



ROADBLOCKS AND POTENTIAL SOLUTIONS TO AFFORDABLE CONDO OWNERSHIP IN MIXED- INCOME DEVELOPMENTS IN AUSTIN



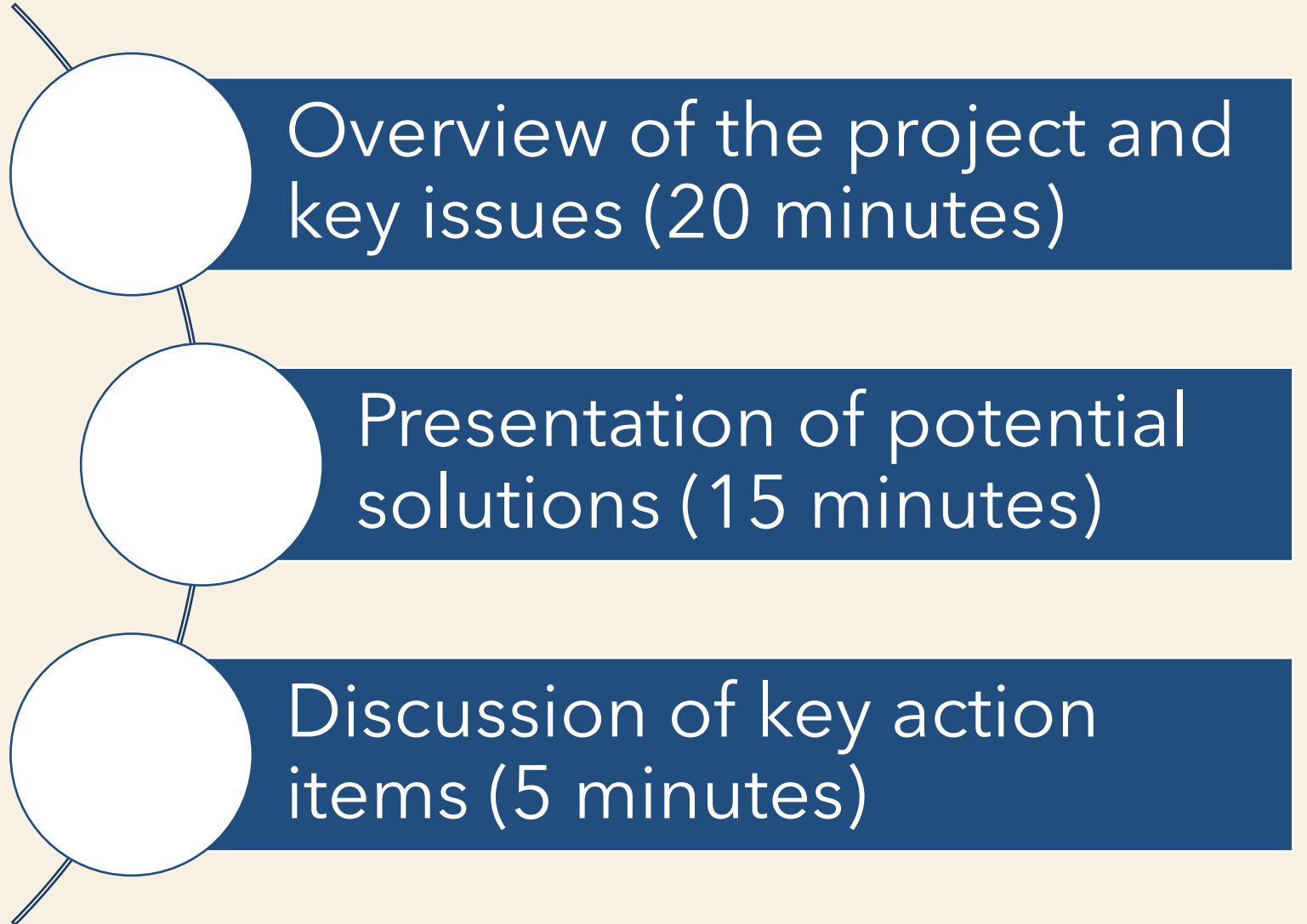
The University of Texas at Austin

Entrepreneurship and Community
Development Clinic

School of Law

November 2022

AGENDA



OVERVIEW OF THE PROJECT

- Identify underlying causes of key issues surrounding affordable condo ownership in mixed-income developments
- Interview local experts and stakeholders
- Research approaches taken by comparable jurisdictions (D.C., San Francisco, Boulder)
- Conduct legal research on the viability of potential solutions
- Determine the most effective potential solutions
- Prepare and obtain feedback on draft report
- Final report: December





KEY ISSUES



KEY ISSUE #1: CONDO FEE CALCULATIONS

CITY SALES PRICE CAPS

City sales price caps for developer incentive programs do not appear to adequately take into account condo assessments, especially at luxury developments.

