each project and program. Innovation and flexibility are crucial for Hello Housing as it continues to adapt to current conditions in the world of real estate.

Hello Housing has had success in effectively acquiring, rehabbing and selling REO homes throughout Alameda County, knowing how to handle multiple sites across a large geographic area. Hello Housing's acquisition strategy dedicates a lot of time up front before even buying homes to create a standardized system of property evaluation based on their future targets. Every aspect—from kitchen and flooring materials to contractor selection—is planned. Processes are put into place to streamline lender requirements and stages of approval to ensure the efficient delivery of funds will occur throughout the development. The acquisition strategy then becomes a tool for a streamlined process. Another aspect of Hello Housing's strategy is to cast a big net in the pool of real estate. Instead of focusing all resources on a property that might not even be attained, Hello Housing first bids on a large volume of properties. After there is feedback that the acquisition is likely, Hello Housing then assesses each house to see if it is viable and fits with its program. Once its own the property, Hello Housing tends to dedicate majority of its resources—time, finance, and staff—to a small section of its portfolio.

Hello Housing's strategy for acquisition and rehabilitation of REO homes involves collaboration with private developers and lending institutions. From the very onset of the NSP program, Hello Housing worked with a local Community Development Financial Institution (CDFI) to leverage additional capital, allowing the organization to increase its impact within communities three-fold. With public funding hard to attain and drying up, Hello Housing also acknowledges the importance of collaboration with private developers to sustain its work in affordable housing. Hello Housing sees an economy of scale that many private developers achieve

that allows for some projects, initially turned down due to high construction costs, to actually pencil out. Collaboration with any partner requires due diligence and clear expectations. Hello Housing's expectations with its partners, and outcomes for the properties developed together, are established through a legal contract that outlines the standards of renovation that must be achieved and the target population that must benefit from the partnership. Hello Housing monitors the whole process with for-profit developers, visiting sites, reviewing construction documents and ensuring the end disposition of these homes go to households who income qualify. When Hello Housing learned that private investors were looking for more inventory, it used its experience and position as leverage to start the conversation with these for-profit developers. Duffy explained the importance of collaboration with private institutions to best use Hello Housing's capacity and achieve its nonprofit mission.

While Hello Housing had experience and capacity from the onset in the acquisition, rehabilitation, and management stages of REO homes, the initial challenge it faced was property resale to low- and moderate-income families, a common challenge for similar efforts (encountered, for example, by the NSP-funded Oakland Community Land Trust). This new challenge was not a development issue but one of marketing: how to attract working families into a housing market that was so uncertain? In 2009, housing prices were falling, lenders were not lending and most programs created to subsidize potential new homebuyers targeted households at 80% of area median income (AMI) and below. The NSP program was new, it had a broader AMI target (up to 120% AMI) and was being implemented differently by organizations across the East Bay. In an effort to better understand the marketing challenge, Hello Housing worked with fellow peer nonprofit developers to create a regional marketing strategy that would highlight benefits of the NSP program, new homes that were available from different developers, and the community lenders that were interested in providing loans for first time homebuyers. This collaboration with peer developers involved the creation of a homebuyer survey – sent out to homeownership counseling agencies and mailing lists from various developers and municipalities – to better understand what potential homebuyers were seeking, how they were learning about real estate opportunities and what were the biggest barriers they faced to buying a home. Working with a grant, Hello Housing was able to develop HomeHub.org, a website platform for marketing affordable homes for income eligible households, created with general language that is jargon-free and inviting for

anyone without expertise in housing and real estate. As the NSP program comes to an end, Hello Housing plans to work with fellow peer developers, organizations and cities to repurpose the website to continue as a one-stop location to learn about affordable housing opportunities throughout Bay Area communities.



Darin Lounds

Executive Director

Housing Consortium of the East Bay

Success in Specialization; Quality Property Management

Housing Consortium of the East Bay (HCEB) is a nonprofit affordable housing developer that creates inclusive communities for adults with developmental disabilities or other special needs through quality, affordable housing. HCEB oversees properties in twelve cities in Alameda and Contra Costa County, working on acquisition, rehabilitation, and property management. With the foreclosure crisis hitting the East Bay and the end of Redevelopment funds, HCEB has had a difficult time accumulating financing for the development of new, multifamily housing projects. Like many nonprofits, this led HCEB to reevaluate its role in creating and preserving affordable homes. HCEB recognizes its operational strength and funding opportunities in property management and uses its niche to partner with other nonprofit developers. Like Hello Housing, HCEB is a small, nimble organization. In fact, a section of its portfolio is in collaboration with Hello Housing. Hello Housing was awarded development capital through NSP, and HCEB followed up with operations and property management of shared housing for single adults who meet eligibility requirements for state Mental Health Services Act funding, knowing that its role as a niche nonprofit developer/owner provides access to specific funds for management of affordable housing for special needs populations.

HCEB's property management for scattered-site housing has been recognized as a model of success. Its scattered-site housing costs are similar to the costs of operating small-scale multifamily properties, showing that the transition to scattered-site property management can be achieved. Its approach to property management lies in collaboration, communication, and planning. HCEB works with regional nonprofit maintenance companies and specialty vendors in order to provide time-sensitive services to their various properties. A strategy crucial to success lies earlier on with the acquisition of homes. Before obtaining a property, HCEB assesses the piece of

real estate to see if it fits geographically and financially with its portfolio as a whole. Clustered properties create an efficient property management model, as the proximity of properties to each other reduces response times and travel expenses.

There are now efforts to duplicate the scattered-site special needs housing model across the East Bay. Alameda County will utilize HCEB's model for a few properties created through the California Community Transitions Program. The program provides opportunities for people living in skilled nursing facilities to move into affordable rental homes. Collaborating with HCEB and other affordable housing developers, Alameda County is moving people from long-term care facilities to quality, affordable community-based rental housing combined with relevant support services. Looking forward, HCEB acknowledges the need for more public assistance and public-private partnerships. These partnerships are essential in providing resources for nonprofits to acquire, rehab, and operate formerly foreclosed properties. For-profit models do not ensure the property's long-term affordability and quality condition. Bringing properties into an affordable housing portfolio is not only important for tenants but also essential in stabilizing local communities caught in the wake of the foreclosure crisis.



