Regular Meeting
Thursday, November 2, 2017
7:00 pm

South Berkeley Senior Center
2939 Ellis Street
Secretary Amy Davidson
HAC@cityofberkeley.info

All agenda items are for discussion and possible action.

Public comment policy: Members of the public may speak on any items on the Agenda and items not on the Agenda during the initial Public Comment period. Members of the public may also comment on any item listed on the agenda as the item is taken up. Members of the public may not speak more than once on any given item. The Chair may limit public comments to 3 minutes or less.

1. Roll Call
2. Agenda Approval
3. Public Comment
4. Approval of the October 5, 2017 Regular Meeting Minutes (Attachment 1)
5. Review 9/22/2017 Brown Act Violation Cure and Correct Demand Letter from Thomas Lord and Proposed Actions in Response – All/Staff (Attachment 2 – entire document is available at https://www.cityofberkeley.info/uploadedFiles/Housing/Commissions/Commission_for_Housing_Advisory/HAC%20Agenda%20Packet%2010.05.2017.pdf)
   a. Demand 1 – Rescind the current work plan and replace it with one that strictly follows the format preferred by City Council
      i. Proposed response action: Emphasize need for formal adjournment even in a less formal meeting structure to ensure the public has an opportunity to fully participate; ensure any discussions that occurred between the work session and the regular meeting are made public now
      ii. Proposed response action: prior to generating next work plan, review the City Council format and discuss changing to that format
   b. Demand 2 – Rescind subcommittees
      i. Proposed response action: Schedule a Special Meeting on December 7, 2017 for a Brown Act training regarding the role, purpose and function of subcommittees then revisit subcommittees at a later date
   c. Demand 3 – Meeting process guidelines
      i. Proposed response action: Schedule check in on the meeting process guidelines in March 2018 to ensure the concerns raised regarding misuse and discouraging full discussion have not come to fruition
6. Discussion and Possible Action on Recommendations on the Use of Measure U1 Funds from the U1 Subcommittee – Marian Wolfe (Attachment 3)
7. Discussion and Possible Action on Recommendations for the “Smoking Prohibited in Multi-Unit Residences” Ordinance (BMC 12.70.035) and Practices from the Smoke-Free Housing Subcommittee – Thomas Lord (Attachment 4)
8. **Subcommittee Updates**
   a. Homelessness Subcommittee – *Marian Wolfe* (Attachment 5)
   b. Low-Income Housing Subcommittee – *Marian Wolfe* (Attachment 6)
   c. Student Subcommittee – *Matthew Lewis*
   d. Density Bonus – *Igor Tregub*

9. **Update on Council Items** – *All/Staff*
   a. Northern California Land Trust Housing Trust Fund Loan Conditions (July 11, 2017) – (*Attachment 7*)
   b. Affordable Housing Action Plan (November 14, 2017)

10. **Announcements/Information Items**

11. **Future Items**
   a. **Special Meeting, Thursday, December 7** for Brown Act training and subcommittees discussion and Public Hearing on Community Needs

12. **Adjourn**

**Attachments**
1. Draft October 5, 2017 Regular Meeting Minutes
2. Thomas Lord, Brown Act Cure and Correct Demand Letter
3. Marian Wolfe, U1 Recommendations
4. Thomas Lord, Flaws in Berkeley’s Smoke-Free Residence Law and Practices
5. Marian Wolfe, Assessment of Recent Issues Raised by Homeless Commission (Draft Document)
6. Marian Wolfe, Low-Income Housing Subcommittee Meeting Minutes
7. City Council Annotated Agenda July 11, 2017, Northern California Land Trust Housing Trust Fund Loan Conditions

**Information Items**
8. Correspondence: Kim Nemirow, City Commission Input on Emergency Resource Intervention on Streets
9. Igor Tregub, Update on Issues Relating to Housing and Disaster Preparedness/Post-Disaster Rebuilding
10. Rebecca Coleman, Are Tiny Homes Feasible and Desirable for Alameda County’s Homeless?
11. Updated Meeting Process Guidelines
12. HAC Roster of Subcommittee Assignments and Work Plan
contact the Disability Services Specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Health, Housing & Community Services Department located at 2180 Milvia Street, 2nd Floor during regular business hours. Agenda packets and minutes are posted online at: https://www.cityofberkeley.info/Housing_Advisory_Commission/

Communications to Berkeley boards, commissions or committees are public record and will become part of the City’s electronic records, which are accessible through the City’s website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the Secretary of the commission. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the Secretary for further information.
APPROVED MINUTES

1. Roll Call
   Present: Luis Amezcua, Xavier Johnson, Rashi Kesarwani, Matthew Lewis (7:06pm),
   Thomas Lord, Igor Tregub, Marian Wolfe, and Amir Wright.
   Absent: None.
   Commissioners in attendance: 8 of 8
   Staff Present: Amy Davidson and Jenny Wyant
   Members of the public in attendance: 4
   Public Speakers: 2

2. Agenda Approval
   Action: M/S/C (Johnson/Wolfe) to approve the agenda as amended (remove item 9).
   Vote: Ayes: Amezcua, Johnson, Kesarwani, Lewis, Tregub, Wolfe, and Wright. Noes:
   None. Abstain: None. Absent: Lewis (unexcused).

3. Public Comment
   One member of the public spoke.

4. Approval of September 7, 2017 Meeting Minutes
   Action: M/S/C (Wolfe/Lewis) to approve the minutes with the following changes:
   - Under item 6. Meeting Process, update number 3 to read, “Introduce a motion
     onto the floor as soon as possible for further discussion.”
   - Adjust the indent of the meeting’s final action leftward to differentiate it from item
     11.
   Vote: Ayes: Amezcua, Johnson, Kesarwani, Lewis, Tregub, Wolfe, and Wright. Noes:
   Lord. Abstain: None. Absent: None.

5. Appointment of Density Bonus Subcommittee
   Action: M/S/C (Lewis/Kesarwani) to approve the following:
   1. The creation of the Density Bonus Subcommittee, whose charge is to obtain
      an understanding of existing state and local density bonus policies, research how these
      policies impact Berkeley, and make recommendations on the subject matter to the
      Housing Advisory Commission before June 30, 2018.
   2. The appointment of the following Commissioners to the subcommittee:
Commissioners Amezcua, Lewis, Tregub, and Wolfe.


6. Discussion and Adoption of Revisions to the Student Housing Subcommittee Work Plan

Commissioner Lord recused himself, because he is engaged in a legal dispute with the Housing Advisory Commission regarding the process used to create this subcommittee.

Action: M/S/C (Lewis/Wright) to approve adding the items listed in Commissioner Lewis’ September 26, 2017 email to the Student Housing Subcommittee’s Work Plan.


7. Additional Appointments to Student Housing and Moderate Income Subcommittees

Commissioner Lord recused himself, because he is engaged in a legal dispute with the Housing Advisory Commission regarding the process used to create this subcommittee.

Action: M/S/C (Lewis/Wolfe) to approve the appointment of Commissioner Wright to the Student Housing Subcommittee.


8. Discussion and Possible Action on Recommendations to Update the Smoke-Free Housing Ordinance and/or Associated Implementation Tools

Public Speakers: 1

Action: M/S/C (Lord/Johnson) to approve the following:

1. The creation of a Smoke-Free Housing Subcommittee, whose charge is to consider updates to the City’s Smoke-Free Housing Ordinance and existing implementation of the ordinance, to propose revisions to these to improve the accessibility and effectiveness of the ordinance, and to propose methods for obtaining public input into the needs of the ordinance. The subcommittee has a two month timeframe for reporting back to the Housing Advisory Commission.

2. The appointment of Commissioners Johnson and Lord to the subcommittee.

3. The submission of a letter to City Council recommending the following changes to the implementation of the ordinance:
   a. No longer requiring the landlord’s address on complaint forms.
   b. Providing additional methods for submitting complaint forms (i.e. online, via email, or in person).


9. Discussion and Possible Action on Strategies to Increase Funding for Affordable Housing

Action: M/S/C (Lewis/Kesarwani) to refer the question of how to increase funding for
affordable housing to the following subcommittees of the Housing Advisory Commission: Low-Income Housing, Moderate-Income Housing, and Student Housing.


10. **Update on Council Items**

11. **Announcements / Information Items**

12. **Future Items**

13. **Adjourn**

   Action: M/S/C (Wright/Amezcu) to adjourn the meeting at 8:38 p.m.


Approved on November 2, 2017

_________________________, Amy Davidson, Secretary
September 22, 2017

To: Chair Igor Tregub,
   Vice Chair Marian Wolfe,
   Commissioner Luis Amezcua,
   Commissioner Xavier Johnson,
   Commissioner Rush Kesarwani,
   Commissioner Matthew Lewis,
   Commissioner Thomas Lord,
   Commissioner Kieron Slaughter,
   City of Berkeley

This letter is to call your attention to what I believe were substantial violations of central provisions of the Ralph M. Brown Act, one which may jeopardize the finality of the actions taken by the Housing Advisory Commission (“HAC”).

Briefly stated, the nature of the violations is as follows:

At its June 1, 2017 special meeting, the HAC set aside its agenda to hold an open-ended policy discussion among Commissioners and voted to rank in priority various policy concerns introduced at the meeting. The public did not have the opportunity to comment on the issues that would be discussed. The public did not have the opportunity to put forward alternatives for consideration.

Also at the June 1, 2017 special meeting, regular order so devolved that the full commission was chatting freely among themselves about policy concerns, in the presence of but out of earshot of the public who were present.

On June 8, 2017, the Vice Chair wrote lobbying email, encouraging commissioners to consider various policy ideas she herself had helped to develop. At her direction, the Commission Secretary sent this lobbying email to all commissioners. Subsequently, the call for agenda items went out. Collectively, these actions have the effect of a serial meeting of the full commission, without notice to or participation from the public.

Between June 8, 2017, and July 6, the Commission executives and Commission Secretary exchanged emails with Commissioner Lord concerning his allegation of a possible Brown Act violation. Commissioner Lord proposed means by which to cure and correct the violation. The Commission executives did not, within 30 days, reply with their decision to comply with the demand or refuse it.

At its July 6, 2017 regular meeting, remarkably, the HAC again set aside portions of its agenda to, instead, have open ended policy “spit-balling” discussions among Commissioners. During these discussions commissioners agreed among themselves where the legislative attention of the HAC would be focused in the coming year. The public had no opportunity to comment on the policy proposals put forward nor to offer alternatives.

At its September 7, 2017 meeting, the Commission agendized a “Discussion and adoption of a work plan”. The Commission adopted as its work plan a
memo from Vice Chair Wolfe which contains none of the elements of a work plan as defined and directed by the City of Berkeley (Council resolution titled “Commission Work Plans” adopted on the Consent Calendar by City of Berkeley City Council on July 19, 2016 - and as reported to the HAC in its own April 6, 2017 agenda packet.) Furthermore, the “work plan” adopted is the fruits of the unagendized free-for-all discussions and unrecorded voting that took place in June and July.

