



To: Councilor Duson, Chair Housing Committee  
Members of the Housing Committee

From: Jeff Levine, Director, Planning and Urban Development Department  
Mary Davis, Division Director, Housing and Community Development  
Victoria Volent, Housing Program Manager

Date: February 12, 2018

Subject: Proposed Housing Policy Proposals

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### **Introduction**

Eleven housing policy initiatives were presented by staff and introduced to the Housing Committee at the September 26, 2017 meeting. The proposed initiatives are also described in Section IV b (Analysis and Policy Proposals- Housing Policy Proposals) of the 2017 Housing Report. However, these initiatives can be traced back to the four month long public process undertaken by the 2016 Housing Committee to solicit feedback from a wide array of community stakeholders and housing experts. This effort resulted in a “bucket list” of policy ideas from which the committee addressed several items during the 2016 and 2017 Housing Committee schedule. The remainder of the items were to be a resource for future Housing Committee work plan topics.

The Committee began discussions on their 2018 work plan at the January 24, 2018 meeting. At that meeting, Councilor Cook also presented several policy proposals to be included in the work plan discussion. In addition, Mayor Strimling proposed five policy initiatives in his 2018 State of the City address on January 31. These additional policy initiatives are all included in the list of policy initiatives (now numbering twenty-four ideas), for deliberation and prioritizing to allow staff to do needed research. Note that some of these proposals are being analyzed outside of the Housing Committee process, particularly as part of the ReCode Portland zoning rewrite.



## Question

- 1) Develop a strategic homebuyer assistance program ("HomePort 2")
- 2) Develop a foreclosure prevention program that will provide emergency grants to low-income homeowners in risk of foreclosure
- 3) Secure Tenant Based Rental Assistance (TBRA) at \$250,000 a year minimum using a combination of City funds and federal funds (roughly 50/50)
- 4) Increase the condominium conversion fee significantly to fund TBRA and/or the Housing Trust
- 5) Review the current condominium conversion ordinance to assess whether the tenant notice and relocation assistance requirements are being followed
- 6) Create a "hotel linkage fee" to fund City housing programs
- 7) Have the City take the lead in exploring the creation of a Portland Community Land Trust (CLT) that would receive consideration at below-market rate for surplus city property for housing development
- 8) Utilize CDBG funding to establish an emergency rehabilitation program
- 9) Offer rehabilitation funding in conjunction with the Lead Safe Housing Program
- 10) Agree to administer Portland Water District's water efficiency and repair services program
- 11) Consider creating a Housing Advisory Board primarily consisting of housing professionals with some tenant and landlord representation, to assist City staff and Councilors in making informed policy decisions

**The following four (4) proposals were taken up by the 2017 Housing Committee at their November 29, 2017 meeting. The Committee voted to forward their recommendations (both for and against) to the Planning Board. The Planning Board will hold a workshop on the proposals February 13, 2018 and a public hearing on February 27, 2018.**

- 12) Amend the Inclusionary Zoning Ordinance to include a fractional fee-in-lieu payment when units are provided on-site
- 13) Amend the Inclusionary Zoning Ordinance to remove the sunset clause
- 14) Amend the Inclusionary Zoning Ordinance to increase the percentage of mandatory affordable units
- 15) Amend the Inclusionary Zoning Ordinance to lower the affordability income level

**Proposals from Council Cook.**

- 16) Remove barriers to Accessory Dwelling Units in residential zones – *being studied as part of the ReCode Portland zoning rewrite's first phase.*
- 17) Relax requirements for homeowners to improve or add on to existing homes – *also being studied as part of ReCode Portland's first phase.*
- 18) Assess premium fees on high-end development; development impact fees (this item is on the 2018 work plan for the Economic Development Committee) – *the City is under contract with TischlerBise, a national firm specializing in impact fees, to work with City staff in developing an impact fee proposal as part of ReCode Portland's first phase.*
- 19) Request input from developers on how to build basic family housing, workforce housing and low income housing



