

RESOLUTION NO. 20180215-050

WHEREAS, in March 2017 the Economic Prosperity Commission recommended that “City staff investigate the possibility of requiring and/or incentivizing owners of rental housing developments that are chronic code violators to offer first opportunity to purchase to a cooperative corporation formed by residents with City of Austin provided or contracted support”; and

WHEREAS, Resolution No. 20170817-051 directed the City Manager to explore if the City can implement a “right of first refusal” policy that would enable tenants who live in properties on the Repeat Offender Program to form a cooperative; and

WHEREAS, notice requirements associated with “right of first refusal” policies oblige a property owner to give designated entities, such as tenant groups, advance notice of an upcoming transfer of ownership; and

WHEREAS, these notice requirements provide impacted parties time to allocate funds and formulate a plan to bid on the property; and

WHEREAS, Resolution No. 20170817-051 directed the City Manager to review national best practices regarding the formation of cooperatives through “right of first refusal” policies; and

WHEREAS, a January 19, 2018 memo to Council identified Washington D.C.’s Tenant Opportunity to Purchase Act (TOPA) as one of the most well-known “right of first refusal” programs in the country; and

WHEREAS, TOPA requires landlords to offer tenants the first opportunity to purchase their housing at market rate prior to the landlord selling the property; and

WHEREAS, according to the National Housing Trust’s report, “Preserving Affordable Housing Near Transit: Case Studies from Atlanta, Denver, Seattle, and Washington D.C.,” TOPA remains a “significant preservation tool [. . .] if more than 50 percent of the tenants join together, express an interest in buying the property and make a legitimate effort to obtain financing, they are granted approximately one year to acquire the property”; and

WHEREAS, through a combination of a HUD Innovative Grant and city funds, Washington, D.C. created loan funds and other programs that provided resources to tenants who were attempting to purchase their homes and create cooperatives. These funds and programs included:

- “Co-op Seed Money Loan Program,” comprised of two interest-free loans;
 - “Initial Retainer Seed Money Loan,” intended to cover the costs of an attorney, an appraiser, and other required professionals;
 - “Comprehensive Seed Money Loan,” which can support some development costs;
- Short-term, low-interest “Pre-Purchase Loans,” which allow low-income households to pay “earnest money deposits” and other costs that could arise during contract negotiations;
- “Gap Financing Loans,” intended to address any gaps between approved loan amounts and the total amount of establishing a limited-equity cooperative;
- “Home Purchase Assistance Program,” a deferred payment loan program that allows households to pay no more than 28% of their household’s monthly income.

WHEREAS, the January 2018 memo states that should Council want to pursue more information on the establishment of a similar policy, Neighborhood Housing and Community Development would need to work in close consultation with legal staff to assess the viability of such a policy; and

WHEREAS, should this policy be deemed viable in Austin, it is crucial that creative financing mechanisms be identified to expand the opportunities for tenant purchases; and

WHEREAS, some cities have experienced success in advancing community land trusts in conjunction with cooperative housing and many believe that this type of model could help address high-risk properties, which improves quality of life and public safety; and

WHEREAS, certain benefits could be achieved if the City fully understood the legal opportunities and limitations for remedying high-risk, dangerous substandard properties; **NOW, THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Manager is directed to research the successes and limitations of “right of first refusal” cooperative purchase policies that have been enacted in the United States and to analyze any operational or legal issues associated with those policies if applied to a property subject to City Code Chapter 4-14 (*Registration of Rental Property*) (also known as a “Repeat Offender Property”). The City Manager is directed to present findings to Council no later than August 15, 2018.


If the City Manager determines that a “right of first refusal” cooperative policy is viable, the City Manager is directed to evaluate creative financing mechanisms that could be used to assist with “right of first refusal” policies for housing cooperatives and to present findings to Council no later than August 15, 2018.

BE IT FURTHER RESOLVED:

Using the research and analysis above, the City Manager is directed to explore the City's ability to facilitate the creation of a cooperative using community land trusts or other similar models, and to report his findings to Council no later than September 1, 2018.

ADOPTED: February 15, 2018

ATTEST:


Jannette S. Goodall
City Clerk