

AGENDA ITEMS: 9-11

■ Presentations

- *Case Studies on Community Preference Policies for Affordable Housing*
- *Adeline Corridor: Affordable Housing and Community Benefits*

■ Adeline Corridor Plan Subcommittee Formation



Implementing a Community Preference Policy for Affordable Housing in Berkeley

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What are community preference policies?

Community preference

=

“Opportunity to return”

Why have a community
preference policy in Berkeley?

Existing anti-displacement policies

- Protecting tenants and preserving rental housing
 - Rent Stabilization Program
 - Tenant Protection Ordinance/Just Cause Eviction
 - Tenant Buyout Ordinance
 - Relocation Ordinance and Relocation Assistance
 - Demolition Ordinance
 - Condo Conversion Limits
- Expanding affordable housing supply
 - Affordable Housing Mitigation Fee (Inclusionary Housing)
 - Housing Trust Fund
 - Small Sites Program
 - Density Bonus
 - Commercial Linkage Fee

Need for additional anti-displacement tools

- Ongoing gentrification despite current policy framework
- Preference policy could improve ability for vulnerable Berkeley residents to access affordable housing in their community
- Adeline Community Open Houses indicated support for a housing preference for current or displaced residents
- City Council directed HHCS to research possibilities for a preference ordinance

Types of preferences

- Current city residents
- Individuals employed in the city
- Neighborhood residents (currently living near the affordable unit one is applying for)
- Displacement-related (government action/urban renewal, no-fault eviction, natural disaster)

Fair Housing Act creates challenges

- Preference policies used in the past to exclude
- HUD or courts might invalidate a preference policy if it perpetuates segregation or has a disparate impact on a protected class
- Cities need to ensure they communicate the legitimate government interest for a preference policy

Case study cities

Cities that have implemented policies

- Cambridge, MA
- Oakland, CA
- Portland, OR
- San Francisco, CA
- Santa Monica, CA

Cities developing policies

- Austin, TX
- Seattle, WA

General policy characteristics

- Type of preference
- Type of affordable housing affected by the policy
 - Inclusionary, nonprofit, or both
- Institution responsible for screening and verification
 - City or developer
- How preference functions in the tenant selection process

Cambridge's Rental Applicant Pool

Types of Preferences and Points Awarded for Each Category	Types of Units Affected	Institution Responsible for Screening for Preference	Function in the Tenant Selection Process	Institution Responsible for Waitlists
<ul style="list-style-type: none"> -Current Cambridge resident (4 points) -Household with at least one child under 18 (1 point) -Household with at least one child under 6 (1 point) -Household with any of the following emergency needs (1 point total): no-fault eviction, homeless, overcrowded housing, 50% or greater rent burden, outstanding code violations -Applicants who work in Cambridge (considered after all residents are considered) 	<p>Inclusionary units in market-rate projects</p>	<p>City</p>	<p>Each applicant's points are totaled.</p> <p>Those with the most points are first in the waiting pool for available units.</p>	<p>City</p>

Impact of Cambridge's policy

- 90% of new inclusionary tenants in market-rate developments were currently Cambridge residents
- $\frac{1}{3}$ of new inclusionary tenants in market-rate developments have Section 8 vouchers
- 56% of all inclusionary tenants in market-rate developments have Section 8 vouchers
- Majority of inclusionary tenants in market-rate developments are people of color (city is 62% non-Hispanic White)

Portland's North/Northeast Preference Policy

Types of Preferences	Types of Units Affected	Institution Responsible for Screening for Preference	Function in the Tenant Selection Process	Institution Responsible for Waitlists and/or Lotteries
<ul style="list-style-type: none"> -Current or former residents of N/NE Portland -Those with generational ties to N/NE Portland -Those who have had property in N/NE Portland seized by the City 	<p>Nonprofit units in the Interstate Corridor Urban Renewal Area</p>	<p>City</p>	<p>Applicant receives 0 to 3 points based on location of current or former address, and 0 to 3 points for ancestor's current or former address depending on its location.</p> <p>Applicants whose property or family's property was seized by city get highest priority.</p> <p>Lottery conducted within each point group.</p>	<p>City</p>