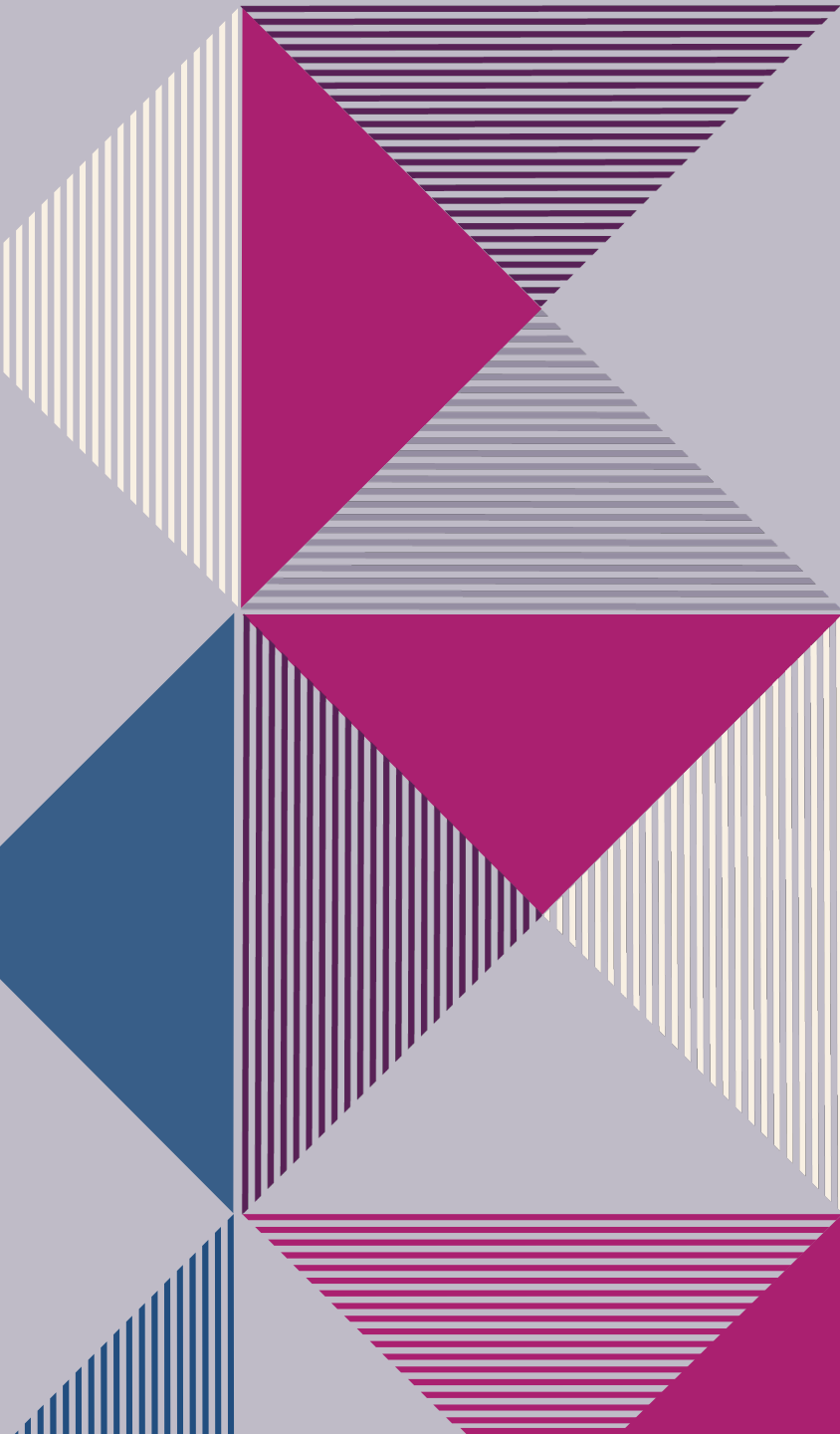
ESCALATION RISK

Sales price caps also do not include accommodation for significant increases in assessments or special assessments.

- Luxury developments
- Older or poorly-built or poorly-managed developments
- New developments where developer has “low-balled” condo fees

DIFFICULTY OF RESALE

When condo fees go up, resale to income-qualifying buyers becomes increasingly difficult.



