

CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov



CITY OF
HAYWARD
HEART OF THE BAY

Agenda

Thursday, June 4, 2020

6:00 PM

Remote Participation

Homelessness-Housing Task Force

This meeting is being conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order No. 29-20 dated March 17, 2020, and Alameda County Health Officer Order No. 20-10 dated April 29, 2020, regarding the COVID-19 pandemic.

To join the meeting by phone, dial the conference phone number and enter the conference ID
Conference phone number: +1(415) 915-0612
Conference ID: 495 996 127#

HOW TO SUBMIT PUBLIC COMMENT:

Send an email to yolanda.cruz@hayward-ca.gov by 3:00 p.m. the day of the meeting. Please identify the Agenda Item Number in the subject line of your email. Emails will be compiled into one file, distributed to the members of the Homelessness-Housing Task Force and City staff, and published on the City's Meeting & Agenda Center under Documents Received After Published Agenda. <https://hayward.legistar.com/Calendar.aspx>

When submitting written comments, indicate in the email if you want your comment read into the record. Requests will be allowed provided the reading will not exceed three (3) minutes consistent with the time limit for speakers at Task Force meetings. Email comments will become part of the record of Task Force meetings. The Chair can limit the time for reading written comments.

CALL TO ORDER

ROLL CALL

PUBLIC COMMENTS:

Limited Only to the Items on the Agenda and Submitted in
Writing Prior to the Meeting

APPROVAL OF MINUTES

1. [MIN 20-057](#) Minutes of the Homelessness-Housing Task Force Meeting on March 5, 2020

Attachments: [Attachment I Draft Minutes 3/5/2020](#)

INFORMATIONAL ITEMS

2. [RPT 20-062](#) Informational Report on Program and Policies that Promote Homeownership

Attachments: [Attachment I Staff Report](#)
[Attachment II Policies that Promote Homeownership](#)

FUTURE AGENDA ITEMS

TENTATIVE SCHEDULE

SEPTEMBER 3, 2020

1. Criteria/Priorities for Next NOFA (if sufficient funding is available)
 - Hayward Specific Area Median Income or Income Targeting Reflecting Specific Needs of Hayward Residents
 - Potential for Hayward Down payment Assistance Program
2. Hayward's Homelessness Strategic Plan
 - Workforce Development Pathways

DECEMBER 3, 2020

1. Evaluation of Task Force continuance

TASK FORCE MEMBER/STAFF ANNOUNCEMENTS AND REFERRALS

ADJOURNMENT



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

File #: MIN 20-057

DATE: June 4, 2020

TO: Homelessness-Housing Task Force

FROM: Deputy City Manager

SUBJECT

Minutes of the Homelessness-Housing Task Force Meeting on March 5, 2020

RECOMMENDATION

That the Task Force approves the minutes of the meeting on March 5, 2020.

ATTACHMENTS

Attachment I Draft Minutes 3/5/2020



MINUTES OF THE HOMELESSNESS-HOUSING TASK FORCE MEETING

Thursday, March 5, 2020, 6:00 p.m.

Conference Room 2A

777 B Street, Hayward, CA 94541

CALL TO ORDER

Council Member Lamnin called the meeting to order at 6:00p.m.

ROLL CALL

Present: Council Member Salinas
Council Member Lamnin
Council Member Wahab

Absent: None

OTHERS IN ATTENDANCE

Jennifer Ott, Deputy City Manager; Christina Morales, Housing Division Manager; Amy Cole, Management Analyst and Yolanda Cruz, Administrative Clerk.

PUBLIC COMMENTS

There were no speakers during public comments

APPROVAL OF MINUTES

1. Minutes of the Homelessness-Housing Task Force Meeting on December 9, 2019

It was moved by Council Member Salinas, seconded by Council Member Lamnin, to approve the minutes of the Homelessness-Housing Task Force meeting on December 9, 2019.

REPORTS/ACTION ITEMS

2. Progress Report on and Recommendations for Revisions to the Residential Rent Stabilization and Tenant Protection Ordinance

Deputy City Manager Ott introduced Housing Division Manager Morales who provided a PowerPoint presentation on the implementation progress of the Residential Rent Stabilization and Tenant Protection Ordinance (RRSO). The presentation covered: 1) background information on the RRSO; 2) statistics regarding tenant and landlord petitions filed, statistics regarding rent increase and termination notices filed, and status of the implementation of the rental housing database; 3) analysis of the Tenant Protection Act; and 4) the recommended revisions to the RRSO.

MINUTES OF THE HOMELESSNESS-HOUSING TASK FORCE MEETING
Thursday, March 5, 2020, 6:00 p.m.
Conference Room 2A
777 B Street, Hayward, CA 94541

Council Member Lamnin opened the public comments section at 6:25 p.m.

Council Member Wahab entered the conference room at 6:28 p.m.

The following individuals spoke during public comments:

Sandra Frost, Hayward resident
Elisha Crader, with Centro Legal dela Raza
Lacei Amodei, Hayward resident
Araceli Orozco, Hayward resident
Alicia Lawrence, Hayward Collective member
Bill Mulgrew, with Rental Housing Association of Southern Alameda County
David Stark, with Bay East Association of Realtors
Bill Espinola, Hayward property owner

Council Member Lamnin closed the public comments section at 6:54 p.m.

Task Force members supported staff recommendations on the revisions to the Residential Rent Stabilization and Tenant Protection Ordinance (RRSO) to clarify language, align the RRSO with the State law and to address specific policy issues including: 1) the removal of exemption for affordable housing conversion projects from the Just Cause for Eviction provisions; and 2) provision of temporary relocation assistance during renovations.

INFORMATIONAL ITEMS

Informational Item regarding Hayward Resident/Employee Preference on Market Rate Housing on City Owned Land. Oral Report Only.

Informational only.

FUTURE AGENDA ITEMS

TENTATIVE SCHEDULE

JUNE 4, 2020

1. Hayward's Homelessness Strategic Plan (possibly September)
 - Workforce Development Pathways
2. Affordable Ownership Models – Informational Item
 - Below Market Rate
 - Land Trust
 - Down payment Assistance
 - Tenant Right of First Refusal

MINUTES OF THE HOMELESSNESS-HOUSING TASK FORCE MEETING
Thursday, March 5, 2020, 6:00 p.m.
Conference Room 2A
777 B Street, Hayward, CA 94541

SEPTEMBER 3, 2020

1. Criteria/Priorities for Next NOFA (if sufficient funding is available)
 - Hayward Specific Area Median Income or Income Targeting Reflecting Specific Needs of Hayward Residents
 - Potential for Hayward Down payment Assistance Program

DECEMBER 3, 2020

1. Evaluation of Task Force Continuance

TASK FORCE MEMBER/STAFF ANNOUNCEMENTS AND REFERRALS

There were none.

ADJOURNMENT

Council Member Lamnin adjourned the meeting at 8:11 p.m.



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

File #: RPT 20-062

DATE: June 4, 2020

TO: Homelessness-Housing Task Force

FROM: Deputy City Manager

SUBJECT:

Informational Report on Program and Policies that Promote Homeownership

RECOMMENDATION

That the Homelessness-Housing Task Force (HHTF) reviews and discusses this report on programs and policies that create homeownership opportunities in the City of Hayward.

