City of Austin

MEMO

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Date: May 20, 2013

To: Mayor and Council

From: Betsy Spencer, Director
Neighborhood Housing and Community Development Office

Subject: Final Report to Council on Resolution 20121108-059: Tenant Relocation Policy Recommendations

The purpose of this memorandum is to provide Staff's final recommendations in response to Council Resolution 20121108-059 regarding tenant relocation standards and the feasibility of and mechanisms for implementing these standards in zoning and demolition permit applications. This is follow-up to an interim update you received via memorandum on April 30, 2013.

City Staff has worked with numerous stakeholder groups over the past several months to collect feedback and insight into the attached report. The public was invited to offer input on the issue in seven meetings over the last three months. The final public feedback opportunity was at the May 14th Community Development Commission meeting, where the Commission voted unanimously to approve Staff's recommendations. Public comments and attendance lists are included in the report.

For the purposes of this report, the objective of a tenant relocation policy is one that provides dislocated tenant households with resources and assistance in the event of new or rehabilitated development of their rental unit. This memorandum and the attached report serve as the final report to Council.

Please do not hesitate to contact me should you have questions. I can be reached directly at 512-974-3182.

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

Attachment

The City of Austin is committed to compliance with the American with Disabilities Act and will provide reasonable modifications and equal access to communications upon request.

Tenant Relocation Policy Recommendations

Council Resolution 20121108-059

The purpose of this report is to provide recommendations responsive to Council Resolution 20121108-059, regarding tenant relocation standards and the feasibility of and mechanisms for implementing these standards in zoning and demolition permit applications.

RESOLUTION DIRECTION

The Resolution directs staff to work with the Community Development Commission and stakeholders to develop recommendations regarding relocation standards and to identify the feasibility of and mechanisms for implementing these standards in zoning and demolition permit applications. The resolution further directs staff to present the recommendations to city commissions, including the Community Development Commission (CDC) and the Planning Commission, for feedback and report the recommendations to the City Council by April 30, 2013. Due to additional stakeholder input sessions scheduled in late April and early May, the Neighborhood Housing and Community Development Office distributed the final report to the City council following the May 14, 2013 Community Development Commission meeting where Staff recommendations were approved unanimously. The feedback gathered in the input sessions as been included in Appendix 1.

For the purposes of this report, the objective of a tenant relocation policy is one that provides displaced or dislocated tenant households with resources and assistance in the event of new or rehabilitated development of their rental unit.

SUPPORTING RESEARCH

Key research that served to inform policy recommendations is the attached study conducted by the Community Development Clinic at the University of Texas at Austin School of Law. To address these recommendations, a representative of the Community Development Clinic presented the findings to the members of the Community Development Commission Housing Committee on February 12, 2013, in conjunction with the public input session.

The Community Development Clinic released the report examining the practices for dealing with tenant displacement issues in conjunction with the demolition of an apartment complex on East Riverside Drive in 2011. The redevelopment of what is currently known as the Southshore Planned Unit Development (PUD) triggered the displacement of numerous low-income tenants. The report focuses on policy recommendations offered to better protect tenants who are displaced from future apartment demolitions. In addition, the report

recommends the adoption of a uniform citywide tenant relocation ordinance with stronger enforcement mechanisms.

The Report can be found on the Community Development Clinic's Web site at: *www.utexas.edu/law/clinics/community/TENANT_DISPLACEMENT_IN_AUSTIN_Aug2012.pdf*.

Furthermore, other examples of Relocation Policies were examined by Staff and are outlined in the attachment to this report, titled "Relocation Matrix."

An item to discuss a tenant relocation policy and standards was included on the Community Development Commission Housing Committee agenda from February 12, 2013, to May 14, 2013, to provide an opportunity for public feedback through the Community Development Commission Housing Committee.

BOARD AND COMMISSION ACTIVITY /PUBLIC INPUT

Responsive to the Resolution, staff conducted the following public input sessions and board and commission public input sessions:

1. ***February 12, 2013***: Presentation at the Community Development Commission; public input session at the Community Development Commission Housing Committee.
2. ***March 5, 2013***: Agenda Item at the Community Development Commission Housing Committee.
3. ***April 4, 2013***: Agenda Item at the Community Development Commission Housing Committee; Community Development Commission.
4. ***April 16, 2013***: Presentation and discussion at the Codes and Ordinances Committee of the Planning Commission.
5. ***April 23, 2013***: Public input session.
6. ***May 1, 2013***: Public input session.
7. ***May 14, 2013:*** Agenda Item at the Community Development Commission Housing Committee; Community Development Commission.