KEY ISSUE #2: YEAR 1 PROPERTY TAX ASSESSMENTS

TIMING OF FILINGS

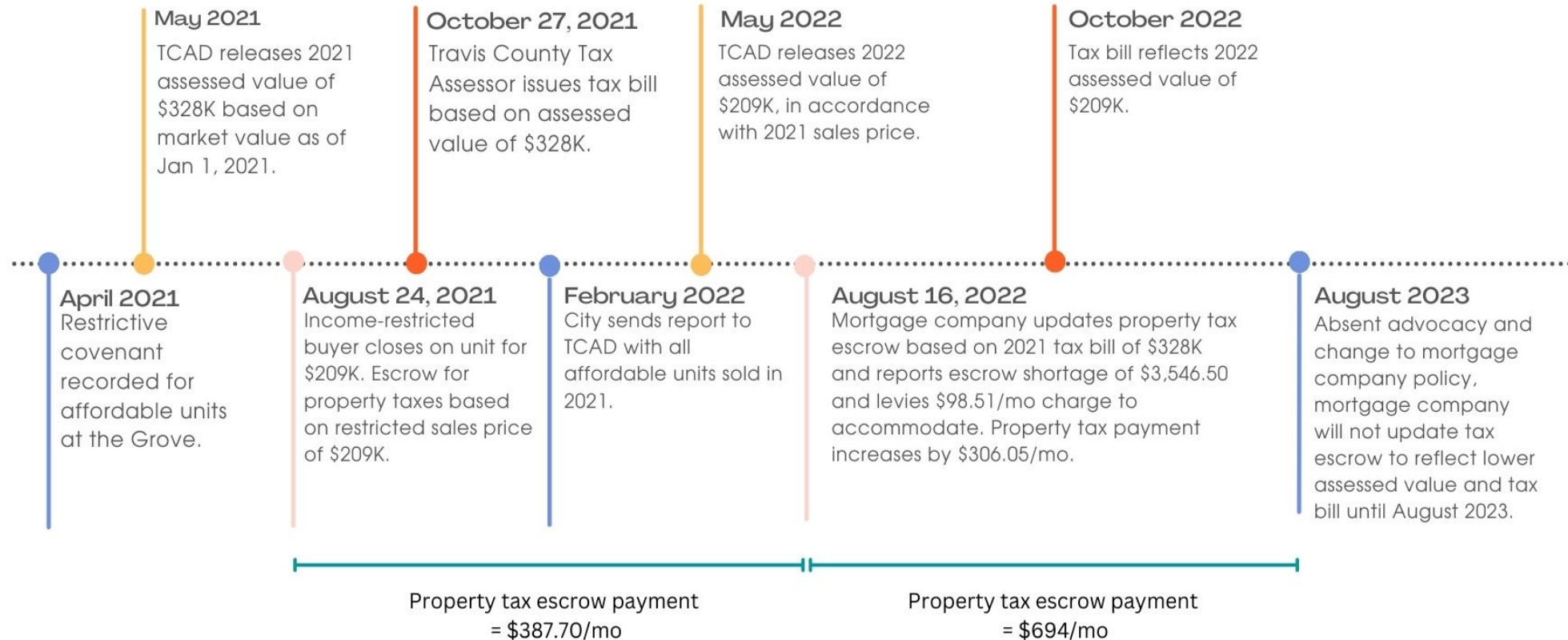
For TCAD's assessed value of a new condo to consider the affordability restrictions in the first year of sale, a condo declaration and restrictive covenant must be filed before January 1st. If not filed by January 1, the tax bill for the first year can be \$1,000s higher.