Lena Robinson
*Regional Manager,
Community Development
Federal Reserve Bank
of San Francisco*

Access to Capital; Successful Policy and Partnerships; Regional Awareness

Lena Robinson is a regional manager in Community Development at the Federal Reserve Bank of San Francisco, in which she covers the area of northern California. In this capacity she works to increase access to capital, credit and banking services for low-income communities and households. Robinson has been an active partner in crafting strategies to deal with the foreclosure crisis in the East Bay since the housing market bubble burst in 2007. Throughout the crisis, the Federal Reserve Bank of San Francisco has provided foreclosure data on delinquencies, subprime lending activity, and locations of REO properties to partners throughout its nine state footprint so that these partners could most effectively target resources. These resources may have been helpful to the various consortiums and grantees who applied for competitive grants in the second and third rounds of NSP funding.

From Robinson's perspective, access to capital is the number one barrier for nonprofit developers in acquiring scattered-site foreclosed properties and stabilizing the local housing market. Most nonprofit developers turn to public funding to source their acquisition of properties, which carries a number of regulatory strings and hurdles that impede their ability to nimbly compete with cash buyers. For example, FHA lending and HUD guidelines require a compliance standard for rehabbed properties beyond what private investors would likely do with the same piece of real estate. Hello Housing, after its round of NSP funding has been used to acquire, rehab, and sell their properties, is now seeing program income. Yet, they are unsure if this capital is still tied up in regulations and policies. Robinson acknowledged Hello Housing's inquiry as a clear example of how federal programs and policies at times can limit action for nonprofit developers.

Robinson challenges nonprofit developers and cities to take a more proactive and collaborative stance, applauding nonprofit organizations such as HCEB and Hello Housing as well as the City of Oakland for their leadership and efforts. However, there are not enough organizations like those mentioned to help manage these scattered-site properties. Robinson encourages the notion of nonprofit collaboration with the private sector as public funding is drying up. It is important to realize that nonprofit developers cannot achieve their mission of preserving affordable housing without patient and flexible capital; and that may need to come from a variety of sources.

Robinson also stresses the importance of knowing the local market conditions in context of the region at large. Nonprofit developers, with limited capacity and capital, need to be strategic in selecting where they put their resources and efforts. Successful nonprofit strategies for scattered-site housing begin with understanding neighborhood housing demands, most often working in "warm market" communities. Nonprofit developers also should consider factors such as job growth, the volume and quality of local amenities, and accessibility to transit when selecting properties.

The Federal Reserve Bank of San Francisco is gearing up for a consumer finance survey it conducts every three years. Robinson is hoping that the report will help reveal data and information concerning long-term repercussions from the foreclosure crisis in the East Bay that could help inform interventions going forward.



Margaretta Lin

*Director of Strategic Initiatives
Department of Housing and
Community Development,
City of Oakland*

Municipal Leadership; Proactive Policies:

Margaretta Lin oversees foreclosure recovery programs within the City of Oakland. This local jurisdiction has been acknowledged in the East Bay as a leading example of a city government taking a proactive stance against the foreclosure crisis, with assertive programming early in the aftermath of the housing market crisis. The City of Oakland is leading the East Bay in showing the importance of cross-partnerships with the private, public, and nonprofit sector. Knowing that it has the political capital to work with the financial institutions and government-sponsored enterprises (GSE), Oakland plays a strong role as a broker between developers and lenders.

The City's newest foreclosure response, the Community Buying Program, initiated an organized and collaborative effort to mitigate the damaging effects of vacant homes and prevent displacement of residents struggling with foreclosure. The Community Buying Program connects abandoned properties with developers who can purchase and rehab those homes and then help find low- and moderate-income homebuyers or renters. Hello Housing is the program administrator, working to facilitate various nonprofit and for-profit developers dedicated to working on scattered-site properties. With Oakland taking leadership, the biggest hurdle now is the lack of nonprofit developers comfortable with scattered-site housing. The structure plans to have Hello Housing eventually independent of the City once the communication with the financial institutions has been established. The program also aims to have a large influence in hard-hit neighborhoods in Oakland. With these robust goals the city needs a high volume of nonprofit developers with expertise and efficiency in handling scattered-site housing.

The Community Buying Program is aligned with other efforts to tackle the city's foreclosure problem. In 2011 the city changed its regulations on property registration, implementing an ordinance that encompasses a higher volume of houses affected by the foreclosure crisis. Most municipalities require the registration of REO vacant properties. The City of Oakland included vacant and occupied properties of both REO and Notice of Default homes, asserting its proactive approach. The city monitors the condition of all registered homes and

can fine property managers if they are not maintaining or have not registered their liable properties. For example, in Fiscal Year 2012-13, mortgage servicers registered 2,310 properties, and the City inspected 1,075 properties and directly collected over \$1,000,000 in registration fees and other charges – revenue that can be used to accomplish affordable housing goals. The City's effective enforcement also resulted in a 94% timely property abatement rate. The City has also implemented a promising but small program known as ROOT (Restoring Ownership Opportunities Together). Partnering with nonprofit Community Housing Development Corporation, the program aims to purchase foreclosed homes with occupants still in place and write down the mortgage to a level that ensures long-term stability for the household, and has assisted several residents since early 2013.

Dialogue and communication are at the forefront of Oakland's efforts. The Housing and Community Development Department and the City of Oakland are in communication with other city governments in the East Bay about modeling Oakland's program structure and implementation. The City made it a priority to work with advocacy and policy groups including ACCE, Causa Justa::Just Cause, Urban Strategies Council, and EBHO to ensure that community voices are heard and political considerations are taken into account – these groups and many other stakeholders are convening through monthly Housing Strategies meetings. These partners also share space and resources at the Housing Assistance Center established in 2013 as a one-stop shop for residents seeking help with foreclosure, rent disputes or other housing issues. The City of Oakland has also reached out to a number of developer groups to assess their interest and capacity in these programs.

These leaders are just a few of the innovative people making change through their organizations and jurisdictions. Through collaboration, flexibility and innovation, nonprofits can find a successful role in turning problem properties into affordable housing opportunities.

FURTHER INFORMATION

East Bay Housing Organizations thanks Citi for its ongoing support of this research and our convenings of the Foreclosures & Affordable Housing Work Group.