Also at its September 7, 2017 meeting, the Commission exceeded its powers by establishing what are, in the eyes of the Brown Act, standing subcommittees with a broad subject matter jurisdiction. These subcommittees are: the U1 subcommittee, the lower income housing subcommittee, the moderate income housing subcommittee, and the student housing subcommittee.

Also at its September 7, 2017 meeting, the Commission adopted meeting process “guidelines” – which the Chair began applying as rules – that explicitly discourage Commission referrals except through the improperly formed subcommittees, and that severely limit the possibility of debate or discussion of alternatives at future meetings.

The actions taken were not in compliance with the Brown Act because, in part, they occurred as the culmination of a discussion in a de facto closed session at the June special meeting of a matter which the Act does not permit to be discussed in closed session, and, there was no adequate notice to the public on the posted agendas for each of the meetings where the matter acted upon would be discussed, and there was no finding of fact made by the Housing Advisory Commission that urgent action was necessary on a matter unforeseen at the time the agendas were posted.

A longer and more thorough presentation of the alleged violations can be found in the attached complaint to the City of Berkeley Open Government Commission.

In the event it appears to you that any of the aforementioned conduct of the Housing Advisory Commission did not amount to the taking of action, I call your attention to Section 54952.6, which defines “action taken” for the purposes of the Act expansively, i.e. as “a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.”

As you are aware, the Brown Act creates specific agenda obligations for notifying the public with a “brief description” of each item to be discussed or acted upon, and also creates a legal remedy for illegally taken actions—namely, the judicial invalidation of them upon proper findings of fact and conclusions of law.

Pursuant to that provision (Government Code Section 54960.1), I demand that the Housing Advisory Commission cure and correct the illegally taken action as
follows:

1. Rescind the vote to adopt a work plan and, instead, work within the constraints of the Brown Act to adopt a work plan of the form directed by City Council in its July 19, 2016 resolution.

2. Rescind the establishment of the U1 subcommittee, the low income housing subcommittee, the moderate income subcommittee, and the student housing subcommittee.

3. Affirm that the related meeting process guidelines adopted in September are not rules and confer no new powers to the chair. In particular, that the chair may not use these guidelines to impose restrictions on discussion and debate, including prematurely cutting off any Commissioner, nor call for “votes to extend” starting at 9PM. Nor may the Commission executives treat Commission referrals from any subcommittee preferentially to referrals from other sources in their capacity as presiding officers.

As provided by Section 54960.1, you have 30 days from the receipt of this demand to either cure or correct the challenged action or inform me of your decision not to do so. If you fail to cure or correct as demanded, such inaction may leave me no recourse but to seek a judicial invalidation of the challenged action pursuant to Section 54960.1, in which case I would also ask the court to order you to pay my seek court costs and reasonable attorney fees in this matter, pursuant to Section 54960.5.

Respectfully yours,
Thomas Lord

cc attorney@cityofberkeley.info
U1 Recommendations
Housing Advisory Commission
October 2017

Background

U1 was passed by three-quarters of the electorate in November 2018 by approximately seventy-five percent approval. The ballot language for U1 is as follows: “Shall an ordinance permanently increasing the gross receipts tax on owners of five or more residential rental units be increased from 1.081% to 2.880%, prohibiting landlords from passing the tax on to sitting tenants, and directing the Housing Advisory Commission to make recommendations on funding and programs to increase affordable housing and protect Berkeley residents from homelessness, be adopted?”

Since the measure was placed on the ballot and required only a simple majority vote to pass, the funds from U1 cannot be deposited into a special account for affordable housing, but are deposited into the City’s General Fund. Because of this situation, these funds cannot be used to fund a bond measure.

However, if the City were to place a version of U1 back on the ballot with the stipulation that it requires a two-thirds vote, and if this new measure passed with the support of at least two-thirds of Berkeley voters, then the funds from U1 could be earmarked for a bond issuance. Calculating the potential revenues from such a bond is a technical question. The amount will vary based on interest rates, market expectations, and the costs of issuing bonds. However, we can provide an estimate based on today’s financial conditions. Assuming an interest rate of 3.5% payable twice a year for 20 years, it would be possible to sell approximately $28.6 million in bonds. (This is a present value calculation, using number of periods, payment for each period, and interest rate.) ¹

At this time, we do not know whether the City will place a version of U1 back on the ballot for the 2018 election.

A second issue to mention is a recent ruling by the California Supreme Court. ² This Supreme Court Decision states that ballot measures placed by a citizen petition process can be voted on in a special election, whereas measures placed by government need to be on a General Election ballot. There has also been discussion whether these citizen measures require only a simple majority to pass or a two-thirds majority, which is currently required for new taxes.

The ruling does not impact U1 anyway, since the U1 ballot measure was placed on the ballot by the Council (and not by citizens).

¹ The assumption of making payments twice annually (and not monthly or annually) is based on Oakland’s Measure KK bonds, sold in August 2017. The only difference between Oakland’s bond measure and the one described here is that the interest rate at the end of 2017 is slightly higher than in August 2017.

A final issue is how income groups are defined for purposes of allocating U1 funds. In general, our affordable housing programs use Alameda County incomes defined by household size to determine program eligibility. While it can be argued that very low-income should be defined with a higher income threshold in Berkeley than in some other areas of Alameda County (considering differentials in the cost of living), there really are few other options, unless we created our own categories based on the most recent census data for Berkeley. The problem with this second approach is that it will not correspond to income categories used by other funding sources, which the City and its partners may wish to access.

**Recommendations**

**Allocation of U1 funds**

- 15% for anti-displacement activities. These activities could include eviction defense and housing counseling, funding the housing retention program, and additional funds for a flexible housing subsidies pool.  

- Remainder of funds for permanent affordable housing - either new construction or acquisition/rehabilitation or funding to prevent affordable housing from conversion to market rate.

- Do not allocate all U1 funds in a given fiscal year to a single project.

- Other recommendations? Could include important policy objectives, such as workforce housing, permanent housing for formerly homeless individuals and households, and co-operative housing with “means testing” for residents.

**Targeting of U1 Funds**

- Establish a household income targeting goal regarding U1 expenditures and housing affordability. To set this goal, the City could consider the use of progress made towards meeting our Housing Element RHNA numbers. See the appendix table for progress made through 2014.

- Another targeting approach would be to recommend priorities based on the Work Plan and subcommittee work. While we may not have this figured out by early

---

3 Potential funding allocations to prevent displacement were discussed and approved at the July 6, 2017 HAC meeting.

4 Another affordable housing concern could be “naturally occurring” affordable housing that is about to be sold on the private market. However, this gets complicated given that we have rent control and no affordability requirements for tenants benefitting from historically low rents. For now, the HAC is not recommending the use of U1 funds to purchase “naturally occurring affordable housing,” but it may be a policy to consider at some point.

5 This assistance could cover both student and non-student co-ops.
2018 (when we hope we can submit this memo of recommendations), we can list the Work Plan recommendations that require funding. These include encouragement of alternative ownership models (co-ops and land trusts), and providing affordable housing for BUSD teachers and staff.

**Administrative Issues**

- What percentage of U1 funds should be allocated for administration of funds?\(^6\)

- If possible, use the HTF process to allocate funds, so that U1 allocations do not require a new administrative process.

- Tracking U1 deposits and expenditures – as promised in the ballot measure\(^7\)
  - City needs to establish a way to track U1 Funds and expenditures.\(^8\)
  - City should prepare an annual report for the HAC and public that reports on revenues and expenditures related to U1 funds.

---

\(^6\) According to the U1 ballot measure: “Additional costs for administration and collection could be as much as $350,000.” However, we do not believe that this figure has been verified since the passage of U1.

\(^7\) According to the language in U1: “The City would be required to consider the Commission’s recommendations and annually inform the Commission as to the extent to which it has implemented the recommendations.”

\(^8\) Business license taxes must be received or postmarked by February 28th of each year. According to the Finance Department, U1 Revenues will be tracked as they are received. Finance Department staff have indicated that they are working on the programming for this now.
Appendix Tables

1) RHNA Progress as of 2014 in Berkeley

<table>
<thead>
<tr>
<th>Building Permits by calendar year</th>
<th>Total Units</th>
<th>Very Low Income</th>
<th>Low Income</th>
<th>Moderate Income</th>
<th>Above Moderate Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>258</td>
<td>5</td>
<td>35</td>
<td>5</td>
<td>213</td>
</tr>
<tr>
<td>2008</td>
<td>280</td>
<td>23</td>
<td>15</td>
<td>6</td>
<td>236</td>
</tr>
<tr>
<td>2009</td>
<td>304</td>
<td>23</td>
<td>23</td>
<td>0</td>
<td>258</td>
</tr>
<tr>
<td>2010</td>
<td>5</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>2011</td>
<td>24</td>
<td>10</td>
<td>2</td>
<td>0</td>
<td>13</td>
</tr>
<tr>
<td>2012</td>
<td>136</td>
<td>11</td>
<td>10</td>
<td>1</td>
<td>114</td>
</tr>
<tr>
<td>2013</td>
<td>39</td>
<td>0</td>
<td>3</td>
<td>7</td>
<td>29</td>
</tr>
<tr>
<td>2014</td>
<td>144</td>
<td>4</td>
<td>0</td>
<td>3</td>
<td>137</td>
</tr>
<tr>
<td><strong>GRAND TOTAL</strong> 2007-2014**</td>
<td><strong>1,190</strong></td>
<td><strong>76</strong></td>
<td><strong>87</strong></td>
<td><strong>22</strong></td>
<td><strong>1,005</strong></td>
</tr>
</tbody>
</table>

| 07-14 Regional Fair Share Goal  | 2,431       | 328             | 424        | 549            | 1,130                |

| Percent of Goal Achieved        | 51%         | 23%             | 21%        | 4%             | 89%                  |

Source: City of Berkeley Planning Department

2) 2017 Alameda County Income Definitions – Maximum Income Listed for Each Group

<table>
<thead>
<tr>
<th>Household Size (Persons per HH)</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
</tr>
</thead>
<tbody>
<tr>
<td>Extremely Low-Income (30% AMI)</td>
<td>$21,950</td>
<td>$25,050</td>
<td>$28,200</td>
<td>$31,300</td>
<td>$33,850</td>
<td>$36,350</td>
<td>$38,850</td>
<td>$41,350</td>
</tr>
<tr>
<td>Very Low-Income (50% AMI)</td>
<td>$36,550</td>
<td>$41,750</td>
<td>$46,950</td>
<td>$52,150</td>
<td>$56,350</td>
<td>$60,500</td>
<td>$64,700</td>
<td>$68,850</td>
</tr>
<tr>
<td>Low-Income (80% AMI)</td>
<td>$56,300</td>
<td>$64,350</td>
<td>$72,400</td>
<td>$80,400</td>
<td>$86,850</td>
<td>$93,300</td>
<td>$99,700</td>
<td>$106,150</td>
</tr>
<tr>
<td>Median Income (100% AMI)</td>
<td>$68,200</td>
<td>$77,900</td>
<td>$87,650</td>
<td>$97,400</td>
<td>$105,200</td>
<td>$113,000</td>
<td>$120,800</td>
<td>$128,550</td>
</tr>
<tr>
<td>Moderate-Income (120% AMI)</td>
<td>$81,850</td>
<td>$93,500</td>
<td>$105,200</td>
<td>$116,900</td>
<td>$126,250</td>
<td>$135,600</td>
<td>$144,950</td>
<td>$154,300</td>
</tr>
</tbody>
</table>

Source: California Department of Housing and Community Development, 2017
To: Housing Advisory Commission
From: Thomas Lord, Smokefree Housing Subcommittee Chair
Subject: Flaws in Berkeley’s smokefree residence law and practices

This is a report from the Smokefree Housing Subcommittee which is comprised of members:

• Xavier Johnson
• Thomas Lord

Smoking anywhere within a multi-unit residence is illegal in Berkeley. The purpose of the law is to protect fellow-residents from the harmful effects of second-hand smoke.

