

Memorandum



CITY OF DALLAS

DATE January 4, 2019

TO Members of the Economic Development & Housing Committee: Tennell Atkins, Chair, Rickey D. Callahan, Vice-Chair, Lee M. Kleinman, Scott Griggs, Casey Thomas, II, B. Adam McGough, Mark Clayton, Kevin Felder, Omar Narvaez

SUBJECT Recommendations from the Housing Policy Taskforce Regarding Legislation for the 86th Session of the Texas Legislature that Supports the Goals of the Comprehensive Housing Policy

This memorandum discusses recommendations from the Housing Policy Taskforce regarding legislation for the 86th Session of the Texas Legislature that supports the goals of the comprehensive housing policy.

Summary

Over the course of three months, the Housing Policy Taskforce (Taskforce) reviewed and discussed proposed legislation that would expand affordable housing options in the City of Dallas and align with the city's comprehensive housing policy. As a result of this work, the Taskforce developed five (5) proposals. Three of the proposals relate to land-banking and would allow a land bank to: support the creation of mixed-income multifamily housing developments, "bank" properties for longer than four years, and recapture a portion of the property taxes collected on land bank properties that have been developed with affordable housing units. The additional two proposals seek to help prevent displacement of existing homeowners from neighborhoods experiencing increasing development and associated rising property values by modifying the criteria a city must use to create a homestead preservation district and amending the Property Tax Code to create more opportunities for homeowners to defer the collection of taxes on appreciating homesteads.

Background

On November 14, 2018, the Dallas City Council adopted the City of Dallas State Legislative Program for the 86th Session of the Texas Legislature via Resolution No. 18-1618. The adopted legislative program acknowledges the three main goals of the comprehensive housing policy: to create and maintain affordable housing throughout Dallas, promote greater fair housing choices, and overcome patterns of segregation and concentrations of poverty through incentives and requirements. Additionally, the adopted legislative program states that the City will support legislation that protects and improves "housing options of City residents including continued home ownership for current and future residents" and expanding strategies to increase "affordable housing options for its growing population."

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The Taskforce's Neighborhood Quality of Life subcommittee reviewed and discussed proposed legislation during its meetings on October 11, November 8 and December 14, 2018 and the Development Process subcommittee discussed the same proposals on December 14, 2018. The Steering Committee reviewed the legislative proposals on December 18, 2018 and voted that the following five proposals be adopted as formal recommendations from the Taskforce regarding legislation for the 86th Session of the Texas Legislature that supports the goals of the comprehensive housing policy.

Strengthening the Urban Land Bank Demonstration Program

The first set of proposed legislative changes relate to the Urban Land Bank Demonstration Program statute, which is codified in Texas Local Government Code Chapter 379C (Land Bank Statute). To develop the proposals, the Taskforce discussed the existing Land Bank Statute, the comprehensive housing policy, and the strengths and weaknesses of the City of Dallas Land Bank Program (Land Bank). One of the most glaring weaknesses of the Land Bank is that the Land Bank does not have a dedicated funding source, nor does it generate a significant amount of profit from its land sales, since it sells land at below market rates to developers in order to create affordable housing. Thus, the Land Bank regularly must seek an allocation of funding from the City of Dallas to sustain its operations. The first proposed legislative change would create a dedicated funding source for land banks by allowing a land bank to recapture a portion of the property tax revenues that are generated on former land bank lots.

Another weakness of land banks is that the Land Bank Statute prevents land banks from strategically acquiring and holding properties for more than four years before the properties revert to the taxing entities. This prohibition is especially problematic because land banks do not control the timing of the tax foreclosure process and, thus, potential land bank properties that are referred for tax foreclosure during the same year may eventually be sold to a land bank over the course of several years. Therefore, a land bank's ability to, for example, bank parcels in close geographic proximity for resale to a qualified participating developer who can develop housing units on multiple parcels in the same neighborhood, is significantly constrained. The proposed legislative change seeks to extend the amount of time that the land bank may "bank" properties.

Additionally, the comprehensive housing policy supports the development of mixed-income housing units that are affordable to a range of incomes. However, the current Land Bank Statute does not allow for the creation of mixed-income multifamily housing developments. The proposed legislative change would allow for such development.

