

CITY OF OAKLAND



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February 7, 2008

Members of the Council:

Attached are a range of affordable housing policy proposals being submitted for your consideration.

These proposals are in large measure based on the substantial work undertaken by many interested persons in the housing arena including, but not limited to, the Mayor's Housing Task Force, the Blue Ribbon Commission, community groups, housing developers, City staff, and many others.

In addition to weighing in on the hot topics of inclusionary zoning and condo conversion, we have tried to address a series of other related issues as well.

We need to understand at the outset that local resources are grossly insufficient to address the key issue of how to provide for housing which is affordable to Oakland residents and how to ensure that Oakland residents can afford to stay in Oakland. While resources have never been sufficient at the Federal or State levels, in recent decades such resources have shrunk to miniscule levels.

We also need to understand that the topics which seem to generate the most heat, inclusionary zoning and condo conversion, will not result in large quantities of affordable housing. This is not to say that they are not worthwhile undertakings; rather, that the number of affected housing units is necessarily small in relation to the dimension of the overall affordable housing issue.

In addition, we need to be very clear that "affordable" housing encompasses a very broad range of income levels. One can easily make the argument that almost no housing in Oakland is affordable except for those with substantial means or those who are lucky enough to have substantial equity in existing homes. Much of the "affordable" housing requires income levels far in excess of what most Oaklanders earn. For example, most "affordable" ownership programs provide for eligibility up to 100% (or even 120%) of AMI (Area Median Income), which currently approaches \$100,000 annual earnings for a family.

Much of the conventional debate about "affordable" housing generally refers to housing for low-income families. Many groups argue against "affordable" housing in their geographical areas of interest fearing declining property values, increased crime, etc. when in fact too many public employees (police, fire, nurses, teachers, etc.) make insufficient income to qualify for many such "affordable" housing programs.

This means two things: (1) much of the affordable housing debate is predicated on misconception; and (2) little of the discussion on "affordable" housing is directed at addressing the needs of low-income families who desperately need affordable housing.

One of our key challenges is to change the nature of the debate and work toward real solutions for providing affordable housing for Oakland residents.

The City must support and encourage continued investment in housing in all areas to revitalize neighborhoods, provide mixed income communities, and ensure that current Oakland residents share in the benefits of new development.

To date the community's response to new developments (such as Uptown, Wood Street and Oak to Ninth) has been on an ad hoc basis, with each development facing challenges and demands for community benefits such as affordable housing, open space, historic preservation, and local hiring programs. These challenges often unfold over many months, adding time and expense to development projects and creating additional risk for developers. The establishment of clear policies that apply equally to all major developments will ensure predictability for developers and assure the community that private investment will bring public benefits.

At the same time, the City's policies should be designed to protect against displacement of existing residents and ensure that people who currently live in Oakland share in the benefits of new development.

In the short term, I want to get movement on a limited set of housing issues that have been before Council and were the subject of the Blue Ribbon Commission. The attached proposals make a modest contribution in this direction. In brief, the attached proposals call for:

1. Adopting an inclusionary zoning ordinance to ensure that private development yields community benefits in the form of affordable housing. Most jurisdictions in the Bay Area already do this without restricting development. By comparison the proposed measure is relatively moderate and will not deter continued development in Oakland.
2. Modifying the condo conversion ordinance to create opportunities for tenant purchase and affordable homeownership for moderate income households, with strong tenant assistance measures, while protecting the rental housing stock from conversion to condominiums that Oaklanders can't afford.

3. Expanding funding for preservation and development of affordable housing for very low and low income households.

4. Restricting the City's housing development funding to assist households with incomes less than 60% of area median income and expand homeownership programs for purchase and rehabilitation to reach households up to 100% of median income.

I look forward to working together to address the affordable housing needs of Oakland residents.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald V. Dellums". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ronald V. Dellums
Mayor

Inclusionary Zoning

Establish an Inclusionary Zoning Ordinance to ensure that low and moderate income households benefit from market rate development, and to promote economic integration in new developments.

Projects Subject to Ordinance

All projects with 20 or more residential units would be covered, except for those that receive vested development rights prior to July 1, 2008.

Inclusionary Requirement

15% of units if affordable units are included in market rate project
20% if affordable units are built off-site
25% in cases where City grants general plan amendment to convert use from non-residential to residential or mixed-use.