TAX ESCROW PAYMENTS

Mortgage lenders using resale restrictions and then property tax bills to calculate buyer's property tax escrow payments. If the resale restriction is not recorded by January 1st, the escrow amount is inadequate in first year, and then too high in second year.

See case study at the Grove.

CASE STUDY: INITIAL PROPERTY TAX IMPACT ON INCOME-LIMITED CONDOS AT THE GROVE



KEY ISSUE #2: YEAR 1 PROPERTY TAX ASSESSMENTS

CONSTRUCTION STATUS

For units that are still under construction as of January 1st, TCAD's assessed value for property taxes is typically based on the cost approach.



Complications arise in incomplete luxury developments, where this "cost value" can exceed the sales price restrictions on the unit. What if, for instance, the restricted sales price for the above unit was \$200K?

CONTRIBUTING FACTORS

POST-PURCHASE STEWARDSHIP

- Lack of staffing capacity to proactively support homebuyers after purchase through regular check ins.
- As a result, some issues (e.g., lack of homestead exemptions at the Grove), have gone unnoticed.
- Buyers face challenges such as property tax appraisals and escrow issues.

DEVELOPERS' LACK OF CLARITY

- Developer-side advocates reported a need for a more robust roadmap from the City.
- Want more guidance on requirements and best practices for affordable units.



KEY RECOMMENDATIONS

RECOMMENDATION #1

TIMELY FILINGS

SOLUTION

Where possible, ensure the filing of a restrictive covenant and condo declaration before January 1.

Administrative

SPECIAL CONSIDERATIONS

- Restrictive covenant must designate affordable units and restricted sales price.
- City can facilitate this by making annual adjustments to the maximum sales prices or providing a high-end estimate well in advance of Jan 1.

RECOMMENDATION #2

ADJUST MOU WITH TCAD

**Administrative;
State legislation**

SOLUTION

Pursue an amendment to the City's MOU with TCAD to address valuation of incomplete developments on Jan. 1
Recommendation: Assessed value set at lower of (i) unit's % completion on Jan. 1 multiplied by unit's restricted sales price and (ii) the unit's cost value on Jan. 1.

Example: As of January 1st: condo unit 50% complete with cost value of \$300,000 and restricted sales price of \$200,000. Assessed value would be set at \$100,000 (50% x \$200,000)

SPECIAL CONSIDERATIONS

If TCAD determines it is unable under state law to adopt this solution, it could be implemented through state legislative change.

RECOMMENDATION #3

ADJUST SALES PRICE CAP ON CONDO UNITS

**Administrative;
Ordinance**

SOLUTION, PART 1

Incorporate city-wide average condo fees into the City's sales price caps for affordable condo units. Further lower the sales price cap for specific units when the budgeted fee for those units exceeds the citywide average fee by more than 10%.

