Affordable Housing

Solutions for creating and maintaining housing options for all income levels

Business License Tax Helps Housing

Increase the business license tax for owners of residential rental units in order to prevent displacement and fund affordable housing

The Impact

An increase in the business license tax on gross receipts for owners of residential rental properties in Berkeley, Calif., raises over $5 million annually for affordable housing and homelessness prevention in the city. A similar increase in East Palo Alto, Calif., raises about $600,000 annually.

Description

Proposals approved by voters in Berkeley and East Palo Alto, Measures U1 and O, apply to landlords with more than five residential units and increase the business license tax by 1.5 to 1.8 percent of gross receipts. These are general taxes with funds committed to preventing homelessness and funding affordable housing developments. These taxes cannot be passed on to tenants.

Where It's Been Implemented

Voters in the City of Berkeley passed Measure U1 in 2016 with a 75 percent approval rate, raising the business license tax on residential rental properties from 1.081 to 2.88 percent gross receipts. This measure generates about $4 million yearly for affordable housing and homelessness prevention.

Despite having significantly fewer rental properties and a much smaller population than Berkeley, East Palo Alto passed Measure O in 2016 that raised the business license tax on residential rental properties by 1.5 percent of gross receipts. It was estimated to generate $600,000 per year.

Key Drivers

In San Mateo County, as of 2021, the average rent for a two-bedroom apartment was $3,533 per month, compared to $1,833 in 2011, a significant increase for tenants. The rising value of housing was due primarily to a shortage of units in comparison to the number of new jobs, not improvements made by owners and landlords.

Taxing these windfall profits is a way to create funding for affordable housing without discrediting any of the hard work of the property owner. The tax increase acknowledges that it is the members of the community and their contributions that help make the location desirable to live in, and puts some of the profit toward building lasting, diverse communities.

Key Factors for Success

Raising the business license tax in California requires a simple majority vote by local voters, or a two-thirds majority vote if it is deemed a “special tax,” meaning that it must be used for a specific purpose. In Berkeley, the Housing Advisory Commission, a committee of affordable housing and homelessness prevention experts, advises the city on how to spend the tax and tracks how it is spent, ensuring that this “general tax” is used for its promised purposes. Recent changes in California law allow a special tax to be passed by majority vote, rather than requiring a two-thirds vote, if it is placed on the ballot through the initiative process and not by the City Council.

Measure U1 in Berkeley exempts small landlords with less than five units, units with historically low rents and units reserved for low-income tenants at an affordable rent. New construction is exempt from the tax for 12 years after construction is completed in order to encourage new building.

Key Obstacles

Cities can expect business and property owners to strongly oppose an increase in the business license tax. (With Berkeley’s Measure DD, businesses proposed raising taxes by a smaller amount than Measure U1.) Some people have expressed concern about the tax being passed on to residents, but rents can be raised without a tax increase as long as there is local demand for housing. The tax does not change California’s rent stabilization law, which limits rent increases to 5 percent each year.

Timeline to Implementation

In July 2015, the idea to raise the business license tax was introduced by the Measure U1 campaign to the Berkeley City Council. In March-May 2016, the city did community polling to gauge what the community thought and valued and placed U1 on the ballot. The public approved the measure on November 8, 2016.

History

The idea of taxing unearned “windfall” profits is not new. Adam Smith’s “The Wealth of Nations,” often called the “Bible of Capitalism” and the foundation of market economics, distinguishes between “building rent” and “ground rent.” Building rent is the amount necessary to operate the building and still turn a profit. The amount above this amount is ground rent, which is driven by the desirability of the location. Smith suggests that ground rent be taxed for the benefit of the community that made the location valuable in the first place. An increase in the business license tax does so.

References and Resources

Dr. Stephen Barton, retired Berkeley Housing Director and Co-Chair of the Measure U1 campaign, stephenbarton@live.com, 510-215-9773

East Palo Alto Measure O

Berkeley Measure DD

Berkeley Measure U1

Economic & Policy Analysis of Tax

Campaign Contribution Regulation

Restrict or ban campaign contributions from real estate developers to elected officials

The Impact

Restricting campaign contributions from real estate developers will ensure that elected officials are fair in their support for or opposition to housing issues. Affordable housing solutions will be considered more equitably, and wealthy real estate stakeholders will present less of a barrier to affordable housing.

Description

In California, and the San Francisco Bay Area in particular, real estate is incredibly valuable, and developers are some of the wealthiest and most influential stakeholders in the political realm. They are the largest source of political income, and this influence has significantly impeded the progress of affordable housing measures. Heavy campaign contributions by real estate interests have reduced trust in elected officials.