For more information on Hello Housing, visit: www.HelloHousing.org

For more information on the Housing Consortium of the East Bay, visit: www.hceb.org.

For more information on Community Development at the Federal Reserve Bank of San Francisco, visit: <http://www.frbsf.org/community-development/>

For more information on Housing and Community Development at the City of Oakland, visit: www2.oaklandnet.com/Government/o/hcd/index.htm

For more information on East Bay Housing Organizations, visit: www.ebho.org.

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From: Hood, Heather [<mailto:hhood@enterprisecommunity.org>]
Sent: Friday, June 20, 2014 9:18 AM
To: Sargent, Maryann
Cc: Stewart-Rose, Orissa
Subject: RE: comments on Housing Element



June 19, 2014

Maryann Sargent
Department of Housing and Community Development
250 Frank H. Ogawa Plaza, 5th Floor
Oakland, CA 94612

RE: City of Oakland Draft Housing Element for 2015-2023

Dear Ms Sargent,

On behalf of Enterprise Community Partners, we write to express appreciation for the opportunity to comment on Oakland's Draft Housing Element for 2015-2023. The department's thoughtfulness in preparing the draft is clear and the document is quite comprehensive.

Enterprise's mission is to create opportunity for low- and moderate income people through affordable and safe housing in diverse, thriving communities. Staff from our Northern California office are advancing this goal in Oakland through our projects with your staff and non-profit developers, our work on initiatives like Oakland Sustainable Neighborhoods Initiative (OSNI), and our almost \$86 million of investment in organizations' affordable housing developments and community health clinics in the City. We are very encouraged by your staff's innovative efforts to address community development and poverty-alleviation. We care deeply about the City of Oakland's capacity to develop and execute policies that support the accelerated and proactive development of affordable housing.

Our comments on the draft Housing Element are succinct and are directly related to transit oriented development. The relationship between transit, land values and affordable housing is clear. Low and moderate income households are the backbone of Oakland's public transit ridership, with higher utilization of transit (greater Greenhouse Gas reductions or GHGs) when their housing is located in proximity to transit systems. U.S. residential uses account for 21% of all carbon emissions, with low income households bearing double the average energy burden due primarily to the inefficient homes that they can afford. Building green affordable homes near transit will reduce GHG's as well as help low income families keep more of their limited income. *However*, the housing market trend towards living in more compact walkable communities is increasing demand and making these communities unaffordable to the people who most utilize public transit. In short, smart growth is inadvertently driving people with lower incomes further from transit systems. The City of Oakland can get ahead of this tension during the course of this 2015-2023 Housing Element.

Along these lines, Enterprise's comments likely echo some comments you have undoubtedly already received:

- 1) Throughout the City and much of the East Bay, communities are under significant market pressures. This is true especially in neighborhoods that are Priority Development Areas and/or with casual commute lines. We recommend that the City do more to track potential and actual displacement; and strengthen its rent stabilization and condo conversion controls. This language is should be strengthened in the draft.
- 2) Nationally, Enterprise is very supportive of Inclusionary Zoning and Impact Fees in communities where nexus studies show such policies will not dissuade private development. In San Mateo County, we seeded a county-wide study led by Strategic Economics for fourteen jurisdictions – in several months each city will have a data-heavy, legally defensible case for why impact fees can be implemented or raised – it is a valuable tool in the effort to create opportunities for lower-income families in our urban cities. We applaud the City of Oakland's commitment to conducting a nexus study and we highly encourage you to do it immediately (before missing the market opportunities) and with other cities in Alameda County. Conducting a county-wide assessment will result in a much more powerful and informative tool for the department to use in bringing staff and decision makers along, than doing one just for Oakland. We are happy to connect you with the consultant team working in San Mateo if you are interested.
- 3) Similarly, it will be important to be clear and consistent with private developers what the fee or the community benefit will be if these tools are pursued. We encourage the City to make it a policy to communicate with developers consistently and to prioritize key transit corridors and/or PDAs for fees and/or community benefit districts.

We are optimistic about Oakland's efforts to ensure the City can be shared by people with many incomes and remain a place for people from its diversity of ethnic and economic backgrounds.

Respectfully,



Heather Hood

Director of Programs, Northern California
Enterprise Community Partners
101 Montgomery Street, Suite 1350
San Francisco, CA 94104
hhood@EnterpriseCommunity.org
www.enterprisecommunity.org
direct line: 415.400.0973

From: Menaka Mohan [REDACTED]
Sent: Tuesday, June 17, 2014 2:24 PM
To: Reiff, Devan; Kernighan, Pat
Subject: Downtown Oakland Feasibility Study

Devan Reiff,

I understand that there is a meeting to discuss the downtown feasibility study for Oakland at tonight's city council. Unfortunately I have a work meeting of my own and will be unable to attend. I wanted to write and say that I am very supportive of Oakland conducting a nexus study to charge impact fees for infrastructure as well as affordable housing. I would also encourage the council to think more about the high rise options. The report was published in 2013, and trends are changing quite rapidly in Oakland. The high rise option would provide much needed supply of housing to Oakland and help with the overall streetscape of the downtown streets. Many are wide and hard to navigate and they often "feel wider" due to the low building scale. As SF becomes more and more expensive and pushes people to Oakland, the City of Oakland should start to seriously address the issue of supply of housing, and incorporating the recommendations of this plan would be a great start.

Thanks

Menaka Mohan
[REDACTED]

From: Karen Kunze [REDACTED]
Sent: Sunday, June 15, 2014 5:03 PM
To: Sargent, Maryann
Subject: Oakland Housing Element

Hello Maryanne,

I am a resident of Oakland and wanted to comment on the proposed changes to the Oakland Housing Element.

I believe it is critical to have a diversity of housing in the community that provides options for all socio-economic levels of the community. This mandates the preservation of rental stock for all income levels. In the past there have been multiple attempts to modify the condo ordinance to give special interests an opportunity to convert buildings.

The existing condominium conversion ordinance needs to be strengthened. That means doing away with the ability to purchase "conversion credits" from other buildings to allow conversion in restricted areas, recognizing that conversion puts the new "owners" at risk for an older building that potentially has serious infrastructure issues, relocation assistance that is consistent with current relocation costs. The lifetime leases in the existing ordinance are unenforceable according to a number of landuse experts. The provisions needs to be dropped in exchange for real protections for any tenant who is cannot afford to purchase their unit.