SUMMARY

The purpose of this report is to describe programs and policies that create homeownership opportunities. Homeownership provides long-term housing stability as long as the cost is affordable, and maintenance and repairs are manageable. The report and Attachment II describe the following programs and policies:

1. Homebuyer assistance programs
2. Affordable Housing Ordinance (AHO) ownership units
3. Tenant right of first refusal policies (TROFR)
4. Community land trusts (CLT)
5. Subsidizing affordable ownership development

The programs and policies described in the report are viable mechanisms to create more affordable homeownership opportunities, but have varying costs. Increasing ownership opportunities would be beneficial to community members; however, funding for these programs is limited. These programs and policies are submitted for consideration as the HHTF considers funding priorities for the Affordable Housing Trust funds in subsequent meetings.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Polices that Promote Homeownership

File #: RPT 20-062



DATE: June 4, 2020

TO: Homelessness-Housing Task Force

FROM: Deputy City Manager

SUBJECT: Informational Report on Program and Policies that Promote Homeownership

RECOMMENDATION

That the Homelessness-Housing Task Force (HHTF) reviews and discusses this report on programs and policies that create homeownership opportunities in the City of Hayward.

SUMMARY

The purpose of this report is to describe programs and policies that create homeownership opportunities. Homeownership provides long-term housing stability as long as the cost is affordable, and maintenance and repairs are manageable. The report and Attachment II describe the following programs and policies:

1. Homebuyer assistance programs
2. Affordable Housing Ordinance (AHO) ownership units
3. Tenant right of first refusal policies (TROFR)
4. Community land trusts (CLT)
5. Subsidizing affordable ownership development

The programs and policies described in the report are viable mechanisms to create more affordable homeownership opportunities, but have varying costs. Increasing ownership opportunities would be beneficial to community members; however, funding for these programs is limited. These programs and policies are submitted for consideration as the HHTF considers funding priorities for the Affordable Housing Trust funds in subsequent meetings.

BACKGROUND

Housing affordability is an issue for many people in the bay area. Homeownership programs can stabilize housing costs for those that are eligible and have the capacity to purchase. The City of Hayward has created programs to provide homeownership opportunities to low- and moderate-income households through the Affordable Housing Ordinance, through the First-Time Homebuyer (FTHB) Program, and by providing financial support or land to homeownership housing developers. These existing programs are described below.

Homeownership Units and the Affordable Housing Ordinance (AHO)

In June 2003, the City of Hayward adopted the AHO to address the need for affordable housing in the City of Hayward. The AHO was amended in 2011, 2013, 2015, and 2017 to adapt to changing market conditions and the evolving needs of Hayward's diverse population. The AHO allows developers to meet the affordable housing requirements by providing on-site or off-site affordable units, or paying an affordable housing in-lieu fee. Affordable units can be ownership or rental but for the purposes of this report, the focus will be limited to the activities within the AHO that increase homeownership. Although the current AHO requires that affordable units remain affordable in perpetuity, in the past, the ordinance only required a minimum length of affordability of 45 years. As a result, out of a portfolio of approximately 80 below market rate affordable homeownership units, the affordability period for 80% of Hayward's below market rate portfolio will expire starting in 2050 with the last ending in 2056.

First-Time Homebuyer (FTHB) Program

Hayward City Council approved the FTHB program in 1993. While active, Hayward's FTHB Program issued 253 loans, totaling \$3,691,458 to income eligible households. The program was discontinued in 2012 due to lack of funding when California passed AB 26, which dissolved all redevelopment agencies in the state. Loan amounts issued through the program ranged from \$1,397 to \$40,000. 17.8% of the loans issued through this program assisted with the acquisition of affordable units created by the AHO. **Table 1** provides FTHB Program statistics from 1995 through 2012.

Table 1. 1995 - 2012 FTHB Program Statistics

Years	Average Loan Amount	No. Loans Issued
1995 - 1999	\$5,955	122
2000 - 2009	\$17,591	83
2010 - 2012	\$31,355	48

Many of the FTHB loans have been repaid over time and the Housing Division currently administers the remaining 44 FTHB loans, totaling \$888,835 in outstanding balances. Revenue from these loans can only be used for administrative costs related to monitoring of redevelopment agency funded projects, and the development of new housing, and homelessness prevention and rapid rehousing per Section 34176.1 of the California Health and Safety Code, and cannot be used to originate new homebuyer loans.

Supporting Homeownership Development Projects

The City has also created homeownership opportunities for low- and moderate-income homebuyers by providing loans or land to affordable homeownership housing developers in exchange for long-term affordability restrictions. Projects that remain in the City's portfolio include Westport Homes, B Street Bungalows, and the Neighborhood Stabilization Program.

Currently, the City of Hayward is in a Development and Disposition Loan Agreement with Habitat for Humanity to construct 10 homes for low to moderate income households. By providing loan funds or controlling the terms of the sale, the City can negotiate affordability levels and terms of the resale controls.

Through implementation of the above referenced programs the City retains resale restrictions on 14 affordable homeownership units that are included in the above referenced portfolio of below market rate affordable homeownership units.

DISCUSSION

The City has utilized a variety of programs to create homeownership opportunities for low- and moderate-income purchasers. Homeownership programs and policies like homebuyer assistance programs, the City's AHO, and provision of development subsidies create below market rate homeownership units, bringing the cost of homeownership within reach of income targeted buyers. The purpose of this discussion is to further explore these models and discuss models not currently used in order to inform the HHTF about options to create affordable homeownership opportunities for Hayward community members.

Benefits and Responsibilities of Homeownership

Owning a home comes with benefits and responsibilities. The primary benefit of owning a home is having shelter and having control over your home. Owning a home can also stabilize housing costs. Over time, fixed housing costs combined with increasing income creates disposable income for the homeowner and facilitates the accumulation of wealth. By maintaining stable housing costs, a homeowner may have improved capacity to save or make other investments as the homeowner's income increases. Homeowners also benefit from appreciation of the value of their home. The asset can be sold or leveraged for other financial purposes or can be passed down to loved ones as part of an inheritance. Homeowners also have tax benefits that reduce their tax liability.

While there are substantial benefits to homeownership, there are also increased responsibilities. Homeowners have the financial obligations of paying their mortgage, property taxes, and insurance. Homeowners are responsible for maintenance and repairs that can either be planned or unexpected. It is important to note these responsibilities because a successful homeownership program has to consider housing sustainability, in addition to housing acquisition.

Homeownership Programs and Policies

There are five primary home ownership program and policies that have been evaluated for this discussion. These programs and policies include:

1. Homebuyer assistance programs
2. AHO ownership units

3. Tenant right of first refusal policies (TROFR)
4. Community land trusts (CLT)
5. Subsidizing affordable ownership development

These programs are briefly described below. A detailed explanation of each program is provided in ***Attachment II***.

Homebuyer Assistance Program

Homebuyer assistance programs can help bridge the gap between what a household can afford and the purchase price, provide a down payment, and incentivize homeownership. Financial assistance is provided as a low-cost amortized loan, deferred loan, or a shared appreciation loan. Purchasers receive the benefits of homeownership but also must repay the City. Homebuyer Assistance Programs do not preserve affordability for the community, as the programs can be difficult to integrate into a market rate purchase transaction, and require substantial per unit subsidy and additional administrative support. Staff estimates that moderate-income households will need assistance up to \$125,000 to help bridge the gap between what a household can afford and current market prices. Currently, there is no funding available for a homebuyer assistance program, but staff will continue to try and identify funding opportunities as they become available.

