



DATE: June 3, 2021

TO: Homelessness-Housing Task Force

FROM: Assistant City Manager

SUBJECT: Provide Comments on Proposed Federal Stimulus Housing Programs

RECOMMENDATION

That the Homelessness-Housing Task Force (HHTF) reviews this report and provides input on the proposed Federal stimulus housing programs and allocations.

SUMMARY

On April 27, 2021¹, Council adopted a resolution authorizing the acceptance of the Federal stimulus allocation under the American Rescue Plan Act of 2021 (ARPA) to address the economic and fiscal impacts of the COVID crisis in the City of Hayward and provided comments on a detailed expenditure plan and process for allocating the funds. The City of Hayward is estimated to receive approximately \$38 million in local relief from the federal government to address the internal and external needs of the City associated with the COVID crisis. The draft expenditure plan proposed allocations to promote Fiscal Recovery & Stabilizing City Operations, as well as Community Safety & Economic Recovery, which prioritizes the external needs of the community. Under the Community Safety & Economic Recovery Category, \$10 to \$14 million was identified for programs related to housing and homelessness.

In May, the United States Treasury issued the Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule that provides guidelines on how State and local governments should implement ARPA and allocate any funds received pursuant to ARPA (Guidelines). Housing and homelessness programs are explicitly eligible under the Guidelines and remain unchanged in the City's proposed expenditure plan.

The proposed federal stimulus housing programs have been identified based on multiple factors including Hayward housing needs, anticipated foreclosures, existing protections, impacts of the history of systemic racism and disparate impacts of COVID-19. The stimulus

¹ April 27, 2021 City Council Meeting Staff Report and Attachments:
<https://hayward.legistar.com/LegislationDetail.aspx?ID=4923169&GUID=F3B939CF-3D97-4F0A-A5AE-8F3A12255314&Options=&Search=>

expenditure plan to address homelessness is discussed in a concurrent report. Specifically, staff recommends reserving \$4.25 million of federal stimulus funding to the following housing programs:

- Foreclosure Prevention Loan Program for low-income homeowners - \$1,000,000
- Relocation Assistance Emergency Fund for displaced tenants - \$250,000
- Wealth Building Program possibly as a reparations program for Black residents to mitigate the impact of systemic racism and the compounding disparate impacts of COVID-19 - \$2,000,000
- Tax-Defaulted and Foreclosed Property Acquisition Assistance Programs to stabilize defaulted property and to facilitate ownership by community members - \$1,000,000

Staff recommends that the HHTF support allocation of funds to the Foreclosure Prevention Loan Program and the Relocation Assistance Emergency Fund for implementation in FY 2022. The Wealth Building Program and the Tax Defaulted and Foreclosed Property Acquisition Assistance Program are included as initial concepts for feedback. If supported by the HHTF, staff would return to the HHTF in FY 2023 with fully developed programs for consideration. Again, staff will return to Council with a budget appropriation for expenditure of stimulus funding in July 2021. Funding provided under the Federal stimulus must be fully expended by December 2024.

BACKGROUND

On April 27, 2021, Council adopted a resolution authorizing the acceptance of Federal Stimulus Allocation under ARPA to address the economic and fiscal impacts of the COVID Crisis in the City of Hayward and provided comments on a detailed expenditure plan and process for allocating the funds. The City of Hayward is estimated to receive approximately \$38 million in local relief from the federal government to address the internal and external needs of the City associated with the COVID crisis. The draft expenditure plan proposed allocations to promote Fiscal Recovery & Stabilizing City Operations, as well as Community Safety & Economic Recovery, which will prioritize the external needs of the community. Under the Community Safety & Economic Recovery Category, \$10 to \$14 million was identified for programs related to housing and homelessness.

Additionally, the detailed expenditure plan included a process for making funding recommendations to various Council Committees and Commissions for further feedback on the specific projects and programs to be funded before returning to the Council in July 2021 with a budget appropriation for expenditure of stimulus funding. This process included presenting recommendations on potential housing and homelessness programs to the HHTF for feedback.

In May, the United States Treasury issued the Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule that provides guidelines on how State and local governments should implement ARPA and allocate any funds received pursuant to ARPA (Guidelines). While City staff and its federal legislative advocates are still carefully reviewing the Guidelines, City staff

has updated the City's draft federal stimulus expenditure plan to reorganize the expenditure plan according to the eligible categories presented in the Guidelines and to exclude any ineligible items previously under consideration. Housing and homelessness programs are explicitly eligible under the Guidelines and remain unchanged in the City's proposed expenditure plan (Attachment II).