The "remainder" parcel on Lake Merritt Blvd. near 12th Street should not be allowed to generate condo conversion credits. A moratorium on conversions should be put in place until the ordinance is properly strengthened to protect the huosing diversity and eliminate the loopholes described by EBHO.

Changes to the Condo Conversion Ordinance should go through the full planning process (Planning Commission and City Council) and should not be permitted to be short circuited by the Council working out a back room deal with lobbyists.

Thank you
Karen Kunze

[REDACTED]
[REDACTED]
[REDACTED]

From: Jared Wright [<mailto:jwright@ebaldc.org>]
Sent: Thursday, June 12, 2014 4:59 PM
To: Sargent, Maryann
Subject: Priority Development Areas Clarification

Hi Maryann,

Just a quick point of clarification:

The Priority Development Areas-Planning Area Boundary Map on page 337 of the Housing Element shows about nine separate boundary areas, covering most of Oakland. I think you mentioned at the meeting that six PDAs have been officially adopted or approved. On the City website, six PDAs are listed here:

http://www2.oaklandnet.com/Government/o/CityAdministration/d/EconomicDevelopment/s/BID_CBD/index.htm . Only West Oakland shares the same label with the map on page 337 and none of the areas specified on the website correspond exactly with the map. Are PDAs going to encompass these large areas represented by the housing element map or very small, specific focus areas as represented by the six PDAs listed on the website?

Thanks,

Jared Wright
Project Assistant
East Bay Asian Local Development Corporation

1825 San Pablo Avenue, Suite 200
Oakland, CA 94612

(510) 287-5353 x367 office
jwright@ebaldc.org

From: Larry Mayers [<mailto:lmayers@mayersarch.com>]
Sent: Thursday, June 12, 2014 4:02 PM
To: Sargent, Maryann
Subject: Housing Element Question

Maryann:

Very sorry I could not be at the Housing Element meeting yesterday.

As you may remember, I volunteered to look at a few sites with an architect's perspective relative to what's allowed for a particular site by code. I recently looked at the site at 2330 Webster for Joel Devalcourt of the Better Broadway Coalition. While that 45,000+ sf site could theoretically yield as many as 180 units just by height and density restrictions, other requirements, such as parking an usable open space, bring that number down to about 110 for family housing or 130 for senior housing. This is not factoring in possible increases due to density bonuses. Open space seems to be the most restrictive limiter.

I looked for this site in the Housing Element Draft, but found only a site indicated as PPDA-127 (page 322). The address is not given, but the zoning and height are the same. However, it is about ¼ of the full site in area.

I am not sure if that is another site, or just part of the 2330 site, but in any case, I am hard-pressed to figure out how that site would yield 52 units as indicated.

To help me with my research, I was hoping you could tell me how you figured that yield?

Thank you very much.

LARRY MAYERS
Principal



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5132 CORONADO AVE ▪ OAKLAND CA 94618 ▪ 510.520.2720
www.mayersarch.com

From: Larry Mayers [REDACTED]
Sent: Tuesday, June 17, 2014 1:52 PM
To: Strategic Planning
Cc: Sargent, Maryann
Subject: RE: Housing Element Question

Thank you.

The problem with your analysis is that it doesn't take into account other requirements that may indeed be limiters more restrictive than the simple calculation you performed. For example, for the full 45,000+ sf site at 2330 Webster, here is a more complete analysis:

Gross Density: The allowed max number of units on this site, all other restrictions not considered is about 180 units. It doesn't matter to the Oakland Planning Code (OPC) if these are one-bedroom units or larger.

Typically, any site has some requirement that turns out to be the limiting factor in how many units you can build. Often, allowed density is not that limiter. At this brief review, for 2330, and not considering any affordable housing density bonuses, the other limiters here (from both a code and a "what's viable" perspective) appear to be number of stories, parking (always an issue for a family project) and usable open space.

Number of Stories:

While the height limit is 120', the site is limited by the Planning Code to 11 stories (OPC Table 17.35.04), no matter the height between stories. But the California Building Code (CBC) limits buildings to no more than 75' to the LEVEL OF THE HIGHEST OCCUPIED FLOOR (not the building height) before expensive "high-rise" requirements sink in. We can get 8 residential floors (at 8'-7" floor-to-floor) above a 14'-11" ground level retail/parking floor and be just at the high-rise limit. (The building would then be about 85' tall). So that's 9 stories total above grade. Only two other stories are allowed under the OPC (again, not considering density bonuses), probably not enough to justify the cost of going high rise. The 120' height is for all intents and purposes, therefore unreachable. Note: Should the project be a mix of affordable and market-rate, the 8' ceiling height, acceptable in affordable projects, is probably not commercially viable. Increasing that height to the next efficient level of 8'-6" effectively pushes the building over the high-rise limit, resulting in either the need to cut off one floor, or push the building over the limit. If it is a mixed-income building, perhaps it becomes commercially viable to do that—that would be a question for a developer. Note that increased height can be considered for an affordable density bonus, possibly making exceeding the high-rise limit cost-effective.

But just from a height and density situation below the high-rise limit, and not considering bonuses or other limiters, it looks like the gross density of **180** could be reached, assuming an average unit size of about 1,000 sf. More senior, 1 BR units (more like 600 sf each) obviously could be put in there, but that would require using the bonus. However...

Parking:

On the ground floor, we will have retail space, circulation, mechanical and electrical space, trash collection, etc., leaving room for maybe no more than **120** parking spaces. Some will be required to set aside for retail, but the general requirement in the OPC for residential is one space per unit. There are allowances for significant reductions for senior projects—as much as 75%. This is a criteria that can be

reduced when claiming density bonuses. But you have to be careful about marketability if there is a market-rate component, and of course, no building manager, be it a non-profit or for-profit entity, wants to deal with “car wars” among their tenants. Other goodies such as dual-use parking, car-share spaces, transit passes, etc., can help ameliorate the situation. The project is about 1/3 of a mile from the nearest BART entrance—a bit more than the desired maximum of about 1/4 mile for max catchment.