Restricting contributions and donations from stakeholders with a vested interest, such as real estate developers, will ensure that city council members are making decisions for the good of the public. It will build trust in local government, accelerate affordable housing initiatives and even the playing field for candidates during campaigns and elections.

Where It's Been Implemented

Los Angeles has one of the most comprehensive sets of campaign finance regulations of any city in the nation. In January of 2020, the city's campaign finance laws were amended to include a ban on contributions from large developers and "principals" (for example, a developer's board chair, president, CEO, CFO or COO) with business before the city.

Additionally, similar but more comprehensive campaign contribution regulations have been implemented in places like Arizona and San Diego. There, contributions from nonindividual entities are banned, creating a campaign finance system solely funded by the general public that helps decrease the influence of big money special interests in our elections.

Key Drivers

Affordable housing is one of the most pressing issues in the Bay Area. Housing prices and rental rates are increasing at unprecedented rates, and the average income is on the decline. Workers are being forced to leave their areas and commute greater distances, contributing to more traffic congestion and greenhouse gas emissions. Younger people are also leaving the area as they cannot afford Bay Area rental prices at their early career stages. Passing new laws that increase the amount of affordable housing has proven to be extremely difficult.

Real estate developers are perhaps the greatest barrier to updating legislation, as they do not profit as much from affordable housing. A study done by the Action Center on Race and the Economy (ACRE) found that between 2008 and 2018 the California Association of Realtors, the California Apartment Association and the California Building Industry Association collectively spent $10.7 million to help elect state officials and $44.7 million to support the legislation they wanted. Their steady contributions to elected officials have slowed progress on addressing the housing crisis and reduced trust in local government.

Key Factors for Success

Ideally, a majority of city council members will support campaign finance regulations that include restrictions on developer contributions to local candidates and elected officials. It is important that any ban on gifts from developers addresses all avenues of potential pay-to-play. An example of one that does not do so is a Los Angeles ordinance that restricts campaign contributions from developers, but does not restrict behested payments, fundraising contributions or bundled contributions from developers. This means developers seeking to curry favor can still do so through means other than directly giving to a local campaign.

Public support is essential to drive adoption of a campaign contribution ordinance. While financial contributors are important to campaigns, the support of a majority of constituents and the public is more important to most elected officials.

After an ordinance is approved, a key factor to success is a strong, comprehensive, easily searchable database that will track candidates receiving restricted donations from developers and will allow for meaningful enforcement of the law. In Los Angeles, the city's ethics and planning departments are developing their own database.

Key Obstacles

Real estate developers will likely pose the largest obstacle to such an ordinance because its adoption will threaten a developer's ability to influence city decisions surrounding their projects.

A comprehensive developer ban should include all entities with a minimum financial stake in the project, including subcontractors. Unfortunately, due to tracking issues, the Los Angeles ordinance does not apply to major subcontractors on development projects, a potential loophole that could be exploited.

Timeline to Implementation

In Los Angeles, the ordinance to limit developer donations was passed in December 2019. It went into effect in June 2022. According to Eric Eusebio, Program Manager of the Developer Program for the Los Angeles City Ethics Commission, “The reaction has been positive as a needed and beneficial disclosure to promote further transparency.”

References and Resources

Eric Eusebio, Manager of Developer Program, Los Angeles City Ethics

Commission, ethics.rdfs@lacity.org, 213-526-7268

Los Angeles Ordinance on developer contribution restrictions

Los Angeles City Council motion

Los Angeles Ethics Commission Master List of Restricted Developers

Housing Impact Fees

Establish housing impact fees for developers undergoing new construction projects

The Impact

Housing impact fees incentivize developers and landlords to offer affordable housing and contribute to government funds for affordable housing developments.

Description

Housing impact fees are collected on new developments to help address the "jobs-housing fit," meaning the range of housing affordability needs that fits the range of community incomes. These fees are assessed as a per-square foot or per-unit fee and are then used to fund affordable housing.

Where it's been implemented

A number of jurisdictions throughout San Mateo County have already enacted housing impact fees on residential and/or commercial developments, including Belmont, Brisbane, Burlingame, Colma, Daly City, East Palo Alto, Foster City, Menlo Park, Portola Valley, Redwood City, San Bruno, San Carlos, San Mateo, San Mateo County and South San Francisco. Many other cities throughout the San Francisco Bay Area and California have taken similar measures. However, there are still some jurisdictions in San Mateo County that have yet to enact housing impact fees, and others that may choose to adjust them.