Affordable Housing Ordinance (AHO) Ownership Units

The AHO creates long-term affordable ownership housing for moderate-income households in mixed income developments by requiring market-rate developers to set aside a small percentage of on-site or off-site affordable units or pay an affordable housing in-lieu fee. Developers that provide on-site affordable ownership units agree to record long-term affordability covenants that restrict the resale price and identify the target population for subsequent purchases. Owners of affordable ownership units receive most of the benefits of homeownership; however, are subject to limits on appreciation. Units developed from this policy leverage the resources of market rate housing development and do not require a City subsidy. The affordable housing in-lieu fee covers the cost of administration of the program. Lastly, affordable ownership units developed as a result of the AHO will contribute toward the City's RHNA goals; however, will only provide 10 affordable units for every 100 units developed.

Tenant Right of First Refusal (TROFR) Policies

TROFR policies help low- to moderate-income households purchase a home by requiring landlords to offer rental properties to tenants prior to selling the property on the open market. TROFR policies intend to reduce the risk of displacement caused by investment by giving the tenants the opportunity to purchase the property or assigning their rights to an affordable housing developer or land trust. Multifamily TROFR policies are complex and success requires active administration and enforcement, financial assistance, and technical assistance which includes preparing legal organizational documents, assistance with loan applications, and support in sales negotiations. While the topic of this discussion is focused on ownership, TROFR

policies can also be used to convert properties to affordable rental housing. Implementation of multifamily TROFR policies would require substantial financial resources to staff the program and provide sufficient acquisition and/or rehabilitation subsidies necessary to make the acquisition feasible. Single family TROFR policies are less complex because the acquisition process is easier and will require less support from local government; however, tenants are likely to need financial assistance, similar to a homebuyer assistance program, to make the acquisition feasible. Both models of TROFR provide the tenants the opportunity to purchase the homes they live in at the lowest market price. Sales transactions take longer to complete to give tenants enough time to exercise their rights and secure financing. TROFR policies would not contribute toward RHNA goals. TROFR policies place restrictions on privately owned properties, and as a result, can generate strong opposition by property owners. Therefore, the potential enactment and/or implementation of a TROFR policy would require City staff to conduct significant community engagement. Additionally, if the City enacts a TROFR policy without substantial financial and technical assistance, it is unlikely that tenants will be able to acquire properties and the policy will only result in delaying sale transactions and adversely impacting property owners.

Community Land Trusts (CLT)

A CLT is an independent non-profit organization that preserves long-term affordable housing through land acquisition. A purchaser of a CLT unit only owns the home (improvements) and enters into a ground lease with the CLT for the use of the land. The ground lease contains certain restrictions on the use of the home and provides a resale formula that limits the amount that a home can be resold to subsequent homebuyers. By removing land from the market, holding it in perpetuity, and limiting the resale price, a CLT buffers housing and other land uses from the volatility of the housing market. CLTs can create ownership opportunities for lower income households thus providing housing stability, preserving naturally occurring affordable housing, and providing long-term affordable housing for the community. To acquire property and sell or rent to lower income households, a CLT will require land contributions or financial assistance from the City. Staff estimates that the per unit subsidy will range from \$150,000 per unit to \$300,000 per unit depending on the size of the property.

Subsidizing Affordable Ownership Development.

Subsidizing affordable ownership development is another way to create affordable ownership opportunities. Providing land or subsidizing the development of affordable housing enables the City to set funding priorities and solicit projects that best meet the City's housing needs. In exchange for the financial assistance, the developer agrees to sell the home at an affordable sales price to an income eligible purchaser like the requirements of the AHO. The City can incorporate affordable ownership housing as an eligible activity in the next Notice of Funding Availability (NOFA) and can include applicants such as affordable housing developers, CLTs, and market rate developers exceeding the requirements of the AHO. Like units developed to comply with the AHO, owners of affordable ownership units receive most of the benefits of homeownership; however, are subject to limits on appreciation. It is anticipated the projects could require as much as \$300,000 per unit in subsidy due to lack of other available resources to finance a project.

Funding Affordable Homeownership Programs and Policies

The programs and policies described above are viable mechanisms to create more affordable homeownership opportunities; however, have varying costs. Increasing ownership opportunities would be beneficial to community members; however, funding for these programs is limited. The Affordable Housing Trust currently has \$4 million in uncommitted funds to apply toward eligible homeownership or rental projects. Per the AHO, the funds must be used to increase the supply of affordable housing through new construction, acquisition of affordability covenants and substantial rehabilitation of existing housing, or provision of other residential facilities, including emergency shelters and transitional housing, if those facilities mitigate the impact of market-rate housing on the need for affordable housing. Consistent with the AHO, funds from the Affordable Housing Trust could be utilized to provide:

- Financial Assistance to cover the acquisition and rehabilitation costs for a multifamily property leveraging a TROFR policy
- Financial Assistance to cover the acquisition and rehabilitation costs for a Land Trust
- Homeownership development subsidies

The funds cannot be used for:

- Down payment assistance
- Administrative costs associated with down payment assistance
- Administrative costs associated with TROFR implementation, enforcement, and technical assistance

While there is a need for both affordable ownership housing and affordable rental housing, there is only \$4 million in City controlled funds to pay for the desired housing projects and programs. The HHTF and Council will have to evaluate funding priorities and determine if they would like to include homeownership activities in the next NOFA, including some of the policies and programs described in this report.

STRATEGIC ROADMAP

This informational report supports the Strategic Priority of Preserve, Protect & Produce Housing. Specifically, this item relates to the implementation of the following project:

Project 6, Part 6a: Hold work session on establishing funding priorities for Affordable Housing Trust including the potential for affordable rental housing, homeownership, co-ops, and shelter opportunities

These are preliminary discussions that will inform future decisions on how to expend funds in the Affordable Housing Trust and to leverage other potential funding sources. Some of the policies and programs listed above are not included in the Strategic Roadmap and would require reprioritization, if supported by the Council.

FISCAL IMPACT

There is no fiscal impact associated with this informational report. However, pursuing these policies and programs will have varying budgetary implications. Some of these programs will require substantial financial assistance from the City to implement that are not currently available.

Prepared by: Doris Tang, Management Analyst
Christina Morales, Housing Manager

Recommended by: Jennifer Ott, Deputy City Manager

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', is written over a horizontal line.

Kelly McAdoo, City Manager

ATTACHMENT II

Homebuyer Assistance Program

Summary	
Objective	Homebuyer assistance programs help bridge the gap between what a household can afford and the purchase price, provide down payment, and incentivize homeownership
Benefits	<ul style="list-style-type: none"> • Gives lower income households the opportunity to purchase a home, which will: <ul style="list-style-type: none"> ○ Provide long-term housing stability ○ Provide potential opportunities for wealth creation • With sufficient funding, could establish revolving loan fund
Challenges	<ul style="list-style-type: none"> • Does not create affordability for subsequent purchasers • The affordability gap is large (\$125,000) • Applicants using assistance are less competitive in a competitive housing market • Requires substantial, ongoing funding source
Targeted Projects	<ul style="list-style-type: none"> • Existing market rate housing • New below-market rate housing
Targeted Households	Moderate income households (120% AMI)
Subsidy Required	Up to \$125,000 per unit
Administration	<ul style="list-style-type: none"> • Requires additional staff or consultant for loan origination, servicing and grants management.
Regional Housing Needs (RHNA)/ Housing Element Goals	Will not provide units toward RHNA goals

Overview

Homebuyer assistance programs help bridge the gap between what a household can afford and the purchase price, provide down payment, and incentivize homeownership. Homebuyer assistance programs can help homebuyers achieve the goal of home ownership by making ownership more affordable by providing the needed down payment to avoid paying mortgage insurance premium, increasing the buyers purchase capacity/price while maintaining an affordable payment and mitigates risk to the first mortgage lender. These programs provide financial assistance to low- or moderate-income purchasers in the form of a second mortgage loan with either low interest rates with monthly payments, deferred loans with low interest rates or shared appreciation loans. If the City were to create a homebuyer program, it would have to identify the target population, determine the amount of assistance to be provided, establish loan terms, and identify a funding source.

