

Update on Development Programs

Housing and Homelessness Solutions
Committee
April 23, 2024

The logo of the City of Dallas, featuring a stylized white 'D' with a three-leaf plant inside, set against a dark blue background with a fine white grid pattern.

City of Dallas

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City of Dallas

Presentation Overview



- Purpose
- Background
- Development Programs
 - New Construction and Substantial Rehabilitation Program
 - Use of Right-of-Reverter in Land Transfer Program
 - Single-Family Homeownership Development Requirements
- Operational Challenges
- Proposed Solutions
- Next Steps



Purpose



- Continuation of proposed policy changes
- Address impediments
- Offer solutions
- Solicit feedback and direction
- Discuss next steps



Background



- On May 9 2018, City Council authorized the adoption of the Comprehensive Housing Policy (CHP) by Resolution No. 18-0704
 - Developer Programs: New Construction and Substantial Rehabilitation Program
 - Single-Family Development Requirements
 - Land Transfer Program
- Authorized multiple amendments to the CHP since its inception



Background (Continued)



- On August 7, 2020, issued Notice of Funding Availability (NOFA) for gap financing in the form of repayable loan support for acquisition and rehabilitation of affordable housing units
- On April 12, 2023, City Council adopted the Dallas Housing Policy 2033 (DHP33) to replace the CHP by Resolution No. 23-0443 and the Dallas Housing Resource Catalog to include approved programs by Resolution No. 23-0444



Background (Continued)



- On February 14, 2024, City Council authorized the following amendments to the Dallas Housing Resource Catalog Land Transfer Program (LTP) by Resolution No. 24-0257:
 - Released LTP deed restrictions initially required when a qualified buyer is also a Dallas Homebuyer Assistance Program (DHAP) participant and replace them with DHAP deed restrictions
 - No longer require a qualified buyer that is not a DHAP participant to meet DHAP underwriting guidelines
 - Require a qualified buyer that is also a DHAP participant to meet DHAP underwriting guidelines



Background (Continued)



- On February 14, 2024, City Council authorized the following amendments to the Dallas Housing Resource Catalog Single Family Development Requirements/Underwriting (SFDRU) by Resolution No. 24-0257:
 - No longer require Community Housing Development Organizations (CHDOs) to repay HOME-funded loans for acquisition and construction financing and categorize them as forgivable loans



New Construction and Substantial Rehabilitation Program



- Provides financial assistance to new developments and substantial rehabilitation of existing property
- Incentivizes private investment of housing that is affordable to the residents of Dallas
- Awards funds through a competitive Notice of Funding Availability (NOFA) in accordance with scoring criteria
- Builds new single-family developments with 5 or more homes
- Builds new or substantially rehab multi-family rental housing with 5 or more units



New Construction and Substantial Rehabilitation Program (Continued)



- Loan Terms
 - Financial assistance provided in the form of a fully repayable loan with interest
 - Loans for permanent supportive housing projects are forgivable
- Repayment Terms
 - Equal monthly installments up to 300 months; or
 - Annual surplus cash payment requiring at least 50% of Eligible Cash in excess of \$50,000



Operational Challenges for New Construction and Substantial Rehabilitation Program



Factors	Challenges	Proposed Solutions
Repayable Loans to nonprofit CHDOs	Few developers build affordable housing using the city's incentive programs. The CHDOs' multi-family project budgets have low net operating income (due to affordable rents limits and operating expenses). Repaying the city's gap financing loans from the net operating income further stresses the on-going success of the project and limits the CHDOs' ability to build additional affordable housing projects	To continue to incentivize CHDOs to build affordable housing, amend the policy to categorize repayable loans to nonprofit CHDOs as forgivable with the requirement to use forgiven loans to spur additional affordable housing for Dallas residents
Administration of gap financing	1) Frequent large gap financing requests during fiscal year from same developers; 2) Rising gap requests due to market conditions; and 3) No maximum percentage of gap funding as percentage of total development cost per project resulting in depletion of funds	1) Require one NOFA application per fiscal year per developer to allow equitable distribution of gap funding; and 2) Cap all gap funding provided to developer at a maximum 25% of total development cost or \$5M whichever is less
Underwriting and repayments	Streamline repayment terms	Reduce and streamline the number of repayment terms
Equity Strategy Target Areas in DHP33	Targeted investments	Require 50% of each fiscal year Housing budget to be allocated to the target areas
Preferred unit mix requirements on bedroom sizes and targeted area median income (AMI) income bands	Proposed unit mix by developer's NOFA application may not align with Council Priorities or needs assessment data	Data-driven funding metric tied to the amount of gap funding for specific bedroom sizes and targeted AMI income bands (50% of funding for below 60% AMI and 50% of funding for 61% and higher.) Exceptions to be granted for developments with partnerships for specific project initiatives such as city-owned properties, DART, Dallas Housing Authority, Dallas ISD, or others in target areas and to nonprofit developers that may need more funding.

Land Transfer Program



- Incentivizes 1) development of quality, sustainable housing that is affordable to Dallas residents, and 2) development of other uses that complement the City's DHP33, economic development policy, or redevelopment policy
- Authorizes the City to sell qualifying city-owned real property (LTP) and resell tax foreclosed real property (LTP) to for-profit, non-profit and/or religious organizations in a direct sale at less than fair market value of the land; consistent with authorizing state statute or city ordinance
- The sale of real property pursuant to the LTP enables the City to facilitate the development of housing units for sale, lease or lease-purchase to low- and moderate-income households and, on appropriate parcels of land, enables the City to facilitate the development of commercial uses such as neighborhood retail.