A "Grand Nexus Study" was done in 2014 with 15 San Mateo County jurisdictions, along with Palo Alto. Partnering to do a collaborative study cut consulting costs by 75 percent. The Grand Nexus Study also quantified the revenue if every jurisdiction within the county participated in the adoption of housing impact fees and estimated that $470 million could be generated in impact fees from all developments proposed at that time in the county.

Key Drivers

The housing crisis has been getting worse throughout California and the Bay Area. According to a 2020 report from the California Housing Partnership, there has been an 8 percent increase in California renters' income since 2000, and there has been a 40 percent increase in median rent prices, making it harder for renters to stay here. A family of four in San Francisco needs to make 197 percent of the area's median income in order to afford a median-priced home, according to a 2019 study from the City of San Francisco's budget and legislative analyst.

Local city governments are trying to implement a number of different solutions to increase affordable housing, and impact fees have gained traction. Government intervention is one of the only ways to maintain affordable housing options in today's market economy.

Key Factors for Success

In order for impact fees to be successful, the housing market in the jurisdiction should be healthy enough to generate a profit that can help fund affordable housing. Ideally, cities within a county or other designated area will work together and conduct a collaborative nexus study to accelerate adoption. The Grand Nexus Study in San Mateo County should simplify the process for the remaining jurisdictions because much of the analysis can be adapted to those cities that share similarities with the ones in the original study.

Key Obstacles

Having remaining jurisdictions without impact fees agree to fund an initial nexus study together may be difficult because cities work on different timelines and have varying budgets. The impact fee ordinance will be adopted most easily if a collective nexus study is done to share the cost. Developers are likely to oppose impact fees due to the extra costs they present.

Timeline to Implementation

First, jurisdictions need to complete a nexus study demonstrating the relationship between new housing, jobs and the need for affordable housing. Next, a feasibility study is required to determine the impact of proposed fee options on developer profit. The implementation strategy needs to be determined for each city, including how annual adjustments will be made, alternatives to payment and details on appropriate government use of the fees. Finally, a housing ordinance needs to be written or updated to include the housing impact fee.

Public information from the nexus study can be used to accelerate studies of the specific jurisdictions, and pursuing a collaborative study can reduce cost and time spent.

The cities participating in the Grand Nexus Study in 2014 received a final report in March 2016 from 21 Elements, a group working on San Mateo County housing needs. Subsequently, participating cities operated on their own timelines to adopt impact fees. After implementation, reviews of the impact fees were done by 21 Elements to measure their efficacy and to determine whether adjustments to the fees needed to be made.

References and Resources

Joshua Abrams, Grand Nexus Study Project Manager, abrams@bdplanning.com, (510) 658-2827

List of 21 Elements primary contacts for each jurisdiction in San Mateo County

Guide to Housing Impact Fees in San Mateo County

Grand Nexus Study of San Mateo County

Association of Bay Area Governments Affordable Housing Toolkits

San Carlos affordable housing ordinance

Limited Equity Housing Cooperatives

Provide subsidies or other public financing to help lower-income families own their own homes

The Impact

Limited Equity Housing Cooperatives (LEHCs) offer an opportunity for lower-income families to own their homes and establish a communal responsibility that isn't present in most multifamily developments. Because of the limit of equity that can be earned on resale of a member's unit or share, the LEHC preserves the same number of affordable housing units over time.

Description

A limited equity housing cooperative is a multifamily development in which tenants buy a share instead of renting, with restrictions to resell that unit at a certain price so equity is essentially limited and affordability is preserved. LEHCs are operated and owned by groups like tenant associations and nonprofits. They have bylaws created by tenants in order to foster a sense of community responsibility. Tenants purchase a unit and pay a monthly membership fee that contributes to communal costs like building maintenance and reserves.

Cities play a role in LEHC development by offering property tax breaks and low- or no-interest loans for purchasing and constructing a development, by supporting local nonprofits that are willing to help develop LEHCs, and by passing right-of-first-refusal laws that allow the creators of LEHCs the opportunity to purchase subsidized rental properties when they are no longer subsidized.

Where It's Been Implemented

Washington, D.C., has some of the most successful LEHCs in the nation. While the LEHCs themselves are developed by tenant associations and nonprofits, the local government supports the initiative through the Tenant Opportunity to Purchase Act,Tenant Opportunity to Purchase Assistance and the 2018 Limited-Equity Cooperative Task Force.