RECOMMENDATIONS

The recommendations noted below reflect feedback from public input to date. NHCD staff further acknowledges the contributions of CDC members to contribute and refine the policy recommendations, which has served to enhance the overall outcome of this report.

It is important to note that the policy recommendations do not include programmatic design recommendations. The recommendations are not intended to present the level of detail that will be required for program design and/or potential program guidelines for future administration. NHCD staff asserts that should policy recommendations lead to future codification and program design, additional stakeholder meetings should be conducted, specifically targeting the development community, Austin Apartment Association, Board of Realtors and the Austin Tenants' Council. In addition, further analysis should be conducted to determine resources required for program administration.

Recommendations are all based on elements where there is no State of Texas precedent that supersedes the City's ability to take action. NHCD staff in partnership with the Law Department and participating stakeholders has developed the following policy recommendations that could be implemented to further tenant relocation policies and practices.

Eligibility

A tenant relocation policy should apply to all developments with the intent to demolish and/or renovate a multi-family apartment complex that will result in the displacement of its residents. Chapter § 25-2-3 of the City Code defines Multifamily Residential as "(B)(7)... three or more dwelling units, within one or more buildings..."

Notification Process

The developer should be required to provide at least a six-month notice of the final move out date to each tenant household.

Relocation Assistance

- In certain situations, where a low-income household qualifies based on specific special needs (i.e. elderly, disability or <50% MFI), the developer should be required to provide relocation and moving stipends to eligible, qualified tenants.
- The City should create an internal case management/realtor assistance program to assist with tenant relocation to qualified tenants.
- The developer should allow flexible move-out dates to tenants who choose to move out after notice is given.

- The developer should be required to refund full security deposits to households where no developer-owned property is missing upon move-out (i.e. metal scraps, copper, fixtures or appliances).

PROGRAMMATIC CONSIDERATIONS

Furthermore, programmatic enhancements or requirements have been identified through the stakeholder discussions that can assist in the design and implementation of a program to support these policies:

Reporting: The developer should be required to provide regular reports to the City to show compliance to potential tenant relocation policy requirements.

Accountability Mechanism: A Rental Registration Program or another type of permitting or licensure can be implemented to provide a mechanism for tracking and guaranteeing policy and program requirements are met.

Compliance: If a developer is shown to be in violation of the Policy, steps would need to be identified to bring the developer into compliance.

- Monitoring personnel will be required in order to carry out program requirements.
- The recommendations will require changes to the City's Development Review and intake process as well as may require changes to the City of Austin's enterprise-wide computer application that allows City departments to automate respective business processes and allows users to share records and data across City departments and with the public.
- The Application Management and Data Automation system (AMANDA) is used by multiple departments and is essential in the current development and review process administered by the Planning and Development Review Department.

Analysis to determine costs: A study should be conducted to determine what costs to the developer are fair and reasonable in current and future markets. It should ensure costs are proportionate to the anticipated negative impacts of the development and the overall cost to the displaced tenants. Furthermore, a study should assess and recommend appropriate qualification requirements for assistance.

Codification: Code amendments may be required in order to implement these, or any other changes to programmatic considerations related to City development requirements.

APPENDIX 1:

STAKEHOLDER FEEDBACK

Additional stakeholder meetings were held on April 23rd and May 1st. NHCD specifically targeted stakeholders to include, amongst others, members of the development community, Austin Apartment Association, Board of Realtors and the Austin Tenants' Council. Attendees provided robust feedback, included below:

Policy Triggers:

- Point of access: Seattle program had means testing at 50% MFI. 80% is too high. What's the issue we're trying to solve? Is the goal to deal with development displacement or to deal with affordability issue throughout Austin?
- On the 23rd, it seemed that 50% MFI was what was consensus as fair.
- On the 23rd, we were talking about multi-family (3 or more units)
- It's been pointed out that there is not a requirement that this must be multi-family only
- Lot of people who are tenants who this has happened to who are not under 50%; some of these policies can help all tenants (notice, flexibility in move-out). We should have a set of policies for all people effected by relocation, and additional assistance for certain tenants (income qualified)
- What about non-profit or student properties that may be redeveloped for affordable housing?

