

Recommendations to Strengthen and Clarify Draft Affordability Unlocked Ordinance

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1. Increase Affordability Period to 55 Years for Rental Units Created Under This Program. Line 112 limits the affordability period for rental properties to 40 years. Given ever-rising housing costs, Austin should achieve the longest affordability period possible for rental units. California currently uses a 55-year affordability period for rental units under similar programs (see page 6 at <https://www.meyersnave.com/wp-content/uploads/California-Density-Bonus-Law.pdf>).

Ideally, a 99-year affordability period for rentals would be preferable, but if City money is put into a project with a term greater than 55 years the funding is treated as an equity investment, rather than loan. As a result, the value of the federal low income housing tax credits is significantly reduced and other complications may arise. For these reasons, 55 years is the longest feasible affordability period for rentals at this time. Austin should not settle for 40 years.

2. Strengthen and Clarify Penalties for Non-Compliance.

(a) Require owner to record a Land Use Restriction Agreement and lien with the City for all developments created under this program granting the City foreclosure rights on the property if the project violates program requirements, as is currently required for projects receiving City support. Such a provision would mirror current City policy, which requires any affordable housing development that includes housing bonds or other City funding to have a loan and land use restriction agreement with the City; if the agreement is violated, then the loan is due and the City has foreclosure rights. This approach has proven sufficient to force compliance and protect the City and should be included in the ordinance to ensure ongoing compliance for all projects developed under this program.

Lines 125-130 of the draft state: “ *(B) Before the director may certify that a proposed development meets the requirements of this division, the applicant shall execute an agreement and a document for recording in the real property records that provides notice of or preserves the minimum affordability requirements imposed by this division. The form of the documents described in this section must be approved by the city attorney.*” However, this section stops short of requiring a lien or providing any significant penalty if the applicant fails to maintain the affordability requirements of the ordinance.

This ordinance will result in built structures that will not be feasible to demolish once they're on the ground so we must be certain there is no option

