



Legislation Text

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**STRATEGIC PRIORITY:** Housing & Homelessness Solutions  
**AGENDA DATE:** February 14, 2024  
**COUNCIL DISTRICT(S):** All  
**DEPARTMENT:** Department of Housing & Neighborhood Revitalization  
**EXECUTIVE:** Majed Al-Ghafry

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**SUBJECT**

Authorize an amendment to the Dallas Housing Resource Catalog (DHRC) [to the \(1\) Land Transfer Program \(LTP\)](#), as shown in the attached Exhibit A to: ~~(1a) the release of the Land Transfer Program LTP deed restrictions initially required when a qualified buyer is also a Dallas Homebuyer Assistance Program (DHAP) participant; (a) and instead~~ impose the federally required DHAP deed restrictions on lots(s) [which shall](#) ~~to~~ be filed and recorded in the real property records of the county in which the parcel(s) of real property is located; ~~(b) no longer require~~ a qualified buyer that is not a DHAP participant ~~shall not be required~~ to meet DHAP underwriting guidelines; and ~~(c) require~~ a qualified buyer that is ~~also~~ a DHAP participant ~~shall be required~~ to meet DHAP underwriting guidelines; ~~(2) an amendment to the DHRC Single Family Development Requirements/Underwriting (SFDRU), as shown in the attached Exhibit B to: (a) no longer require Community Housing Development Organizations (CHDOs) to repay~~ amend [HOME funded loans issued by the City used](#) for acquisition and construction financing ~~and instead categorize them as from repayable to~~ forgivable loans ~~based on the total development cost related to the sales price of the home; and (b) this amendment shall be enforced retroactively from May 12, 2021, the effective date of the development agreement with all non-profit Community Housing Development Organizations (CHDOs), to the current including any applicable repayments to City-certified CHDOs for loan payments made during this time period -~~ [Estimated Net Revenue: General Fund Financing: No cost consideration to the City \\$741,921.00 \(see Fiscal Information\)](#)

**BACKGROUND**

[Land Transfer Program - Deed Restrictions](#) The Dallas Housing Policy 2033 (DHP33) and the DHRC, which sets forth the City's housing programs, authorize the sale of surplus (subject to Texas Local Government Code, Section 272.001(g)) or tax-foreclosed lots (subject to Texas Tax Code, Section 34.051) to qualified developers via the LTP. The sale of land transfer lots to qualified developers facilitates the construction of affordable housing units for low- and moderate-income households (as well as targeted commercial uses). Pursuant to applicable law, the City sells the property subject to a right-of-reverter and requires the developer to record the LTP deed restrictions.

The LTP also requires the developer to sell the newly constructed home to a qualified homebuyer and that any subsequent resale of the home by the initial qualified homebuyer must be to another qualified household during the 5-year affordability period (“resale deed restriction”).

The DHRC requires DHAP participants, which provides qualified homebuyers with down payment and closing cost assistance, to accept deed restrictions with recapture provisions (e.g., if the home is not used as the buyer’s primary residence or is sold to an unqualified household, the participant must pay back the City) (“recapture deed restriction”). The recapture deed restrictions, which are imposed for a specified period based on the amount of assistance, ensure the affordability requirements are met and maintained following the developer’s sale of the property to the DHAP participant. The DHAP affordability period ranges from five to 15 years and must align with federal regulations promulgated by the U.S. Department of Housing and Urban Development.

Federal requirements prohibit both resale and recapture deed restrictions on the same property. A conflict arises when a qualified homebuyer in the LTP Program (which requires resale deed restrictions) [or receives other assistance from funding that requires recapture deed restrictions \(both situations comprising a “DHAP Participant”\)](#) is also a DHAP participant (which requires recapture deed restrictions). The proposed LTP amendment will authorize the release of resale deed restrictions when a developer purchases LTP lots and builds and sells a single-family home to qualified homebuyer who is also a DHAP participant. At the time of this sale, the city imposes the DHAP recapture deed restrictions on the property.

Currently, developers who purchased LTP lots to construct homes for sale to low- to moderate-income homebuyers who use DHAP assistance are unable to close pending the City Council approval of the LTP amendment. According to developers, pending approval, they are incurring increased costs due to security expenses as homes are left vacant for 60 or 90 days, rising interest rates on construction loans, and other holding costs. According to homebuyers, they also face unplanned costs due to temporary living arrangements, expiration of mortgage prequalification and interest rate locks, the potential loss of earnest money deposits, and the cancellation of the purchase agreement by the seller, due to delayed closings. As a result of these challenges, some DHAP participants are faced with the daunting and costly prospect of restarting the homebuying process to find another home at an affordable price in a volatile interest rate environment.