Phase-In of Requirements

Requirements phased in over a two year period:

July 1, 2008: 5% on-site, 10% off-site

July 1, 2010: 15% on-site, 20% off-site in third year and thereafter

In-Lieu Fee

Fee set at difference between median sales price of single-family homes and affordable sales price for 2-bedroom unit, with adjustments upward and downward for different size units

Fee to be paid based on number of units required for off-site compliance

Fees to be deposited in the City's Affordable Housing Trust Fund and restricted to development of housing for households at 60% of median income and below, with a preference for units serving households at 30% of median income and below

Income Targeting and Affordable Rents and Prices

Ownership projects:

Buyers' income must be 100% of median income or less (\$75,400 for family of 3)

Sales prices set at Redevelopment Law formula for median income (total monthly housing costs not to exceed 35% of 110% of AMI)

Permanently restricted at affordable price by formula

Rental projects:

Renter income must be 60% of median income or less (\$45,240 for family of 3)

Rents (including utility allowance) not to exceed 30% of 60% of median income (same as tax credit program and City NOFA requirements)

Restricted for 55 years

Occupancy preference for persons who live or work in Oakland

Public Subsidy Prohibited

Use of public affordable housing funds prohibited except for tax-exempt bonds and 4% tax credits

Transit village projects would be exempt from this prohibition

Monitoring and Enforcement

Ownership units require City review/approval prior to sale

Rental projects monitored annually

Affordability restrictions enforceable by third parties

Noncompliance can result in fine equal to current in-lieu fee

Annual status report to City Council on units produced and use of fees

Condominium Conversions

Modify the City's existing Condominium Conversion Ordinance to ensure that condo conversions provide affordable homeownership opportunities for Oakland renters while protecting the City's supply of rental housing.

Expand Coverage

Expand ordinance to include 2 to 4 unit buildings

Establish an Annual Cap

Limit the number of condominium conversions each year to the number of inclusionary housing units completed (or for which in-lieu fees were paid) in the previous year.

One-for-One Replacement

Maintain existing requirement for 1-for-1 replacement of rental housing units, including geographic restrictions on replacement of units in the existing Impact Zones.

Eliminate ability to obtain conversion credits from units already in service.

Credits allowed only for rental projects not yet under construction at time of application for condo conversion, and for planned condo projects that agree to remain rental for at least 7 years.

In-Lieu Conversion Fee

Create an option to pay an in-lieu conversion fee equal to 20% of the unit's sales price. Establish a mechanism to ensure that fee must be paid upon sale of units.

Fees must be deposited into Affordable Housing Trust Fund and restricted for development of rental housing affordable at or below 60% of median income.

Fee option not available in the existing Impact Zones

Exemptions

Exempt from both the annual cap and the replacement/fee requirement:

- any unit that is sold at a price affordable to households of moderate income (with purchase limited to households at or below 100% of median income)
- any building in which 75% or more of the units are purchased by the current tenants
- require payment of in-lieu fee if these conditions aren't met when unit is sold

Exempt units that have been vacant and declared substandard for more than 3 years

Protection Against Speculation

Property must be owned by applicant for at least 3 years prior to submission of application for tentative map

Required Building Improvements

Noise mitigation

Seismic upgrades

Major systems must have remaining life of at least 10 years

Units must meet code prior to sale

Tenant Purchase Incentives

Maintain existing 90-day first right of refusal

10% discount for tenant purchase of units (other than those priced for moderate income)

Referral to City's first-time homebuyer program

Tenant Protections

Existing tenants have right to reside in unit for at least 180 days after final DRE report or start of sales program (this is a current provision).

Extend lifetime leases to disabled tenants (currently applies for seniors). Rent increases limited to annual increase permitted by Rent Adjustment Ordinance.

Add 2-year occupancy rights for families with children or tenants below 60% of median. Rent increases limited to annual increase permitted by Rent Adjustment Ordinance.

Moving allowance equal to greater of current rent or 6 months rent at Section 8 Fair Market Rent, plus \$1,500 moving assistance (\$2,500 for senior and disabled)

Referral to nonprofit housing search agencies

Protections apply to current tenants and all tenants who move in after tentative map application is filed

Costs of building improvements (except for correcting code violations) cannot be passed through to tenants

Protections against constructive eviction

City-prepared summary of rights and resources to be distributed to all current and future tenants

Ensure consistency between provisions of Condo Conversion Ordinance and Ellis Act Ordinance

Owners to maintain records and provide annual reports to City on tenant status.

City staff to develop appropriate monitoring and enforcement mechanisms.

Rent Adjustment Program

Simplify provisions of the Rent Adjustment Program and eliminate current loopholes that can lead to substantial rent increases for existing tenants.

Annual General Increase

Maintain current formula – average of the Consumer Price Index for all Urban Consumers (CPI-U) and the CPI-U Less Shelter

Individual Adjustments Above Annual Increase

Landlords must demonstrate that increases are necessitated (a) to maintain Net Operating Income; (2) cover the cost of eligible Capital Improvements, or (c) to ensure constitutionally protected fair return on investment.