Impact of Portland's policy

- Implemented in 2 developments that have yet to open
- Based on development pipeline, PHB estimates policy will impact 500 units
- To date, no legal challenges related to fair housing

San Francisco's Lottery Preference Programs

Types of Preferences	Types of Units Affected	Institution Responsible for Screening for Preference	Function in the Tenant Selection Process	Institution Responsible for Waitlists and/or Lotteries
<ul style="list-style-type: none"> -Current and former residents displaced by urban renewal -Current and former residents displaced by Ellis Act/Owner Move-In evictions or fires -Residents who currently live in the same Supervisor district as, or half-mile from, the property -Applicants who currently live or work in San Francisco 	<p>Inclusionary units in market-rate projects and Nonprofit units</p>	<p>City</p>	<p>Tiered system (list in the "Preference Categories" column is in order of rank).</p> <p>Initial lottery results resorted based on applicants' preference criteria.</p>	<p>City conducts the lottery and developers maintain waitlists</p>

HUD challenges Neighborhood Resident Housing Preference

- HUD rejected the marketing plan for the Willie B. Kennedy Apartments in 2016 due to fair housing concerns
- MOHCD wins approval to use a different preference based on living in areas most vulnerable to gentrification
- In the years since, MOHCD has not developed any projects with HUD financing and continues to use the Neighborhood Resident Preference

Santa Monica's Affordable Housing Production Program

Types of Preferences	Types of Units Affected	Institution Responsible for Screening for Preference	Function in the Tenant Selection Process	Institution Responsible for Waitlist
<p>-Current or former residents displaced by natural disaster, government action, Ellis Act eviction, or Owner Move-In eviction</p> <p>-Applicants who currently live or work in Santa Monica</p>	<p>Inclusionary units in market-rate projects</p>	<p>Developer</p>	<p>Tiered system (displaced preference ranks above live/work).</p> <p>Preference impacts an applicant's place in waiting pool for available units.</p>	<p>City</p>

Impact of Santa Monica's policy

- City does not collect data on whether current inclusionary tenants had a preference
- Waitlist is currently closed
- When waitlist was opened a few year agos there were 33,000 applicants and about 10% had a live/work preference
- Prioritizing living and working in Santa Monica equally is a fair housing strategy

Oakland's Preferences in City Affordable Housing Programs

Types of Preferences	Types of Units Affected	Institution Responsible for Screening for Preference	Function in the Tenant Selection Process	Institution Responsible for Waitlists and/or Lotteries
<p>-Applicants who have been displaced by City of Oakland's or Oakland Redevelopment Agency's projects, Oakland's code enforcement, or a no-fault eviction</p> <p>-Applicants living in same council district as development or within 1-mile of it</p> <p>-Applicants who currently live or work in Oakland</p>	Nonprofit	Developer	Initial lottery results resorted with those who qualify for any preference moved to the top.	Developer

Policy in development in Austin

- March 2018: City Council resolution directing City Manager to propose a preference policy based on generational ties to the city
- November 2018: Anti-Displacement Task Force report recommends a preference policy for displaced residents
- Staff studied policies in 6 cities and met with community stakeholders
- City attorney currently working with City Council
- Intend for policy to be implemented by nonprofit developers with city staff auditing

Policy in development in Seattle

- July 2017: City Council resolution directing Office of Housing to study a preference program for neighborhood residents
- February 2019: Mayor signs executive order related to community preference policy
- Plan to evaluate policy on project-by-project basis to ensure fair housing compliance

Next steps

- Developing recommendations
 - What practices from other cities make sense for Berkeley?
 - What administration would be required?
 - How would the City define and measure effectiveness?
 - What constraints exist for implementation? Fair housing issues?

Questions?