



Office of the City Manager

50INFORMATION CALENDAR

June 11, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Kelly Wallace, Interim Director, Health, Housing, and Community Services

Subject: Referral Response: Tenant Opportunity to Purchase Act (TOPA) Ordinance

SUMMARY

On November 28, 2017, the City Council adopted the Housing Action Plan, which included as the second High Priority referral to “develop an ordinance modeled after Washington, DC’s Tenant Opportunity to Purchase Act (TOPA) that offers existing tenants in multi-unit properties of three units or more the first right of refusal when property owners place rental property on the sale market, which can be transferred to a qualifying affordable housing provider.”

This memo summarizes staff’s research on TOPA, which incorporates Washington, DC’s ordinance and administration and several studies of the policy and its implementation. Staff conducted multiple interviews with DC staff, as well as tenant advocates, legal advocates, real estate advocates, and other stakeholders to inform the City’s research. As the first step in the referral response, this memo outlines staff research on TOPA and its administration and implementation requirements.

CURRENT SITUATION AND ITS EFFECTS

This report responds to the second High Priority referral from the Housing Action Plan that originally appeared on the agenda of the November 28, 2017 Council meeting and was sponsored by Mayor Jesse Arreguin and Councilmember Kate Harrison. The referral directed staff to develop an ordinance modeled after Washington, DC’s Tenant Opportunity to Purchase Act (TOPA) that offers existing tenants in multi-unit properties of three units or more the first right of refusal when property owners place rental property on the for-sale market, which can be transferred to a qualifying affordable housing provider. In Washington DC, the ordinance complements local funding for building acquisitions to preserve affordable housing.

Washington, DC’s TOPA ordinance provides tenants in multi-family buildings the right to purchase the property in which they reside if the owner opts to sell, and the right to match a third party sale (“right of first refusal”). Tenants can work together as a group (known as a “Tenant Association”) to purchase the apartment building, or transfer their right to another buyer. Tenants may assign their rights to either a market rate or an affordable housing developer at their discretion. Tenants in buildings of five or more

units must form a Tenant Association to enact their rights. The TOPA ordinance also establishes a process for property owners and tenants to follow prior to selling on the open market, including defined time periods for negotiation and financing.

Administration

TOPA is managed by Washington, DC's Department of Housing and Community Development (DHCD) Rental Conversion and Sales Division, which also administers a condo conversion ordinance and a condo warranty program. Primary duties include landlord and tenant education and responding to public inquires, processing complaints, and administration (processing notices, reviewing files, drafting reports, etc). Staffing includes:

- One full-time equivalent (FTE) division director;
- Four FTE attorney specialists; and
- Three FTE program support specialists for administration (approximately 1.5 FTE dedicated to TOPA).

DHCD employs attorneys to manage TOPA cases given the complex nature and legal implications of many transactions and complaints. Despite the education and technical support provided by the DC's Office of the Tenant Advocate and outside agencies, DHCD staff noted the majority of their time is dedicated to public inquires and support.

Enforcement is complaint driven and TOPA transactions are not actively monitored by the District. DHCD staff noted processing complaints and paperwork for each reported sale offer is time consuming, and requires full-time administrative staff. DC can serve a cease and desist order if provided a notice of violation before closing of a third party sale, but holds little power should a sale go through. Following a sale, it is typically the onus of the tenants to pursue a lawsuit. DC staff noted many title companies rely on TOPA compliance reports provided by the DHCD to verify TOPA compliance prior to approving a sale, as a registered complaint could delay a sale for an extended period of time. They noted most title companies will not close with a registered TOPA complaint, but this is not a legal requirement and is the result of years of familiarity with the ordinance.

DHCD staff publish weekly reports with information on all reported TOPA-related offers, assignments, and sales. However, TOPA's complaint-driven design likely results in transactions occurring off record, and there is not reliable data for all TOPA-related transactions.

While the TOPA ordinance and administration applies to all multi-family properties, the District provides additional support for low-income tenants to exercise their TOPA rights. DHCD staff indicated two specific programs – technical assistance and acquisition/rehabilitation loans – are critical for TOPA to serve as an affordable housing preservation tool.

Technical Assistance and Tenant Support

Research indicates tenants typically require significant education and support to exercise TOPA for an acquisition. Interested tenants of multi-family buildings require substantial technical, financial, organizational, and legal assistance. This includes:

- Education on rights and responsibilities;
- Formation of tenant associations;
- Securing a deposit;
- Securing loans (acquisition, rehabilitation, etc);
- Legal services;
- Identifying property management; and
- Bargaining with third parties (non-profits/for-profits).