[Land Transfer Program - Eligibility Criteria for Homebuyers.](#) Pursuant to the current DHRC policy governing the LTP Program, developers of for-sale housing units may only sell to homebuyers who meet eligibility criteria set forth in DHAP utilizing the Homebuyer Underwriting Guidelines, or a successor program whether or not the City is providing any [DHAP](#) subsidy to the homebuyer. The [current](#) underwriting guidelines ~~were~~ [are](#) designed to ensure long-term sustainable homeownership for buyers ~~by which cover the~~ 1) maximum sales price, 2) [setting a](#) household income eligibility determination for maximum Area Median Income (AMI) (120% AMI for Land Transfer and 115% AMI for Land Bank), 3) [requiring a](#) minimum contribution of \$1,000, 4) [assessing](#) ability to obtain mortgage [a](#) loan ~~reflecting by requiring that a the~~ mortgage payment does not exceed 35% of monthly income (front-end ratio) and total debt burden does not exceed 45% of monthly income (back-end ratio), 5) [requiring a](#) ~~completion~~ [of](#) pre-purchase homeownership counseling, and 6) [requiring](#) ~~obtain~~ a mortgage loan that meets applicable requirements. In today’s market, low- to moderate-income homebuyers earning within the 60%-80% AMI are already disproportionately affected and faced with many barriers to homeownership opportunities in Dallas. Additionally, [historically disadvantaged](#) ~~minority~~ households face even greater challenges when purchasing a home.

For example, the homeownership rate and generational wealth gap for minorities pale in comparison with other races, [and](#) disparities in lending patterns, increased credit rating requirements, property appraisals/neighborhood analysis, unfavorable loan terms, and stringent underwriting standards all contribute to the obstacles faced by those seeking affordable, attainable, and equitable housing solutions in Dallas. Allowing more flexibility in the DHAP underwriting guidelines when a homebuyer [i\)](#) is not receiving any [DHAP](#) subsidy from the City and [ii\)](#) has been preapproved by a reputable lender would remove one less barrier and allow families to take part in the American Dream of homeownership and reduce the number of denials by staff.

Developers have informed us of the effects the underwriting guidelines have created in the current market with rising interest rates and the ability to qualify homebuyers at the lower 60.00%-80.00% AMI range when factoring in consumer debts. Over the past three months, Marcer Construction, a developer, has had six homes representing \$1.5M on the open market while accruing interest in the amount of \$12,000.00 per month without any buyers meeting the underwriting guidelines resulting in denials. Marcer has informed us that over 30 buyers have been encountered, none of which meet the current underwriting guidelines in this market. Many of the denied buyers include working families with such occupations as: 1) a Dallas ISD teacher and single mother, 2) an accounting manager and single mother of two, 3) security software professional and single mother to be, and 4) a DART employee and father of three.

[Single Family Development Requirements/Underwriting \(SFDRU\)](#) Under the DHP33 and DHRC, [Single Family Development Requirements/Underwriting \(SFDRU\)](#), provides gap financing to developers constructing single-family homes through a competitive Notice of Funding Availability (NOFA) process. Gap financing is provided in the form of a repayable loan with a maximum term of two years. The repayable loan is repaid on a pro-rata amount as each home is sold limited to net sales proceeds to a low- to moderate-income homebuyer.

The current challenge under the SFDRU with the repayable loan creates a financial burden [CHDO](#) on developers when providing affordable homes to households ranging from 60.00%-80.00% AMI. Current non-profit and for-profit developers utilizing the SFDRU or NOFA funds for developer subsidy, to construct and develop single-family housing options, have expressed the financial burden on their proformas when required to repay a pro-rata share of the developer subsidy [at the time each home is sold to an eligible homebuyer](#). Additionally, Builders of Hope Community Development Corporation, a certified [Community Housing Development Organization CHDO](#), has already closed two transactions whereby repayments totaling \$86,000.00 were made to the City at the time of closing as required per the DHRC. Developers have informed us [about that](#) the current market conditions such as increased costs, interest rates, and lot development costs over the past three years [that](#) have created [undue hardships](#) on their bottom line resulting in their inability to provide affordable single-family housing options to families at the 60.00-80.00% AMI range in addition to the required repayment of City funds [at each closing](#).

Staff recommends these proposed amendments to the DHRC to resolve [all the](#) current issues with the LTP and DHAP deed restrictions and underwriting guidelines along with the SFDRU program changing the repayable loans to forgivable loans [for CHDOs](#).

## **PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)**

The Housing and Homelessness Solutions Committee was briefed on Update on Development Programs on November 14, 2023.

[The City Council was briefed by memorandum regarding this matter on December 8, 2023. <https://dallascityhall.com/government/citymanager/Documents/FY23-24%20Memos/HOU%20Development%20Updates%2012082023%20Friday%20Memo%20MA.pdf>](https://dallascityhall.com/government/citymanager/Documents/FY23-24%20Memos/HOU%20Development%20Updates%2012082023%20Friday%20Memo%20MA.pdf)

[The Housing and Homelessness Solutions Committee was briefed by memorandum regarding this matter on January 22, 2024. <https://cityofdallas.legistar.com/LegislationDetail.aspx?ID=6486215&GUID=5AFEFB41-749E-4D87-996A-B9AB3FB2B8B9>](https://cityofdallas.legistar.com/LegislationDetail.aspx?ID=6486215&GUID=5AFEFB41-749E-4D87-996A-B9AB3FB2B8B9)

## **FISCAL INFORMATION**

[Exhibit C provides supporting details on the estimated \\$2,075,921.00 in loan repayments received and City property tax payments over the 15-year affordability period as long as the homebuyer occupies the property as their primary residence. Additionally, the estimated revenue foregone is \\$1,334,000.00 in forgivable loan payments resulting in a net revenue of \\$741,921.00. ~~No cost consideration to the City.~~](#)