**Proposals from the Mayor's Annual State of City Address delivered on January 31, 2018**

- 20) Expand density incentives to other zoning districts
- 21) Require a 90 day notice on evictions – *this was discussed as part of the Housing Committee's work on tenants' rights in 2016*
- 22) Require landlords to accept housing vouchers
- 23) Re-exam the rent stabilization initiative
- 24) Issue a 5 million dollar bond for affordable housing initiatives and program sales proceeds from WEX sale to the Housing Trust



To: Councilor Duson, Chair Housing Committee  
Members of the Housing Committee

From: Jeff Levine, Director Planning & Urban Development Department  
Mary Davis, Division Director, Housing & Community Development Division  
Victoria Volent, Housing Program Manager  
Housing & Community Development Division

Date: November 3, 2017

Subject: Housing Policy Proposals

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## Summary

In continuation of the 2016 public policy initiatives (known as the bucket list) and the introduction of additional initiatives to the Housing Committee at their October 26, meeting, enclosed are the housing policy proposals (not including Inclusionary Zoning which are discussed in a separate memo) for further review by the Housing Committee.

## Housing Policy Proposals

### **1. *Develop a strategic homebuyer assistance program ("HomePort 2")***

The City would provide assistance with the cost of Private Mortgage Insurance (PMI) to lower the borrower's monthly mortgage payment. PMI is a type of mortgage insurance meant to reimburse the lender if the borrower stops making payments on their home loan. Lenders require PMI if the borrower makes a down payment of less than 20% of the loan amount. PMI potentially adds hundreds of dollars to the monthly mortgage payment for at least two, but up to five years.



If the City were to provide assistance with the cost of private mortgage insurance, an upfront single payment premium program would be the most cost-effective way to assist home buyers who could not afford a 20% down payment.

From the early 1990's through FY14, the City offered a first-time homebuyer program that offered up to \$30,000 in a deferred loan to be used for down payment, closing cost or rehab assistance (the "HomePort" program.) The subsidy was repaid when the property was sold or no longer occupied as the owner's primary residence. The repayment included the original subsidy amount plus a percentage of any net gain in the value of the property. The decision was made to stop the program for two reasons: (1) the subsidy amount would need to be increased to keep the cost of a home affordable to households at or below 80% of the area median income and (2) the local home prices exceeded the HOME Program maximum purchase price limit. The funding allocated to this program was transferred to the Tenant Based Rental Assistance Program that began in FY13.

Based on conversations with local lenders, we think there is an opportunity to leverage public commitment with some private funds.

A pledged asset program would allow the city to establish an account with the lender for an amount equal to the down payment. The bank would hold that account as security in the case of default by the borrower. When the borrower's loan balance reaches the required loan to value ratio, the account would be released back to the city.

**Estimated costs:**

Upfront private mortgage insurance \$2,000-\$3,000 per borrower.

Pledged Asset Account: \$12,250 - \$25,000 per borrower.

Second Mortgage Program: \$30,000 - \$50,000 per borrower.

**OVERALL ESTIMATED COST:** \$50,000-\$200,000 (50% City/50% Private) annually



**2. Develop a foreclosure prevention program that will provide emergency grants to low-income homeowners in risk of foreclosure.**

The program would be designed to assist Portland homeowners who are struggling to pay their mortgage payments because of a temporary financial hardship, for example job loss or healthcare issue. Assistance would be provided in the form of a 0% interest loan to be paid back when the temporary financial hardship has been resolved. These grants would be limited to \$5,000 per household.

**OVERALL ESTIMATED COST:** \$50,000 (50% City/50% Private) annually

**3. Secure Tenant Based Rental Assistance (TBRA) funding at \$250,000 a year minimum, using a combination of City funds and federal funds (roughly 50/50.)**

The current Tenant Based Rental Assistance (TBRA) Program is funded through HUD's HOME funding program. TBRA provides security deposits, rental assistance and utility allowances on a short term basis for low-income (below 60% AMI) individuals and families who are homeless or in danger of becoming homeless. Changing the program to include local or city funds would enable the City to provide assistance to workforce (80% to 100% AMI) households that do not qualify for HOME funding.