Washington, DC complements the TOPA ordinance by funding purchase and technical assistance programs to support low-income tenants in multi-family properties in exercising their TOPA rights. The technical assistance is administered by non-profit tenant advocate organizations funded via a Request for Proposals. DHCD funded two non-profits to provide these services in the past fiscal year. There are also organizations independent of City funding that support tenants with TOPA rights, including law firms specializing in TOPA law.

In addition to the staff in the DHCD and District-funded community agencies described above, Washington, DC maintains the Office of the Tenant Advocate (OTA), a city department dedicated to providing legal and technical assistance to tenants, which includes navigating TOPA. The FY 17/18 budget for this department is over \$3.1M and includes 19 FTE employees.

Acquisition/Rehabilitation Loans

DHCD's Development Finance Division oversees the Department's financing of eligible TOPA acquisitions, independent of the Administrative staff in Rental and Sales Division. In FY 17/18, 22 of the 62 total projects closed were TOPA acquisitions. They estimate TOPA projects required four FTEs for underwriting project managers and administrative support staff, and project managers can typically close 4-5 projects per year.

DHCD's loan program provides financing support to projects that have:

- Five units or more;
- At least 50% of the residents qualifying as low-income; and
- Approval of 50% of the Tenant Association

Washington, DC dedicates \$10M per year in Housing Trust Fund (HTF) allocations directly to TOPA projects. In addition, their staff noted the majority of current projects are being routed to the recently created public/private Housing Preservation Fund,

which has \$40M for affordable housing preservation (including a \$10M per year District contribution).

Most properties purchased with the City's TOPA acquisition loans have substantial rehabilitation needs, which can serve as a barrier to acquisition. Most projects return to DHCD via a competitive RFP for rehabilitation funding but only one-third of applications are funded. All projects must include a rehabilitation strategy at acquisition if they do not receive additional funding. DHCD staff also noted supporting smaller projects can be a challenge due to a lack of economies of scale.

Staffing and Implementation Recommendations

The Council referral calls for a TOPA ordinance to apply to buildings of three or more units, and to be assumed by a qualified affordable housing nonprofit developer. This differs from DC's ordinance, as it 1) does not include duplexes and 2) limits ownership models to a transition to permanent affordable housing. In this scenario, only buildings with low-income tenants would qualify, and this would significantly limit the scope compared to DC. Ultimately, any implementation recommendations would be based on the scope of an ordinance.

Administration is the only need directly related to the adoption of an ordinance. However, DHCD and local stakeholders indicated the following three-pronged approach is necessary for TOPA to serve as an affordable housing preservation tool. Council's referral would likely require all three of these components for TOPA to have long term success in Berkeley.

- A) *Dedicated Staffing for Administration.* DC's Rental and Sales Division staff oversee approximately 163,874 rental housing units, compared to Berkeley's 26,367 rental units. Using this scale, 1.5 FTE's minimum would be needed to augment existing staffing to be consistent with their staffing.
- B) *Technical Assistance.* The technical assistance needs outlined above are beyond the capacity of current staff. DC currently funds a separate department, the OTA, in addition to two nonprofit technical assistance providers for tenant support. Council could consider releasing a Request for Information (RFI) to determine the capacity and needs of local tenant advocacy organizations to complete TOPA related work. The City could consider applications from qualified nonprofits to provide low-income tenants with additional technical support outside the scope of the ordinance through the City's Community Agency Funding RFP process, and evaluate proposals in the context of City funding priorities.
- C) *Loans and Financial Assistance.* In Washington DC, low-income tenants rely heavily on local funding to make acquisition and rehabilitation through the TOPA

ordinance feasible. In order for a nonprofit affordable housing developer to acquire and rehabilitate an eligible property in Berkeley, they would likely require significant local financial support at a level similar to the City's new Small Sites program (up to \$375,000 per unit). Council could consider funding the Small Sites program for acquisitions and rehabilitations by low-income tenants under a TOPA ordinance.

BACKGROUND

Washington, DC's TOPA ordinance provides a defined sales process for tenants to purchase the property in which they reside if the owner opts to sell, and for the first right of refusal to any third party sale if they initially decline. TOPA defines a sales process for two rental categories: 2-4 unit buildings and 5+ unit buildings. The DC Council opted to exempt single family homes in March 2018.