Usable Open Space:

The OPC requires 100 sf of “group usable open space” per unit. While the retail/lobby/parking on the ground floor can pretty much fill the entire lot, all the units above of course need windows, access, etc. The typical floor plate of the residential floors above this ground floor “podium” would be about 32,000 sf. That leaves about 11,000 sf of terrace on the podium for open space. At 100 sf per unit, that means we can have a maximum of **110** units. The unit count can be increased by adding private balconies, which may be a must for a market-rate project, but are an extravagance for affordable projects. This is not something that is typically reduced as a density bonus for affordable housing (nor IMO should it be, particularly for a family project). If it was a senior project, this number could go up, and the total floor plate would shrink, freeing up more terrace for open space—maybe allowing up to **130** units.

Conclusion:

So there are some unknowns (possibility of parking reductions, adding balconies) which could boost the unit total back to 180—and even more depending on if it is a senior project. The efficacy of going above the high-rise limit would have to be checked, but note that would put even more strain on the other two limiters.

A conservative approach would be to assume no high-rise, no balconies, but allow some reduction in parking since the project is pretty well located. That means 110 family units/130 senior units.

So you can see other limiters reduce the buildable number of units. This is a much more realistic look.

Larry Mayers

From: Strategic Planning [<mailto:strategicplanning@oaklandnet.com>]

Sent: Tuesday, June 17, 2014 9:43 AM

To: [REDACTED]

Subject: Housing Element Question

Hello Larry Mayers,

Thanks for your question.

The maximum allowable density, based on the current zoning regulations, was used for estimating the number of units for each of the identified opportunity sites. For example, site PPDA-127 is located in the Community Commercial 2 zone, 120' height area. We estimated the 52 units by dividing the total site area (11,745 sq. ft) by the maximum allowable density (which is 225 square feet per unit for CC-2, 120' height area zone).

Please let us know if you have any other questions.

Thanks,

Bureau of Planning,
City of Oakland

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

From: Adam Maloon [<mailto:adam.maloon@nclt.org>]

Sent: Thursday, June 12, 2014 10:55 AM

To: Sargent, Maryann

Subject: Housing Element Draft Language

Hi Maryann,

Attached, please find the proposed language we spoke about yesterday afternoon. I plan on sending this document to Councilmember Kalb at noon today, and would be happy to cc you on that communication, but wanted to make certain to avoid the appearance of impropriety if doing so would put you in an undesirable position.

I appreciate your willingness to speak with me at such length yesterday afternoon, especially after the extended meeting we participated in directly beforehand. Please do not hesitate to contact me if there is an opportunity for our organizations to assist city staff moving forward.

Best,

Adam Maloon
Northern California Land Trust
3120 Shattuck Ave
Berkeley, CA 94705
p: 510-548-7878 x344
f: 510-548-7562
<http://www.nclt.org>

FOLLOWING IS DOCUMENT ATTACHED TO THIS EMAIL.

Policy 2.2 AFFORDABLE HOMEOWNERSHIP OPPORTUNITIES

Develop and promote programs and mechanisms to expand opportunities for lower-income households to become homeowners.

Action 2.2.1 First Time Homebuyer Programs

Continue to operate a First Time Homebuyer Program as funding is available (either through State funding or through program-related income).

Action 2.2.2 Scattered-Site Single Family Acquisition and Rehabilitation Program

City staff will consider developing a program to address vacant or abandoned housing due to foreclosures or property tax liens. Funds for this program would need to be identified. Funding would be used to address blight caused by these abandoned homes. Once funds have been secured, they will be used to purchase and rehabilitate single family homes for re-sale, lease-to-own, or for rent, and will partner with community land trusts or otherwise incorporate resale restrictions to preserve the public's investment and ensure affordability for a 99 year term (see also Action 4.3.5).

Comment [SK1]: As currently written, none of the action items in section 2.2 explicitly discuss how they achieve any degree of affordability. They read simply as homeownership-oriented programs

Action 2.2.3 Foreclosure Mitigation Pilot Loan Program

Restoring Ownership Opportunities Together (ROOT) is a foreclosure mitigation pilot loan program that assists eligible homeowners at-risk of foreclosure to preserve ownership by re-structuring mortgage loans to more affordable monthly payments. ROOT purchases a distressed property from a lender. The home is then resold to the existing owners with a new mortgage structured to reflect current market value. Minor repairs and renovations will be made if needed to bring the home into compliance with current codes. After holding the mortgage for 12 to 18 months, during which time the owners work with a counselor to repair financial and credit issues, ROOT sells the note to a private lender.

Action 2.2.4 Community Buying Program

The Community Buying Program seeks to assist Oakland residents (either those people who have lost their homes to foreclosure or tenants residing in foreclosed properties or who have been unable to compete with all cash investors on the open market) to purchase properties from the Scattered-Site Single Family Acquisition and Rehabilitation Program (Action 2.2.2 above) or other similar foreclosed housing. The city would assure the long-term affordability of these properties through the use of effective resale restrictions in partnership with local community land trusts. Assistance to Oakland residents could include the use of loan products such as the Federal Housing Authority 203K loan or other funds available to the City, such as housing rehabilitation or down-payment assistance funds. In addition, the program will build upon the National Community Stabilization Trust's First Look program.

Action 2.2.5 Home Preservation Loan Fund

The Home Preservation Loan Fund Program will provide up to \$50,000 in forgivable loan funds for distressed homeowners.

Policy 2.4 PERMANENTLY AFFORDABLE HOMEOWNERSHIP

Promote and expand programs that increase the supply of permanently affordable homeownership opportunities available to low-income residents and retain the public's investment in affordable housing. ~~Develop mechanisms for ensuring that assisted homeownership developments remain permanently affordable to lower income households to promote a mix of incomes.~~

Action 2.4.1 Community Land Trust Program

Continue support of existing Community Land Trust Programs by assisting with the promotion of public information and outreach activities, consulting with staff when developing new homebuyer programs. Support expansion of land trusts ~~units if land values make it financially feasible~~ by provision of land or housing obtained through the Scattered-Site Single Family Acquisition and Rehabilitation Program, the Community Buying Program, tax liens, blight abatement, or other such methods and the incorporation of an Inclusionary Zoning Homeownership Program. Ownership of the land by a community-based land trust ensures that the housing remains permanently affordable, retaining the subsidy for the city in perpetuity, rather than benefitting only the initial homebuyer.