Base year would be last calendar year prior to year of adoption of these amendments.

Maximum Annual Increase

Maximum rent increase limited to 7% per year.

Capital Improvements

Use IRS definition of capital improvements.

100% cost recovery over period of 7 or 15 years depending on type of improvement.

Minimum expenditure of \$3,000 required to qualify.

Cost of financing these improvements can be amortized as well.

Increases would be permanently added to base rent.

Debt Service

Rent increases due to increased debt service costs not permitted in buildings of 4 or more units.

Allowed only for acquisition financing.

Seller must have owned property for at least 5 years prior to this increase.

Base calculations on a standard set of loan terms (interest rate, amortization period) with eligible principal amount limited to some multiple of gross rents.

Increases for Uninsured Repairs

Should be included as part of capital improvements increases.

Frequency of Increases

Limited to one increase per year for existing tenants.

Rent Reductions for Uninhabitable Conditions

Standard amounts/formula to be established for such reductions.

Resolve Conflicting Language

Establish common conditions for exemptions from Just Cause and Rent Adjustment requirements.

Revise Municipal Code to ensure that there are consistent references to the Rent Adjustment Board.

Security Deposits

No change to current provisions.

Section 8 Requirements

No changes proposed.

Units Covered by Ordinance

Extend coverage to units in owner-occupied 2 and 3 unit buildings

Substantially rehabilitated units would be exempt.

Return Foreclosed Properties to Housing Supply

Establish programs to ensure that foreclosed properties do not become a blighting influence on neighborhood and that these housing resources are occupied again as soon as possible. This will require additional funds from an increase to the Low/Mod set-aside or by using non-housing redevelopment funds.

Prevention of Blight

Strict enforcement of code requirements on bank-owned foreclosed properties

Acquisition, Rehab and Resale of Foreclosed Homes

Establish programs to acquire foreclosed properties and provide them as truly affordable limited-equity homeownership opportunities

Could be land trust, nonprofit corporation, or other mechanism

Push banks to do bulk sales at discounted prices

Funding for subsidies and operation of land trust to come from first-year increases in the Low/Mod Housing Fund or from non-housing redevelopment funds.

Expand Existing Homebuyer and Homeowner Rehab Programs

Expand and improve existing City programs to provide assistance to moderate income homebuyers and homeowners to allow them to remain in their homes.

First-Time Homebuyer Assistance

Increase eligibility from 80% to 100% of median income

Increase maximum loan amount from \$75,000 to 20% of median sales price (current maximum would be approximately \$112,000) with automatic adjustments annually

Loan amount set at 75% of maximum for moderate income borrowers (80% to 100% of median income)

Increase funding from \$2.5 million to \$3.5 million per year (plus loan repayment revenue).

Increased funding tied to increase in low/mod housing fund set-aside.

Teacher and Public Safety Officer Downpayment Assistance

(expand definitions to include other "first responder" workers)

Increase loan amount from \$20,000 to \$50,000

Reduce interest rate from 6% to 3%

Convert from short-term loans to 30-year deferred loan due on sale

Rehabilitation of Owner-Occupied Homes

Expand eligibility to Citywide as long as borrower meets income requirements

Increase income eligibility from 80% of median income to 100% of median income

Increase loan amount from \$75,000 to \$100,000

Use redevelopment agency housing funds for moderate income because existing federal funding sources don't permit assistance to households above 80% of median

Modify Central City East redevelopment area rehab program to conform to these guidelines

Develop and adopt guidelines for a West Oakland redevelopment area program.

Expand Funding Resources for Affordable Housing and Homelessness

Increase the amount of redevelopment agency tax-increment funds dedicated to affordable housing and target those funds to the most serious housing needs

Increase Low/Mod Housing Set-Aside

Increase the set-aside from 25% to 35% of gross increment

Increased share to come from increases in the total increment in order to not jeopardize existing redevelopment activities

Phase in gradually over several years as increment increases. Timing could be different for each redevelopment area

Explore Feasibility of a Housing Bond Issue

City Administrator to evaluate and report on feasibility of issuing general obligation bonds for affordable housing.

