



MEMORANDUM

TO: Mayor and Council Members

FROM: Rosie Truelove, Director, Neighborhood Housing and Community Development

DATE: January 19, 2018

SUBJECT: City Council Resolution 20170817-051 regarding Cooperative Housing

On August 17, 2017, Council passed Resolution No. 20170817-051 (Resolution). The purpose of this memo is to inform Council of actions completed regarding subject Resolution. The Resolution directed the City Manager to identify hurdles to cooperative housing development throughout the City and to create incentives to reduce these identified hurdles.

Actions Completed

The Resolution directed the City Manager to incorporate scoring criteria for limited and common equity cooperatives within the Rental Housing Development Assistance (RHDA) Program and the Acquisitions and Development (A&D) Homeownership Program.

Staff has amended existing A&D guidelines to expand the list of eligible housing types. The expanded language on eligible housing types, including cooperatives, is as follows:

Type of Property

The property being purchased must be a single-family residence (detached house, townhouse, or condominium), manufactured housing or a cooperative housing unit or a unit in a mutual housing project. The cooperative unit or unit in a mutual housing project must be recognized by state law.

Types of Ownership

1. The applicant must hold Fee Simple Title, which is defined as absolute title to land which is free from other claims against the title and is used to transfer title. The title can be sold or passed to another through a will or inheritance. The phrase is used to demonstrate that the fee is not conditional, determinable, or fee tail.

2. Housing located on land owned by a community land trust must have a leasehold interest for at least 50 years.
3. Manufactured housing must be permanently affixed and a ground lease at a minimum, equal to the period of affordability.
4. A cooperative housing unit or a unit in a mutual housing project. The cooperative unit or unit in a mutual housing project must be recognized by state law.

Actions in Progress

With respect to the Rental Housing Development Assistance (RHDA) Program, staff has initiated a stakeholder process to review RHDA scoring criteria and potential amendments to the guidelines. Among a variety of scoring changes contemplated, staff will incorporate discussion of prioritizing limited and common equity cooperatives amongst its existing criteria.

Additional Research and Findings

The Resolution also directed staff to identify hurdles to cooperative housing development in the City of Austin. Limited Equity Cooperatives typically require a significant amount of subsidy in order to bring the housing costs within reach of low- and moderate-income homebuyers. Limited Equity Cooperatives are more common in certain major cities, including Washington, DC, San Francisco, and New York City, all of which have programs that subsidize cooperative development. The City of Austin does not have a city-sponsored program that specifically subsidizes Limited Equity Cooperatives.

Assembling the financing for Limited Equity Cooperatives is more complicated – and layered – than a traditional residential product. As stated in Enterprise Community Partners' 2007 publication "Alternative Financing Models - Hybrids of Homeownership Limited-Equity Cooperative Housing":

Most limited-equity cooperatives exist as nonprofit organizations in one form or another, allowing them to look to foundations and local and national intermediaries for grants and low-interest loans. Banks and other traditional sources of credit have often refused to provide financing for cooperatives or have charged higher rates of interest because of a perception of greater risk. These policies are particularly true for smaller cooperatives where the inability of one household to make its monthly maintenance payments would have a far more significant effect on the cooperative's ability to cover the blanket or underlying mortgage payment.

The National Cooperative Bank (NCB) is a major financier of cooperative housing across the country. NCB has been providing cooperative housing and share loans since the early 1980s.

Some Limited Equity Cooperatives across the country have utilized the Low Income Housing Tax Credit (LIHTC) program, which is a complicated and extremely competitive process. However, it

is important to note that the State of Texas's LIHTC program does not provide any incentives for cooperative housing.

Another impediment is the extensive training required to ensure that cooperative purchasers are educated and effective homebuyers. Limited Equity Cooperatives are a unique form of ownership – including limited return on investment and limited use rights. Currently, the City of Austin's HousingSmarts Homebuyer Education program for first-time homebuyers does not include extensive information on cooperative housing models.

In addition, another identified hurdle is mortgage financing for individual cooperative housing buyers. There are a limited number of lenders who provide mortgages for cooperatives, and the Federal Housing Administration (FHA)'s cooperative mortgage product is not widely used.

Finally, the Resolution also directed staff to explore a "right of first refusal" policy for tenants who reside in properties that are on the City's Repeat Offender list. Perhaps the premiere "right of first refusal" program is Washington, DC's Tenant Opportunity to Purchase Act (TOPA) program: <http://districtre.com/tools-2-use/dc-topa/>. Under TOPA, landlords are required to offer tenants the opportunity to purchase their housing, prior to selling the property. TOPA affords tenants a variety of protections and establishes a clear timeline of the right of first refusal process. Should City Council want to pursue more information on the establishment of a similar program, NHCD staff would need to work in close consultation with legal staff to assess the viability of such a program.

cc: Elaine Hart, Interim City Manager
Joe Pantaloni, Interim Assistant City Manager