Our subcommittee was formed in reaction to anecdotal complaints brought to the HAC alleging the ineffectiveness, in some circumstances, of the law. Both subcommittee members also indicated personal awareness of cases where the law had failed to help victims of second-hand smoke.

We met on October 21 with an agenda to

• review the smokefree housing ordinance and its current implementation
• develop ideas for seeking public input

This is the subcommittee’s report back to the full commission.¹ The subcommittee developed substantial tentative ideas for improving both the smokefree housing law, and its implementation. The subcommittee also discovered questions it would like to ask both of the City Manager, and of the people.

The report is structured this way:

• our recommendation to the HAC
• some background about the law

¹Because of the shortness of time, the subcommittee met only once. Consequently, Commissioner Johnson has not had the opportunity to review this report. The chair apologizes for and trusts that, during the full HAC meeting, Commissioner Johnson will correct any misstatements or omissions.
• flaws in and tentative improvements to the law itself
• flaws in and tentative improvements to the law’s implementation
• draft text for a HAC referral to City Council

Recommendation to the HAC

It is the subcommittee’s recommendation that the HAC make a referral to City Council. The City Council referral will accomplish three things:

1. request that the City Council refer our questions to the City Manager
2. request that the City Council authorize our request for a “Berkeley Considers” poll on the matter by directing the City Manager to conduct such a poll
3. inform City Council, by including a copy of this report, of our tentative proposals for legal and implementation reforms

Draft text for such a referral is included at the end of this document.

Background about the law

In October of 2013, the City Manager, responding to a referral from City Council, returned with a proposed law prohibiting smoking tobacco in any unit or common area of a multi-unit residence.

The objective of the proposed law was to protect other tenants from second-hand smoke.

There was wide - perhaps unanimous - support for such a law in concept, and differences among councilmembers over the details. In particular, some council members thought it important that the law impose criminal penalties (e.g., a fine) for smoking in violation of the law. In opposition to a criminal penalty, at least one member was deeply concerned that criminal penalties could lead to evictions, especially of long-standing tenants of rent controlled apartments.
The law drafted by staff did not contain criminal penalties. It would require a no-smoking clause in all new leases. Additionally, it would create a private right action, allowing one tenant effected by second-hand smoke to sue another tenant who caused the smoke. Staff’s proposed law drew heavily on legislative models already in place in several other California cities.

The City Council majority favored criminal penalties, noting that nobody could be evicted if they chose to change their habits, smoking outside (away from common areas), if they were to continue smoking.

Rather than adopt a first reading at the October meeting, that night the City Council more or less drafted an alternative law – the one we have today – drafting the new law from the dais that night. The City Manager returned in December with an ordinance written on the basis of the City Council discussion. The ordinance included a criminal penalty (a fine, for an infraction). The new ordinance passed its first and second reading at meetings in December of 2013. It became, principally, sections 12.70.035 (“Smoking prohibited in multi-unit residences”) and 12.70.037 (“Required lease term for new leases.”)

Flaws in and tentative improvements to the law itself

Subcommittee members agreed that there are structural flaws in the law as it stands.

Landlords are not obligated to take reasonable steps

The law as it stands provides an affected tenant with only one possible remedy: a criminal complaint against a neighbor.

While the law does mandate that new leases explicitly prohibit smoking, it creates no obligation of landlords to respond to smoking complaints in reasonable ways.

The subcommittee found it desirable that landlords be obligated respond to smoking complaints with steps such as:
• reminding tenants of their legal requirement to not smoke
• reminding tenants of their lease terms, if applicable
• assisting in identifying the source of smoke if it is unknown
• ensuring that no-smoking signage is in compliance

We tentatively propose that the failure of a landlord to take reasonable steps in response to a smoking complaint should be declared, in this law, a violation of the implied warranty of habitability. We recognize that such a declaration may, in extreme situations, entitle affected tenants to reductions in rent or other remedies. A habitability problem may serve as a defense in certain eviction cases.

It is important to note that the reasonable steps we would demand of landlords can not and would not include “evict the offending tenant”.

It is, perhaps, valuable to note that imposing a positive obligation on landlords may reduce the number of circumstances in which criminal penalties against a smoker are invoked. The intent, in other words, is to encourage direct social solutions as an alternative to policing solutions.

Smoking in common areas is poorly addressed

Smoking in common areas of a multi-unit residence is not always easily attributable to a particular unit within the residence. It can even be hard to identify who is smoking in a common area as is the case when the complaint concerns second and third hand smoke lingering in a common area from a “sneaky smoker” who is hard to catch in the act. Where the smokers are guests, It can be hard to identify which resident is responsible for their actions.

BMC 12.70.035 (“Smoking prohibited in multi-unit residences”) prohibits smoking in common areas, but the enforcement mechanism in that same ordinance offers no help in cases where it is hard to identify the smoker or responsible party.

We tentatively propose that:

• the law should permit complaints to be made without definitively identifying the responsible party
• among the “reasonable steps” required of landlords or building owners should be an obligation to help investigate to discover the source of smoking

The second complainant requirement is unduly restrictive

BMC 12.70.035 (“Smoking prohibited in multi-unit residences”) requires that, in most cases, separate complaints must be brought by two tenants (living in separate units) before a fine can be imposed.

As an exception to the rule, in a duplex, two complaints from the same person are sufficient for a fine.

We found this to be unfair and to impose an unreasonable burden in some cases.

We tentatively propose that two complaints from the same person be sufficient in any situation if at least one of the two complaints is accompanied by sworn affirmation from at least one identified witness. The witness would not have to be a resident of the building where the violation took place. The witness should be prepared to reaffirm his sworn statement in the case of an appeal.

Flaws in and tentative improvements to the law’s implementation

We found the current implementation of the law to be inadequate.

Anecdotes of mishandled complaints

Anecdotal public comment before the HAC suggested that the processing of complaints provides inadequate feedback to complainants, and that it has not in every case faithfully carried out the law.\(^2\)

\(^2\)For example, one member of the public with a well known and long-standing second-hand smoke problem at her residence described being told some of her complaints had
We tentatively propose that the complaint process be subsumed into the general process the City uses for code violations in general (that is, complaints directed to the City’s Code Enforcement officer). Complaints under this ordinance should yield:

- issue tracking numbers for all complainants
- positive notification to complaints of changes in the status of a complaint

Additionally complainants should have:

- the option to submit electronically signed complaints or scans of physically signed complaints via email

**Overly demanding complaint form**

The complaint form requires that a complainant provide the “landlord/property owner name” and “landlord/property owner address”. These are information that, to the best of our knowledge, some landlords or building owners try to keep private from tenants. They are also information that the City itself has better access to.

We tentatively recommend that the form indicate such information is desirable and helpful, but not necessary to file a complaint.

**Signage enforcement**

We found no indication that the “no smoking” signage requirement is enforced by the city.

We tentatively recommend that “no smoking” signage be added to the checklist for Residential Safety Program inspections and self-inspections.

been improperly and silently discarded.
A hidden law

Lastly, neither subcommittee member found it easy to locate information about this law on the City’s web site. We feel that the ordinance should be more clearly presented on both the City’s and the Rent Stabilization Board’s web sites.

Draft text for a HAC referral to City Council

We propose that this report be attached to a City Council referral and that the referral include this recommendation:

Recommendation (to City Council)

Refer to the City Manager these questions from the HAC (requesting that responses be referred to HAC for possible action). These questions are intended to access readily available information. If a requested statistic is not at all available or would require significant resources to provide, we ask that the City Manager just tell us that rather than expending excessive resources on these. Informed but informal estimates in lieu of hard data are acceptable if necessary:

- How many complaints under this ordinance have been received by the City?
- How many warning letters have been sent? How many fines have been imposed?
- How many complainants have their been?
- Have their been any appeals to fines imposed?
- Is the City (including the Rent Stabilization Board) presently aware of any evictions that have taken place as a result of smoking complaints?

---

3 The chair has taken the liberty of translating the subcommittee discussion into direct questions to the City Manager and into polling questions. The subcommittee did not work out the specifics of these questions during our meeting.
• Is it practical and beneficial to unify the smokefree residence complaint process with the City’s general code enforcement process? If not, what are the obstacles?

Additionally, direct the City Manager to prepare and conduct a “Berkeley Considers” poll regarding the smokefree housing ordinance. The City Manager should, when the poll is publicly announced, simultaneously transmit the announcement to the members of the HAC so that they may share it with interested parties, organizations, and social networks.

The poll should contain an introduction such as:

Smoking tobacco is prohibited in all units and common areas of multi-unit buildings in Berkeley. The purpose of this prohibition is to protect people from exposure to second-hand smoke by-products. Berkeley’s law allows multi-unit building residents to file complaints about violations. In some cases, these complaints result in warning letters to smokers. In some cases, fines.

In response to complaints made during public comment and in public communication, Berkeley’s Housing Advisory Commission is contemplating ways to improve the law, to better achieve the aim of protecting residents from second-hand smoke.

These questions are meant to help guide the Housing Advisory Commission in fashioning revisions to the law.

The poll should include these survey questions:

• Did you know that smoking is prohibited in all multi-unit residential buildings, including in common areas, throughout Berkeley?

• Do you agree that freedom, at home, from exposure to second-hand smoking is a right?