Establishing a Homebuyer Assistance Program***Target Population and Amount of Assistance Required***

The amount of assistance provided depends on the target population the City intends to serve. Serving lower income households will require higher assistance to make the purchase transaction feasible. According to Bay East Association of Realtor's April 2020 report, the median sales price for

ATTACHMENT II

a market rate condominium and detached single-family home in Hayward are \$562,500¹ and \$740,000² respectively. If Hayward were to provide a homebuyer assistance program, Staff estimates an assistance amount up to \$125,000 per transaction would be required to bridge the affordability gap between the purchase capacity of a moderate income buyer and a home priced at the current median home prices and below. **Table 1** provides the incomes for households at the low, median, and moderate-income levels. Even with \$125,000 assistance, there is still a gap for smaller 120% and 150% AMI households with the gap widening for households at lower incomes. Inventory availability should also be a consideration. Although there are properties priced below median price, there is limited inventory. Current listings as of May 24, 2020 include twenty-three (23) detached single-family properties and seventeen (17) condominiums listed below the median sales price. Additionally, properties at the lower end of the price range may have habitability issues that will have to be address by the homebuyer.

Table 1. 2020 California Department of Housing and Community Development Income Limits

Household Size	1	2	3	4	5
Low Income 80% AMI	73,100	83,550	94,000	104,400	112,800
Median Income 100% AMI	83,450	95,350	107,300	119,200	128,750
Moderate Income 120% AMI	100,150	114,450	128,750	143,050	154,500

Loan Terms

There are three types of loan terms that are typically used for down payment assistance. Below is a description of the different loan types:

- **Amortized loans.** An amortized loan is a loan with scheduled periodic payments that are applied to both principal and interest. An amortized loan payment first pays off the relevant interest expense for the period, after which the remainder of the payment reduces the principal. Interest rates are so low, that an amortized loan from the City would not provide increased affordability. However, ongoing payments create a revolving loan fund.
- **Deferred loans.** Deferred loans require no payments of principal and interest during the deferment period; however, interest accrues. The deferment period can be for a portion of the term or the full term. Many lenders will require that payments be deferred for the term of the first mortgage. At the end of the term or upon sale, the borrower will owe the principal plus the deferred interest resulting in a balloon payment. Repayment of loans can be used to create a revolving loan fund but realize returns may take five years or more.
- **Shared appreciation loans.** With a shared appreciation loan, the borrower agrees to share a portion of the appreciation with the municipal lender. The share of appreciation is established based on the percent assistance the municipal lender provides toward the purchase transaction. For example, if the municipal lender provides \$125,000 in assistance and the purchase price is \$625,000, the municipal lender will receive 20% of the appreciation

¹ BAYEAST Association of Realtors Market Activity Summary Hayward – Detached Single-Family Home: https://bayeast.org/wp-content/uploads/hayward_attached.pdf

² BAYEAST Association of Realtors Market Activity Summary Hayward – Attached Single-Family Home: https://bayeast.org/wp-content/uploads/hayward_detached.pdf

upon sale or at the end of the term. These loans require no payments and do not accrue interest. Similar to deferred loans, repayment of loans can be used to create a revolving loan fund but realize returns may take five years or more.

Of the three types of loan, the shared appreciation loan helps extend purchase capacity and provides the most stability in changing housing markets. Deferred loans with accruing interest can be problematic in depreciating markets. Borrowers can find themselves owing more than what the property is worth and may choose to walk away from the property instead of waiting out the depressed market.

Administration

A homebuyer assistance program would require additional staff or a consultant for loan origination, servicing and grants management.

- **Loan origination.** City Staff or consultant hired to administer the program would have to draft program guidelines, materials, create a network of real estate professional partners, ensure that applicants meet program requirements, draft loan documents, close loans and secure collateral documents to create a loan file.
- **Loan servicing.** After a loan is originated, staff or a consultant would need to monitor loans for compliance, address occurrences of delinquency or default, respond to borrower's inquiries, process requests to refinance and subordinate the City's loan to a new lender, process payoff demands, process payments if the loan is amortized and issue IRS form 1098 for payments of mortgage interest. Currently, Hayward manages a portfolio of forty-four (44) loans but if the program is expanded, additional staff will be needed to handle the anticipated inquiries and administration.
- **Grants management.** Hayward does not currently have available funding for this program and would need to apply for grant funding in the future if the funds become available. Grants management includes completing grant applications, performance tracking, ensuring program compliance with funding source guidelines, and annual reporting to funding source.

A Homebuyer assistance program will require administration and financial resources to create a viable program.

Funding

Hayward does not currently have a funding source for a homebuyer assistance. None of the existing Housing Division funds can be used for homebuyer assistance. Funds generated from the affordable housing in-lieu fee have to be used to address the impact of market rate development on the need for affordable housing. Per the Affordable Housing Ordinance (AHO), the funds must be used to increase the supply of affordable housing through new construction, acquisition of affordability covenants and substantial rehabilitation of existing housing, or provision of other residential facilities, including emergency shelters and transitional housing, if those facilities mitigate the impact of market-rate housing on the need for affordable housing. Homebuyer assistance does not comply with the eligible uses identified in the AHO.

Staff will continue to evaluate state funding sources as they become available. There is at least one potential funding opportunity. California Department of Housing and Community Development

(HCD) CalHome Program provides grants to local public agencies and nonprofit developers to help fund homebuyer assistance programs. Local public agencies and nonprofit developers issue the funds to individual homeowners in the form of deferred-payment loans and can be used for down-payment assistance, acquisition costs, and rehabilitation costs. The next Notice of Funding Availability (NOFA) date is anticipated to be in November 2020. The program is subject to funding availability and is not available every year. One thing to note is that per 2019 CalHome Program guidelines, homebuyer assistance loans can only be issued to households at or below 80% AMI for an amount up to \$100,000. Based on Staff's affordability gap analysis, even with funding from a CalHome grant, additional local financial support would still be needed in order to help households at or below 80% AMI acquire a home.

Funding a feasible homebuyer assistance program will be challenging without local funds to support the program.

Existing Assistance for Homebuyers

There are existing programs available that provide homebuyer assistance to income eligible purchasers. Purchasers work with their mortgage lenders to apply for these programs. Staff will provide informational materials in the office and maintain links to these programs from the Housing website.

- **Workforce Initiative Study for Homeownership (WISH).**³ The WISH program provides matching grants to low-income first-time homebuyers through the Federal Home Loan Bank of San Francisco (FHLB). Under the WISH Program, the FHLB provides up to \$22,000 for each eligible household, matching up to \$4 for every dollar contributed by the purchaser toward the purchase of the home. Funds are not guaranteed and are available on a first come, first served basis and participants must complete a homebuyer counseling program.
- **CalHFA Program.**⁴ CalHFA offers government backed and conventional first mortgages, and junior loan options for low-to moderate income households, including low to zero interest rate down payment and closing cost assistance loans. Applicants must meet program income limits, sales price limits, and other eligibility criteria such as a homebuyer education requirement. Interested applicants must apply through a CalHFA approved lender.
- **Alameda County Mortgage Credit Certificate Program.**⁵ The City of Hayward participates in the Alameda County Mortgage Credit Certificate (MCC) Program which provides income eligible first-time homebuyers with an opportunity to reduce the amount of Federal income tax due by an amount equal to 15 percent of the mortgage interest payments at a dollar-for-dollar credit. The remaining 85 percent can be taken as the usual allowable deduction of the itemized return. The end result is an increase in the household's overall income and ability to qualify for a mortgage loan. However, the California Debt Limit Allocation Committee (CDLAC) did not provide MCC funds in 2020 and Alameda County has exhausted all prior allocations.