Hayward Housing Need and Disparate Impacts on Communities of Color

The Bay Area has been in an extended housing crisis for several years. The combination of increasing rents and home values along with historic increases in high-paying jobs that are outpacing housing production, is leading to intense displacement pressures on many Hayward residents. Those who are still living in Hayward are struggling with cost burden, especially Black and Hispanic households making homeownership and wealth building unattainable for most Hayward tenants.

It is anticipated that the COVID-19 pandemic will exacerbate the crisis widening the disparate impacts of housing policies implemented during the twentieth century that have contributed to systemic racism and inhibited wealth building for people of color. Housing segregation through public policy and regulators' failure to respond to discrimination has marginalized African American and Black residents and limited their ability to gain generational wealth provided by owning property. Examples of such policies include: upholding private restrictive housing covenants that prohibited the sale of property to Black households; restrictions on access to government backed financing; redlining; and subjective implementation of local zoning requirements. As a result, little housing was available to Black households. These policies contributed to the creation of slums relegating Black residents to substandard housing that was overcrowded and, in some cases, lacking in public infrastructure for utilities and waste disposal. The policies prevented Black households from gaining wealth and stability related to property ownership.

Collectively, these policies have contributed to the significant racial wealth gap in the United States. The most recent 2016 data show that white households have the highest levels of wealth in the country, with a median wealth of \$171,000 compared to Black households' median wealth of \$17,600. When looking at average wealth, Black households only own 2.6% of the nation's wealth, though they are 13% of the population.^{2,3} The racial wealth gap between White and Black households reveals "the effects of accumulated inequality and discrimination, as well as differences in power and opportunity that can be traced back to this nation's inception."⁴ In Hayward, American Community Survey Data show that 13% of Black residents live below the federal poverty line, compared to 7% of white households. Further, Black households

² Darity, W.A. & Mullen, K. (2020). Black reparations and the racial wealth gap. *Brookings Up Front*. Retrieved from: <https://www.brookings.edu/blog/up-front/2020/06/15/black-reparations-and-the-racial-wealth-gap/>

³ Darity Jr, W.A. (2019). Running the numbers on closing the racial wealth gap. Durham, NC: The Samuel DuBois Cook Center on Social Equity at Duke University. Retrieved from: <https://socialequity.duke.edu/wp-content/uploads/2019/10/Running-the-Numbers-8.4.19-FINAL.pdf>

⁴ McIntosh, K., Moss, E., Nunn, R., & Shambaugh, J. (2020). Examining the Black-white wealth gap. *The Brookings Institution*. Retrieved from: <https://www.brookings.edu/blog/up-front/2020/02/27/examining-the-black-white-wealth-gap/>

experience significant displacement pressures in Hayward. They are the only racial group in the City of Hayward to decrease in population size from 2010 to 2019, with a decrease of 10% in all Black households and 31% in the lowest income Black households—those earning less than \$35,000 a year.

Existing COVID-19 Housing Protections

To mitigate the impacts of the COVID-19 pandemic and the subsequent stay-at-home orders, legislators have enacted policies to prevent evictions during the pandemic, provided financial assistance to low-income tenants to pay rent, and required loan forbearance on federally backed single-family mortgages. Most of the financial assistance provided has been in the form of rental assistance. The City of Hayward made \$1.73 million available in federal funds, providing rental assistance grants to 670 households. Additionally, the County is currently distributing \$61.8 million federal funds in rental assistance.

Forbearance has helped many homeowners avoid foreclosure during the COVID-19 pandemic. Forbearance periods last six months and can be extended up to 18 months. As a result, many homeowners may be facing the end of their agreement periods in the summer. To help low-income homeowners avoid foreclosure, Council authorized staff to develop a foreclosure prevention program and allocated \$319,000 of emergency Community Development Block Grant CARES Act (CDBG-CV) funds for foreclosure prevention loan.

Existing programs have provided some respite to community members financial impacted by COVID-19. The following discussion proposes housing programs that are intended to fill housing needs unaddressed by existing programs and mitigate racial inequities further exasperated by the COVID-19 pandemic. The stimulus expenditure plan to address homelessness is discussed in a concurrent report.

DISCUSSION

Considering Hayward housing needs, anticipated foreclosure, existing renter protections and resources for rental assistance, history of systemic racism, and disparate impacts of COVID-19, staff recommends utilizing stimulus funding for the following housing programs:

- Implementation of the Foreclosure Prevention Loan Program for low-income homeowners in FY 2022, allocating \$1,000,000
- Implementation of the Relocation Assistance Emergency Fund for displaced tenants in FY 2022, allocating \$250,000
- Development of the Wealth Building Program as a potential reparations program, reserving \$2,000,000
- Development of Tax-Defaulted and Foreclosed Property Acquisition Assistance Programs to facilitate community ownership, reserving \$1,000,000

These proposed housing programs are intended to fill the gaps in existing housing resources and protect community members from housing instability caused by COVID-19.