• Have you or someone you know experienced problems with second hand smoke caused by a resident of the same multi-unit resident?

• Have you ever made a complaint under Berkeley’s existing law? (If so, please comment on the outcome of your complaint.)
• In the event of a complaint, is it fair to ask landlords to remind their tenants of their obligation to not smoke in a multi-unit residence?

• In the event of a complaint where it is unclear who is doing the smoking, is it fair to ask landlords to take reasonable steps to help identify the smoker?

• Law in some cities permits the establishment of designated smoking areas where other people are unlikely to be harmed by the second-hand smoke produced. Should Berkeley law contain a similar provision?
October 25, 2017

TO: Housing Advisory Commission
FROM: Marian Wolfe, HAC Member
RE: Assessment of Recent Issues Raised by Homeless Commission
(Draft Document)

Two issues were raised by the members from the Homeless Commission: Berkeley Housing Authority (BHA) and a proposed project at 2927 San Pablo which is now under appeal to the City Council. I am submitting notes that will still need to be reviewed by Xavier Johnson.

Berkeley Housing Authority (BHA)

For the Homeless Commission, there are two issues related to the BHA. The first is a decrease in the number of available certificates due to federal funding losses as well as the higher payment standard used in Berkeley given our higher rents. A second issue are deficits in operating costs that BHA requests the City to cover.

Two documents are included as attachments to this draft memo. The first is the letter sent out to current Section 8 recipients to inform them about upcoming program changes due to budget issues. The second is a PPT presentation provided to the council by BHA that explains the federal policies and how they affect BHA and the Section 8 Program.

If the HAC decides get involved with current issues faced by the BHA, then we can assess what recommendations can be made by the HAC. At present, unless additional funding sources are identified, it is unclear what recommendations the HAC can make to fill the operating deficit, or retain the number of vouchers that had been available.

Proposed Project at 2527 San Pablo

Revisions made to the City’s Municipal Code state that options to the Affordable Housing Mitigation Fee (22.20.065) includes provisions for providing units instead of paying housing mitigation fees. If affordable units are provided, the revised Code stipulates that 40% of the affordable units must be leased to households with Section 8 vouchers and that 40% of affordable units must be reserved for holders of Shelter Plus Care Certificate holders. These changes were passed in summer 2017 and never came to the HAC for discussion.

The relevant section of the municipal code is inserted below and the relevant section of the Code is offset in italic font. It does not appear that the two percentages may overlap, so that there would be a cumulative total of 80% of the affordable units that would need to meet these requirements.

The applicant for the development at 2627 San Pablo does not want to rent the affordable units to Shelter Plus Care recipients but to developmentally disabled tenants. (It does not appear that the applicant is also requesting a waiver from the second requirement at this time, so that 40% of the
low-income tenants still need to be Section 8 voucher recipients.) The Homeless Commission is concerned about the potential waiving of the Shelter Plus Care requirement for the affordable units in this project and would like the HAC to take a position against approving this project if it does not dedicate 40% of the low-income units to Shelter Plus Care recipients.

The ZAB approved the project in the summer. It is on appeal now to the City Council. It does not go back to the ZAB. Generally City Commissions do not get involved with appeals to the City Council.

It is proposed that the HAC subcommittee communicates with the Homeless Commission to say that, at this time, the HAC will not take a position on this specific project, due to the ongoing appeal process, but will examine the Inclusionary Ordinance in early 2018.  

**22.20.065 Affordable housing mitigation fee.**

From Berkeley Municipal Code 22.20

2. No later than the date the first building permit is issued for a Development project that is subject to the Fee, the applicant may elect to avoid the Fee by providing, for the life of the project, a number of units equal to 20% of the total units in the project at rental rates affordable to Low-Income and Very Low-Income Households and pay a proportionately reduced Fee as calculated in Section 22.20.065.D.

Subject to administrative regulations promulgated pursuant to subdivision H, 40% of the Very Low-Income units in Development projects that have not obtained final approval under Title 23 as of September 20, 2016, shall be reserved for holders of Berkeley Housing Authority Section 8 vouchers and 40% shall be reserved for holders of City of Berkeley Shelter + Care certificates. In all such cases the applicant shall execute a written agreement with the City indicating the number, type, location, approximate size and construction schedule of all such dwelling units and other information as required for determining compliance with this Section. All such units shall be reasonably dispersed throughout the project, be of the same size and contain, on average, the same number of bedrooms as the market rate units in the project; and be comparable with the design or use of market rate units in terms of appearance, materials and finish quality. The owner of any units produced under this option must report to the City annually on the occupancy and rents charged for the units.

---

1 Councilmember Harrison had wanted to make some changes to the Ordinance regarding fees and percentages, and an economic study was needed first to make these changes. So, the Ordinance should cycle back to the HAC in the near term.
August 17, 2017

Dear Section 8 Participant:

The Berkeley Housing Authority (BHA) has a serious budget “shortfall” due to increased costs in rent and lack of sufficient funding from the federal government, and is working hard to keep everyone that is currently on the Section 8 Program in their home. We do not want to cut anyone off the program, however we will need your support and assistance.

We are working with HUD’s Shortfall Prevention Team on an Action Plan that is intended to stretch the funding we have to cover everyone who is currently receiving housing assistance. You will have to do your part to ensure we are successful in accomplishing this goal. Here are some steps that you must consider immediately:

1) We have rescinded all outstanding vouchers from families issued a Section 8 voucher by BHA, and they are being placed back on the waiting list.

2) You must report any and all income changes within 14 days, as stated in your Family Obligations, or face proposed termination of your Section 8 assistance. We are not approving any new re-payment agreements for families determined to have not reported all household income, fraudulently or due to negligence.

3) If you have reported zero income, you will be asked to provide information regularly for a continuous review.

4) Families are allowed to Port (move) to other housing authority jurisdictions. However, if the cost (Payment Standard) is higher than here in Berkeley, the housing authority where you are moving to must agree to accept full financial responsibility for your Section 8 Voucher (in other words, they must “absorb” your voucher).

5) Families are allowed to transfer units within the City of Berkeley if you are successful in finding a home within the current Payment Standard.

6) Those in the Project-based Section 8 Program wishing to obtain a Tenant-based voucher will be placed on a waiting list for issuance of a Tenant-based voucher until further notice.

7) All requests for Reasonable Accommodations for an extra bedroom for a Live in Aide will be reviewed according to our procedure, and it is likely the decision will be to utilize the living room as a sleeping room.

BHA is in a “shortfall” of approximately $752,000 that if not aggressively addressed by all of us, will cause more than 100 families to be removed from the Housing Choice Voucher Program by December 31, 2017.

Please do your part, and let’s make sure that everyone continues to receive this important financial assistance in the City of Berkeley.

Sincerely,

William E. Wilkins
Executive Director
Berkeley Housing Authority

Board of Commissioners
Carole Norris, Chair
Damion McNeil, Vice-Chair; Valerie Agostino, Adolph Moody, Dan Rossi, Marva Cremer and Chris Schildt

October 10, 2017
Topics to be Covered:

• History of BHA
• BHA services today
• Funding shortfall (in both operations and rental subsidy)
• Opportunities to partner with and advance the City of Berkeley’s affordable housing goals
Background – History
Establishment of BHA

• Created in 1966 as a Division of the City of Berkeley
• Housing Choice Vouchers became part of the portfolio in 1970s
• In mid 1980s Berkeley built its own public housing: 75 scattered site units throughout the City
  • 61 HUD funded; 14 State funded: 45 three-Bedroom and 30 four-BR units
• BHA voucher appropriation grew to 1,935 vouchers in 2014
• BHA also provides HAP subsidy for 98 Moderate Rehab units: Single Room Occupancy for formerly homeless and disabled. Properties are owned by Resources for Community Development (RCD) and managed by John Stewart Company.
Background – History
Troubled Designation & Separation from City of Berkeley

• BHA was rated a “Troubled Housing Authority” by HUD’s Real Estate Assessment Center (REAC) – 2005
  • HUD cited City of Berkeley, which managed the housing authority at the time, for lack of budget controls, lack of asset management and the dilapidated condition of the 75 units

• Memorandum of Agreement between HUD, BHA and City of Berkeley:
  • Option 1 – create plan to fix public housing units and operate without a deficit;
  • Option 2 – BHA divest itself of all property assets and permit BHA to spin off City of Berkeley to become an independent agency.

• In 2007, BHA became an independent agency with its own staff and Board of Commissioners (appointed by the Mayor)

• Beginning 2010 BHA has consistently been rated a “High Performer Authority”

• In 2010, awarded PHA of the Year in the Housing Choice Voucher (HCV) Program (Larger Division of California State housing authorities)
Background – History
Strategy to Retain Affordable Housing Stock: Disposition of Public Housing Units

- In 2014 public housing units were sold to Berkeley 75, LLP: 72 of the 74 units receive Project Based Vouchers, ensuring that they remain affordable to households at 50% of AMI and less
  - Sale enabled new owner to procure substantial funding to address required capital improvements
  - City of Berkeley, BHA and Berkeley School District continue to own land, thus ensuring long-term affordability of units
  - Project-based Master HAP contract in effect for up to 30-40 years in total
Background – History
Public Housing: sale proceeds

• In total, the disposition and sale of the 75 units: $15.5 million
• BHA received $3.6 million upfront; the rest $11.9 million was “loaned back” to the developer and will be repaid through residual receipts on an annual basis.
• 14 units were built using State of California - Department of Housing & Community Development funds. DHCD approved the unrestricted use of $2.9 million in sale proceeds.
• Remaining 61 units will generate $12.6 million HUD permitted BHA to use $2.7 million of sale proceeds for operations: administration and salaries.
• BHA requested, and HUD approved the remaining $9.9 million and any interest earned on seller’s note to be used for development/generation of affordable housing.
What BHA’s Programs look like today

• Number of Vouchers allocated by HUD:
  • Housing Choice Voucher (HCV): 1,936
  • Mod Rehab: 98
• Current number of voucher-holding households assisted:
  • HCV: 1,569
  • Mod Rehab: 95
• Total number of people: 3,041
  • majority people of color
  • including elderly, and disabled, formerly homeless
  • over 80% earning between $0 - $30,000 annually
• Monthly average subsidy cost per household: $1,400
• Annual Housing Assistance Payments to landlords: $27 million
• Number of landlords currently participating: 521 down from 569 in 2015
• Reduction in # of participating landlords due to decisions to exit the voucher program and instead rent to households that can pay rent well above BHA’s payment standards
Payment Standards are currently set at 110% of HUD Fair Market Rent (FMR)

In order to attempt to keep up with the extremely high cost Berkeley rental market, attract new landlords, and cease losing units once rented to our program participants, BHA has had to increase Payment Standards dramatically, without additional HUD funding.