Key Drivers

Currently, most affordable-housing models are rentals with strict lease terms, and often the affordability of the units is not preserved after the original development contract expires. In Foster City, Calif., 74 low-income units were set to become market-rate properties or begin to transition to market rate at the end of 2020 because the developer's agreement with the city will sunset, meaning some tenants could have faced rent increases of almost $3,000. While Foster City officials moved all of the tenants facing displacement up on the affordable housing waiting list, there was no guarantee there would be enough affordable housing units or housing units with rents comparable to the previous development.

LEHCs, by comparison, recognize that the need for affordable housing is not transitory. While initial affordability comes from government assistance, that affordability is maintained through the tenants themselves, who agree to a certain level of resale restriction that balances individual economic prosperity with community affordability.

Key Factors for Success

The support of local government is crucial to the success of limited equity housing cooperatives. Without substantial governmental support through public housing subsidies, low-interest loans and right-of-first-refusal laws that allow tenants the opportunity to purchase subsidized rental properties, it can be difficult to bypass the initial affordability issue when purchasing and constructing a development. Zoning laws can also make it difficult to turn certain former single-family homes into multifamily LEHCs like condominiums or duplexes. The Linden Street Homes project built by the Northern California Land Trust in Oakland is a building that fits in a single-family home neighborhood but is actually a limited equity condominium. This building functions similarly to an LEHC, but there are individual mortgages rather than a blanket mortgage as with an LEHC.

Since nonprofit organizations are typically the most common developers of LEHCs, it is also important to have not only a strong nonprofit presence, but also a strong partnership between local government and nonprofit affordable housing developers.

Key Obstacles

Because LEHCs are democratically governed by the tenants themselves or a nonprofit, there is always a risk of affordability measures being voted out by the tenants themselves if they are frustrated by the limited equity. A way to avoid this is by adopting a shared appreciation model so individual wealth can be built while affordability is still maintained.

Timeline to Implementation

In Washington, D.C., the Tenant Opportunity to Purchase Act that allows for tenants to organize, purchase their buildings and create limited equity housing cooperatives has been in place since 1979 and was amended in 2018 to no longer include single-family homes. Homes by City First Enterprise (CFE) in D.C. is a nonprofit organization that is focused on tenant ownership and long-term affordability. It helps establish limited equity and shared equity cooperatives

References and Resources

Alicia Lee, Program Analyst for Affordable Housing Preservation, DC Department of Housing and Community Development, Alicia.lee@dc.gov

[Limited Equity Housing Cooperatives info by Local Housing Solutions]()

[City First Enterprises Affordable Housing Examples]()

Mandatory Rent Registry

Establish an annual reporting requirement for property owners or managers regarding rents and other information during the annual business license renewal process

The Impact

This registry informs the city council about the rental market, housing trends and housing stock throughout the city, allowing transparency within the housing market to increase.

Description

A rent registry requires property owners/managers or landlords to annually report data regarding residential rents and other relevant information to a citywide database. All residential rental properties, including single-family homes and accessory dwelling units, are required to report. This information will allow the city to collect, monitor and analyze actual rents throughout the city in order to make fair and well-informed decisions regarding affordable housing.

In El Cerrito, Calif., property owners are required to join the registry when their business license renewal forms are due, ensuring that there is one clear deadline for all landlords. Failure to comply with the policy will result in legal enforcement and fines.

Once a city council approves an ordinance requiring a registry, all landlords will be required to keep an up-to-date and accurate account of their properties and tenants. This information will be compiled by the city, and a community development manager will report on it every year to the city council.

Where It's Been Implemented

The El Cerrito City Council adopted an ordinance in May 2019 that requires an up-to-date rent registry. Cities such as Los Angeles and San Jose have adopted similar ordinances, but no jurisdictions in San Mateo County have taken this step.

Key Drivers

Wrongful eviction, although illegal, is still a significant problem in California, particularly in the San Francisco Bay Area. Landlords are often eager to get rid of tenants with reduced rents due to rent stabilization so they can increase profits. One of the fraudulent methods to wrongfully evict tenants is the "owner move-in eviction." In this case, landlords can evict tenants if they, or a close relative, plan to move into the property and stay for at least three years. However, after evicting the current tenant, the landlords often rent to a new tenant at a much higher price.

Oakland, Calif., is one city that has tried to combat this practice. In 2017 city officials noticed a strong spike in owner move-in evictions. They amended their housing laws to require the signing of paperwork confirming the move-in. However, in 2019, an investigative team at the NBC Bay Area obtained Oakland's eviction records under the California Public Records Act and found that only 16 landlords submitted the required paperwork following an owner move-in eviction, despite 71 owner move-in evictions occurring. The city's lack of cohesive enforcement did not provide enough data to make the rent registry useful.