Beginning with FY14, the City budgeted an average of \$132,000 for the TBRA Program. However, in FY16 (\$25,000) and FY 17 (\$63,000) in additional HOME funds were allocated to the budget as the need outpaced the original budget allocation. In FY17, the TBRA Program assisted in placing 175 households into permanent housing utilizing \$193,000 in HOME funding.

**OVERALL ESTIMATED COST:** \$250,000 to serve 200-250 households annually.



**4. Increase the condominium conversion fee significantly to fund TBRA and/or the Housing Trust Fund.**

The condo conversion fee could be modeled on the fee structure in the Housing Replacement Ordinance. The fee would be set based on staff analysis and Council approval. A portion of the fee could be placed in the Housing Trust Fund and a portion used to fund the TBRA program.

Under the current ordinance, the condo conversion application fee is \$150 plus the cost of work and a certificate of occupancy fee of \$100 per unit. From 2012 to present there were 10 condo conversion applications which created 23 condominium units. If the Rent Stabilization referendum were to pass it may have an impact on the conversion rate.

**OVERALL ESTIMATED REVENUE:** *Depends on the level of the fee and the conversion rate but approximately \$50,000 to \$150,000 a year to fund other programs on this list.*

**5. Review the current Condominium Conversion ordinance to assess whether the tenant notice and relocation assistance requirements are being followed.**

Proposed changes to the Condominium Conversion ordinance would extend notice requirements; require notification of current tenant contact information to the City; and increase penalties for non-compliance with this ordinance. For long-term tenants, a year long notice period is proposed.

The purpose of the Condominium Conversion ordinance is to 'regulate the conversion of rental housing to condominiums; to minimize the potential adverse impacts of such conversions on tenants; to ensure that converted housing is safe and decent; and to maintain a reasonable balance of housing alternatives within the city for persons of all incomes.' It requires that the developer give each tenant a written notice of intent to convert. For tenants living in the same building for 0-4 years, a 120-day notice period is required, an additional 30-day notice period is required for each additional year the tenant has been living in the building, up



*If you do not buy your apartment, the developer of this project is required by law to assist you in finding another place to live and in determining your eligibility for relocation payments. If you have questions about your rights under the law, or complaints about the way you have been treated by the developer, you may contact the Permitting and Inspections Department, City of Portland, Maine 04101 (telephone: 874-8703).*

For a 60-day period following the giving of the notice, the developer is required to give the tenant an exclusive and irrevocable option to purchase the unit. If the tenant does not purchase the unit during this 60-day period, the developer cannot offer the unit to any other person at a lower price or more favorable terms for an additional 180 days, until the same offer is made to the tenant.

If the tenant does not purchase the unit and qualifies at or below 80% AMI, the developer must make a cash payment to the tenant in an amount equal to the amount of rent paid by the tenant for the immediately preceding two months.

If within 120 days after a tenant is required by the developer to vacate, the developer records a declaration of condominium without having given notice as required, the developer shall be presumed to have converted in violation of this article. If the developer is found to be in violation, the request for a permit to convert is denied.

At the time of application, if any unit is vacant, the Permitting and Inspections Department requires the developer to disclose the reason the unit is vacant along with the name, new address and phone number of the previous tenant. However, this disclosure is not required under the current ordinance.

**OVERALL ESTIMATED COST/REVENUE:** *Approximately 100 hours of staff time.*

## **6. Create a Hotel linkage fee to fund City housing programs**

Require hotels to pay an impact fee that accounts for offsetting the increased housing demand generated by their need for low-income employees.