<table>
<thead>
<tr>
<th>Eff. Date</th>
<th>SRO</th>
<th>0-Studio</th>
<th>1 BR</th>
<th>2 BR</th>
<th>3BR</th>
<th>4BR</th>
</tr>
</thead>
<tbody>
<tr>
<td>11/1/16</td>
<td>$1,183</td>
<td>$1,578</td>
<td>$1,895</td>
<td>$2,390</td>
<td>$3,318</td>
<td>$3,824</td>
</tr>
<tr>
<td>10/1/16</td>
<td>$1,129</td>
<td>$1,506</td>
<td>$1,809</td>
<td>$2,281</td>
<td>$3,167</td>
<td>$3,650</td>
</tr>
<tr>
<td>2/12/16</td>
<td>$1,086</td>
<td>$1,449</td>
<td>$1,746</td>
<td>$2,208</td>
<td>$3,078</td>
<td>$3,431</td>
</tr>
<tr>
<td>11/01/2015</td>
<td>$845</td>
<td>$1,127</td>
<td>$1,358</td>
<td>$1,718</td>
<td>$2,394</td>
<td>$2,669</td>
</tr>
<tr>
<td>11/1/14</td>
<td>857</td>
<td>1,142</td>
<td>1,386</td>
<td>1,743</td>
<td>2,434</td>
<td>2,987</td>
</tr>
<tr>
<td>10/15/2013</td>
<td>854</td>
<td>1,139</td>
<td>1,380</td>
<td>1,736</td>
<td>2,424</td>
<td>2,974</td>
</tr>
<tr>
<td>12/1/2012</td>
<td>736</td>
<td>981</td>
<td>1,190</td>
<td>1,497</td>
<td>2,091</td>
<td>2,565</td>
</tr>
</tbody>
</table>
Opportunities to Advance the City’s Affordable Housing Goals

• Project Based Vouchers (PBV)

• HUD allows housing authorities to allocate 30% of their vouchers to development long term Housing Assistance Payments contracts;
  • Currently BHA has 16 Master HAP contracts in effect, and one development preparing to break ground for a total of 304 PBVs in use or committed;
  • BHA could allocate an additional 277 PBVs when funding becomes available again – we are currently in a HAP budget shortfall;
  • Maximum number of PBVs BHA could allocate, depending on funding availability: 580.
**WHERE ARE THE PROJECT BASED VOUCHERS?**

<table>
<thead>
<tr>
<th>Property</th>
<th>Owner/ Developer</th>
<th>Address</th>
<th>TOTAL PBV Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adeline St Apartments</td>
<td>RCD</td>
<td>3224 Adeline St</td>
<td>18</td>
</tr>
<tr>
<td>Allston House</td>
<td>SAHA</td>
<td>2121 7th Street</td>
<td>4</td>
</tr>
<tr>
<td>Creekside Apts.</td>
<td>RCD</td>
<td>1155 San Pablo Ave</td>
<td>2</td>
</tr>
<tr>
<td>Hillegass Apts.</td>
<td>SAHA</td>
<td>2610 Hillegass Ave</td>
<td>4</td>
</tr>
<tr>
<td>NCLT</td>
<td>NCLT</td>
<td>1342, 1348 Blake St</td>
<td>2</td>
</tr>
<tr>
<td>NCLT</td>
<td>NCLT</td>
<td>3011 Shattuck Ave., #3</td>
<td>1</td>
</tr>
<tr>
<td>NCLT</td>
<td>NCLT</td>
<td>2425 California St., #6</td>
<td>1</td>
</tr>
<tr>
<td>Ashby Lofts</td>
<td>SAHA</td>
<td>2919-9th St</td>
<td>20</td>
</tr>
<tr>
<td>Helios Corner</td>
<td>SAHA</td>
<td>1531 University</td>
<td>59</td>
</tr>
<tr>
<td>Shattuck Senior Homes</td>
<td>SAHA</td>
<td>2425 Shattuck Avenue</td>
<td>5</td>
</tr>
<tr>
<td>Sacramento Sr Homes</td>
<td>SAHA</td>
<td>1901 Blake St</td>
<td>39</td>
</tr>
<tr>
<td>Oxford Plaza</td>
<td>RCD</td>
<td>2175 Kittredge</td>
<td>24</td>
</tr>
<tr>
<td>Harmon Gardens</td>
<td>SAHA</td>
<td>3240 Sacramento St</td>
<td>5</td>
</tr>
<tr>
<td>Berkeley 75</td>
<td>B75</td>
<td>Scattered Sites</td>
<td>72</td>
</tr>
<tr>
<td>Strawberry Creek Lodge</td>
<td>SAHA</td>
<td>1320 Addison St</td>
<td>23</td>
</tr>
<tr>
<td>Hearst Avenue Apts.</td>
<td>RCD</td>
<td>Hearst/Delaware</td>
<td>8</td>
</tr>
<tr>
<td>Grayson St. Apts</td>
<td>SAHA</td>
<td>2748 San Pablo</td>
<td>17</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td><strong>304</strong></td>
</tr>
</tbody>
</table>
BHA Faces Major Program Fiscal Challenges

• BHA notified in July there would be insufficient funding to make all HAP commitments starting December 2017
• Short Fall projected amount: -$585K in 2017 and -$483K in 2018
• BHA is working with HUD’s Shortfall Prevention Team
• If BHA complies with HUD’s Short Fall Prevention Team’s direction, funding may be made available for December 2017 HAP check run
• What have we been asked to do to comply?
  • stop issuing vouchers and rescind any vouchers for households searching for a unit; stop absorbing incoming port ins; do not issue tenant based voucher (TBV) to PBV families wanting to move with TBV.
• What happens if HUD does not fund BHA’s shortfall?
  • possible termination of up to 139 families.
  • BHA’s Administrative Plan outlines who gets cut from the program: first would be single non-elderly, non-disabled individuals (to be placed back on the waiting list for voucher issuance when the HAP subsidy funding comes through)
  • Normal attrition of clients could bring down HAP spending over time
BHA Faces Major Operational Fiscal Challenges

- BHA receives less than $2 million Administrative Fees annually for salaries, benefits and operations
- BHA has been operating at a $300-$500k operational budget deficit for the past 5 years
- HUD’s appropriation of fees for administration has been less than 100% of the set admin. fee (“proration”) for the past 20 years
- Administrative Fee payment schedule is negatively impacted by reduction in utilization of vouchers because Administrative Fee is paid to the housing authority for each unit under HAP contract on the 1st of the month
- Voucher utilization impacted by high market rents vs. Fair Market Rents/Payment Standards
- HUD allocation of HAP funds always insufficient to cover payments for all units allocated to BHA
- BHA further impacted by the lack of real estate assets within it’s portfolio
BHA Works in Support of the City’s Affordable Housing Needs

• Utilization of public housing sale proceeds in collaborative effort to generate affordable housing:
  • Short term below market rate interest loan(s) with perspective developments
  • Small (4-8 units) acquisition/rehabilitation projects to generate revenue for BHA
  • Joint venture with Berkeley Food and Housing Project
   • Possible below market interest rate loan for construction
   • Possible PBVs for units

• Project Move Up: program approved for 5 years at 10 vouchers per year, issued to Moderate Rehab. SRO and Shelter + Care clients
  • 9/10 leased up in Year 1 (one voucher expired, replacement identified)
  • Currently in Year 2 but on hold until Shortfall situation is resolved
Future Opportunities to Establish Self Sufficiency for BHA

- City providing office space could reduce operating budget by $100k per year; current lease expires 2020
- Utilize sale proceeds for the acquisition and rehabilitation of small (4-8) unit complexes within the City for affordable housing and generation of revenue for BHA
- Establish partnerships and develop collaborative relationships with local developers interested in having access to PBVs for new projects
- Support the City’s efforts through the delivery of functions on a fee for service basis
  - Perform monitoring and income verification functions for Below Market Rate program
Future Opportunities to Establish Self-Sufficiency for BHA

• Moving To Work (MTW) Designation – HUD’s demonstration program currently has 37 housing authorities nationwide participating:
  • Provides housing authorities more flexibility with expenditures of funds received (mix Housing Assistance Payments and Administrative Fees)
  • To be increased by an additional 100 housing authorities over the next 5 years
  • Combined State of California MTW designation a possibility (all public housing authorities interested)
Summary of Benefits BHA Provides to the City of Berkeley

BHA:

• Has been providing affordable housing subsidies to residents in the City of Berkeley for more than 50 years
• Is the largest subsidized housing provider in the City with more than 2,500 people served
• Helps maintain cultural and socio-economic diversity within the City of Berkeley
• Has a local presence and accountability to the City, HUD, our program participants, and landlords including $27 million in revenue annual provided to local landlords, “mom & pops” and sophisticated developers
• Has been a High Performer in the Section Eight Management Assessment Program (SEMAP) for 8 years
• Has untapped resources in the form of the disposition sale proceeds to bring to the table in long-term future housing development
Low-Income Housing Subcommittee Meeting Minutes (October 23, 2017)

Meeting commenced at around 7:40 AM. Marian was selected as subcommittee chair. No members of the public attended.

We discussed the following policies included in the Work Plan. A brief discussion of each is as follows:

1. Identify sites that can be up-zoned, particularly near BART Stations. The Mayor’s Office has assembled a list of about 20 parcels – some of which are smaller than what we normally see for multifamily affordable housing. Igor will provide this list to subcommittee members who will assess suitability for housing to be affordable to low-income households.

2. Development of low-income housing at BART stations – Marian to summarize current BART development policy for affordable housing. Entire subcommittee to consider viability of pursuing a development policy at Ashby and North Berkeley BART Stations.

3. Identify strategies for additional revenue sources.
   - Potentially placing U1 back on the ballot so that revenues can be used to issue a bond. Decision to place on ballot to be determined by City Council and Mayor.
   - Short-Term Rental TOT revenues - Marian will see if a portion of the TOT from short-term rentals could be used for affordable housing and what the City would need to do for this allocation.

4. Streamlining of permit review process for affordable projects – Igor to provide information on ordinance already passed.

Additional policies discussed that were not included in the Work Plan:

- Regional transportation planning (revised Plan Bay Area) and locating affordable housing in Berkeley’s transit corridors (Xavier to follow-up)

- If planning fees are waived, will projects submitted for A1 funding be able to show these fee waivers as resources provided to the projects by the City? (Xavier to follow-up)
5. Housing Trust Fund Recommendation – Harper Crossing
From: City Manager
Recommendation: Adopt a Resolution: 1) Approving a Housing Trust Fund (HTF) reservation for Satellite Affordable Housing Associates’ Harper Crossing in the amount of $285,464, and 2) Authorizing the City Manager to execute all original or amended documents or agreements to effectuate this action.
Financial Implications: See report
Contact: Paul Buddenhagen, Housing and Community Services, 981-5400
Action: Adopted Resolution No. 68,077–N.S.