CASE STUDY

The District of Columbia conducts a regular condo fee survey in the District, and incorporates the average + a buffer for future increases into the District's price cap. If fees that are >10% higher than districtwide average, sales price is reduced for that unit.

SPECIAL CONSIDERATIONS

Conducting regular surveys of area condo fees will require additional city resources in terms of staffing and funding.

RECOMMENDATION #3

ADJUST SALES PRICE CAPS ON CONDO UNITS

Administrative; Ordinance

SOLUTION, PART 2

Incorporate a larger buffer into its sales price caps to better account for increases in condo fees after purchase.

CASE STUDY

In **San Francisco**, households with up to 100% MFI are eligible to purchase homes through the city's affordability programs, though sales prices are based on 80% of the area's median income.

SPECIAL CONSIDERATIONS

Need to consider financial impact on developers and participation in the City's incentive programs.

RECOMMENDATION #4

DISCOUNT CONDO FEES

SOLUTION

Require or encourage the adoption of discounted condo assessments for affordable unit owners in luxury developments. Some developers in Austin already doing this.

CASE STUDIES

- **Austin** implemented a 50% discount on condo fees for a small condo development East 11th Street several years ago. Market-rate owners were upset by the unequal treatment and reduced the discount.

SPECIAL CONSIDERATIONS

- Not appropriate for all developments.
- Risk of animosity.
 - If market-rate owners begin amending condo declaration = a risk they will remove other protections for affordable homeowners.

**Administrative;
Ordinance**

RECOMMENDATION #5

ASSISTANCE FUND

SOLUTION

Establish an emergency homeowner assistance fund to mitigate the impacts of increased assessments and property taxes, particularly in established developments. Can be structured as no-interest, deferred loans repaid upon resale.

CASE STUDIES

- **San Francisco:** Homeowner Emergency Loan Program (HELP) provides deferred, zero-interest loans of \$5,000-\$50,000 to help homebuyers facing financial hardship from delinquent property taxes, HOA assessments, and mortgage payments.
- **Boulder:** Special Assessment Grant Program pays special assessments directly to HOAs on behalf of affordable owners under financial duress. All resale prices are decreased to reflect the grant amount. Requests for assistance are already outstripping the program's funds.



Ordinance

RECOMMENDATION #6 INCREASE STEWARDSHIP

SOLUTIONS

Increase City's post-purchase support for affordable homebuyers.

- Require post-purchase education.
- Conduct annual check-ins with homebuyers.
- Provide support for buyers on issues with property tax appraisals.

CASE STUDIES

- **The Mueller Foundation:** Property tax company on retainer to help buyers.
- **Boulder:** Survey of homebuyers every 7-9 years; asks about owner's relationships with condo/homeowners association, special assessments, and feedback on the program.
- **San Francisco:** Requires affordable homebuyers to attend 6 hours post-purchase education + requires yearly, online certification.

Administrative

RECOMMENDATION #7 DEVELOPER ROADMAPS

SOLUTION

Provide developers with robust resources on compliance requirements and recommended best practices to ensure successful sales and long-term preservation of affordable units. The “roadmap” could include:

- Explanation of property-tax implications of filing dates for the affordability restrictive covenant and condo declaration.
- Information about discounted condo assessment structures for affordable buyers.
- Encouragement to provide upfront education to prospective market-rate unit buyers on presence of affordable housing units and any condo fee discounts on the affordable units.



Administrative



ACTION ITEMS

11/2022

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ACTION ITEMS



ADMINISTRATIVE

- Facilitate timely filings of restrictive covenant and condo declaration
- Update MOU with TCAD
- Require or encourage discounted condo assessment structure
- Adjust sales price caps
- Increase post-purchase stewardship
- Create developer roadmap



ORDINANCE

- Create a homeowner assistance fund
- Adjust sales price caps



LEGISLATION

- Adjust property tax assessments of partially complete affordable units

THANK YOU



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