Foreclosure Prevention Loan Program

As noted above, many homeowners face expiring forbearance protections, meaning that households struggling with deferred payments that may be further compounded by job loss, underemployment, and illness are at high risk for default or foreclosure on their homes. While State and County funds are available for rental assistance to renters and small landlords experiencing financial distress due to COVID-19, there are currently no regional funds available to support homeowners financially impacted by COVID-19 through job loss, reduced wages, or increased medical costs.

Analysis of American Community Survey data shows that there are over 7,000 very low-income owner-occupied households experiencing housing cost burden (i.e., paying over 30% of their income on housing costs). Further, discussions with local housing counselors and legal service providers suggest that there are specific populations in Hayward that have increased risk for foreclosure, such as older adults on fixed incomes and low-income households. Low-income households and those experiencing prolonged income loss with limited other assets have an increased risk of foreclosure because they are less likely to qualify for a loan modification. This population would benefit from a program that couples financial assistance with legal services, linking at-risk households with financial aid and legal resources (e.g., help negotiating loan modifications, refinancing, or extending forbearance agreements) to keep their homes and reduce the risk of future loss.

Council authorized allocation of approximately \$319,000 in emergency CDBG funds to a foreclosure prevention loan program, which would pair financial assistance with legal services to help homeowners at risk of foreclosure maintain their homes.⁵ Staff projects that those start-up funds along with the requested stimulus funds of \$1 million would provide legal services and financial assistance of up to \$15,000 in deferred loans to over 60 low-income households at risk of foreclosure. By providing the assistance as a loan, the City can recover the direct financial assistance upon sale of the property to use on future projects.

If supported by the HHTF and approved by Council, staff recommends implementation of the Foreclosure Prevention Loan Program in FY 2022.

Relocation Assistance Emergency Fund

To help tenants facing no fault evictions and temporary displacement due to substantial rehabilitation, Council enacted the Tenant Relocation Assistance Ordinance (TRAO) to set minimum relocation payment standards. Staff has been evaluating the efficacy of the legislation in assisting tenants facing displacement and has determined that despite the TRAO, tenants facing displacement related to substandard housing have difficulty securing payments from their landlords and those displaced due to natural disaster are not entitled to any relocation assistance.

⁵ December 8, 2020, City Council Meeting Staff Report and Attachments:
<https://hayward.legistar.com/LegislationDetail.aspx?ID=4711815&GUID=2688E44E-21AE-46CD-B493-48E3CA10F915&Options=&Search=>

Since enacting the TRAO in July 2020, staff have evaluated cases at 14 properties, impacting 17 households, to determine if the affected tenants were eligible for assistance. Staff determined that the landlord was liable for relocation assistance in all but four cases. While staff are not currently collecting demographic data on tenants and landlords involved in relocation cases, they have identified a clear trend that, in cases where tenants are living in unsafe conditions, the tenants are racial and ethnic minorities who often speak a language other than English as their primary language. Additionally, a trend has emerged that in several cases the landlord is either unable to pay, refuses to pay, or the TRAO does not apply due to the nature of the displacement. In each of these common scenarios, tenants are displaced from their homes with no financial support.

The TRAO establishes that if the landlord refuses to provide relocation payments, the Rent Review Officer can provide such payment to a tenant and recover the costs from the landlord. However, there is no funding available to pay relocation assistance on behalf of the landlord. Considering the public health concern related to displacement during the pandemic, staff proposes establishing a Relocation Assistance Emergency Fund that will allow the City to expedite relocation assistance payments to tenants in the following scenarios:

1. The tenant is displaced due to a natural disaster.
2. The tenant is displaced due to Code Enforcement activities and the landlord is either unwilling or unable to pay applicable relocation assistance.

The City would make relocation assistance payments based on the amount the tenant is entitled in the TRAO and State legislation not-to-exceed \$12,500. In cases where the landlord is liable for relocation assistance, staff proposes cost recovery through liens or voluntary loan agreements. By establishing a Relocation Assistance Emergency Fund, the City can ensure that tenants displaced due to substandard housing conditions or natural disasters have resource to find replacement housing.

If supported by the HHTF and approved by Council, staff recommends implementation of the Relocation Assistance Emergency Fund in FY 2022.