Land Transfer Program (Continued)



- Tax foreclosed property is sold at *\$1,000 for the first 7500 SF of the lot size, plus *\$0.133 per SF for lots exceeding 7500 SF
- Surplus property is sold at comparative market value, qualifying developers may demonstrate through a proforma that a discount is necessary
- Participating developers should complete construction and sale of each affordable housing unit to an income eligible homebuyer within 2 years from the date of acquisition
- Targeted income of eligible homebuyers include households earning between 61%-80% and 81%-120% of Area Median Income



Land Transfer Program (Continued)



Type	Term of Affordability	Activity	Enforcement
Homeownership	5 years	Transfer from developer to homebuyer	Deed Restrictions and Right of Reverter
Rental and Commercial uses	20 years	Date the first unit is occupied by an eligible tenant	Deed Restrictions and Right of Reverter
Lease-purchase	Negotiated	Negotiated on case-by-case basis in accordance with goals of Program	Deed Restrictions and Right of Reverter



Land Transfer Program (Continued)



- State law authorizes the City to sell city-owned land without public bidding if the sale is for a public purpose – affordable housing.
- To ensure that the city is not providing an unconstitutional gift to developers by selling them public property at below fair market value, the LTP imposes various deed restrictions and a right of reverter on the lots to ensure compliance with the public purpose—affordable housing – as established by Council.



Land Transfer Program Right-of-Reverter (ROR)



- Deed restrictions - City imposes deed restrictions on all LTP parcels to :
 - Require property be developed per the size, quality, public infrastructure access and other requirements in the development agreement
 - Require number of units to be developed for low- to moderate-income households and remain the primary residence for qualified homebuyers for the affordability period
 - Cap the sales price based on the AMI income band
- Right of Reverter - It is superior to (precedes) the developer lender's liens. LTP lots revert to City if the developer:
 - Fails to take possession of land within 90 calendars after receiving deed
 - Fails to complete construction of housing units or other development on real property, or fails to ensure occupancy by eligible households within timeframe set forth in agreement
 - Incurred a lien on property due to violations city ordinance and failed to fully pay off lien within 180 days of the City's recording of lien
 - Sold, conveyed, or transferred land without City's consent
- City releases the ROR when developer completes construction and sells to qualified homebuyer within the required timeframe.



Operational Challenges for Land Transfer Program Right of Reverter



Factors	Challenges	Proposed Solutions
Development agreements with LTP lots and ROR using construction financing	Numerous developers and lenders state that the City's right of reverter (ROR) decreases the developers' ability to get construction financing because a 3rd party lender wants to take the property when it forecloses on a defaulting developer. If default occurs during construction, the City's ROR precedes the lender's lien and the city may exercise its ROR (i.e., take land back). Original developer still liable for the lender's lien. Developer is liable for the lien (Deed without Warranty).	Amend the LTP to include the following: 1) Sell surplus lots at Fair Market Value (FMV) without right of reverter and deed restrictions 2) Sell below FMV; Subordinate right of reverter when construction financing has closed; Deed restrictions will remain in place. 3) Meet with stakeholders (affordable housing advocates, developers, etc.) for feedback



Single-Family Homeownership Development Requirements



- Funds developers of affordable single-family homebuyer units, including for-profit developers, non-profit developers, and City of Dallas-designated Community Housing Development Organizations (CHDOs)
- Require new construction of a minimum of 1,200 square feet, at least 3 bedrooms, 1.5 baths
- Award funds through a competitive Notice of Funding Availability (NOFA) in accordance with scoring criteria



Single-Family Development Requirements (Continued)



- Loan Types and Terms
 - Provided in the form of a repayable loan to for-profit developers
 - No grants awarded
 - Loans may be used acquisition and construction financing
 - Maximum term of 2 years
 - For-profit developers must repay any net sales proceeds to the City
- Secured with promissory note, mortgage, and liens
- Affordable housing deed restriction tied to AMI band set by Council before conveyance to developer and qualified homeowner



Operational Challenges for Single Family Homeownership Development Requirements



Program	Factors	Challenges	Proposed Solutions
Single-Family Development Requirements	Administration of gap financing	1) Frequent large gap financing requests during fiscal year from same developers; 2) Rising gap requests due to market conditions; and 3) No maximum percentage of gap funding as percentage of total development cost per project	1) Require one NOFA application per fiscal year per developer to allow equitable distribution of gap funding on a rotational basis; and 2) Cap all gap funding provided to developer at a maximum 25% of total development cost or \$5M whichever is less
	Underwriting and repayments	Streamline repayment terms	Reduce and streamline the number of repayment terms
	Equity Strategy Target Areas in DHP33	Targeted investments	Require 50% of each fiscal year Housing budget to be allocated to the target areas
	Preferred unit mix requirements on bedroom sizes and targeted area median income (AMI) income bands	Proposed unit mix by developer's NOFA application may not align with Council Priorities or needs assessment data	Data-driven funding metric tied to the amount of gap funding for specific bedroom sizes and targeted AMI income bands (50% of funding for below 60% AMI and 50% of funding for 61% and higher). Exceptions to be granted for developments with partnerships for specific project initiatives such as city-owned properties, DART, Dallas Housing Authority, Dallas ISD, or others in target areas and to nonprofit developers that may need more funding.

Next Steps



Activity	Date
Solicit and compile feedback from HHS Committee	April 23, 2024
Development updates and feedback in Friday Memo	April 26, 2024
May HHS Committee memo on Development changes	May 21, 2024
Development updates action item on City Council agenda	May 22, 2024





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