Action 2.4.2 Resale Controls

Continue to utilize financing agreements for City-assisted ownership development projects to ensure that units remain permanently affordable through covenants running with the land, including the Scattered-Site Single Family Acquisition and Rehabilitation Program (Action 2.2.2 above).



June 10, 2014

City of Oakland Community and Economic Development Committee
Councilmembers Lynette Gibson McElhaney, Pat Kernighan, Libby Schaaf, Larry Reid
Broadway-Valdez Plan Team
250 Frank Ogawa Plaza
Oakland, CA 94612

Re: Item 9, Broadway-Valdez EIR and Specific Plan

Dear Councilmembers and staff,

We believe the Specific Plan is much improved since the earlier drafts, but that it still requires some modifications, and particularly, **a) firmer provisions concerning adaptive reuse of historic buildings and b) anti-displacement strategies must occur *now*, simultaneously with approval, or at least be attached to a timetable.** Otherwise these might not happen at all. Below, we list more critical concerns first; our secondary corrections follow.

PRIMARY CONCERNS

(Page numbers refer to the specific plan as supplied May 21 to Planning Commission.)

DISPLACEMENT MEASURE

Attachment E: To the below newly drafted item, please include in the document a timetable or deadline if the program cannot be drafted before this plan is approved, and address who will implement it and how. Otherwise this will likely take far too long to be useful, and may be too late for the residents:

Policy IMP-4.4: Develop programs to support residents who are displaced as a result of development in the Plan Area.

We would suggest identifying which city department or group would develop the program. Suggest that proposal must return to Planning Commission and City Council by December 1, 2014, for implementation by June, 2015.

HISTORIC PRESERVATION/RESIDENTIAL DISPLACEMENT

Page 119: Add the Waverly ASI as an Adaptive Reuse Priority Area: It is a contiguous area of PDHP (potentially designated historic properties) sites, provides family housing, and provides context and scale to the area's architectural fabric. We do not accept that the ASI should be wiped out for some speculative future commercial development, on a street which historically has not been commercial, where nearby vacant land should be so developed first.

HISTORIC PRESERVATION/COMMERCIAL DESIGN

Page 157: The ominous and unattractive concepts on this page assume the demolition of a B-rated cultural resource, which could provide an attraction to the area, would provide a focus much more

long-lasting than a large floorplate retail anchor, and could enhance a sense of place. Ignoring the Biff's structure is to ignore adaptive reuse or incorporation possibilities. The drawing presented looks particularly pedestrian-unfriendly, with its uniform and much-too-long facades. This appears to be a classic Emeryville-style auto-oriented development, yet it is close to downtown and transit service.

SPECIFIC COMMENTS, BY PAGE NUMBER IN MAY 21 SPECIFIC PLAN DRAFT.

Page 162: The Waverly area should be included as an adaptive-reuse priority area. The Newsom Brothers Apartment House and the former Christian Science Church on Harrison Street should be clearly prioritized for preservation.

Page 190: The development shown at the Biff's site (27th/Broadway) is in contradiction to Goal C-7.

Page 264: The "anti-displacement strategies" are entirely inadequate. The Condominium Conversion regulations appear largely irrelevant, as they do not seem to apply to many of the small structures such as those in the Waverly. In 94 units there are approximately 300 people at least; many of these units provide family housing. Instead, the city proposes a minimal amount of relatively expensive housing construction, and assumes much smaller households. We believe that the historic housing and modest-cost rental units are characteristic of the neighborhood—in particular in and around the Waverly ASI. This longstanding and diversely populated residential area is a key neighborhood which mixes household size and age ranges, and will help provide just that mixture of uses that would create true *authenticity*, without quote marks.

Page 265: The citywide housing policy is a good idea, but this excuse that it isn't in force elsewhere provides a kind of shell game, in which each area undergoing specific plans is allowed approval with nothing in place. We believe that no plan should be approved until this policy is created and can be approved at the same time.

Page 265, Section 8.5: We very much appreciate the attention to incentives and creative ideas to encourage preservation. Again, the language "might be considered" we consider dangerous. Can this plan propose something firmer? The entire passage is conditional upon future plans, future approvals, and leaves us uncertain as to whether we should advocate for its passage. Can some "coulds" become "shoulds?"

Page 272: The nice suggestions of section 8.5 don't appear in the action plan. Can they be spelled out in the action plan? We are afraid these will just go on the shelf, without implementation.

On the whole, support the general plan amendments, but oppose them with regard to the Waverly ASI, with the caveat that the allowance for residential seems anemic with respect to the overall area, and to the assurances that were made early on in response to requests for workforce housing.

DESIGN GUIDELINES:

The emphasis on corner entries, and many of the illustrative photos, reflect current trends in architecture but may not hold up over the long term. Over the past century, many buildings in Oakland have faced straight onto a street. While there has been a recent fashion for corner entries, must this be required? We should not make inactive entry-less stretches along the adjoining streets. The flat little protrusions, as on page C5, top left photos, are a cliché at present, but may not be characteristic of great buildings, over the long haul. We should be careful not to enshrine the 20teens in our guidelines, but rather to address good design principles such as variety along a walkable street, with attention to fine-grain development of varied facades, avoiding long stretches of sameness.

Page C6 and C10: “Natural Surveillance” might include first-story-level habitation such as in the Waverly ASI. Active façades include small scale structures such as the houses in that neighborhood.

Page C8 and C10: Including provisions for public restrooms would be a great thing, and could be a redeeming feature of parking structures, if we must have them.

Page C13: This drawing is not a good example. Rather, it shows a monolithic, pedestrian-unfriendly structure, with no entryways except at a corner, instead of a street-friendly urban design. This suburban design suffers from many of the same problems that people have complained about at the YMCA site further down Broadway. It will tend to kill off foot traffic, and conflicts with other recommendations in the plan, such as pages C14-15.

On C16, again, one corner entry visible on two block frontages does not exemplify pedestrian access and streetfront activity.

On C24, DG84, add provision about minimizing noise. Rooftop equipment can contribute to excess ambient noise.