Specific Proposed Legislation Related to Strengthening the Urban Land Bank Demonstration Program

1. Amend Texas Local Government Code Chapter 379C (Urban Land Bank Demonstration Program) to add a provision that allows for property tax recapture

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related to land bank lots. Specifically, for a five-year period after the construction and sale, rental or lease-purchase of a single family, multifamily or commercial property on a land bank lot, 50% of all property tax revenues may be paid into a land bank fund, subject to the consent of all of the taxing units;

2. Amend Texas Local Government Code Section 379C.010(c)(1) to remove the requirement that 100% of the units in a rental property built on a land bank lot be reserved for families making incomes not greater than 60% AMI and instead require the rental housing development to include a mix of market-rate units and units reserved for low- and moderate-income households; and
3. Amend Texas Local Government Code Section 379C.009(b-2) to extend the time period from 4 to 8 years that a land bank may “bank” a property before it must be transferred back to the taxing entities.

Preventing Displacement of Low- and Moderate- Income Homeowners

Concerns about gentrification and homeowners being “priced out” of their existing homes due to rising property values led the Housing Taskforce to consider options for helping existing families afford to remain in their homes. Two ideas came out of such discussions. First, the Property Tax Code contains an underutilized provision that allows a homeowner to defer a portion of his or her property taxes on a residential homestead if the assessed value appreciates more than a specified amount year-over-year. However, the current statute lacks clarity regarding when a homeowner may seek to defer collection of such taxes and imposes an annual 8% interest rate on the amount of deferred taxes, making this a high-cost option for families seeking to remain in their homes. The proposed legislation would clarify that a homeowner is eligible to seek a deferral of collection of taxes (i.e. the taxes do not need to be delinquent) and lower the annual interest rate to 5%.

Additionally, the Housing Policy Taskforce proposes to amend the Homestead Preservation District statute to provide broader opportunities for cities to designate certain census tracts as homestead preservation districts. When a census tract or tracts are designated as a homestead preservation district and homestead reinvestment zone, the City may create a tax increment fund and use the revenue to develop, construct and preserve affordable housing in the zone. The city may also provide tax abatements to families living within the homestead preservation district. The proposed legislation would modify the requirements that make an area eligible for designation as a homestead preservation district to: remove the requirement that the designated tracts(s) be contiguous to a central business district, remove the requirement that the designated tracts have an overall poverty rate that is at least two times the poverty rate for the entire municipality and require the median family income within the designated tracts to be less than 70% of the area median family income, adjusted for household size, as determined

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annually by the United States Department of Housing and Urban Development, rather than \$30,000 according to the last decennial census.

Specific Proposed Legislation Related to Preventing Displacement of Low- and Moderate-Income Homeowners

1. Amend Property Tax Code Chapter 33 (Deferred Collection of Taxes on Appreciating Residence Homestead) to allow the deferral when a tax is due, instead of requiring the tax to be delinquent and lower the interest rate from 8% to 5%; and
2. Amend Texas Local Government Code Section 373A.052(b) (Homestead Preservation Districts) to modify the requirements that make an area eligible for designation as a Homestead Preservation District. Specifically, an area must be composed of census tracts forming a spatially compact area with: (1) fewer than 75,000 residents; and (2) a median family income that is less than 70% of the area median family income, adjusted for household size, as determined annually by the United States Department of Housing and Urban Development.

Next Steps

Pursuant to Resolution 18-1618, the Economic Development and Housing Committee, in coordination with the Legislative Ad Hoc Committee, could direct the City Attorney to communicate these recommendations that are in furtherance of the City's adopted Legislative Program to members of the Texas legislature and to support legislation that incorporates these recommendations.

Issues

The Economic Development and Housing Committee could direct the Taskforce to no longer proactively identify opportunities for specific legislative changes that support the City's affordable housing efforts and, instead, ask the Taskforce to solely review proposed legislation, if any, or to take no action related to the City's Legislative Program.

Fiscal Impact

No cost consideration to the City.

Departments/Committee Coordination

The Department of Housing and Neighborhood Revitalization facilitates the Housing Policy Taskforce, which is comprised of several subcommittees, each of which is chaired by a volunteer appointee from the private sector who has relevant and substantial experience working in the design, development, construction, marketing or finance of housing and co-chaired by executive-level City staff members who provide staff support to each committee. Additionally, so that the committees are primed to support the implementation of the comprehensive housing policy, each committee has "mandatory" members who are representatives from private and public sector entities whose activities have significant impact on the creation and preservation of affordable housing. Along with

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the mandatory members of each committee, any member of the public who chooses to regularly attend the meetings may consider themselves a member of a committee. This "open" form of membership was a deliberate design component of the Taskforce so that the City could build upon the significant public participation that occurred during the development of the comprehensive housing policy.

Staff Recommendation

Staff recommends that the Economic Development and Housing Committee, in coordination with the Legislative Ad Hoc Committee, direct the City Attorney to communicate the recommendations discussed in this memorandum to members of the Texas legislature and to support legislation that incorporates these recommendations.



David Noguera
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