  All developments should be held to same standard, still displacing people – unless there is renovation in place...
- We need to decide on the scope of the conversation- are we just talking about multi-family?
- In the case of a developer receiving an abatement or incentive this type of measure should be tied in. If a developer is not receiving an abatement, that's where the concern arises.
- If you already have the entitlements for what you want to do than the rules should possibly be different than if you need to come to the City for something (Zoning, funding, etc.)
- Sunnymeade example, was a positive experience for tenants, but was negotiated apart from the City.

- 6 months is too early based on length of time for development (if you have entitlements already or not). Change to a notice of intent.

Whose responsibility?

- City/community has created the demand for redevelopment, developers are responding to the demand; community should take responsibility
- if you come to the city for entitlements/zoning change,/etc you should be treated differently and are required to provide assistance. If you work off your own entitlements, you should notify people, but then it becomes the City's duty (should be budgeted); add Relocation Assistance to the NHCD list of services
- If you're within your lease agreement, there shouldn't be a stipend required. The landlord doesn't have to renew; the tenant doesn't need to renew.
- Benefits to these projects other than just tax base – some projects are not up to code, providing density and additional community benefits; developer shouldn't have to carry the full burden. This will make everything less affordable.
- Who can we incentivize to pay? Can we offer an expedited process (like SMART)?
- Doesn't seem fair that every recommendation, except one, is "the developer should". Were there developers involved in the study that the recommendations are based on? It's challenging as a developer already going through the City process, with the lack of predictability – makes affordability a challenge. (Special needs stipend in particular lacks predictability)
- Adding costs to the development process adds cost to the consumer – concern about the stipends. Interesting that this is a blanket policy and not something that would be applied project by project.
- When the City has incentivized economic activity that attracts certain demands of housing. This is the City responding.
- Some of these requirements make sense for every developer (notice). The stipend causes the most discomfort
- We are a community that does a lot voluntarily for our community. If there was a mechanism where people could voluntarily give to a fund that collects for this displacement.
- Public funding, as a community issue, should fund this. Developers shouldn't exclusively pay for a community issue.

- Would like to identify the universe of people that need assistance to come up with an annual average so that we can have a City budget item that covers the costs of relocation.
- roll out a pilot in next fiscal year, doesn't need to be an ordinance, won't be the City's burden because people who get additional entitlements will take care of this as part of their pro forma.
- Don't necessarily agree that all entitlements need to shoulder the burden (downzoning)
- It takes money to spend money. If you don't have money coming in, it's harder to keep up the complex. The City is also making money from the developer by raising the tax base. City should set parameters, community has the resources, and tenant has the responsibility to ask for it.
- Developers are filling a demand. But they're not filling the demand for low-income residents.
- A policy like this will cause affordability issues to persist – will become more expensive throughout.
- The Uniform Relocation Act (when you use federal funds) – requires developer to pay difference in market rent + moving expenses for 5 years for every person in the project.
- A less attractive market causes prices to creep up (even if people will still come). Some of the tax base from the redevelopment should come back to provide support for the relocation
- Should this be through ordinance or through a budget approach?
- How do we come to agreement on where the funding comes from to be a solution for our shared goal of equity for tenants? Do we only use money from the development community or are their other sources of local funding options?

Qualified Relator Assistance

- What is a "qualified realtor"? – there is a special skillset probably needed by these folks; special training. Make sure this is a "right size" solution.
- Was hoping to address how a program/resource like this could come about that can assist displaced tenants. Blanca realty was exceptionally helpful.
- A lot of housing leasing agents are not even licensed – maybe just need to train good people, not just realtors – don't limit it (ABOR)

- Add a registration for those that are qualified to perform qualified realtor assistance. This seems to be where the system breaks down. A program that could train people how to relocate people.

- Many of the people who assist with tenant relocation for low income families may not necessarily be licensed realtors. I would like to see the term "qualified realtor" substituted for "qualified individual" or, in the case of a firm assisting with the relocation, "qualified person" as a definition of the latter could be drafted to include individuals and business entities. These terms will increase the pool of people available to assist with relocation while still allowing the city to place reasonable restrictions on their qualifications

Accountability Mechanism

- A responsible redevelopment company will inform and communicate

- Not everyone does the right thing

- At some point we (City) will be required to ensure compliance to the policy. That is how Rental Registration became a possible database to do that. What is the tool to help ensure compliance?

- Observe what's happening in PDR controls

- Education Impact Statement – is tracking dislocation already

- We have bad actors, and therefore we need a policy. Schools, jobs, transportation is effected by displacement. Don't lose sight that these are people.