Wealth Building/Reparations Program

The Wealth Building Program is included as an initial concept for feedback. If supported by the HHTF, staff would return to the HHTF in FY 2023 with a fully developed program for consideration. The following describes the proposed framework for the program subject to stakeholder feedback. Staff also seeks feedback from the HHTF regarding establishment of the Wealth Building Program as a reparations program for Black Hayward residents to mitigate inequities caused by housing policies that contributed to systemic racism and inhibited wealth building for Black community members.

General Framework

Staff proposes developing a Wealth Building Program that is community-informed and involves both payments that promote home ownership and wealth building.. Potential examples of direct financial assistance include:

- Down payment assistance grants

- Home revitalization grants
- Other housing stabilization grants to promote housing stability or improve housing quality
- Commercial business assistance grants
- Education assistance grants to reduce student debt or cover the costs of additional education or professional certifications

Additionally, funding could be provided to support recipients develop financial goals to building and maintain wealth to supplement the direct financial assistance including:

- Housing counseling services for first-time homebuyers and current homeowners
- Financial planning resources
- Business and career counseling services

Wealth Building Program as a Reparations Program

Researchers have cited reparations as a tool for restoring the wealth taken from and denied to Black Americans throughout history by housing discrimination as well as slavery, Jim Crow segregation, mass incarceration, and other institutional forms of racism. The racial wealth gap is responsible for significant disparities that extend beyond economic difference to health, education, and well-being. There is a small but growing number of municipal and county reparations programs being introduced across the country that intend to acknowledge the harm done by the local government to Black residents and assert an intent to make amends for that harm.

To date, there are very few municipal reparations programs and those that exist are early in their implementation; therefore, there is little data to demonstrate the effectiveness of the programs. However, given the potential impact of the program and the demonstrable need for closing the racial wealth gap, staff recommends using a portion of stimulus funds to operate a community-informed wealth building program for Black community members. If the HHTF supports the Wealth Building Program as a reparations program, staff recommends developing the program through a community engagement process that integrates available secondary data sources on disparities in Hayward and the history of discrimination in the region with community input and insights on the needs of Black Hayward residents. Questions to consider during a community engagement process to develop the program include:

- Who should be eligible for reparations?
- What is the best form of reparations to address the historic and systemic racism perpetrated against Black residents?
- What are the most effective ways to increase home ownership and reduce home ownership loss among Black residents?
- What additional resources would support Black households increase and maintain wealth?

Tax-Defaulted and Foreclosed Property Acquisition Assistance Program

The Foreclosed Property Acquisition Assistance Program is included as an initial concept for feedback. If supported by the HHTF, staff would return to the HHTF in FY 2023 with a fully

developed program for consideration. The availability of forbearance programs and fiscal support from the government have kept many families from entering into delinquency. As homeowners face expiring federal and state forbearance protections, households still struggling to recover financially may be at risk for default or foreclosure. While staff is currently proposing to help low-income homeowners avoid foreclosure, it is not likely that all foreclosures can be prevented. Staff proposes creating a Tax-Defaulted and Foreclosure Acquisition Assistance Program to assist community members and/or mission driven organizations such as a Community Land Trust or non-profit housing providers acquire defaulted property.

Property loss due to foreclosure or delinquent tax sale cause housing instability and insecurity but also provide housing opportunities. Housing sold at auction is typically sold below market prices. Because the prices are lower, it creates housing opportunity, particularly for creating affordable units. However, these opportunities are usually seized by investors because of their access to financial resources.

Aided by the ability to disrupt the foreclosure process under SB 1079 and property tax sales under CA Revenue and Taxation Code, the Tax-Defaulted and Foreclosure Acquisition Assistance Program seeks to leverage the lower priced defaulted properties for two purposes: 1) help low- to moderate-income tenants living in foreclosed single family homes acquire the property they reside in; and 2) help Community Land Trusts or non-profit housing providers acquire foreclosed and tax defaulted property to help retain the asset as long-term affordable housing. Similar to the Tenant Right of First Refusal (TROFR) Programs supported by Task Force Members at the June 4, 2020 HHTF meeting, this program intends to reduce the risk of displacement caused by investment by giving tenants, affordable housing developers, and Community Land Trusts the opportunity and financial resources to purchase distressed properties. Staff projects that \$1 million of stimulus funds would assist a minimum of 6 households at a maximum assistance amount of \$125,000 each.

Homelessness Stimulus Request

Since Council authorization of the project in September 2020, staff have worked with the consulting firm Homebase to conduct a community-driven strategic planning process to develop the Let's House Hayward! (LHH) Strategic Plan.⁶ More information about these programs is available in a concurrent report regarding homelessness stimulus requests. These programs will also be discussed at the June 3, 2021 HHTF meeting to solicit input on the recommended stimulus funding allocations for the LHH homelessness response and prevention projects.