Key Factors for Success

In order for a city council to support an ordinance requiring a registry, there should be strong renter support. Automated processing systems that are integrated across government branches make the rent registry process easier and require fewer staff hours. In addition, there must be good communication between program administrators and developers of the tracking system.

Key Obstacles

Landlords and owners of rental properties are likely to argue against a registry because of the program fees. There also is added expense for staff who compile the information, monitor the registry and report it to the city council each year. Enforcing the ordinance requires labor, too. In a large city like San Francisco, establishing and maintaining a rent registry is estimated to cost $1.7 million to $3.6 million annually, according to a 2019 report from the city's budget and legislative analyst.

Timeline to Implementation

In El Cerrito, the rent-registry ordinance was adopted in May 2019. One month later, the policy went into effect. By July 1, 2022, the City of El Cerrito launched an online portal where all documents must be submitted, removing the paper burden. Ideally, the rent registry should be developed months ahead of time and then rolled out to be on the same schedule as the business license renewal program.

References and Resources

Aissia Ashoori, Affordable Housing Analyst for the City of El Cerrito, aashoori@ci.el-cerrito.ca.us, 510-215-4361

El Cerrito Ordinance No. 2019-03

Alameda Rent Ordinance Regulation 20-01

Los Angeles Rent Registry

Missing Middle Housing

Shifting from usage-based codes to form-based zoning codes allows for the integration of multi-unit housing types in walkable neighborhoods

The Impact

Missing middle housing — a range of house-scale buildings with multiple units that are compatible in scale and form with detached single-family homes — increases the affordability and availability of housing, reducing the stress of the worsening housing crisis on moderate-income buyers. It does so while maintaining the "small town feel" that current residents hope to preserve.

Description

Missing middle housing addresses the shortage of housing options for moderate-income buyers by offering duplexes, triplexes, fourplexes, bungalow courts, townhomes, etc. in neighborhoods. These types of housing support walkable cities, local retail and public transportation services. They are low-rise, reducing the impact on current neighborhoods in terms of view and atmosphere. They are offered at a price level between single-family houses and mid- to high-rise apartment buildings.

Where It's Been Implemented

Minneapolis, Minnesota, approved the Minneapolis 2040 Comprehensive Plan in December 2018 which rezones parts of Minneapolis to allow for more “middle” housing to be built instead of the previous single-family requirement. After this policy was implemented, the Missing Middle Housing Pilot Program began taking requests for proposals (RFPs) for middle housing developments to be financed through the city.

In September 2021, California legislators passed two controversial housing bills aimed at increasing middle housing developments: one that curbs single-family zoning in most neighborhoods statewide and another that allows local governments to build up to 10 units on single-family lots near public transit. Senate Bill 9 allows as many as two duplexes (two houses with attached units), increasing density to as much as four units on single-family lots throughout California, without local approval. Senate Bill No. 10 allows environmental review to be expedited for multi-unit projects near transit hubs or in urban developments. Assembly Bill 2345, which took effect on January 1, 2021, allows residential projects in California with on-site affordable housing to get a density bonus (the maximum allowable development on the site) of up to 50 percent. It also lowered the below-market-rate (BMR) thresholds for "concessions and incentives" from zoning and development regulations that would make a project more expensive to construct. In addition, density bonus projects within one-half mile of a major transit stop and with direct access to the stop may be able to avoid minimum parking requirements.

Key Drivers

As the middle class grows, especially with a younger generation looking for first homes, the high cost of housing often puts home ownership out of reach. Increasing the diversity of housing types is essential when considering the diversity of occupations, backgrounds and incomes today. In addition, many people are looking to live in walkable neighborhoods without the stress of purchasing and maintaining a single-family house. An increase in the availability of middle housing also allows for shorter commutes for some workers who are forced to live outside the city due to increased housing costs. Housing closer to jobs lowers carbon emissions.

Key Factors for Success

Missing middle housing needs the support of current residents. As single-family homes continue to escalate in value, a significant portion of the population has fewer housing options, and many workers are forced into longer commutes. Over time, if enough workers move away from a city, the business employing them may leave, too.

Proper financing of middle housing developments needs the support of a city. The good of the community is served because many people in jobs that are essential to the functioning of a city (such as education, service and retail) make moderate incomes and cannot afford single-family homes.

Key Obstacles

Conventional zoning is a principal obstacle to the integration of middle housing. It is regulated primarily by land use, distinguishing single-family from multifamily and commercial. Zones are also defined and controlled by certain numeric values, such as floor area ratio and density. This makes mixed middle housing in neighborhoods noncompliant with many zoning laws. Low-rise residential neighborhoods are typically zoned as single-family zones, which prevents structures from being converted to duplexes, triplexes, etc., in these neighborhoods.