6. Housing Trust Fund Recommendation – Northern California Land Trust (NCLT)
Scattered Site Rehabilitation
From: City Manager
Recommendation: Adopt a Resolution reserving funds for Northern California Land Trust’s Scattered Sites rehabilitation, specifically by: 1. Waiving Section III.A.1 of the Housing Trust Fund (HTF) Guidelines and accepting NCLT as an eligible developer despite its lack of recent experience. 2. Adopting a finding that a City subsidy in excess of 40% of total development costs is justified by the nature of Northern California Land Trust’s Scattered Site Rehab and unavailability of alternative funding, as required by the HTF Guidelines, Section V.B.7. 3. Approving a HTF reservation for Northern California Land Trust’s Scattered Site Rehab project, in the amount of $569,692. 4. Authorizing City Manager to refinance the Scattered Site Rehab properties’ outstanding HTF loans, with a combined balance currently estimated at $695,000, into the new development loan with terms consistent with the HTF Guidelines. 5. Authorizing the City Manager to execute all original or amended documents or agreements to effectuate these actions. 6. Recommending that Council recommend to the Northern California Land Trust that the organization move towards establishing a Board of Directors’ structure consistent with current community land trust model standards.
Financial Implications: See report
Contact: Paul Buddenhagen, Housing and Community Services, 981-5400
Action: Moved to Action Calendar. 4 speakers. M/S/C (Maio/Harrison) to adopt Resolution No. 68,078–N.S. revised to add the two Whereas clauses below, and to direct staff to include the conversion language in the loan documents with NCLT.

BE IT FURTHER RESOLVED that NCLT educate all current tenants about the benefits of transitioning to a limited equity co-op structure, subsequently begin negotiations to make the conversion to a limited equity co-op structure, and collaborate with an organization that has the capacity and experience to conduct the education and advise on the conversion process.

BE IT FURTHER RESOLVED that NCLT submit quarterly financial reports and annual reports relaying the status of their financial situation and progress in changing the structure of the Board of Directors and transition to a limited equity co-op.

Vote: All Ayes.
From: Kim Nemirow <nemirowkimmy@aol.com>
Sent: Friday, October 13, 2017 11:11 AM
To: jenne.king@gmail.com; Klatt, Karen; Castrillon, Richard; Allen, Shallon L.; george@igc.org; nicca@igc.org; Radu, Peter; Callow, Ella; Rodriguez, Rebecca; Housing Advisory Commission; Bryant, Ginsi; opattiewall@gmail.com
Subject: Fwd: CITY COMMISSION INPUT ON EMERGENCY RESOURCE INTERVENTION ON STREETS

To: Jacquelyn McCormick- Senior Staff- Office of Mayor

cc: Commission Secretaries
   - Aging
   - Disability
   - Housing;
   - Housing Advisory Board;
   - Health & Human Welfare Commission
   - Mental Health
   - Peace and Justice Commission
   - Youth

Fr: Kim Nemirow- former Mental Health and Homeless Commissioner

RE: CITY COMMISSION INPUT ON EMERGENCY RESOURCE INTERVENTION ON STREETS

(To be submitted in commission packets for commissions included above: for consideration of input into details of city sponsored/community based organization ongoing emergency aide on streets in winter months.)

-As we all know, the City of Berkeley and its surrounding cities are not positioned to house a substantial portion of the homeless population. boona’s comments on facebook reveal what we all know but are not as forthright in admitting:

  there are not sufficient resources- housing, health care, mental health care, vocational and community supports- in place or competent or capable- to actually provide units or some form of housing to the number of people on Berkeley streets and in RV’s- and neither are there systems or organizaitons in place to ensure the retention of that housing once obtained.

  Since this fact does not come as a suprise to any of us; our next step is responding to the crisis that is right in front of our eyes. That response has to be emergency humanitarian aide at the level and of a duration sufficient to address actual needs. Please do not read this petition as a plea for insufficient intervention. Providing inadequate coverings ( NOT providing tents, tarps, sleeping bags, food choices, health care acess) is itself cruel. The word sufficient means that there is enough avaiable to meet the acutal need not some person who imagines themselves so benevolent that providing "anything" is better than nothing. If this is your philosophy of self care- and you are a community based organization

  funded to provide outreach on the streets- you can have barely enough to survive for yourself- but so long as you are being held out and relied on to save and sustain lives- I need these organizations and those informing their policies and practices- to comprehensive outreach. Any form of services- particaly to this suffering populaiton- must be based on need not some decision makers subjective perception of need.
I am writing you this email as a person who both was homeless and has done voluntary outreach for half a decade. I know about the basic of what is needed on the streets. I need commissions to care to inform what emergency aide will look like- what the substance of these efforts will be. When you are taking responsibility for emergency aide interventions, you must be highly specific and highly competent. Too often, this city has relegated extremely vital jobs to agencies or organizations who have done little or nothing or just really substandard jobs in accomplishing their purpose.

As it is with those who are deemed important enough to respond to when there is an immediate housing crisis and loss of access to food, clothing, and support- as it is when any area in the United States suffers a displacement of middle or upper middle class persons in some catastrophe like fire or hurricanes or floods- THE PEOPLE ON THE STREETS OF BERKELEY HAVE THE SAME- IN MOST CASES MORE DIRE- CHRONIC AND SEVERE- NEEDS FOR EMERGENCY AID TO SUSTAIN LIFE. Their need is acutally greater than those displaced by fires and natural disasters- as the homeless’s health is typically dire and without any hope of prognosis. Any positive prognosis- hope for a turn around in their condition and at minimum their survival through inclimate weather REQUIRES thoughtful preparedness and sufficient resources.

Towards the end of doing things sufficiently well: I am calling on commissions and city offices to work together to brainstorm, volunteer, enact and watchdog these emergency aide efforts.

I have been told by the Mayor's Office that there are meetings underway to plan for winter by delegating to community based organizations the capacity and mandate to provide resources for those on the streets who are unlikely to be housed in any form during the winter. For those who died of exposure on Berkeley City Streets going back as many years as indifferent and negligent policies informed street outreach polices and protocols- it is too late but even for those or whose overall health conditions grossly worsened over protracted periods of exposure, stress, isolation, inadequate and irregular food, insufficient clothing and barriers to weather and lack of access to any form of mental health support that can reasonably be conceived of as supportive..

I will personally get on the phone and contact all donation sources listed below and any others as needed to do anything I can to place literally into the hands of those designated for these efforts the resources they need. If that were needed

The next step after emergency aide is hiring appropriate outreach staff which means those with complex training in bio-psycho-social needs whose attitudes are empathetic and not anti-pathetic- and who are not biased, prejudiced, adversarial or in any way harmful in their orientation to those they serve.

Secondarily, public health and health care for the homeless have to be involved. There needs to be vans or cars used by the city or cbo's to transport to medical and assess health status on the street for potential emergency room intervention.

Last- but in my estimation- not least- this city is finally seeing the time when we all must admit that this city NEEDS a really good mental health division. That is not what we have now.

Prior to the release of a video expose I have been working on since January of this year, ask around and look around-and you will discover one more obvious truths in Berkeley we all knew but did not want to admit or say too loudly:

There really is no mental health care in the public sector in Berkeley.

People do not survive by bread alone. Beyond what motivates them in terms of what they believe, their mental, emotional, perceptual, relational health MATTERS. Mental health impacts physical health and physical health impacts mental health- in some ways they are inseparable.
I anticipate proposals coming out of the mental health commission or by community members and activist groups toward council to REVAMP the current system and hire, train, retain, supervise excellent staff with sufficient psychological training, practical needs common sense and resourcefulness, empathy, insight, and willness and capacity to do what it takes to facilitate the goal of full healing for any complex bio-psycho-social conditon or state. I also anticipate that doing this will require, replacing, moving, re-assigning, personnel in that division who are doing a terrible job meeting needs and often do a phenomenal amount of harm with their attitudes and behaviors. Alternatively, an option tossed around for years may now become reality: a reversion of control and staffing of the mental health division by the County.

Below is what I have come up as initial ideas:

---------------------------------------------------

FOOD: SOURCES AND TYPE

(You need to diversify your food sources. You will need some bulk. You will need some stock food that does not rot or alter much with time or weather. You have to get people healthy food to give them a chance at surviving- so fresh produce, pre-prepared health foods)

BULK:

Contact Major Big Box Stores:

WALMART
COSTCO
KMART

Grocery Outlet- Will do a ONE TIME bulk donation- If they insist on keeping it at one time- try explaining that the EVENT is street outreach and service outreach so that the DONATION has to be as massive as possible. If you can offer them FREE ADVERTISEMENT in some flyer about the event or news article - perhaps they can do this say once a month.

Some good ideas for bulk:

Cereal (please choose the ones which have almost no sugar, are multi-grain, have good oils etc)
Water and Cases of Vitamin Water
Canned Vegetables: (include high salt based like peas, and high in antioxidants like carrots, beats)
Tuna Fish
Beans
Low Sugar GINGER ale (ginger reduces inflammation and is WARMING)
Prepackaged Soup like Miso (keep in mind that the right amount of salt regulates adrenal response which is part of the reactivity you see in pm hours)
PROTEIN POWDER Any Healthy (not soy isolate preferably vegetarian based- like multigrain or pea protein)
Large NUT Butters (preferably almond but under the circumstances peanut will have to do but WITH no or little sugar)
CANNED OR INDIVIDUALLY PACAGED MEDICINAL JUICES: MEANING- cranberry, lemon (like minute maid), any others high in C like pineapple

NON PERISHABLE:

CLIFF BARS (Chrisopher Tomsa of the Cliff Bar company- if he still works there on the loading deck WILL give cbos massive cases of cliff bars each month)

Any other non-perishables used by first aide type reliefs

HEALTH FOODS
BERKELEY FOOD PANTRY

(At the end of every pantry day (M Wed Fr) and if you wait from 2-4 a very large amount of produce ready to eat is put out as extra and can be picked up by a CBO truck or station wagon)

WHOLE FOODS/ BERKELEY BOWEL:

I know BOSS had a juice program going with mass donations to Harrison House of various juice combinations

LARGE BINS: There have to be storage mechanisms to hold produce and perishables of any kind.