On C25, DG87-91 and at C33: Adaptive Reuse should be included as a way to retain high quality materials, keep durable materials, reinforce design context, and is more sustainable than demolition and disposition of extant built structure. It also enhances Visual Interest and Identity, as in DG 92.

On C28, DG107: Light Color and Intensity and DG224 Lighting: should include mention of Dark Skies standards.

MINOR CORRECTIONS

Page 5: Jack London Square is not an adjoining district to the Broadway Valdez area, and should not be included on this page.

Page 9: The photo of the east bay hills does not show “vibrant neighborhoods,” a good thing.

Page 14: under 1.5.2 “Membership includes. . .” implies an ongoing group. We believe this group has ceased to advise the city.

Page 15: reference to “will be held in early fall 2013” should be changed.

Page 33: Map shows “institutional” circle covering up a residential area on Hamilton Place and Harrison Street. Reduce size of circle and relocate. Hyphenate the label if so required.

Page 43: Example at lower left shows a depressing example of modern clichés in architecture. Please do not show this as a good example. Top right photo caption should be amended to say “if appropriately designed, or in a historic building.”

Page 51: Must include a photo of the Waverly ASI. Why was this not included? We are furnishing an image file selection.

Page 59: caption has error, extraneous “the”.

Page 167: The residential structures of the Waverly ASI are reusable, whether in situ or relocated, and should be included in the illustrated examples.

Page C45: With all due respect to Karen Cusolito, this sculpture is shown in all recent planning reports. Do we have one other example?

DG 225: Gateway Features should not include “water features” as they so likely will require maintenance over the long term, waste water, and because the whole neighborhood is near two key natural water features: Glen Echo Creek and Lake Merritt. If water features are wanted, put some money into maintaining the water quality of the natural bodies of water.

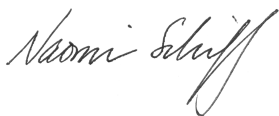
On page 279: 11 a.: (closure improvements?) Is Waverly Street being proposed for closure, or does this pertain to 24th?

We appreciate the opportunity to comment and reiterate our main points: Firm up the anti-displacement strategies, and designate the Waverly area as an adaptive reuse priority area.

Sincerely,



Alison Finlay, President



Naomi Schiff, Preservation Committee

From: [REDACTED]
To: [Byrd, Michele](#)
Subject: Three Questions
Date: Wednesday, June 25, 2014 11:45:31 AM

Hello Michele,

I received notice that we will not be blessed with your attend today's EBHO meeting. Disappointed, but understand.

I had hoped to take advantage of your attendance to seek your input on three matters:

- 1) The Tenant Justice Campaign received drafts of both the "Housing Element" and the "Housing Strategy Road Map" for review and comment. I noticed that the H.E. has a 'holding space' for insertion of the "Road Map."

After reviewing and commenting on both documents, we question how the "Road Map" relates to the "Housing Element."

Is there a direct relation ? Is it still the intent to incorporate the Road Map into the H.E. ?

- 2) Re the Condominium Ordinance, there has been a lot of stop over the many years and go that has essentially not achieved anything on this 1981 ordinance in severe need of update and overhaul.

Would you consider forming a "working group" to develop a sensible proposal that could become a product of CED dept for ultimate presentation to CC ?

- 3) It seems that negotiations may be underway for the parcels designated for affordable housing in "Brooklyn Basin."

Can the city please press the developer to include construction of the state-mandated 15% affordable units as their contribution ?

Much thanks for your thoughts.
James Vann, [REDACTED]



ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY
PUBLIC HEALTH DEPARTMENT

Alex Briscoe, Director
Muntu Davis, MD, MPH, Director and County Health Officer

Office of the Director

1000 Broadway, Ste. 5000
Oakland, California 94607

(510) 267-8010
(510) 268-2140

June 16, 2014

Maryann Sargent
Housing Development Coordinator
City of Oakland
Department of Housing and Community Development
250 Frank H. Ogawa Plaza, Ste. 5313
Oakland, CA 94612

RE: Comments on the May 2014 Public Review Draft of the City of Oakland Housing Element 2015-2023

Dear Ms. Sargent:

I write on behalf of the Alameda County Public Health Department (ACPHD) with a comment on the City's draft 2015-2023 Housing Element. These comments reflect a collaboration between our department Alameda County Behavioral Health Care Services' Housing Services Office. Our departments recognize the importance of individual homes and neighborhood housing environments on the overall health and well-being of city and county residents.

Given the tremendous unmet need for housing noted in the Draft Housing Element and the heightened threat of displacement, homelessness and habitability concerns in Oakland, we make the following recommendations and edits for consideration in the public review process:

Baseline Protections for Vulnerable Residents:

- *Continue to implement and improve the Rent Adjustment Ordinance*, including the recent amendment approved by City Council to cap all rent increases at 10 percent annually, eliminate debt service, and reduce the allowable amount of capital improvement pass-through to 70 percent.
- *Establish strong anti-harassment policies to prevent landlords from coercing tenants* into leaving their homes due to negligence, intimidation, or buy-out offers. Cities can prohibit tenant harassment by clearly defining harassment to include: failure to provide housing services in line with housing, health, and safety laws; attempts to coerce tenants to vacate units with intimidation and offers of payment; and interference with a tenant's right to quiet use and enjoyment of rental housing.
- *Continue to implement and consider strengthening the Condominium Conversion Ordinance in order to minimize loss of affordable rental housing*. Eligibility for conversion

could be based on factors such as code violation history and eviction history, and regulations should specify tenant protections including right of first refusal for existing tenants and relocation benefits.