Current homeowners and residents in single-family neighborhoods will likely pose the greatest obstacle. They are comfortable in their current neighborhoods and may fear any change in density or the number of cars on their street.

Form-based coding is an alternative to conventional zoning that prevents the integration of middle housing. It uses the physical form of structures, rather than the usage, to determine the zoning laws. Developers also are working on creating more side-to-side twin homes and triplexes to avoid challenges posed by homeowners' associations (HOAs). However, this approach can create additional issues related to splitting lots and property identification numbers.

Timeline to Implementation

In Minneapolis, the city did studies that demonstrated the need for middle housing and more affordable housing in general. The Minneapolis 2040 Plan included policies that gave alternatives to conventional zoning, allowing the Missing Middle Housing program to be created. It was based on the Minneapolis Homes program, which finances developments with one to two units. The Missing Middle Housing program finances developments with up to 20 units.

After the RFP application was released, the city held informational sessions so that developers were aware of what was needed to apply for the program. Community feedback sessions also were held on proposals for program changes so the community could highlight what it believed was most important.

Return on Investment

As of June 2020, the program in Minneapolis had three developments underway and planned to open another RFP application by the end of summer 2020. The city was also moving toward combining its Missing Middle Housing with the Minneapolis Homes project in order to increase overall funding available for one-to-20-unit developments.

References and Resources

Kevin Knase, Minneapolis Senior Project Coordinator for Residential and Real Estate Development, kevin.knase@minneapolismn.gov, 612-673-5231

What Is Missing Middle Housing?

Information for regulating middle housing and form-based codes

Searchable library of form-based codes from around the U.S.

Minneapolis zoning code and ordinances

Renter Equity Programs

Enable renters to earn equity in exchange for contributing to the management of their apartment communities

Photo: Julianna Boehm

The Impact

Renter equity programs allow participants to build wealth, secure long-term housing stability and hone financial literacy. By having renters help with property management, property owners benefit from reduced property maintenance costs, lower rates of tenant turnover and steadier rent flows. Ultimately, this program helps bring financial stability to both renters and property owners while combating wealth inequality.

Description

In a renter equity program, residents who fulfill certain requirements of their lease agreement earn “equity credits” that reduce their rent and can be exchanged for cash when the lease is up. Requirements may include paying their rent on time, attending monthly resident meetings and maintaining designated common areas on the property.

Where It’s Been Implemented

Cornerstone Renter Equity is a community development loan fund based in Cincinnati, Ohio, which launched the Cornerstone Renter Equity Program in the Over-the-Rhine neighborhood of Cincinnati in 1986. In this program, development loan funds are allocated to renters in exchange for assistance in the maintenance and management of the property they are renting. Over the course of 10 years, participants can earn a maximum of $10,000 in equity credits that can be used for personal needs and financial goals.

Key Drivers

In the Bay Area, an unprecedented increase in the price of housing has created a lack of affordable housing for historically disadvantaged communities. Enabling individuals to earn equity while renting a property will help them build wealth for homeownership — helping to bridge the wealth gap between homeowners and renters. Furthermore, the Renter Equity Program offers social benefits for residents and the opportunity to participate in a valuable community.

Key Factors for Success

Collaboration between local leaders and nongovernmental partners is essential for a successful Renter Equity Program. The Over-the-Rhine neighborhood's program relied on frequent communication between the Ohio Finance Authority, the City of Cincinnati, the Ohio Capital Corporation, Chase Bank and local developers. Outreach to new prospective partners and investors is also critical for securing funds to allow renters to earn equity.

Furthermore, contracts that establish and outline expectations for all parties involved are essential to clear any misunderstandings regarding the program. The Over-the-Rhine neighborhood established a House Rules agreement, Renter Equity Agreement, and Resident Association Agreement which set clear guidelines regarding the responsibilities between residents and landlords and defined how renters could accrue equity benefits.

Key Obstacles

Due to limited funds from partners, a Renter Equity Program is not suitable for extremely low-income households that pay little to no rent. Because the premise of the program is to build equity over the long term, it is also not suitable for transient families who plan to move after a relatively short period of time. Furthermore, securing partners and finding suitable buildings may prove to be difficult. The Over-the-Rhine neighborhood partnered with individual investors who were willing to forgo profits to allow renters to build equity.