Some health foods seems superfluous or excessive but actually will give some people the best chances of survival and improving their medical status:

At minimun: I would supply ginger, lemon juice, good fibers -including flax, gralic, fish oil tablets, any anti-oxidants which are feasible to provide, some form of animal product as goats’ milk, or kefir or yogurt, some probiotic form ongoing

CLOTHING:

In order of urgency for heat enclosure:

Head Gear, Neck, Feet, Hands, Legs, Upper Body

EYE: googles are the most sufficient

EAR: flaps on hats like army hats which connect by velcrow at the neck; or very tight ear muffs

NOSE: use of scarf

THROAT: turtle necks, scarfs, dickies

WARM JACKETS- I mean warm not luke warm

COLD WEATHER PANTS: if you are willing to invest or are good at soliicting donations- there are excellent army surplus pants which are water proof and insulated

WARM GLOVES: there is a wide range and some go so far as being insulated and water proof

SOCKS: wool or very thick otherwise

TENTS

SLEEPING BAGS- there is a range of warmth capacity depending on how much you spend

SOURCES

ARMY SURPLUS

DONNA SPRING WELL WISHING BOX- CHANNING BELOW MILVIA AND ABOVE SACREMENTO- NORTH SIDE

CHRUCH DONATION DRIVES- ESP THE LARGE CHURCHES

GOOD WILL
MEDICAL HEALTH OUTREACH:

Health Care for the Homeless ongoing presence

COB Public Health outreach ongoing

More networking, rides to additional primary care providers like Watson Wellness Center, other local centers under utilized north oakland, east oakland

MENTAL HEALTH OUTREACH:

THE TIME IS NOW.. to admit THIS IS WHAT THIS CITY NEEDS.
If you think the current mental health division is positioned to do this outreach adequately or well, your ignorance- no offense- is part of the problem.

Kim Nemirow
nemirowkimmy@aol.com
TO: Housing Advisory Commission

FROM: Chairperson Igor Tregub

SUBJECT: Possible Areas of Collaboration with Disaster and Fire Commission

RECOMMENDATION

Provide feedback on possible areas of collaboration with the Berkeley Disaster and Fire Commission

SUMMARY

I have been in communication with Commissioner Couzin of the Berkeley Disaster and Fire Commission about potential areas of collaboration. The following memo outlines these items.

- Develop an ordinance to require that apartment buildings with three or more residents maintain sufficient water to supply their residents with water for three days in the event of a disaster.
- When the Office of Emergency Services (OES) is setting up emergency caches at multi-unit buildings as part of the Community Resilience Center (CRC) program, input from renters must be integrated into the conversation (for example, when discussing what equipment to store), and access to emergency caches must be given to a minimum of two on-site residents.
- Develop an ordinance to require that in multi-unit apartment buildings with no on-site manager, a minimum of two on-site residents must be given access to the utility shut-off valves.
- Require that the OES offer a certain minimum of CERT trainings per year to apartment-dwellers at their apartment location.
- In every disaster-related guideline, outreach, or requirement for property owners (for example, soft-story retrofit requirement), develop outreach materials that speak to renters on how this guideline affects them.
- Ensure that the City of Berkeley’s ordinances that are within its purvey (i.e., not the Rent Board’s) ensure that the inventory of rent controlled units does not diminish after a disaster (if / once multifamily buildings are rebuilt).
- Explore the feasibility of revising the Berkeley Demolition Ordinance to allow for tenants to be able to receive the same relocation benefits that are enumerated in the Relocation Ordinance. Explore additional revisions to the Berkeley Demolition Ordinance, such as expanding the criteria for tenants’ ability to receive its protections to disasters and fires.
• Refine the Berkeley Rental Housing Safety Program (RHSP) and integrate seismic safety considerations into the RHSP checklist.
• Consider phasing in Berkeley’s Soft Story Program to include multifamily buildings of four and/or fewer units. Ensure that financing opportunities are available for property owners that are commensurate with this proposal.
• Create an ordinance that requires all rental agreements in Berkeley to allow renters to brace furniture and strap the hot water heater so that it doesn't fall over in an earthquake, and make this effective for existing as well as new rental agreements. [Note: This may be within the Rent Board's purview].

BACKGROUND

The Housing Advisory Commission has occasionally collaborated on areas of mutual concern at the Berkeley Disaster and Fire Commission’s request (most recently, on the aforementioned pilot for emergency caches stored in multifamily buildings.)
Are tiny homes feasible and desirable for Alameda County's Homeless?

Rebecca Coleman

October 2017
Study questions

1. Are tiny homes *desirable* to help address homelessness in Alameda County?
2. Are tiny homes *feasible* to help address homelessness in Alameda County?
3. What can we learn from examples of successful tiny home developments for homeless in terms of what characteristics make these communities successful?
4. What specific changes to local zoning, design, and permitting processes would make it easier to build tiny homes for homeless?
Alameda County 2017 homeless overview*

98% of Alameda County Homeless Point-in-Time survey respondents said they are interested in Independent, Affordable Rental Housing or Housing with Supportive Services.

2017 Sheltered/Unsheltered Population

31% Sheltered (n=1,766)

69% Unsheltered (n=3,863)

2017 Alameda County Homeless Census

Population

2009 2011 2013 2015 2017

4,341 4,178 4,264 4,040 5,629

Residence Prior to Homelessness

82%

Alameda County tiny house movement

The theme is

**improvisation:**

- Formalizing encampments
- Incentivizing Accessory Dwelling Units for low and extremely low income residents in Piedmont
- Pre-fab micro-units recommended by Berkeley City Council
- Tiny townhouse feasibility study on Emeryville/Oakland border
- Tuff-shed units approved in Oakland
What is a tiny home?

Tiny homes: “Tiny homes range from 80-400 sf in size, which may be built with a variety of standards or no construction standards; may or may not be constructed on a chassis (with or without axles or wheels); and usually are offered for use and placement in a variety of sites. Neither the CA HCD nor any other State or local agency has specific statutory or regulatory definition authority of construction approval for tiny homes as a specialty product” (California Department of Housing and Community Development).
**Tiny home types**

People use the term ‘tiny homes’ to mean many different types of structures.

1. **Makeshift Shelters**
   Informal shelters made from found materials by West Oakland artist.

2. **Accessory Dwelling Unit**
   Small cottage in backyard that is legally part of same property as main home.

3. **Tiny House on Wheels**
   Complies with existing code for trailers and RVs.

4. **“Tuff Shed”-like Shelters**
   Fresno provides transitional housing in a village configuration.

5. **Stackable Micro-Units**
   Produced from recycled shipping containers or prefabricated offsite to form apartments.
## Why tiny homes? Cheaper to build per unit

<table>
<thead>
<tr>
<th>Village Name</th>
<th>Location</th>
<th>CAPITAL</th>
<th>OPERATING</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Startup Cost</td>
<td>Cost/Unit</td>
</tr>
<tr>
<td>Opportunity</td>
<td>Eugene, OR</td>
<td>$212K</td>
<td>$7.3K</td>
</tr>
<tr>
<td>Village</td>
<td></td>
<td>$114K in-kind</td>
<td></td>
</tr>
<tr>
<td>Transitional</td>
<td></td>
<td>29 units</td>
<td></td>
</tr>
<tr>
<td>Emerald</td>
<td>Eugene, OR</td>
<td>$1.5MM</td>
<td>$60K</td>
</tr>
<tr>
<td>Village</td>
<td></td>
<td>Permanent</td>
<td></td>
</tr>
<tr>
<td>Permanent</td>
<td></td>
<td>22 units</td>
<td></td>
</tr>
<tr>
<td>Quixote Village</td>
<td>Olympia, WA</td>
<td>$3.16MM</td>
<td>$102K (does not include in-kind labor)</td>
</tr>
<tr>
<td>Permanent</td>
<td></td>
<td>30 units</td>
<td></td>
</tr>
</tbody>
</table>

Source: "Making a Tiny Deal of It: A Feasibility Study of Tiny Home Villages to Increase Affordable Housing in Lane County, Oregon." [http://media.wik.com/wgd/bd125b_211036c3eeef7432a3e7108934db279.pdf](http://media.wik.com/wgd/bd125b_211036c3eeef7432a3e7108934db279.pdf)
Trend in California

“It’s certainly something that we should encourage other communities to take a look at when it comes to creating solutions for housing the chronically homeless...It’s a very important step in terms of the kinds of services we should be providing to people that need assistance.” —U.S. Department of Housing and Urban Development (HUD)

200% growth: if all currently planned developments are built, we will see an increase from 4 existing to 12 total developments across California.

Bay Area: one development is in the planning phase:
Tiny house village: Sonoma

Veterans: one development plans to exclusively serve veterans:
Sonoma County: Veteran’s Village (RFP issued)

*Calculations based on information provided from the Village Collaborative map of existing network:
https://www.google.com/maps/@41.9166111.2458124.76.618111.000000000003388
Tiny homes and homelessness

TINY HOUSE MOVEMENT

DOWNSIZING FROM STANDARD SIZE HOUSE

Developer Tumbleweed Tiny Houses “Elm” Model
Environmental, minimalist movement à la Thoreau’s Walden; current trend began in Iowa ~1999. Tiny homes by leading developer: $63K base price.

TINY HOMES FOR HOMELESS

UPSIZING FROM HOMELESS ENCAMPMENT

“Potter’s Lane” units for veterans, Orange County, CA
Provide housing with services to homeless in encampments, shelters, or on the streets; began with Dome Village in Los Angeles, 1993.
Why tiny home villages? Villages provide...

1. **Cost effective and efficient housing**: villages are cheap, simple to build, and can be installed in a handful of months on public land or donated space on religious or private property.

2. **Community**: a place to congregate and solidify support networks.
   - In traditional shelters, residents often must adhere to strict rules, are unable to stay on the property during the day and lack a safe space to store their possessions.
   - Standard apartment buildings often do not have gathering spaces and residents may remain isolated.

3. **Opportunity for homeownership**: dignity and participation in attaining the American Dream through owning private space.

Source: "Building Together: Tiny House Villages for the Homeless: A Comparative Case Study." [https://dspace.mit.edu/handle/1721.1/109256](https://dspace.mit.edu/handle/1721.1/109256)
Tiny home villages: U.S. timeline

1993-2006
Los Angeles, CA
Dome Village

1993-2006
Portland, OR
Dignity Village

2004
Fresno, CA
Village of Hope

2004
Ventura, CA
River Haven

2013
Eugene, OR
Opportunity Village

2013
Olympia, WA
Quixote Village

2013
Seattle, WA
Nickelsville Tiny House Village

2014
Madison, WI
Occupy Madison (OM)

2014
Ithaca, NY
Second Wind Cottages

2016
Yuba City, CA
14 Forward

2017
Sacramento, CA
Compassion Village

2015
Seattle, WA
Othello Village

2015
Austin, TX
Community First

2015
Nashville, TN
Infinity Village

162% projected increase of U.S. tiny house villages over next several years*
77% of U.S. tiny house villages built in 2013 or later*

*Calculations based on information provided from the Village Collaborative map of existing network:
https://www.google.com/maps/d/u/0/viewer?mid=1J4TXVg6uM141zkbXVU8DQpEn4-42.98011100000024/-76.61816560000034&; dates also compiled from Tiny Home Villages Info Table shared by Linda Gardner June 2017.
Tiny home villages issues in the Bay Area

Legal framework in CA

Cost of land

NIMBYISM
Additional models: tent cities

Tent cities: "A tent city can be defined as a well-rooted homeless encampment, often with a larger number of inhabitants and some level of organizational structure. There is no set point at which an encampment becomes a tent city, rather it is an abstract label that is adopted by its inhabitants and/or the surrounding community." Tent City Urbanism
Additional models: Accessory Dwelling Units

**Definition:** small cottage in backyard that is legally part of same property as main home. The cottage can be attached or detached.