³ FHL Bank San Francisco: <http://fhlbsf.com/community/grant/wish-profile.aspx>

⁴ CalHFA: <https://www.calhfa.ca.gov/homebuyer/programs/fha.htm>

⁵ Alameda County HCD: <https://www.acgov.org/cda/hcd/homeownership/mccprogram/index.htm>

If the City were to establish a Homebuyer Assistance Program, these resources could be leveraged to increase purchase capacity of lower income households.

Benefits of a Homebuyer Assistance Program

- **Provides opportunity to purchase for lower income households.** Homebuyer assistance programs lower the barriers to homeownership by providing financial assistance to help bridge the gap between what a household can afford and the purchase price.
- **Provides long-term housing stability.** Homeowners know their fixed, monthly housing cost.
- **Potential wealth creation.** Home values can appreciate over time and homeowners could potentially sell the home years later for much more than the purchase price or transfer the home as part of an inheritance. Additionally, as homeowners pay down their mortgage, they build equity.
- **Potential to establish a revolving loan fund.** A revolving loan fund is a self-replenishing pool of money that utilizes interest and principal payments on old loans to issue new ones. Sufficient funds would be needed to keep the program going until the amount of loan repayments being returned to the fund is enough to sustain the number of new loans issued.

Challenges of a Homebuyer Assistance Program

- **Does not create long-term affordability for the community.** Homebuyer assistance programs promote homeownership. It preserves affordability for the purchaser but does not preserve affordability for the community.
- **The affordability gap is large.** Staff estimates that low-to-moderate income households would need assistance up to \$125,000 in order to purchase a home at current market rates. Even with this assistance, purchasing a market rate home may still be a stretch for some lower income households although this can be mitigated by layering together assistance programs, for example homebuyer assistance with the purchase of an affordable ownership unit.
- **Applicants using assistance are less competitive in a competitive housing market.** Applicants using assistance have a finite amount that they can offer for a home but in the most competitive markets, it is not uncommon for homes to sell well over asking price. Additionally, the additional financing and program requirements slow the purchase transaction which may dissuade a seller from accepting the application.
- **Requires substantial, ongoing funding source.** Sufficient funding is needed to sustain the program until a revolving loan fund can be established.

Homeownership Units and the Affordable Housing Ordinance (AHO)

Summary	
Objective	Affordable housing ownership units create long-term affordable ownership housing to moderate-income households in mixed income developments.
Benefits	<ul style="list-style-type: none"> • Gives lower income households the opportunity to purchase which will: <ul style="list-style-type: none"> ○ Provide long-term housing stability ○ Provide limited wealth creation • Establish long term affordability for subsequent owners • No City subsidy is required • Provides units toward RHNA goals
Challenges	<ul style="list-style-type: none"> • It is not always feasible for developers to comply with the AHO by providing affordable units. • The restrictions are not always clear to purchasers • Difficult to sell during a depreciated housing market.
Targeted Projects	<ul style="list-style-type: none"> • New residential housing developments
Targeted Households	Moderate income households but developer can target lower incomes
Subsidy Required	\$0
Administration	Administration of the program is currently funded by the affordable housing in-lieu fee. Administration requires review of affordable housing plans for compliance with the AHO, drafting affordable housing agreements and resale restriction documents, oversight of marketing of the units for sale and for resale and annual monitoring to ensure program compliance.
Regional Housing Needs (RHNA)/ Housing Element Goals	Provides units toward RHNA goals

Overview

Inclusionary housing policies, such as the City's AHO, are land use policies that address the impacts of market rate development on the need for affordable housing by requiring market-rate developers to set aside a small percentage of units within a new development as affordable for lower income households or comply with the ordinance by mitigating the impact of development by other means. Many policies also allow developers to pay an in-lieu fee that can be used to fund local affordable housing projects. These policies help expand the supply of affordable housing in areas of high housing costs and high development. Production of affordable units ensure long-term housing diversity that serves a variety of income levels. The keys to lasting affordability include legal mechanisms, resale formulas, and monitoring and stewardship.

Affordable Ownership Program Under the AHO

The City of Hayward AHO allows developers to meet the affordable housing requirements by providing on-site or off-site affordable units or paying an affordable housing in-lieu fee. Affordable units will remain affordable in perpetuity. Affordability is preserved by recording a resale restriction agreement and deed of trust against the property. The resale restriction establishes a target population to which the home can be resold and a resale formula which limits the rate of appreciation

and sets the sales price. The City's AHO requires that developers target moderate income households for affordable homeownership units but the developer can choose to target lower incomes. The rate of appreciation for resale is also outlined in the City's AHO and shall be the lower of (1) fair market value or (2) the seller's lawful purchase price increased by the lesser of (a) the rate of increase of area median income (AMI) or (b) the rate increase of the consumer price index (CPI). Credits can be added to the base appreciation to account for capital improvement investment or special assessments.

The goal of inclusionary housing is to provide housing stability for the target population and to ensure the same opportunity is available for the subsequent purchasers. While these units provide limited appreciation to the homeowners they also provide lower housing costs than market rate units. **Table 2** compares an owner's return on an affordable ownership unit from Hayward's existing portfolio to a market rate. Over the same period of time, the rate of return on the affordable ownership unit was substantially less; however, the owner of the affordable ownership unit secured a lower monthly housing costs than the market rate unit homeowner. Compared to renting, owners of affordable units benefit from long-term stable housing costs and a modest rate of return. Affordable ownership units serve a market of purchasers seeking housing stability over large rates of return.

Table 2. Comparison of Return from Affordable Units and Market Rate Units

	Inclusionary Unit	Market Rate Unit
Sale Price in October 2008	\$309,214	\$470,000
Interest Rate	5%	5%
Monthly Payment	\$1,660	\$2,523
Annual Property Tax (1.4%)	\$4,329	\$6,580
Total Interest Paid @ April 2020	\$159,964	\$243,142
Sale Price in April 2020	\$366,062	\$750,000
Increase in Price	\$56,848	\$280,000
Rate of Appreciation	18.4%	60.6%

Administration

Administration of the program is currently funded by the affordable housing in-lieu fee. Administration includes review of affordable housing plans for compliance with the AHO, drafting affordable housing agreements and resale restriction documents, oversight of marketing of the units for sale and for resale and annual monitoring to ensure program compliance.

Funding

No additional funding is required to provide affordable ownership units under the affordable housing ordinance. Administration of the program is currently funded by the affordable housing in-lieu fee. Cost for ongoing administration of the affordable units is covered by the fees for resale and refinance that are incorporated into the agreements.

Benefits of Inclusionary Housing Policy

- **Provide long term housing stability.** Homeowners of affordable ownership units know what their monthly housing costs are.

- **Provide limited wealth creation.** The resale calculation provides homeowners with limited appreciation when the house is sold. Stable monthly housing costs can also help homeowners build wealth by maintaining a low housing cost. As the homeowner's income increases, they may have improved capacity to save or make other investments.
- **No City subsidy required.** The developers opting to comply with the AHO by providing on-site affordable units, do so without any subsidy from the City.
- **Provides units toward RHNA goals.** Units developed to comply with the AHO provide units at the moderate-income level. Developers can choose to target lower income households.