Since 2013, Portland experienced roughly 39 percent increase in number of hotel units. In 2015, the hotel industry on the peninsula reported a 70 percent occupancy rate (U.S.





average is 66 percent). A hotel linkage fee would be assessed through comprehensive study and analysis to link costs, project new development, and realize the feasibility for developers. Once an impact fee is set, it is routinely reevaluated and revisited and adjusted based on new data, inflation, and other trends. By using an impact fee, future hotel developers have a predictable way to factor in the mitigation cost into their pro forma, rather than having to negotiate mitigation and deal with the uncertainty based on each case-by-case basis. Currently Portland only seeks mitigation for transportation and storm water impacts in most cases.

**OVERALL ESTIMATED REVENUE:** *Depends on how fee is set but approximately \$100,000-250,000 a year to fund other programs.*

**7. Have the City take the lead in exploring the creation of a Portland Community Land Trust (CLT) that would receive consideration at below-market rate for surplus city property for housing development.**

A community land trust is a non-profit, community based organization designed to ensure local stewardship of land. It is primarily used to ensure long-term housing affordability without relying on deed restrictions or sale of land to developers below cost. The land trust acquires and maintains permanent ownership of land. The land trust enters into long-term leases with prospective homeowners who earn a portion of the increased property value when they sell the property.

A CLT is typically a non-profit 501c3 organization. Initially, the CLT would need significant administrative/organizing support from the City. The board of directors would need to include experienced housing and technical advisors along with area residents and other interested parties. The City would have to be willing to provide the Land Trust with land at significant discounts in order for this approach to be successful. Since the Land Trust would be a quasi-governmental agency, the City would be retaining more control over the land than under the model of selling land for \$1.

**OVERALL ESTIMATED COST/REVENUE:** *Approximately \$0 to \$100,000 annually plus the lost revenue from any surplus land placed into the Land Trust.*



**8. Use CDBG funding to establish an emergency repair program.**

This program would assist eligible households with repairs that are determined a necessity due to the immediate danger to the health or safety of the occupants of the household. Funding would be provided from HUD's Community Block Grant program in the form of a maximum loan of up to \$7,500 in either a forgivable or payable loan determined by the household's financial situation. Eligible applicants would own and occupy a one to four unit building; income and rent requirements would be in place for the owner occupant and tenants.

**OVERALL ESTIMATED COST/REVENUE:** Estimated annual program cost: \$75,000 to assist 10 households

**9. Offer Housing Rehabilitation Funding in conjunction with the Lead Safe Housing Program.**

Local funding of a Housing Rehabilitation/Lead Safe Housing Program would allow more flexibility with assisting households that earn up to 120% AMI (workforce housing). These households do not qualify for federally funded housing rehabilitation or lead safety programs.

One of the challenges with our current Lead Safe Housing Program is a local program policy which requires that any multi-family property receiving housing financial assistance must meet building and life safety code standards. Another challenge has been qualifying multi-family properties that meet the rent limit requirements established by CDBG and HOME regulations. If local funding was available to address code issues in connection with lead abatement, the guidelines could be more flexible in regards to rent caps.



**10. Administer the Portland Water District (PWD) water efficiency and repair services.**

Portland Water District would provide \$20,000-\$30,000 per year for water efficiency and repair services to households served by PWD. The City would coordinate the application process and contractor work for a 15% administrative fee per project.

**OVERALL ESTIMATED COST/REVENUE:** *Approximately 100 hours of staff time to evaluate, staff management thereafter.*

**11. Consider creating a Housing Advisory Board, primarily consisting of housing professionals with some tenant and landlord representation, to help City staff and Councilors make informed policy decisions.**

A Housing Advisory Board has the advantage of bringing in housing professionals to provide considerable free consulting assistance to staff.

**OVERALL ESTIMATED COST/REVENUE:** *Approximately 40 hours of staff time to establish, about \$10,000 annually thereafter for incidental expenses.*

## **SUMMARY**

Staff is looking for direction from the Committee regarding which recommendations should be the focus of additional analysis.