*City of Piedmont, CA:* homeowners granted exceptions to lot size and parking requirement to incentivize construction for low and extremely low income residents.

*Portland, OR:* homeowners a free ADU on their property if they agree to participate in 5-year program to house homeless families. Families supported by and referred through the non-profit organization [A Home For Everyone](http://www.ahomeforeveryone.org). After 5-year contract, homeowners retain full ownership of the ADU and can use it any way they want.
Additional models: micro-units

Tiny apartments (micro-units): “A micro unit might be 300 square feet in New York City or 500 square feet in Dallas. No standard definition exists. A micro unit is a somewhat ambiguous term that covers anything from a relatively small studio or one-bedroom apartment to a short-term lease, SRO unit with communal kitchen and common room areas. In fact, many in the industry are moving away from branding their units as micro because the term has begun to arouse negative connotations associated with higher density, overcrowding, and transient populations” (Urban Land Institute).
Micro-units trend in California

“It’s certainly something that we should encourage other communities to take a look at when it comes to creating solutions for housing the chronically homeless... It’s a very important step in terms of the kinds of services we should be providing to people that need assistance.” —U.S. Department of Housing and Urban Development (HUD)

300% growth: if all currently planned developments are built, we will see an increase from 1 existing to 4 total developments across California.

Bay Area: three developments are in the planning phase:
- **Micro-group housing**: Alameda, San Francisco, Santa Clara

Veterans: one development serves or plans to exclusively serve veterans:
- **Orange County**: Potter’s Lane (completed)

*Calculations based on information provided from the Village Collaborative map of existing network: https://www.google.com/maps/d/u/0/viewer?mid=1ku5r5f6uM14f1xobWYuje5G6E&ll=42.330511100000024%2C-76.61816550000003&z=8
Micro-units for homeless examples

Bay Area Examples (proposed)

"Not to say [such villages] are absolutely impossible" in a city like New York,* "but commercially zoned land is at a premium. Multi-unit solutions [under one roof] make a lot more sense."
-- Alex Schwartz, professor of urban policy at the New School, NY**

*In CA, group housing is often subject to a use permit and may not be permitted in certain zones. Advocates may request a reasonable accommodation to avoid use permit requirements or to obtain modifications to traditional zoning requirements. Source: https://www.cacities.org/Resources-Documents/Policy-Advocacy-Section/Hot-Issues/Group-Homes/California-Land-Use-Laws-Related-to-Recovery-Facil
**Source: https://www.csmonitor.com/USA/USA-Update/2016/0121/Tiny-house-villages-An-innovative-solution-to-homelessness
Micro-units for homeless: success story

Potter's Lane, Orange County, CA

The first permanent housing complex for the homeless in CA created from modified shipping containers.

<table>
<thead>
<tr>
<th>Population served</th>
<th>Veterans</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>~1/2 have vouchers issued by VA</td>
</tr>
<tr>
<td></td>
<td>Rents subsidized on sliding scale based on income</td>
</tr>
<tr>
<td></td>
<td>Orange County Housing Authority paid for security deposits</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Unit size</th>
<th>16-units</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>480 SF per unit</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amenities</th>
<th>Open courtyard</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Community room</td>
</tr>
<tr>
<td></td>
<td>Coin-operated laundry</td>
</tr>
<tr>
<td></td>
<td>Stainless steel</td>
</tr>
<tr>
<td></td>
<td>Barbecue</td>
</tr>
<tr>
<td></td>
<td>Wooden planters</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Opening date</th>
<th>March 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ownership</td>
<td>Orange County-based nonprofit</td>
</tr>
<tr>
<td>Construction</td>
<td>LA-based company modified shipping containers</td>
</tr>
</tbody>
</table>

Source: "How these shipping containers converted to housing have affected homeless veterans," http://www.ocregister.com/2017/04/04/how-these-shipping-containers-converted-to-housing-have-affected-homeless-veterans/
Why not more mobile homes/RV parks?

Financial and social reasons:

- Stigma: "Half the American dream" -- Katherine MacTavish, Oregon State University
- Tend to lose value quickly, similar to a car
- Laxer construction standards pose health risks
- For every 100 trailers sold in 2001, 20 were repossessed, according to estimates from the manufactured housing industry (because of predatory loans at 13.5% interest rates)
Vision

- Provide formal, supportive services to ‘tent cities’
- Add diversity of housing types to accommodate our diversity
- Add density in places we hadn’t thought of before

Semilattice from Christopher Alexander’s “A City is Not a tree”
Hypotheses

Tiny apartments might make most sense for Alameda County because of land and construction costs (rather than tiny homes). City of Emeryville considering this.

Accessory Dwelling Units could be incentivized more broadly for low income and extremely low income households and families and for homeless families.

Tiny home villages could make sense if there is enough community support to convert an existing tent encampment to permanent tiny homes, either on city-owned or donated land to reduce capital expenses. City of Oakland considering tuff-sheds.

Prefab construction will be more scalable and affordable than other building options. City of Berkeley considering working with pre-fab developer.
HAC Meeting Process Guidelines

Adopted 09/07/2017; amended 10/05/2017

1. Major agenda items to come through a subcommittee when appropriate and not directly to the Commission.

2. Adopt a standard end time (9:00 p.m.) and require a simple majority to extend the meeting to 9:30 p.m. If needed, another vote can be taken to extend the meeting to 10:00 p.m.

3. Introduce a motion on to the floor as soon as possible for further discussion.

4. Encourage a time limit on each commissioner’s comments. Presenter of an item shall get four minutes. The question and answer segment following the presentation of the item has no time limit. In the first round of comments, each commissioner shall receive three minutes. In the subsequent round of discussion, each commissioner shall receive two minutes.

5. Nothing in these guidelines is intended to be in conflict with the HAC's rules as a quasi-judicial body.
# HAC Subcommittee Appointments

**October 5, 2017**

<table>
<thead>
<tr>
<th>Name</th>
<th>Appointed by</th>
<th>Current Subcommittee Appointments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rashi Kesarwani</td>
<td>Maio/ District 1</td>
<td>CDBG Measure U1</td>
</tr>
<tr>
<td>Thomas Lord</td>
<td>Davila/ District 2</td>
<td>CDBG Moderate Income Housing Smoke-Free Housing</td>
</tr>
<tr>
<td>Igor Tregub</td>
<td>Bartlett/ District 3</td>
<td>Density Bonus HTF Low Income Measure U1 (Alternate) Moderate Income Housing</td>
</tr>
<tr>
<td>Luis Amezgua</td>
<td>Harrison/ District 4</td>
<td>Density Bonus HTF Measure U1 Student Housing</td>
</tr>
<tr>
<td>Xavier Johnson</td>
<td>Hahn/ District 5</td>
<td>Homelessness HTF Low Income Smoke-Free Housing</td>
</tr>
<tr>
<td>Marian Wolfe</td>
<td>Wengraf/ District 6</td>
<td>Density Bonus Homelessness Low Income Measure U1</td>
</tr>
<tr>
<td>Amir Wright</td>
<td>Worthington/ District 7</td>
<td>Student Housing</td>
</tr>
<tr>
<td>vacant</td>
<td>Droste/ District 8</td>
<td></td>
</tr>
<tr>
<td>Matthew Lewis</td>
<td>Arreguin/ Mayor</td>
<td>Density Bonus HTF Low Income Measure U1 Student Housing</td>
</tr>
</tbody>
</table>
Notes on ad hoc subcommittees:

<table>
<thead>
<tr>
<th>Subcommittee</th>
<th>Assignment</th>
<th>End date</th>
</tr>
</thead>
<tbody>
<tr>
<td>CDBG</td>
<td>Advise the HAC on the current CDBG funding cycle</td>
<td>Upon completion of current CDBG funding cycle</td>
</tr>
</tbody>
</table>
| Density Bonus      | • Obtain an understanding of existing state and local density bonus policies  
                      • Research how these policies impact Berkeley  
                      • Make recommendations on the subject matter to the Housing Advisory Commission                                                             | June 30, 2018                 |
| Homeless           | Coordinate with the Homeless Commission on matters of mutual interest                                                                                                                                     | June 30, 2018                 |
| Housing Trust Fund | Advise the HAC on Housing Trust Fund related matters                                                                                                                                                    | June 30, 2018                 |
| Low Income Housing*| • Explore and make recommendations on the low income housing strategies identified in the HAC's FY2018 work plan                                                                                          | June 30, 2018                 |
| Measure U1         | • Develop recommended guidelines for the use of U1 funds;  
                      • Provide advice for the HAC for Council on anti-displacement programs and affordable housing to be funded with U1; and  
                      • Possibly discuss specific projects, avoiding overlap with other subcommittees of the HAC.                                               | June 30, 2018                 |
| Moderate Income Housing* | • Explore and make recommendations on the moderate income housing strategies identified in the HAC's FY2018 work plan     | June 30, 2018                 |
| Smoke-Free Housing | • Consider updates to the City’s Smoke-Free Housing Ordinance and existing implementation of the ordinance  
                      • Propose revisions to these to improve the accessibility and effectiveness of the ordinance  
                      • Propose methods for obtaining public input into the needs of the ordinance.                                                             | December 7, 2018              |
| Student Housing*   | • Explore and make recommendations on student housing strategies identified in the HAC’s FY2018 work plan  
                      • Explore:  
                      o Master tenancies  
                      o Site selection                                                                                                                                     | June 30, 2018                 |
| o How the university finances its housing (e.g. UPP’s vs revenue bonds) and privatization of UC Berkeley housing system in general |
| o Pressuring the university to force developers to meet the affordability requirements of the city (e.g. mitigation fee/in-lieu units) |
| o Developing a separate affordability definition applicable to inclusionary housing to be used in areas near campus so students can live in them |

* 2017-2018 Work Plan priority "Lack of Funding" was referred to the subcommittees marked with an *. Specific strategies referred were:
- Explore other forms of taxation/revenues.
- Look at acquiring tax-default properties.
- Increase the commercial linkage fee.
- Allocate a portion of the short term rental tax.
- Use of Federal transportation funds.