Under TOPA, property owners must follow a defined process when pursuing a sale:

1. Owner declares intent to sell by providing a letter to the tenants and City that includes a "bona fide offer of sale"
2. Tenant Response and Negotiation Period
 - a. Tenants are provided an official amount of time to respond and then negotiate, respectively, dependent on the size of their building
 - b. Buildings with five or more units must form a Tenant Association
 - c. Tenants have option to assign their rights to a third party
3. Landlord options: (a) sell to tenants (if tenants invoke right) or (b) move to market for third party sale
4. Tenants have 15 day period to match a third party sale (right of first refusal)

Staff reviewed research and conducted interviews with multiple stakeholders to inform research on ordinance design, implementation and administration. These include:

- Apartment and Office Building Association of Metropolitan Washington
- City of Los Angeles, Office of the Chief Legislative Analyst
- City of San Francisco, Office of Supervisor Sandra Lee Fewer
- DC Association of Realtors
- East Bay Community Law Center
- Housing Counseling Services (City-funded technical assistance provider)
- Latino Economic Development Corporation (City-funded technical assistance provider)
- Washington, DC Department of Housing and Community Development, Rental and Sales Division

Staff also attended the Oakland Community Land Trust's *Peoples Land and Housing Convening* to hear a presentation from DHCD Development Finance staff and Housing

Counseling Services on the TOPA ordinance and implementation. Staff presented its initial research to the Housing Advisory Commission in July 2018.

Other Cities and Programs

Staff did not identify any other US cities with active TOPA-style ordinances with the exception of a Washington, DC suburb: Takoma Park, Maryland (population approximately 17,000). Their city's TOPA data is not readily available, and Takoma Park's has far fewer rental units than DC or Berkeley. The City of Los Angeles' Council reviewed TOPA in 2007, but the item did not move forward after subcommittee review.

At the time of this report's writing in April 2019, the Office of Supervisor Sandra Lee Fewer prepared an ordinance for the San Francisco Board of Supervisors modeled on TOPA. This proposal focuses exclusively on establishing rights for nonprofit affordable housing developers. Their ordinance would provide qualifying organizations the first-right-to-purchase, consisting of both a right of first offer and a right of first refusal, over all multi-family residential buildings (and related construction sites and vacant lots) in San Francisco, for the purpose of creating and preserving rent-restricted affordable rental housing. It would also establish procedures for implementation and enforcement, likely to be managed by the Mayor's Office of Housing and Community Development (MOHCD).

San Francisco's proposal is different from Washington, D.C's iteration of TOPA as it confers the purchase rights solely to nonprofit developers (instead of tenants) and therefore acquisitions would only be eligible for income-qualifying properties. Staff from the Office of Supervisor Lee-Fewer report this ordinance is intended to complement and support the city's Small Sites affordable housing acquisition program. As of the time of this writing, the San Francisco Board of Supervisors adopted the first reading on an ordinance.

Berkeley's condominium conversion ordinance does provide tenants the right of first refusal to purchase their homes at conversion. Santa Monica had a similar but further-reaching ordinance known as the Tenant Ownership Rights Charter Amendment which sunsetted in 1996. TOPA is different than these two ordinances because it applies to all rental housing units, rather than just those requesting land use approvals.

ENVIRONMENTAL SUSTAINABILITY

There are no environmental sustainability effects associated with the information of this report.

POSSIBLE FUTURE ACTION

TOPA's implementation relies on tenant engagement, loan financing and ongoing legal and administrative processes. Staff recommends developing an implementation strategy prior to or in conjunction with the adoption of an ordinance to identify staffing and administration needs for the ongoing management of a TOPA ordinance.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Costs associated with additional staffing and administration needs would need to be determined predicated on the scope of an ordinance. Washington, DC also provides significant financial resources to support TOPA in the local community, including tenant advocacy funding and acquisition and rehabilitation loans for low-income tenants in multi-family buildings.

CONTACT PERSON

Mike Uberti, Community Development Project Coordinator, HHCS, (510) 981-5114

Attachments:

1: Original Referral Report from November 28, 2017



Office of the Mayor

ACTION CALENDAR

November 14, 2017

To: Members of the City Council

From: Mayor Jesse Arreguin and Councilmember Kate Harrison

Subject: Implementation Plan for Affordable Housing Action Plan Referrals

RECOMMENDATION

Approve the following priority order for Affordable Housing Action Plan referrals, and adopt the interdepartmental implementation plan as revised:

High Priority

1. Design a Small Sites Program to assist non-profits in acquiring existing properties that fall under certain criteria with the intention of allocating \$1 million annually. As a first step, contact owners of seven apparently vacant properties constituting 68 rental units for their interest in selling them to non-profit affordable housing developers or land trusts that could rehabilitate them, and then rent the units at affordable rents. As a second step, investigate properties that are being vacated over time for possible purchase to retain affordable housing. Consider master leasing as a mechanism for managing distinct, smaller properties.
2. Develop an ordinance modeled after Washington D.C.'s Tenant Opportunity to Purchase Act (TOPA) that offers existing tenants the first right of refusal when property owners place rental property on the sale market, which can be transferred to a qualifying affordable housing provider.
3. Draft an ordinance for a new City Density Bonus plan to allow developers of multi-family housing to add up to 15% more density in exchange for fees only.
4. Create specific per acre density standards to strengthen City posture vis-à-vis the State Housing Accountability Act.
5. Examine and eliminate barriers to developing student housing and senior housing.
6. Refer to the City Manager, City Attorney and Planning Commission an ordinance to clarify existing preferences in allocating City affordable housing units to Berkeley residents living within 1/2 mile of any new development and tenants evicted under the Ellis Act, expand the second category of preference for eligible tenants displaced under the Ellis Act to include certain tenants displaced through

an Owner Move-In or (Measure Y) auction, and other forms of displacement as defined by Council.

7. Utilize list of vacant city properties developed by city staff and further examine opportunities for placing affordable housing on these sites.
8. Identify Parcels of City owned land appropriate for siting assisted-living modular micro unit buildings; take affirmative steps to speed the permitting and approvals process; obtain zoning approval and a building permit and approvals process for the creation of below market housing; identify a housing non- profit to be responsible for managing and operating the building; and establish criteria for selecting individuals and determining eligibility.
9. Investigate the feasibility of developing workforce housing, in conjunction with Berkeley Unified School District, for teachers and employees. The investigation should include research into what other California jurisdictions (such as San Francisco, Oakland, Santa Clara, and San Mateo County) are considering as part of their pursuit of School District workforce housing.
10. Streamline AH Permitting process for Projects with majority of AH; Remove Structural barriers to AH (Green AH Package Policy #2).
11. Examine and eliminate barriers to building and renting ADUs.

Medium Priority

12. Impose fees when multifamily properties are destroyed due to fault of property owner (Demolition ordinance, RHSP, Relocation fees, fines).
13. Develop enforcement tools for Short-Term Rentals/Section 8.
14. Amend planning code to allow housing and other non-commercial uses on the ground floor.
15. Review method of monitoring BMR units and associated fees. Establish a City maintained online resource that would provide a brief overview of the history and purpose of Below Market Rate (BMR) units, a current list of all buildings that contain BMR units and the characteristics of the units, the % of median income qualification levels for the units, the HUD published income guidelines for % of median and family size, the property owner, rental agent, and/or management company contact information, and other relevant information that would be helpful to potential renters of BMR units. The City shall update the information as more units become available, and quarterly, to ensure that information is current.
16. To encourage landlords to accept Section 8 and Shelter + Care vouchers: create a list of qualified, efficient, and affordable contractors vetted by the City, and a discount or waiver of permit fees, to support bringing their unit(s) to code.

17. Collaborate with BHA Board to invest capital funds from sale of the public housing for more affordable housing (Longer term referral).
18. To encourage landlords to accept Section 8 and Shelter + Care vouchers: identify organizations who can support financial literacy and management for Section 8 tenants, including establishing bank accounts with direct deposit to Landlords.
19. To encourage landlords to accept Section 8 and Shelter + Care vouchers: allow parcel and/or property tax reductions based on the percentage of property of units that are currently Section 8 and/or decided during annual Section 8 inspection.
20. Increase commercial housing linkage fee by CCCI.
21. Establish Office of Anti-Displacement, and hire Anti-Displacement Advocate (non-city funded position).

Referrals Being Completed

- Evaluate feasibility of developing affordable senior housing above Senior Centers.
- Hold fines on Oregon Park Senior Apartments (OSPA) in abeyance with the agreement until the OSPA conducts a financial audit and structural review and hires a property manager.
- Adopt Council policy that two-thirds of short term rental tax be allocated to the Housing Trust Fund (with remaining one-third to the arts), following administrative costs.
- Develop Measure U1 Priorities and Implementation Criteria. Include consideration of ability to leverage funds and possible bonding against revenues.