Challenges of Inclusionary Housing Policy

- **Not always feasible for developers to provide affordable units under the AHO.** The restricted sales price may be insufficient to cover the cost to build the unit. Developers have to ensure project feasibility to secure investors to fund the development project. If the inclusionary policy is too aggressive, the policy will prevent the development of both market rate and affordable housing.
- **The restrictions are not always clear to purchasers.** Despite protocols to ensure full disclosure of the resale restrictions, purchasers are not always clear on the implications. As they observe market rate sales in their community, it sets an unrealistic expectation about the value of their home. When they initiate the resale process, there is frequently dissatisfaction with the resale price.
- **Difficult to sell during a depreciated housing market.** Limited appreciation can be less appealing to purchasers. Many people purchase a home for the dual purpose of securing shelter and as an investment. When market home prices are low and comparable to the price of the affordable ownership unit, buyers see little value in acquiring an affordable ownership unit.

Tenant Right of First Refusal Policy

Summary	
Objective	Tenant Right of First Refusal (TROFR) policies intend to reduce the risk of displacement caused by investment by giving the tenants the opportunity to purchase the property or assigning their rights to an affordable housing developer or land trust.
Benefits	Multifamily <ul style="list-style-type: none"> • Potential to create long term affordable units • Allows tenants to collectively bargain Single-family <ul style="list-style-type: none"> • Facilitates homeownership for tenants by eliminating competition and ensuring the tenant has the opportunity to purchase at the best price available in the market
Challenges	<ul style="list-style-type: none"> • New legislation would require substantial community engagement. Multifamily <ul style="list-style-type: none"> • Tenants require technical and legal support to successfully navigate the complex process of acquiring and rehabilitating a building • Difficult for smaller multifamily buildings to create partnerships with non-profits and land trusts • City financial support needed to make acquisition and address habitability issues Single-family <ul style="list-style-type: none"> • Assignment rights can create opportunity for abuse • Does not create long-term affordability and can potentially reduce rental housing stock • Tenants may not have the capacity to purchase the home • Home sale transactions will take longer
Targeted Projects	Existing rental housing
Subsidy Required	\$50,000-\$390,000 per unit depending on property size and tenant income
Administration	<ul style="list-style-type: none"> • Multifamily: Requires substantial resources to sustain • Single-family- Requires initially marketing and education
Regional Housing Needs (RHNA)/ Housing Element Goals	Will not provide units toward RHNA goals

Overview

Tenant Right of First Refusal (TROFR) policies require landlords to offer rental properties to tenants prior to selling the property on the open market. These policies not only require that landlords offer the property to the tenant but also establish noticing requirements, time frames to respond to offers and secure financing, and penalties for non-compliance. Early in 2020, both Oakland and Berkeley started evaluating TROFR legislation with the goal of incentivizing home sales to tenants, community land trusts, or nonprofit affordable housing developers but neither has enacted such legislation yet. However, a couple of cities on the east coast have been utilizing such legislation for decades. TROFR policies have been applied to both single family and multifamily housing. Overall, TROFR policy can give a tenant the right to buy by statute but does not always preserve housing affordability or prevent displacement.

The Multifamily Model

Multifamily TROFR are very complex and require substantial resources from the local government. The District of Columbia's (D.C.) TROFR program is called Tenant Opportunity to Purchase (TOPA). D.C.'s TOPA provides tenants in multifamily buildings (2 units or more) the right to purchase the property. The tenants must make an offer acceptable to the property owner or match a third party offer. Tenants in buildings with 2-4 units can provide a written statement of interest to purchase as an individual or collectively as a group. Tenants that reside in buildings with 5 or more units must form a tenant association in order to exercise their rights. Under the TOPA, tenants have the right to transfer their right to purchase to another buyer or assign their rights to either a market rate or affordable housing developer at their discretion. The TOPA also establishes a process for property owners and tenants to follow prior to selling on the open market and outlines defined time periods for negotiation and financing. If tenants or tenant associations exercise their rights under TOPA, the legislation provides tenants a minimum of 6.5 to 9 months, depending on the size of the building, to complete the sale. Through the legislation and associated programs to facilitate the transfer of ownership, the TOPA has assisted more than 1,000 units since 2002.

Tenant Recourse

Enforcement is complaint driven and TOPA transactions are not actively monitored. D.C. responds to complaints by serving a cease and desist order if they receive a notice of violation before closing, but holds little power should a sale go through. Following a sale, it is typically the onus of the tenants to pursue a lawsuit. Title companies in the D.C. area rely on TOPA compliance reports provided by the D.C. Department of Housing and Community Development (DHCD) to verify TOPA compliance prior to approving a sale, as a registered complaint could delay a sale for an extended period of time. However, title companies' due diligence is the result of years of familiarity with the TOPA.

Administration and Associated Programs

Following DC's TOPA as a model, administration of a multifamily TROFR program would require substantial resources from the City to support tenant acquisition of a property. The D.C. TOPA program has successfully transferred units to tenants in multifamily housing because it 1) actively administers and enforces its legislation, 2) provides financial assistance, and 3) provides technical assistance. To successfully implement such a program, the City of Hayward would need to identify resources to:

1. **Administer and enforce legislation.** DHCD administers the Tenant Opportunity to Purchase Act of 1980. Its responsibilities include serving as a repository for TOPA-related notices, offers, assignments, and sales. DHCD also responds to public inquiries, processes notices, processes and investigates complaints, and serves as the first level of administrative adjudication for disputes.
2. **Provide financial assistance.** The First Right Purchase Assistance Program offers low-interest loans to income-qualified persons and tenant groups in the District, subject to availability of funds. These affordable loans can be used for:
 - Down payment;
 - Acquisition costs;

- Rehabilitation costs;
- Earnest money deposits; and
- Legal, architectural and engineering costs.

3. Provide technical assistance. The Tenant Purchase Technical Assistance Program (TPTAP) provides free, specialized development services to income eligible tenant groups who are pursuing the purchase of their apartment buildings as cooperatives or condominiums. These services include:

- Assistance organizing and structuring the tenant association;
- Preparation of legal organizational documents;
- Help with loan applications; and
- Support in sales negotiations

Funding

Multifamily TROFR may create opportunity to secure long term affordable housing but will require substantial City resources. Without funding to administer the legislation and provide support to tenants, the legislation will likely add complexity to multifamily sales transactions with limited success transferring ownership to tenants.

The Single Family Model

Single family TROFR is less complex because the acquisition process is simplified and can require less support from local government. However, it is important to note that D.C. has exempted single unit properties from the TOPA in 2018 because of abuse that resulted from tenants leveraging their assignment rights to secure a large payout. However, the City of Baltimore has implemented a different model of single family right of first refusal. Their legislation provides tenants in single-family residential properties the right to purchase the property prior to sale on the open market but does not give tenants the right to assign their right to a third party. Any tenant who has lived in the unit for at least six (6) months and has lived at the property within the preceding six (6) months has the right to exercise his/her right under the law. The ordinance also outlines timelines for notification, entering into a contract, and financing. If a tenant exercises his/her right of first refusal, a sale can take anywhere from 90-120 days to close. Under the ordinance, there are eleven (11) permitted transfers where the landlord does not need to offer the property to the tenant. These exceptions include transfers of property to a spouse, the property is transferred by will or inheritance, the property is given as a gift to a religious or charitable organization, or if the property is sold in the course of the administration of the landlord's estate if the landlord has died.

