



MEMORANDUM

TO: Mayor and Council Members

FROM: Rosie Truelove, Director
Neighborhood Housing and Community Development Department

DATE: November 14, 2018

SUBJECT: Update to Resolution No. 20180215-050 regarding right of first refusal cooperative purchase policies

The purpose of this memo is to respond to Resolution No. [20180215-050](#), which directed the City Manager 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 Law Department is currently exploring the legal implications and mechanics of incorporating right of first refusal purchase policies into the Repeat Offender Program properties. This work is being completed in conjunction with two separate resolutions (No. [20180510-052](#) and No. [20180510-051](#)) related to tenant protections. A final response to all three resolutions is expected in January 2019.

NHCD staff has initiated research regarding Washington, D.C.'s Tenant Opportunity to Purchase Act (TOPA) program. D.C. Law 3-86, "Rental Housing Conversion and Sale Act of 1980" requires that tenants must be provided the right of first refusal to purchase their building when it is listed for sale. The D.C. Department of Housing and Community Development offers low-interest loans to income-qualified tenants and tenant groups to assist in the purchase. In addition, the department provides technical assistance to support tenant groups, including tenant organizing, legal document preparation, and assistance with loan applications.

University of Texas (UT) Austin researchers' recently released report on gentrification, [Uprooted: Residential Displacement in Austin's Gentrifying Neighborhoods and What Can Be Done About It](#), provides case studies that highlight local efforts across the country to mitigate displacement. The UT researchers recommend "10 Cross-Cutting Lessons for Cities from Three Gentrifying Neighborhoods," including a recommendation to "[d]evelop the capacity of tenants and other vulnerable groups so they can be active participants in implementing displacement mitigation strategies." This recommendation is also supported in the draft recommendations from the City of Austin Anti-Displacement Task Force.

While the report highlights D.C.'s TOPA efforts, it also acknowledges some distinct differences between the housing landscape in Washington, DC and in Austin, TX. Specifically, the report states that "D.C.'s strong tenant protections, with enforcement support by the Office of Tenant Advocacy (with a \$820,000 budget), along with city funding for tenant organizing groups and technical assistance providers, have all been critical to the district's preservation of apartments..." The City of Austin does not have the same tenant protections, nor the robust funding for tenant organizations and technical assistance.

In April 2018, in response to concerns regarding efficiency and alleged abuses of the TOPA system, the D.C. Council amended the 30-year old TOPA legislation by effectively eliminating single-family dwellings from TOPA requirements. Subsequently, the D.C. Department of Housing and Community Development also created a Limited-Equity Cooperative Task Force to develop policy recommendations to support new limited-equity cooperatives and help existing cooperatives to succeed. The task force was convened in September 2018, and recommendations are anticipated within 180 days. The task force is exploring a variety of challenges with Limited Equity Cooperatives, including financing, asset management, governance, and compliance.

One of the five Community Values found in the [Austin Strategic Housing Blueprint](#) is to "Prevent Households from Being Priced Out of Austin." Staff identified several actions that could have the highest impact, including "Expand the Use of Community Land Trusts (CLT) and other forms of Shared Equity Ownership." Staff is currently working on the implementation of the *Strategic Housing Blueprint*. Implementation of the *Blueprint* will include a variety of recommendations from recent reports and task forces, including UT Austin's *Uprooted* report, as well as the recommendations from the Anti-Displacement Task Force. Staff's comprehensive recommendations on *Blueprint* implementation and funding strategy will be presented to City Council Housing and Planning Committee in January 2019.

cc: Spencer Cronk, City Manager
Joe Pantalion, Interim Assistant City Manager