Timeline to Implementation

The Cornerstone Renter Equity Program took just over two years to actualize. First, Cornerstone selected the Over-the-Rhine neighborhood because many of its residents wanted to leave due to the large number of buildings that were deteriorating and/or abandoned. Over the course of a few months, Cornerstone recruited participants by sending postcards to residents within the neighborhood and secured funding by partnering with several local community organizations and church groups. Between 2001 and 2002, the construction of a new apartment complex and the upgrade of six abandoned buildings were completed with the support of federal tax credits. Over the next decade, Cornerstone formed new partnerships and expanded the neighborhood to support even more renter households looking to build equity.

Return on Investment

For the Over-the-Rhine neighborhood, renters could earn up to $1,600 each year for helping to manage their apartment community. In total, residents collectively earned about $46,000 for their service. Over 33 percent of participants in the pilot program increased their income, and one tenant was able to finance her child's college education. All participating tenants reported that the program helped to strengthen their financial goals and literacy. Participating landlords reported greater assurance that their properties would not be destroyed due to the program.

Background

The housing crisis following the Great Recession has led to delayed homeownership for young adults on top of the significant shortage of homes built for low- and moderate-income families. The crisis was exacerbated by the COVID-19 pandemic as lower interest rates drove up housing demand and supply-chain disruptions slowed construction. As more households rent, more people lose the opportunity to build assets and savings through home mortgage payments, and for low-income and people-of-color households, home equity makes up a large portion of total wealth.

References and Resources

LocalHousingSolutions.org. "Building Wealth and Community for Renters in Cincinnati, Ohio." Case study on renter equity program established in 2000

San Mateo County Housing Element Update 2023-2031

San Mateo County Regional Assessment of Fair Housing

2013 Evaluation of the Cornerstone Renter Equity Program

Cornerstone Renter Equity Program "How It Works" report

Washington Monthly, August 25, 2020. "How Renters Can Build Equity"

Better Institutions, May 23, 2021. "Blueprint for Building a Shared-Equity Rental Market"

Tenant Opportunity to Purchase Act

Establish the first right of refusal for tenants when their home or building is being sold

The Impact

A Tenant Opportunity to Purchase Act (TOPA) empowers tenants to purchase their home. TOPA creates opportunities for homeownership, preserves the affordability of housing and prevents displacement of low-income households. It promotes racial and economic equity.

Description

TOPA gives tenants the right of first offer and the first right of refusal when the rental property they live in is being sold, so they have the opportunity to organize a tenant association or remain renters at an affordable rate and assign their rights to a nonprofit developer. The act provides a timeline for tenants and requires landlords to give advance notice that the property will be sold, thus allowing tenants time to form an association, secure funding and make an offer to the seller.

Cities must either dedicate adequate financial support and technical assistance to TOPA to assure its success. Funding from cities can be used for tenant outreach and education, enforcement, legal counsel and acquisition assistance. In Washington, D.C., the TOPA program funds city staff and community organizations that assist tenants in navigating their TOPA rights and helps finance acquisitions with a process similar to financing affordable housing developments. The D.C. Tenant Purchase Assistance program also offers low-interest loans to tenants looking to purchase.

Where It's Been Implemented

Washington, D.C., has the oldest and most comprehensive Tenant Opportunity to Purchase Act, enacted in 1980. The East Bay Community Law Center (EBCLC) drafted a model TOPA for San Francisco Bay Area cities adapted from the Washington, D.C. act, and it began the process of working with organizations in Berkeley and Oakland as early as 2015. On March 5, 2020, a policy was introduced in a meeting of Berkeley’s Policy Committee on Land Use, Housing and Economic Development. During 2020-21, the Berkeley TOPA community working group revised the policy in response to feedback and did extensive outreach and education. TOPA passed through Berkeley's Land Use Policy Committee as of May 2021 and was expected to go to the city council for a vote in late 2021.

San Francisco has a similar policy called the Community Opportunity to Purchase Act (COPA), which applies to residential buildings with more than three units and land that could fit more than three units. Unlike TOPA, COPA gives the right of first offer and right of first refusal to qualified nonprofit developers, with mandates to preserve affordability. The COPA program works in conjunction with San Francisco's Small Sites program, which gives loans to nonprofits for affordable housing development.

Key Drivers

In San Mateo County in 2020, the area median annual household income (AMI) for a family of four was $174,000. For a family of four to be in the extremely low-income bracket (0 to 30 percent of AMI), the household had to make less than $52,200. With such a high median income, market-rate housing is unattainable and housing for those with low, very low and extremely low incomes is extremely limited.