Tenant Recourse

If the landlord fails to offer the unit to the tenant prior to sale, a tenant can file a lawsuit against their landlord for injunctive relief to enforce his/her right to purchase. If the landlord does not comply with the ordinance, the landlord can be found guilty of a misdemeanor and subject to a fine up to \$500 under Baltimore's legislation. The legislation does provide that a landlord's failure to comply with any requirement of the legislation can constitute a separate violation so the landlord can be found guilty of multiple misdemeanors and fined multiple times for a single transaction or sale.

Administration

Legislation such as Baltimore's TROFR requires little ongoing administration. Baltimore requires that landlords keep compliance records and file an affidavit in the land records of Baltimore that state that the requirements of the ordinance have been met. If such legislation were enacted, the City should, at a minimum, provide education and support to title companies and real estate professionals to increase awareness of the requirements to ensure likelihood of compliance; develop forms to facilitate compliance, and provide information on the City's website. Such legislation would add additional administrative responsibilities on the onset but would be reduced as awareness grows. However, ongoing technical assistance would be recommended to help landlords and real estate professionals comply and ensure that tenants know their rights. Impacts on existing workload would have to be evaluated.

Funding

Legislation such as Baltimore's TROFR requires little to no financial investment from the City. There is no active administration for the program and complaints are handled through the courts.

Benefits of Tenant Right of First Refusal

Multifamily

- **Potential to create long-term affordable units.** Tenant associations for large, multifamily buildings could assign its right of first refusal to a land trust or non-profit developer. Tenant associations would then work with the land trust or non-profit developer to keep units affordable which has the potential of creating long-term affordable units.
- **Collective bargaining power for multifamily buildings.** TROFR policies provide tenants in multifamily buildings leverage through collective bargaining. If the building were to be converted to condominiums by a developer, tenants would be able to negotiate buyout payments or the option to purchase their unit at below market rates. In buildings remaining rental, tenants can negotiate for building improvements or favorable rents.

Single-family

- **Facilitates homeownership for tenants in single-family homes.** TROFR policies eliminate competition if the tenant can pay the asking price or match the best offer.

Challenges of Tenant Right of First Refusal

- **New legislation would require substantial community engagement.** The City of Berkeley proposed a new TROFR ordinance in early March at the Land Use, Housing & Economic Development Committee. Based on public comments, committee members have elected to workshop and solicit public feedback from affected groups through the end of 2020 before deciding whether to send the ordinance for a council vote.⁶

⁶ Berkeleyside.com: <https://www.berkeleyside.com/2020/03/06/should-berkeley-tenants-get-first-dibs-on-buying-their-landlords-property>

Multifamily

- **Tenants require technical and legal support.** Establishing ownership mechanisms for tenants of multifamily buildings is a very complex process and tenants require technical and legal support to successfully navigate the process. The City would need to identify financial resources to support organizations that could provide technical assistance and legal advice.
- **Difficult for tenants in smaller multifamily properties to create partnerships with land trusts and developers.** Smaller multifamily properties require a larger per unit investment and have a smaller return. Tenants that reside in smaller multifamily properties may find it hard to find non-profit developers willing to invest and convert the property to affordable housing due to feasibility concerns or, with land trusts, due to limited administrative and financial capacity to take on new projects.
- **City support needed to make acquisition.** Smaller projects typically require a larger share of the development costs come from local sources because ownership projects do not qualify for other types of funding like Low-Income Housing Tax Credits (LIHTC) and rental projects may find it hard to find non-profit partners due to feasibility concerns. Larger multifamily properties may be able to find non-profit partners but will likely require local financial support between 20% to 30% of the project costs based on TOPA projects in D.C.
- **May require resources to address habitability concerns.** Buildings may also be older or have habitability issues that need to be address. This will add additional cost and complexity to the projects.

Single-family

- **Assignment rights can create opportunity for abuse.** D.C. exempted single-family homes from TOPA in 2018 because of abuse that resulted from tenants leveraging their assignment rights to secure a large payout. These types of tactics can delay or stop the sale process potentially putting emotional and financial burden on the property owner. However, this can be prevented by only allowing the tenants the right to purchase.
- **Does not create long-term affordability and can potentially reduce rental housing stock.** For single-family homes, TROFR policies promote homeownership. It preserves affordability for the purchaser but does not preserve affordability for the community. It will convert rental housing to ownership housing reducing available units; however, selling the unit on the open market could also eliminate the rental housing.
- **Sales transactions will take longer.** A typical home sale takes about 50-60 days to close.⁷ Based on Baltimore's TROFR, this timeframe can double (90-120 days) in order to provide the tenant with ample notice to exercise their rights and to secure financing to buy the property.
- **Tenants may not have the capacity to acquire and/or rehabilitate the property.** Based on the median sales price of a single-family home of \$740,000, a low-income tenant would require between \$200,000 to \$420,000 in financial assistance to bridge the gap between what

⁷ Realtor.com: <https://www.realtor.com/advice/buy/how-long-does-it-take-to-close-on-a-house/>

ATTACHMENT II

they can afford and the market rate price. Additional assistance may be required if there are unaddressed habitability issues.

Community Land Trusts (CLT)

Summary	
Objective	Preserve long-term affordable housing through land acquisition by a local non-profit community land trust.
Benefits	<ul style="list-style-type: none"> • Can create ownership opportunities for lower income households that will: <ul style="list-style-type: none"> ○ Provide long-term housing stability ○ Provide limited wealth creation • Preserve naturally occurring affordable housing for existing resident • Provides long-term affordable housing for the community • CLT can provide support to homeowners to ensure housing stability
Challenges	<ul style="list-style-type: none"> • May be difficult for a land trust to compete with investors for housing/land opportunities. • Requires substantial per unit investment from local government as CLTs are relying on local subsidy and do not typically leverage state funds
Targeted Projects	Targeted projects may depend largely on the types of financial resources and partnerships that the CLT will be able to leverage and the CLT's administrative capacity.
Targeted Households	Low- to moderate-income households
Subsidy Required	<ul style="list-style-type: none"> • Minimum of \$150,000 per unit
Administration	<ul style="list-style-type: none"> • City would need to establish a funding mechanism: <ul style="list-style-type: none"> ○ Through existing NOFA process ○ Over the counter-acquisition loans • Ongoing monitoring of affordability requirements. • CLT supports homeowners and land management.
Regional Housing Needs (RHNA)/ Housing Element Goals	<ul style="list-style-type: none"> • Acquisition of existing properties will not provide units toward RHNA goals • New construction would contribute to RHNA production goals and contribute to the following Housing Element goal: <ul style="list-style-type: none"> ○ H-2.1 Homeownership housing. Encourage the development of ownership housing.

Overview

A community land trust (CLT) is an independent, non-profit organization that acquires and holds title to land to preserve its long-term availability for affordable housing and other community uses. A CLT uses a 99-year renewable ground lease to give owners of the homes exclusive use of the land. The ground lease is the mechanism for preserving affordability of the home. The ground lease contains certain restrictions on the use of the home and specifically a limit on the amount that the home can be resold. The future sales price is determined by the resale formula which is designed to provide a fair return on the homeowner's investment, but keep the price sufficiently below market rate prices so that the home will be affordable to the next income-eligible buyer.