- Reporting for ECAD Audit has become very challenging for MF owners. The reporting required for tenant relocation is worrisome.

- We have a duty as apt managers to educate the community and the tenants about mutual responsibilities.

- Private Cause of Action – that makes every tenant a possible plaintiff? As a lawyer- this gives the biggest cause of concern

- Look for controls that are already in place

Rental Registration

- Our neighborhood has a lot of dilapidated apartments and that's why a Rental Registration Program is important (NACA)
- The city since the 70s has registered hotels, motels, boarding houses, B&Bs. You have to pay a registration fee and comply with certain standards. Expanded to Short-Term rentals. Some want to expand to ALL rental property to require compliance. Some see this as a tax to renters because it'll be passed on by landlords. Ineffective program.
- This would assist in knowing how many people need assistance. Know the inventory.
- Was originally a vehicle to aide in code compliance, like a licensure program, for accountability. Available through TCAD
- TCAD doesn't provide condition or property. Rental Registration could be preventative.
- The North Austin Civic Association (NACA) and the NACA Contact Team vigorously support both a requirement for rental registration and rental registration advocates.
- we all don't want rental registration.

Points of Agreement

- Notification process
- Security deposit refund for demolition (as long as all personal property is removed, and all owner's property is remaining) (current law – within 30 days of returning key)
- Lack of agreement as to whether this is a good/bad idea, but it is here and we want to make it the best we can.
- Safety
- Responsibility of both parties to hold to their side of the lease

Other Notes

- Austin Energy waiving deposits for dislocated tenants/utilities/transfer fees
- Natural disaster (Katrina)- the AAA and other groups came together and helped on their own.
- A UT study in 2007 that is a toolkit – outlines development programs

Input Session attendees include:

Alanna Reed
Allyson Boney
Ann Teich
Annie Armbrust
Betsy Spencer
Brian Walters
Cassondra Taylor
Charles Heimsath
Christian Erichson
Christopher Hoerster
Colleen Grahn
Dave Harmon
Derek Villemez
Eileen Schrandt
Emily Chenevert
Joi Harden
Kathy Stark
Ken Craig
Lisa Hinely
Marti Bier
Matthew Christianson
Melinda Schiera
Melissa Neslund
Melissa Orren
Molly Powers
Rachel Fischer
Rebecca Giello
Regina Copic
Roger Borgelt
Ruby Roa
Ryan Berger
Sandy Eckhardt
Shelly Rosales
Shirley Johnson
Stuart Hersh
Tony Plohetski

	Chicago	Seattle	Dallas	Boston	Maryland	Los Angeles	Sunnymeade	Law Clinic Recs	URA
Who Pays Assistance?	Property Owner	City Pays Half and Property Owner Pays Half	Property Owner in Skillman TIF District (Developer reimbursed by TIF at a later date)	Property Owner	Property Owner	Property Owner			Property Owner
Relocation Stipend-Amount per tenant?	$1500; distributed no later than 7 days after vacation	$3002; Director will send within 21 days after request submission	$500	$3,000	$375 + moving expenses ($375-$750 based on income)	depends on income and length of tenancy (between $7,050-$18,650) - covers new first/last month's rent; security deposit; utility connection charges & moving expenses		equal to at least one-month rent plus $300, distributed upon receipt of notice to move out.	"gap payments" up to 42 months up to $5250
Eligible Income Levels	At or below 120% MFI	at or below 50% MFI	No income limits	No income limits; but low-mod is 80%FMFI or less	Different levels of assistance and process based on income level	all			No income limits
Extra Assistance for Special Circumstances	If tenant's rent is greater than $1500/mo, the tenant may receive up to $2500	n/m	For families with school-age children	$2000 extra ($5000) for households with one or more tenants, seniors, persons with disabilities, and for low to moderate-income households	up to 20% of units must be offered for extended 3 year lease after conversion for disabled, elderly or low income, if you qualify for extended lease and do not use it (or 20% threshold is met), you get payment of 3 months rent within 15 days of move-out	additional assistance to "Qualified Tenants" (elderly, disabled, or children); "Low Income Tenant" (<80% AMI)	open houses at Sunnymeade and transportation to other apts for apt-search; provided all info/agreements in Spanish		
Applicability?	condo conversion	You must obtain a Tenant Relocation License for housing demolition, substantial rehabilitation or alteration, change of use or removal of use restrictions	displacement from the TIF corridor	condo conversion	condo conversion	any no-fault eviction (for condo conversion or any time the housing is taken off of the rental market for any reason other than emergency code violation)		All developments that involve demo or renovation of apt complex of more than 4 units that displaces low-income (80% or less MFI). Incl condo conversions	all federally funded acquisition, rehab or demo