Discussion Questions for HHTF

Collectively, the proposed housing programs will provide additional response to the COVID-19 pandemic to further stabilize housing, assist displaced tenant in substandard housing

⁶ April 20, 2021, City Council Meeting Staff Report and Attachments:
<https://hayward.legistar.com/LegislationDetail.aspx?ID=4916429&GUID=67261A4F-2AD6-499F-98DF-E3EFEC367E21&Options=&Search=>

secure replacement housing, mitigate disparate impacts caused by the COVID-19 pandemic and a history of systemic racism, and create long-term affordable housing through acquisition of distressed properties. Staff requests feedback on the following questions:

1. Does the HHTF support the allocation of federal stimulus funds for implementation of the Foreclosure Prevention Program and the Relocation Assistance Emergency Fund in FY 2022?
2. Does the HHTF support further development of a Wealth Building Program to be discussed in more detail in FY 2023?
 - a. If so, should the Wealth Building Program be designed to provided reparations to Black community members?
3. Does the HHTF support further development of Tax-Defaulted and Foreclosed Property Acquisition Assistance Program to be further discussed in FY 2023
 - a. If so, should the City us federal stimulus funds to provide finance resources to help tenants, Community Land Trusts and Affordable Housing Providers acquire foreclosed and tax defaulted properties.

ECONOMIC IMPACT

Social research indicates that access to affordable housing can improve education outcomes, increase health and wellbeing, boost economic activity, and lower the costs for state and local governments to provide emergency housing, mental health crisis services, emergency medical care, and other services to assist the homeless or families and individuals with a housing crisis. The rent for affordable housing is relative to income levels versus market prices which reduces rent burden. This increases available income to pay for other basic needs or save for other financial goals such as furthering education or homeownership. Stabilizing housing costs can be the first step to creating opportunities for personal economic advancement. The projects described in this report that may will help the City achieve these and other socio-economic benefits.

FISCAL IMPACT

There is no fiscal impact to the General Fund associated with this item. The City of Hayward is estimated to receive approximately \$38 million in local relief from the federal government to address the internal and external needs of the City associated with the COVID crisis. *Table 2* describes the proposed funding allocation by program.

Table 2. Proposed Housing Stimulus Request Proposed Allocations

Program	Proposed Allocation
Foreclosure Prevention Loan Program	\$1,000,000
Relocation Assistance Emergency Fund	\$250,000
Wealth Building/Reparations Program	\$2,000,000

Tax-Defaulted and Foreclosed Property Acquisition Assistance Program	\$1,000,000
Total	\$4,250,000

Funds would be used to provide direct service and cover the cost of administration. Proposed allocations for homelessness stimulus requests are identified in a concurrent report. Attachment II summarizes all proposed stimulus expenditure allocations.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Preserve, Protect & Produce Housing. This item is not specifically related to a project identified in the Strategic Roadmap. Staff is bringing forth this new item because economic impacts of COVID-19 threaten to undermine the housing security for Hayward residents.

PUBLIC CONTACT

Public input informed these recommendations in several ways:

- Discussion with nonprofit service providers about their clients' housing needs, including the proportion of clients in forbearance and trends in lenders' responses to households at risk of foreclosure
- Discussion with community members experiencing displacement due to natural disasters or otherwise unsafe living conditions
- Extensive stakeholder engagement through the LHH planning process, including discussion of homelessness prevention needs and concerns and the importance of racial equity in homelessness and housing policies and programs

Staff also plan to engage in substantial community outreach for the development of the Wealth Building Reparations Program.

NEXT STEPS

If supported by the HHTF, staff would either implement or further develop proposed programs based on the timeline in *Table 3*.

Table 3. Proposed Housing Stimulus Request Proposed Allocations

Program	Timeline
Implementation of Foreclosure Prevention Loan Program	FY 2022
Implementation of Relocation Assistance Emergency Fund	FY 2022
Development of Wealth Building/Reparations Program	FY 2023
Development of Tax-Defaulted and Foreclosed Property Acquisition Assistance Program	FY 2023

The Wealth Building Program and the Tax Defaulted and Foreclosed Property Acquisition Assistance Program are included as initial concepts for feedback. If supported by the HHTF,

staff would return to the HHTF in FY 2023 with fully developed programs for consideration. Again, staff will return to Council with a budget appropriation for expenditure of stimulus funding in July 2021. Funding provided under the federal stimulus must be fully expended by December 2024.

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Approved by:



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