By removing land from the market and holding it in perpetuity, a CLT buffers its housing and other land uses from the volatility of economic crises that often disproportionately impact low-income residents and communities of color. Likewise, CLTs preserve affordability and access when rising rents and home prices in hot markets threaten the stability of vulnerable families. The CLT model can also be used to develop mobile home parks, commercial space, and other community facilities.

Maintaining Affordability

- ***Homeownership units.*** CLTs maintain the affordability of the homeownership units by retaining ownership of the land. The purchaser only owns the home (improvements). Each homeowner must enter a ground lease with the land trust. Retaining ownership of the land allows the CLT to establish resale controls that maintain the home affordable to the target population.

The resale controls are incorporated into the ground lease and establish a target population the home can be resold to and a resale formula which limits the rate of appreciation. Target population generally establishes a maximum income level for future purchasers to qualify. The rate of appreciation can be set as a fixed rate, percent increase of area median income, percent increase of the consumer price index (CPI) or attaching it to some other index. Prior to sale, the resale price is calculated by multiplying the initial purchase price by the appreciation index and adding the appreciation to the initial prices. Credits can be added to this base appreciation to account for capital improvement investment or special assessments. Owners of CLT units receive limited appreciation to maintain the unit affordable for subsequent income eligible purchasers.

- ***Rental Units.*** Similarly, a CLT can also create affordable rental housing or lease land to affordable rental housing developers. Rents are restricted through a ground lease, ensuring long-term affordability of the units.
- ***Occupied Housing.*** A CLT can also add property to a land trust by buying existing, occupied properties when they become available for sale. A CLT can rent the acquired property to current tenants or explore homeownership options such as lease to own options. In lease to own options, the tenants who are the potential buyers agree to lease the property from the seller, in this case the land trust, for a predetermined rental amount with a portion of the lease payment applied toward the purchase price if the tenant decides to exercise his/her option to purchase in the future.

Administration

The City's role will likely be similar to working with housing developers. Administration would include establishing a mechanism to fund CLT projects, either through the existing NOFA process for new development or issue over the counter loans for acquisition of existing property; draft loan documents; and annual monitoring to ensure program compliance with affordability covenants.

Funding/Financial Support

If the City of Hayward were to adopt a policy or program to support a local CLT, a funding source will need to be identified. Funding for CLTs come from fundraising, grants, and developer and ground lease fees. Discussions with OakCLT indicate that subsidy from local jurisdictions would likely be

needed. The estimated subsidies to acquire properties that target at or below 80% AMI households are below:

- \$150,000 per unit for 10+ units
- \$200,000 per unit for 5-9 units
- \$300,000 per unit for 1-4 units

If the CLT is new or has no established funding, the subsidies needed from local government will likely be higher.

Funding a CLT development project can be incorporated into the next NOFA for affordable housing development. Council will have to evaluate funding priorities for the next NOFA as there is only \$4 million in uncommitted funds currently available.

Benefits of a CLT

- **Provide long-term housing stability.** Provides security of tenure for both homeowners and renters. Land and housing are removed from the speculative market.
- **Limited wealth creation.** Owners of CLT units receive limited appreciation to maintain the unit affordable for lower income future purchasers.
- **Preserve naturally occurring affordable housing for existing residents.** CLTs can purchase existing properties and maintain lower rents because the CLT is not profit motivated.
- **Provide support to homeownership to ensure housing stability.** In discussions with OakCLT, the land trust has provided support such as negotiating with lenders and the County's Assessor's office to address delinquency.

Challenges of a CLT

- **May be difficult for land trust to compete with investors for housing/land opportunities.** Land trusts have limited capital and may not be able to compete with investors in hot housing markets.
- **Requires substantial per unit investment from local government.** Discussions with OakCLT indicate that main source of funding comes from donors, grants, and subsidies from the City of Oakland.

Subsidizing Affordable Ownership Developments

Summary	
Objective	Create affordable ownership units with long-term affordable restrictions by subsidizing the development through grants or land donations
Benefits	<ul style="list-style-type: none"> Gives lower income households the opportunity to purchase which will: <ul style="list-style-type: none"> Provide long-term housing stability Provide limited wealth creation Establish long term affordability for subsequent owners Provides units toward RHNA goals
Challenges	<ul style="list-style-type: none"> Will require substantial assistance from the City The restrictions are not always clear to purchasers Difficult to sell during a depreciated housing market.
Targeted Projects	<ul style="list-style-type: none"> New residential housing developments
Targeted Households	Moderate income households but developer can target lower incomes
Subsidy Required	\$300,000+
Administration	Administration can be incorporated into existing procedures to ensure compliance with the AHO and funding allocations can be incorporated into the next NOFA.
Regional Housing Needs (RHNA)/ Housing Element Goals	Provides units toward RHNA goals

Overview

Providing land or subsidizing the development of affordable housing allow the City to set funding priorities and solicit projects that best meet the City's housing needs. In exchange for the financial assistance, the developer agrees to sell the home at an affordable sale price to an income eligible purchaser similar to the requirements of the AHO. Production of affordable units ensure long-term housing diversity that serves a variety of income levels. The keys to lasting affordability include legal mechanisms, resale formulas, and monitoring and stewardship.

Establishing a Homeownership Development Subsidy Program

The City can incorporate affordable ownership housing as an eligible activity in next NOFA. Similar to the NOFA for affordable rental housing, staff would work with the HHTF and Council to identify funding priorities for ranking and scoring project. Applicants could include affordable housing developers, CLTs or market rate developers requesting subsidy to exceed the minimum requirements of the AHO. Consistent with the AHO and priorities set by Council, resale restriction would establish eligible purchasers and a resale formula which limits the rate of appreciation and sets the sales price.

Similar to the units produced under the AHO, the units will provide housing stability for both the purchaser and subsequent purchasers. While these units provide limited appreciation to the homeowners, they also provide lower housing costs than market rate units similar to the affordable

units developed under the AHO. Affordable ownership units serve a demographic seeking housing stability over large rates of return.

Administration

Administration of the program can be incorporated into existing workload as the requirements align with the implementation of the AHO.

Funding

Affordable housing in-lieu fees can be used to fund the loans but due to funding limitations, HHTF and Council will have to evaluate funding priorities. Based on a current ownership development project, it is estimated that an ownership project would require a minimum of \$300,000 per unit. The cost is high due to the lack of additional resources to finance the project. No additional administrative expense is anticipated.

Benefits of Inclusionary Housing Policy

- **Provide long term housing stability.** Homeowners of affordable ownership units know what their monthly housing costs are.
- **Provide limited wealth creation.** The resale calculation provides homeowners with limited appreciation when the house is sold. Stable monthly housing costs can also help homeowners build wealth by maintaining a low housing cost. As the homeowner's income increases, they may have improved capacity to save or make other investments.
- **Provides units toward RHNA goals.** Units developed to comply with the AHO provide units at the moderate-income level. Developers can choose to target lower income households.

Challenges of Inclusionary Housing Policy

- **Requires large subsidy.** To cover the construction costs and sell at an affordable sales price, the developer will require a large per unit subsidy.
- **The restrictions are not always clear to purchasers.** Despite protocols to ensure full disclosure of the resale restrictions, purchasers are not always clear on the implications. As they observe market rate sales in their community, it sets an unrealistic expectation about the value of their home. When they initiate the resale process, there is frequently dissatisfaction with the resale price.
- **Difficult to sell during a depreciated housing market.** Limited appreciation can be less appealing to purchasers. Many people purchase a home for the dual purpose of securing shelter and as an investment. When market home prices are low and comparable to the price of the affordable ownership unit, buyers see little value in acquiring an affordable ownership unit.