	Chicago	Seattle	Dallas	Boston	Maryland	Los Angeles	Sunnymeade	Law Clinic Recs	URA
Notice Time-Requirments?	4 or 9 months?	90 day notice required.	n/m	elderly, disabled and low-mod-income tenants given a 5 year condominium conversion eviction notice; all other 1 year	180-day notice	120-days	6 mos notice	at least 6 mos notice	90 days
No final month's rent?	can be deducted from relocation fee if hasn't been paid.	n/m	n/m	n/m	n/m	n/m	No final month's rent, if stayed through vacate date	suggested no final months rent	
Security deposit refund?	can deduct damages from security dep., but can not withold relocation fee for damages	relocation assistance in addition to refund of any deposits or other sums	n/m	n/m	n/m	n/m	no damage deducations, returned full deposits to tenants 6 mos prior to vacate date	required refund upon tenant's notice of move-out; barred from deducting damages	
Provide security during move-out?	n/m	n/m	n/m	n/m	n/m	n/m		required to change locks on vacant units; after 50% of complex unoccupied, extra security measures required	
Flexible move-out dates?	n/m	n/m	n/m	n/m	3-year extended lease option on 20% of units; after 180 day notice tenants become month-to-month renters	yes - if a tenant may relocate without having received the notice of termination from the landlord and still be owed payment if the City has already received a condo converstion plan.	Tenants could continue month-to-month, and no stipend penalty for early moveout	tenants with school-age children allowed to move-out during summer; barred from penalizing tenants who fail to give 30-days notice or move out prior to vacate date	
School transfer assistance?	n/m	n/m	up to $1,000,000 (in total dollars) for relocation assistance for families with children in RISD schools to relocate within RISD; up to $5,000,000 (in total dollars) for improvements and modifcations to RISD facilities	n/m	n/m	n/m		AISD student services office and impacted school receive copy of Education Impact Statement (EIS); AISD adopt additional policies to keep displaced students at local school (provide info about transfers, provide more tranport. options)	

	Chicago	Seattle	Dallas	Boston	Maryland	Los Angeles	Sunnymeade	Law Clinic Recs	URA
Qualified realtor assistance?	n/m	n/m	n/m	should attemp to pride help in locating accessible and comparable apts within Boston	n/m	City provides a "Relocation Assistance Service Provider", paid by developer fees		Require developers to hire relocation assistance providers from a list of qualified candidates pre-screened by the City	provide relocation advisory services
Reports by developer?	n/m	n/m	n/m	n/m	n/m	there are several fees that go towards monitoring by the City		Developer required to provide regular reports throughout process with specific info about tenants	
Private right of action and remedies for violations?	n/m	private right of action; but not against the City	n/m	n/m	n/m	tenant may raise an affirmative defense for the failure of landlord to provide assistance	Provided tenants with private right of action	Provide tenants with a private right of action	
Utility waivers?	n/m	n/m	n/m	n/m	n/m	included in relocation fees is a utility transfer payment	Austin Energy waived $200 deposit	develop internal policy to grant waivers for utility deposits for displaced low-income tenants	
Enforcement mechanism?	n/m	Notice of violation sent to responsible party; civil penalty of $1000 per day + relocation assistance amount; denial of Tenant Relocation License	n/m	n/m	n/m	failure to file the Landlord Declaration of Intent to Evict with the City makes the eviction invalid		Clear procedures for the City to enforce and set remedies available to the City and tenants if developer is out of compliance	
Moving Assistance?	n/m	n/m	n/m	extra stipend for elderly, disabled and low-mod income	reimbursed for $375-$750 of moving expenses.	included in relocation fees is moving assistance	Free moving assistance within Austin area if not in default of lease after vacate notice	tenants age 65+ or disability should receive additional $400 stipend (for moving assist.)	reimburse for moving expenses
Other		Planning Dept can not issue permits unless the requirements of the ord are met.		Right of First Refusal to Purchase Unit; Rent increases are restricted during notice period	Right of First Refusal to Purchase Unit	Landlord must file a Landlord Declaration of Intent to Evict form for any no-fault eviction			