Referrals Completed

- Green Affordable Housing Package policy #1: Prioritize housing over parking in new developments. Reduce parking in R-4.
- Expand legal eviction defense of Berkeley tenants beyond current 10-20% receiving this assistance.
- Provide housing counseling and legal services for Berkeley's low-income, elderly or disabled distressed homeowners.
- Increase the Rental Assistance Fund for Berkeley tenants.

- To encourage landlords to accept Section 8 and Shelter + Care vouchers: provide legal and/or mediation support, offered either through the City or a partner, in negotiating Landlord/Tenant disputes out-of-court.
- Eliminate discount in Affordable Housing Fee if paid at issuance of building permit; require full fee at building permit, and add periodic increase by reference to California Construction Cost Index (CCCI).
- Designate admin powers to Zoning Officer to expedite permit approval for affordable housing.
- Include Land Value Capture fee in future area development plans.
- Work with Rent Board to identify the causes and remedies for shortfalls in current collection of business license tax.
- Provide flexibility to Council to establish variable affordable housing percentage requirements in given areas of the City. Reflect these differences in area plans (e.g., for San Pablo, Adeline Corridors).
- Create a Deputy Director or Division Manager (Additional Management Analyst added as part of June budget process)

FISCAL IMPACTS OF RECOMMENDATION

There is no fiscal impact from adopting this plan. Future fiscal impacts will be dependent on the specific referral implemented.

CONTACT PERSON

Mayor Jesse Arreguín	510-981-7100
Councilmember Kate Harrison	510-981-7140



Office of the City Manager

ACTION CALENDAR

November 28, 2017

(Continued from November 14, 2017)

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Paul Buddenhagen, Director, Health, Housing and Community Services
Timothy Burroughs, Interim Director, Planning & Development

Subject: Implementation Plan for Affordable Housing Action Plan Referrals

RECOMMENDATION

Adopt the attached interdepartmental implementation plan for Affordable Housing Action Plan referrals.

FISCAL IMPACTS OF RECOMMENDATION

There is no fiscal impact from adopting this plan. Future fiscal impacts will be dependent on the specific referral implemented.

CURRENT SITUATION AND ITS EFFECTS

On May 30, 2017, the City Council decided to establish a set of housing-related referrals in addition to the City's Reweighted Range Voting (RRV) list of referrals. The Council's list included items in the following categories: Funding, New Development/Land Acquisition, Policies, Permit Streamlining, Anti-Displacement, and Staffing.

The Council directed the City Manager to review the referral list and return with a prioritized Affordable Housing Action Plan. Staff from the Planning Department and the Health, Housing, and Community Services Department (HHCS) organized an interdepartmental working group to develop a coordinated Affordable Housing Action Plan Implementation Strategy (*Attachment 1*). The City Manager's Office, Finance, Office of Economic Development, and Information Technology as well as the Berkeley Housing Authority and Rent Board are also identified as lead and/or supporting departments.

As of this writing in October, staff have completed ten of the referrals Council previously ranked through the RRV system. Staff are currently working on the next ten referrals, as they continue to implement current programs. The remaining 16 referrals were ranked in priority order in Attachment 1 based on several factors, including:

- Estimated scale of the potential impact and benefits;

- Currently available funding;
- Currently available staff capacity; and
- Consistency with current programs.

Attachment 1 provides a status update for each Council referral currently underway and lists the departments assigned to their respective implementation.

BACKGROUND

The referrals in the Affordable Housing Action Plan are new projects to be added to the programs the City currently provides. The Planning Department is currently developing a department work plan that will illustrate how implementation of the Affordable Housing Action Plan is being sequenced with other existing and upcoming efforts. HHCS's Housing Services unit includes 5.0 FTEs. A detailed outline of the Housing Services unit's current duties are provided in Attachment 2, and are summarized below:

- Housing Trust Fund support for projects and long-term monitoring;
- Below Market Rate housing requirements for new market rate rental and ownership housing, including long-term monitoring and Short Term Rental regulations implementation;
- Condominium Conversion program;
- Environmental review of all projects the City funds with HUD dollars;
- Loan administration for existing housing loans made in the past outside the Housing Trust Fund program;
- Staffing the Housing Advisory Commission; and
- Disposition of City-owned property, including the Berkeley Way site for affordable and supportive housing.

ENVIRONMENTAL SUSTAINABILITY

There are no direct environmental sustainability effects associated with the content of this report; it is intended to serve as a guiding document for other referrals. Infill development associated with some of the referrals is generally considered to support environmental sustainability.