The Tenant Opportunity to Purchase Act empowers tenants to own their homes, even in a multifamily development. It is an especially attractive option because it provides stability and long-term affordability, so tenants do not risk being priced out of the area and forced to relocate.

Stability in housing is essential not only for shelter, but also for family health. An annual cost-of-living study by United Way released in July 2021 found that more than 600,000 Bay Area residents, or about 1 in 4, couldn't afford cost-of-living necessities such as housing, food, medical care and child care. Across California, the study's findings were even more dire, with about one-third of the 3.5 million families statewide unable to make ends meet and 97 percent of those households considered "working poor" - that is, employed but not making enough.

Key Factors for Success

A main goal of TOPA is to preserve affordability of units, so there may be resale limits and/or rent restrictions for existing tenants. Some TOPA policies only apply to subsidized properties, and some apply to both subsidized and unsubsidized, and the eligibility of tenants varies by individual policy as well, so cities will have to decide what works best for them. In D.C., the policy applies to both subsidized and unsubsidized buildings, but only applies to some single-family homes.

The three crucial components to a Tenant Opportunity to Purchase Act are the bill itself, which establishes the rights of first offer and refusal for tenants; assisting with funding for tenants; and outreach and education. TOPA is flexible for cities' needs in that the latter two components can be provided by nonprofits and private interests, although a city investment in these components helps to make the act robust and successful.

Key Obstacles

Opposition to TOPA is likely from the real estate industry, which doesn't want policies that interfere with the status quo of the market. Another issue is the extended timeline required to go through the TOPA process, which some think places too much of a burden on owners.

Finding funding for programs that assist tenants is critical, and in both D.C. and San Francisco there has been a strong response from nonprofits willing to help with technical assistance.

References and Resources

Danilo Pelletiere, Senior Policy Advisor, D.C. Department of Housing and Community development, danilo.pelletiere@dc.gov, 202-579-8367

Seema Rupani, Staff Attorney/Clinical Supervisor, East Bay Community Law Center, srupani@ebclc.org

Hewot Shankute, Staff Attorney/Clinical Supervisor, East Bay Community Law Center, hshankute@ebclc.org

San Francisco COPA Rules

San Francisco COPA Ordinance

D.C. TOPA Process Chart

D.C. 1980 TOPA

Other Solutions to Explore

Exemplary Inclusionary Housing

Almost all cities in San Mateo County have some form of inclusionary housing. However, these inclusionary housing ordinances vary in strength and extensiveness. One issue with some policies is that they opt for housing impact fees that often don't result in as many affordable housing units being produced as under traditional inclusionary housing policies. In addition, cities have trouble getting affordable housing built with the money that they do bring in, due to the lack of and high cost of available land.

Inclusionary housing, in contrast, often requires affordable housing to be built on-site along with market-rate development. When inclusionary housing policies allow developers to pay fees in lieu of building on-site units, those fees often end up generating more revenue than a stand-alone housing impact fee policy.

If in-lieu fees are too low, most developers will choose to pay them instead of opting to create affordable housing units. Grounded Solutions Network, an organization that has done significant research on inclusionary housing, recommends that, when setting an in-lieu fee, cities first evaluate how much it will cost developers in profits to provide some affordable housing units instead of all market-rate units, and use that information to inform the amount of the in-lieu fee. Cities can also calculate how much it would cost the public to build an equivalent amount of affordable housing off-site and use that information to inform the amount of the in-lieu fee. In most cases, the in-lieu fee should be set greater than or equal to that "production cost."

Other keys to success include providing incentives such as density bonuses and expedited processing for project approval, reviewing the number of affordable units being built each year under the program, and being open to adapting the policy.

Grounded Solutions Network offers an entire website of resources, including data on ways to strengthen existing inclusionary housing policies. For help developing an inclusionary housing policy, contact helpdesk@groundedsolutions.org.

Minimum Lease Terms

Establishing a policy that mandates that landlords offer a minimum lease term of 12 months to prospective tenants, with the amount of rent locked in, ensures housing stability. After the lease term ends, if the lease is to be renewed, landlords must again offer a minimum lease term of 12 months. Longevity in rental housing is essential to forming lasting communities, preventing displacement and creating a stronger sense of place for tenants. Tenants are still able to enter into a shorter lease term if they choose to do so, either in an oral or written agreement with the landlord.

As of August 2020, the cities in San Mateo County that enacted ordinances imposing minimum lease terms are Burlingame, Foster City, Menlo Park and Redwood City. Redwood City's ordinance excludes single family homes, duplexes, accessory dwelling units and several other dwellings related to transient rental housing so as not to put barriers on property owners with these kinds of rental units.