Production and Preservation of Affordable Housing:

- *Implement a “No Net Loss” policy* to require all affordable units lost through renovation, conversion, or demolition to be replaced within the same neighborhood if possible and within the same city at a minimum.
- *Consider prioritizing the use of remaining funds for affordable housing development toward groups with the most extreme housing needs*, i.e., individuals with extremely low-incomes, individuals living on fixed incomes (seniors and disabled), and households that are currently homeless. This recommendation is based on the significant reductions in available City of Oakland housing funding development.
- *Unsold community land trust homes within the City could and should be made available for rental housing for extremely low-income households.* Alameda County partnered with Hello Housing and the Housing Consortium of the East Bay on a model to convert foreclosed homes into rental properties for this population. A report on this approach is included with this email.
- *Use a proactive rental inspection policy to improve habitability of existing housing* to identify, document, and address code violations in rental housing on a regular basis. The City should work with community-based organizations and the health department to prioritize violations that are hazardous to health, particularly for residents who are elderly, disabled, pregnant women, children, or chronically ill. In the meantime, code enforcement staffing and response time should be increased particularly for neighborhoods with old housing stock and high concentrations of poverty. Before undertaking a proactive inspection policy, the City should ensure that tenant protections are in place to prevent eviction or displacement due to code violations and provide relocation benefits.

Supportive Housing, Transitional Housing, and Shelters:

- *Revise the planning code associated with supportive housing and transitional housing* so that this type of housing in a residential zone does NOT require a conditional use permit. The City should do this as indicated in their draft document.
 - *Identify locations in Oakland for emergency shelter that will not require a conditional use permit* since the closure of the winter shelter location in Oakland, it is increasingly important that the City. These zones should be located in areas without known health hazards for occupants, e.g., away from industrial zones.
 - *Proposed rapid re-housing and winter shelter funding should be re-evaluated in the context of several emergency housing programs* in Oakland with a shortage of funding for next fiscal year. The City should explore a partnership with the County to leverage federal Medicaid dollars for these programs if the source of City funding used is non-federal dollars.
 - *Review and update the table listing shelters and transitional housing should be reviewed and updated.* The list of shelters and transitional housing in the report contains a list of some programs that reside outside of the City of Oakland.
-

- *Correct incorrect references to Medicare.* On page 134, the Draft erroneously refers to Medicare, which should be Medicaid, funding for supportive housing services.

Persons with Disabilities:

- *Use more up-to-date data on persons with disabilities.* The report section on persons with disabilities uses data from the 2000 census. More recent data for this population should be available.

- *Revise the following statement related to people with disabilities on p. 122:*

“The proportion of the population in Oakland with disabilities is much greater than countywide due to the availability of social services, alternative housing, income support, and relatively lower housing costs than in other central Bay Area locations. These factors create a high demand for housing and services to meet the needs of persons with disabilities.”

The statement implies a migration of disabled individuals into the City due to the availability of resources and alternative housing rather than the establishment of social services, alternative housing, income support and relatively lower housing costs to meet the needs of the persons with disabilities.

A revision of the statement could be *“The proportion of the population in Oakland with disabilities is much greater than countywide. These factors create a high demand for affordable and alternative housing and support services to meet the needs of persons with disabilities.”*

Housing Assistance Center:

- The Housing Assistance Center created by the City of Oakland is a very positive approach toward coordinating support for Oakland residents with housing crises. The Center should continue to create linkages with other city and countywide efforts designed to assist Oakland residents with housing crises. In particular, we recommend *enhancing working relationships with organizations focused on landlord-tenant law, fair housing, healthy housing/code enforcement, homeless services, disability rights.* We also recommend *increased support for the Housing Assistance Center and the tracking and reporting of Center user data* as one of several methods for tracking City resident housing needs over time.

We recognize that access to housing, healthy housing conditions, and affordability are all critical factors in supporting individual and community health. We hope that we can be of assistance along with other stakeholders to inform and implement a Housing Element that serves the needs of Oakland. Thank you for your consideration.

Sincerely,



Muntu Davis, MD, MPH
Department Director and County Health Office

From: Joel Devalcourt [<mailto:jdevalcourt@greenbelt.org>]

Sent: Monday, June 16, 2014 2:36 PM

To: Sargent, Maryann

Subject: Oakland Housing Element Comments

Dear Maryann,

Please accept Greenbelt Alliance's following suggested language for "Action 1.1.5 Housing Incentive Zoning" (p. 235) in the Housing Element Update for 2015-2023. We encourage you to work with planning staff to ensure policy language consistency with the specific plans now taking place and the established PDAs.

Please don't hesitate to contact me with any questions.

Sincerely,

Joel

Joel Devalcourt

Regional Representative, East Bay

Greenbelt Alliance

1601 North Main Street, Suite 105 | Walnut Creek, CA 94596

510.306.4203 | jdevalcourt@greenbelt.org

*****FOLLOWING IS DOCUMENT ATTACHED TO THIS EMAIL:*****

Affordable Housing and Community Benefits:

The feasibility analysis will be a key component of any Housing Incentive Zoning process and will need to identify an appropriate method for allowing additional heights or density in exchange for the provision of affordable housing and other community benefits. Criteria to consider as part of this analysis are:

- 1. Determine geographic area program will target.** Different parts of the city will have different market conditions. In order to develop an effective policy, areas where the bonus program will apply should be identified up front. As any development in an area may show its effects on the surrounding areas, the policy will be applied on a city level but will also be considering the local area specific feasibility and market conditions. The policy will have clear direction on the relationship between city-wide mechanisms and the implementation in PDA specific plans, such as BVDSP, West Oakland, Lake Merritt, etc.
- 2. Conduct community process to determine public benefits.** The community benefits that will be incentivized through this program will be established through a robust community process, engaging residents in each neighborhood where the program will be in effect. This will help to identify

community benefits upfront, or an effective “points” system for individual developments, so that benefits are conferred in a timely manner after development is approved.

- 3. Conduct a market study to determine the type and level of incentive.** Conduct a financial feasibility study to determine the value of different types and levels of incentives, and the costs of providing the desired benefits. Note that incentives may include increases in project height, density, and/or FAR, as well as other incentives such as expedited permitting process, waived impact fees, or reduced parking requirements.
- 4. Select an appropriate policy mechanism to implement program.** Work with residents, potential developers, and other stakeholders to create a process that is transparent, predictable, and expedient. The bonus program may be implemented through a variety of ways, including a tiered system, using points or percentages, establishing a fixed price of additional FAR/height for purchase, or creating a marketplace for FAR/height to be bid on. Depending on the structure of the program, certain additional studies, such as a nexus study, may be necessary.
- 5. Develop a process to revise program as needed.** The incentive program should include a transparent and predictable process to allow changes to both the type and level of benefits and bonuses over time, to allow for changes in market conditions, public needs, and other possible changes.