RATIONALE FOR RECOMMENDATION

This Implementation Plan represents the efforts of an interdepartmental team to coordinate resources and staff time. Adopting this Implementation Plan will facilitate an efficient process for completing referrals across City departments.

ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered as staff is responding to a direct referral from Council to manage housing related referrals.

CONTACT PERSON

Michael Uberti, Community Development Project Coordinator, Health, Housing and Community Services, (510) 981-5114

Amy Davidson, Senior Community Development Project Coordinator, Health, Housing and Community Services, (510) 981-5406

Steve Buckley, Land Use Planning Manager, Planning Department, (510) 981-7411

Attachments:

1: Housing Action Plan Implementation Plan

2: HHCS HCS Housing Services' Current Projects and Services

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Attachment 1 - Housing Action Plan Implementation Plan

Completed Referrals				
	Item	Department Lead	Department Support	Status Update
	Utilize list of vacant city properties developed by city staff and further examine opportunities for placing affordable housing on these sites.	HHCS		2/14/2017 Council information report
	Green Affordable Housing Package policy #1: Prioritize housing over parking in new developments. Reduce parking in R-4.	Planning		State law passed in October 2015 implementing Referral request.
	Expand legal eviction defense of Berkeley tenants beyond current 10-20% receiving this assistance.	Council	HHCS; RSB	Council allocated \$300,000 for eviction defense and housing counseling on June 27 as part of biennial budget process.
	Provide housing counseling and legal services for Berkeley's low-income, elderly or disabled distressed homeowners.	Council	HHCS; RSB	
	Increase the Rental Assistance Fund for Berkeley tenants.	Council	HHCS	Council allocated \$250,000 for rental assistance on June 27 as part of biennial budget process.
	To encourage landlords to accept Section 8 and Shelter + Care vouchers: provide legal and/or mediation support, offered either through the City or a partner, in negotiating Landlord/Tenant disputes out-of-court;	HHCS		City has a contract with SEEDS to provide these services.

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Attachment 1 - Housing Action Plan Implementation Plan

	Item	Department Lead	Department Support	Status Update
	Eliminate discount in Affordable Housing Fee if paid at issuance of building permit; require full fee at building permit, and add periodic increase by reference to California Construction Cost Index (CCCI).	Council	HHCS; Planning	Resolution adopted 06/13/2017; Ordinance (second reading) amending BMC Section 22.20.065 adopted 06/27/2017
	Develop enforcement tools for Short-Term Rentals/Section 8.	Planning	IT; Finance; Rent Board	Short-Term Rental application process opened on 9/1/17. Enforcement date TBD.
	Designate admin powers to Zoning Officer to expedite permit approval for affordable housing.	Planning		Ordinance No. 7,573-N.S. was adopted on 10/3 expediting approval for HTF projects.
	Streamline AH Permitting process for Projects with majority of AH; Remove Structural barriers to AH (Green AH Package Policy #2).	Planning		Ordinance No. 7,573-N.S. was adopted on 10/3 expediting approval for HTF projects.
Referrals In Progress				
A	Examine and eliminate barriers to building and renting ADUs.	Planning	HHCS	Anticipated Public Hearing at Planning Commission in November 2017
B	Include Land Value Capture fee in future area development plans.	Planning	OED	On-going effort as part of Adeline Corridor Plan and other future plans.

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Attachment 1 - Housing Action Plan Implementation Plan

	Item	Department Lead	Department Support	Status Update
C	Evaluate feasibility of developing affordable senior housing above Senior Centers.	PRW	Planning, HHCS	Measure T-1 implementation includes analysis of housing potential
D	Refer to the City Manager and Planning Commission an ordinance to clarify existing preferences in allocating City affordable housing units to Berkeley residents living within 1/2 mile of any new development and tenants evicted under the Ellis Act, expand the second category of preference for eligible tenants displaced under the Ellis Act to include certain tenants displaced through an Owner Move-In or (Measure Y) auction, and other forms of displacement as defined by Council.	CAO	HHCS; Planning	Evaluation of options has begun. Harper Crossing project incorporated a preference for people who live or work in Berkeley.
E	Draft an ordinance for a new City Density Bonus plan to allow developers of multi-family housing to add up to 15% more density in exchange for fees only.	Planning	HHCS	Developing Local Density Bonus Ordinance to be piloted in the C-T District
F	Amend planning code to allow housing and other non-commercial uses on the ground floor.	Planning		Issue has been discussed by Planning Commission. Local Density Bonus pilot may include flexible ground floor uses.

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Attachment 1 - Housing Action Plan Implementation Plan

	Item	Department Lead	Department Support	Status Update
G	Impose fees when multifamily properties are destroyed due to fault of property owner (Demolition ordinance, RHSP, Relocation fees, fines).	Planning	HHCS	Working on amendments to Demolition Ordinance (No. 7,458–N.S.)
H	Establish Office of Anti-Displacement, and hire an Anti-Displacement Advocate (non City-funded position).	CBO		This activity is expected to take place at a nonprofit organization.
I	Increase commercial housing linkage fee by CCCI.	Planning		Feasibility Study for all fees is underway.
J	Hold fines on Oregon Park Senior Apartments (OSPA) in abeyance with the agreement until the OSPA conducts a financial audit and structural review and hires a property manager.	Planning / Housing Code Enforcement	HHCS	Housing Code Enforcement fines are not being collected while OPSPA works to complete their tasks.
Upcoming Referrals				
1	Adopt Council policy that two-thirds of short term rental tax be allocated to the Housing Trust Fund (with remaining one-third to the arts), following administrative costs.	City Manager	Finance; HHCS	
2	Work with Rent Board to identify the causes and remedies for shortfalls in current collection of business license tax.	Finance	Rent Board; IT; HHCS	Finance plans to work on enhancing collections in partnership with Rent Board

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Attachment 1 - Housing Action Plan Implementation Plan

	Item	Department Lead	Department Support	Status Update
3	Identify Parcels of City owned land appropriate for siting assisted-living modular micro unit buildings; take affirmative steps to speed the permitting and approvals process; obtain zoning approval and a building permit and approvals process for the creation of below market housing; identify a housing non-profit to be responsible for managing and operating the building; and establish criteria for selecting individuals and determining eligibility.	HHCS	Planning	HHCS is working on the Council referral related to the disposition of 1281 University (current home of Kenney Cottage) and microunit projects will be eligible. HHCS completed an analysis of City owned parcels appropriate for multifamily housing development in February 2017.
4	Establish a City maintained online resource that would provide a brief overview of the history and purpose of Below Market Rate (BMR) units, a current list of all buildings that contain BMR units and the characteristics of the units, the % of median income qualification levels for the units, the HUD published income guidelines for % of median and family size, the property owner, rental agent, and/or management company contact information, and other relevant information that would be helpful to potential renters of BMR units. The City shall update the information as more units become available, and quarterly, to ensure that information is current.	HHCS	IT	The City currently has a list of projects with address and property manager contacts available online. The income and rent for each BMR unit vary according to the affordability level and size, and change annually. With 0.33 FTE available for this program, staff are first working to update the online reporting tool, catch up on on-site inspections, and update online FAQ for tenants and developers.

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Attachment 1 - Housing Action Plan Implementation Plan

	Item	Department Lead	Department Support	Status Update
5	Create specific per acre density standards to strengthen City posture vis-à-vis the State Housing Accountability Act.	Planning		Anticipated completion 2019/2020 as part of comprehensive analysis of development potential and impacts
6	Investigate the feasibility of developing workforce housing, in conjunction with Berkeley Unified School District, for teachers and employees. The investigation should include research into what other California jurisdictions (such as San Francisco, Oakland, Santa Clara, and San Mateo County) are considering as part of their pursuit of School District workforce housing.	PRW	Planning, HHCS	PRW is in communication with BUSD regarding publicly owned real estate in Berkeley.
7	Develop Measure U1 Priorities and Implementation Criteria. Include consideration of ability to leverage funds and possible bonding against revenues.	Finance; CMO	HHCS	Housing Advisory Commission has appointed a U1 subcommittee to look at the issue. U1 revenue collection will begin in 2018.
8	Collaborate with BHA Board to invest capital funds from sale of the public housing for more affordable housing.	HHCS	BHA	To be analyzed based on BHA proposal when available.

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Attachment 1 - Housing Action Plan Implementation Plan

	Item	Department Lead	Department Support	Status Update
9	Design a Small Sites Program to assist non-profits in acquiring existing properties that fall under certain criteria with the intention of allocating \$1 million annually. As a first step, contact owners of seven apparently vacant properties constituting 68 rental units for their interest in selling them to non-profit affordable housing developers or land trusts that could rehabilitate them, and then rent the units at affordable rents. As a second step, investigate properties that are being vacated over time for possible purchase to retain affordable housing. Consider master leasing as a mechanism for managing distinct, smaller properties.	HHCS	Planning; Finance	Since Council prioritized full funding of the Berkeley Way project in May 2017, a source for an additional \$1M for acquisition and rehab has not yet been identified. Both organizations which have done similar projects in Berkeley, NCLT and BACLT, are relatively small and are currently working on other HTF-funded projects.
10	Develop an ordinance modeled after Washington D.C.'s Tenant Opportunity to Purchase Act (TOPA) that offers existing tenants the first right of refusal when property owners place rental property on the sale market, which can be transferred to a qualifying affordable housing provider.	HHCS		A TOPA-like program would work in partnership with a Small Sites program and could be implemented at the same time.
11	To encourage landlords to accept Section 8 and Shelter + Care vouchers: identify organizations who can support financial literacy and management for Section 8 tenants, including establishing bank accounts with direct deposit to Landlords.	HHCS	BHA	

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Attachment 1 - Housing Action Plan Implementation Plan

	Item	Department Lead	Department Support	Status Update
12	To encourage landlords to accept Section 8 and Shelter + Care vouchers: create a list of qualified, efficient, and affordable contractors vetted by the City, and a discount or waiver of permit fees, to support bringing their unit(s) to code;	Planning	HHCS	
13	Provide flexibility to Council to establish variable affordable housing percentage requirements in given areas of the City. Reflect these differences in area plans (e.g., for San Pablo, Adeline Corridors).	Planning	HHCS	This flexibility was added to BMC 22.20.065 with Ordinance 7,569-NS adopted on August 18, 2017
14	To encourage landlords to accept Section 8 and Shelter + Care vouchers: allow parcel and/or property tax reductions based on the percentage of property of units that are currently Section 8 and/or decided during annual Section 8 inspection; and	Finance	BHA	
15	Examine and eliminate barriers to developing student housing and senior housing.	HHCS	Planning	

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Attachment 1 - Housing Action Plan Implementation Plan

	Item	Department Lead	Department Support	Status Update
16	Create a Deputy Director or Division Manager	HHCS		HHCS Deputy Director works with all 6 HHCS divisions. The Housing Services unit has 5.0 FTEs while HHCS divisions range in size from 14 to 69 FTEs. Funding for additional staffing has not been identified.

Health, Housing & Community Services Department (HHCS) Current Housing Projects and Services

Housing projects and services are staffed in HHCS' Housing and Community Services Division's Housing Services unit (5.0 FTEs).

Housing Trust Fund

- Managing active loans
 - Northern California Land Trust scattered site rehabilitation
 - Bay Area Community Land Trust predevelopment
 - Satellite Affordable Housing Associates All Souls predevelopment
 - Satellite Affordable Housing Associates Grayson Street Apartments construction
 - Resources for Community Development William Byron Rumford Sr. Plaza rehabilitation close out
 - Harper Crossing construction loan amendment, completion and close out
 - Satellite Affordable Housing Associates Hillegass Apartments loan amendment
 - Resources for Community Development MLK House loan amendment
- Monitoring completed units
 - Annual Compliance Reports and on-site monitoring
 - Continued work to customize online reporting tool
 - Federal HOME and CDBG compliance monitoring

Below Market Rate Housing Program

- New regulatory agreement in process with Stonefire
- Respond to requests from developers regarding program requirements
- Revisions to materials available for developers and tenants
- Preparing revisions to fee proposal based on 5/16/2017 Council meeting
- Follow up with State of California to record Acton Courtyard revised regulatory agreement
- Short Term Rental regulations implementation
- Monitoring completed units
 - Annual Compliance Reports and on-site monitoring
 - Continued work to customize online reporting tool
 - Homeownership units portfolio review and monitoring program

Attachment 2 - Current HHCS Housing Projects and Services

Condominium Conversion Program

- Review current applications
- Invoice and collect fee repayments at property sales
- Process subordination requests for subdivided properties

Environmental Review

- Complete NEPA review for approximately 140 City-funded projects per year
- Coordinate with State Historic Preservation Officer under City's agreement

Loan Administration (Outside of HTF)

- Reviewing \$1.7M in older outstanding loans for compliance and status updates

Housing Advisory Commission

- Monthly meeting agenda development, packet preparation, posting and staffing
- Scheduling meeting rooms and posting agendas for 8 ad hoc subcommittees
- Reports follow up

Disposition of City-Owned Property

- 1920 West Street (1281 University Ave.)
- 5th Street Redevelopment Agency Properties
- Berkeley Way site
 - Amendment to predevelopment loan
 - Review of funding request
 - Collaboration with Planning, Public Works, and Fire