Begin work to extend the Central District Redevelopment Area

Would increase ability to generate bond funds for housing and for other redevelopment activities

Would require increase of set-aside to 30 percent

Target Low/Mod Funds to Households with Greatest Needs

Funds restricted to households with incomes less than 60% of median income

Additional competitive points for development projects that serve households with incomes significantly less than 60% of median income, including homeless and special needs populations

Exception to these targeting requirements for first-time homebuyer program, housing rehabilitation program, and previously approved assistance for Wood Street project and Central City East programs already in implementation plan

Provide Funding for Prevention and Eradication of Homelessness

Provide \$500,000 per year in funding for assistance to very low income renters (first and last months rent and security deposits), and for one-time emergency loans to very low income renters at risk of eviction.

Provide \$1 million per year in funding for social services in supportive housing for formerly homeless and special needs populations.

Funds for this purpose would have to come from sources other than those currently used for affordable housing, which cannot be used for these kinds of programs.

MAYOR'S HOUSING POLICY MATRIX
February 7, 2008

INCLUSIONARY ZONING

Term	Blue Ribbon Commission (BRC)	Oakland People's Housing Coalition (OPHC)	Brunner Proposal	Mayor's Proposal
Threshold	20 units	10 units	20 units	20 units
Trigger Date	All projects that submit a complete planning application more than 6 months after passage of ordinance (Basically all projects in the pipeline are exempt.)	30 days after adoption, all projects are covered by the ordinance except those that have vested rights.	All projects that secure vested rights on or after July 1, 2008	All projects that secure vested rights on or after July 1, 2008
Phase In	For two years, 5% of total units if built on-site and 10% of the total units if built off-site. (In lieu fee would be based on 10% of the total units.)	3 months after passage, 5% IZ for more than 50 units; 6 months after passage, 10% for more than 25 units; 12 months after passage, full 15%.	For two years, 5% of total units if built on-site and 10% of the total units if built off-site. (In lieu fee would be based on 10% of the total units.)	Requirements phased in over a two year period based on vesting date: July 1, 2008: 5% on-site, 10% off-site July 1, 2010: 15% on-site, 20% off-site
Percentage of Units	After two years, the percentages would automatically increase to 15% if built on-site, 20% if built off-site, and 20% for in lieu fee.	15% of total units if built on-site 20% of the total units if built off-site.	After two years, the percentages would automatically increase to 15% if built on-site, 20% if built off-site, and 20% for in lieu fee.	15% on-site, 20% off-site, phased in as shown above
Rental Target Incomes	Not addressed given Hausrath's study showing economic infeasibility.	50% AMI and below and held affordable at that level for at least 55 years	At or below 80% AMI	At or below 60% of AMI. Rents set at 30% of 60% of AMI, less an allowance for tenant-paid utilities. Preference for persons who live or work in Oakland.
Ownership Target Incomes	Average of 100% AMI (but pricing set at 35% of 110% AMI which can serve approx 85-100% AMI)	100% AMI and below with prices set at 35% of 110% AMI	At or below 100% AMI with prices set at 35% of 110% AMI	At or below 100% of AMI. Sales prices set at 35% of 110% of AMI, as defined in California Redevelopment Law. Preference for persons who live or work in Oakland.

**INCLUSIONARY ZONING
(continued)**

Term	Blue Ribbon Commission (BRC)	Oakland People's Housing Coalition (OPHC)	Brunner Proposal	Mayor's Proposal
In Lieu Fee	The in-lieu fee should be based on 20% of total units.	The in-lieu fee should be based on 20% of total units. Fees dedicated for affordable housing development for the lowest income households (60% AMI or below, with a priority for serving households at 30% AMI and below).	The in-lieu fee should be based on 20% of total units. Fees dedicated for affordable housing development for households at or below 60% AMI.	Fee based on 20% of total units Fee calculated as difference between median sales price for Oakland homes and affordable sales price, with adjustments based on number of bedrooms or square footage
In Lieu Fee Dedication	Not specified.	The in lieu fees should be dedicated for affordable housing development for the lowest income households (60% AMI or below, with a priority for serving households at 30% AMI and below).	The in lieu fees should be dedicated for affordable housing development for households at or below 60% AMI.	In-lieu fees deposited to Affordable Housing Trust Fund and dedicated to development of housing for households at 60% AMI with preference for 30% of AMI.
Land Rezoned for Residential Use	Not specified.	At least 25% of the total residential units in developments of 50 units or more on land rezoned for residential use will be affordable.	Additional 10% affordable on sites where general plan land use designation is converted from non-residential to residential.	Additional 10% affordable required on sites where general plan land use designation is converted from non-residential to residential or mixed use.
Timing and Terms	Not specified.	Inclusionary units should be built prior to or concurrent with the market rate units. Units affordable for 55 years for rental units and 45 years for ownership	Not specified.	Inclusionary units should be built prior to or concurrent with the market rate units. Units affordable for 55 years for rental units and permanently for ownership
Mix of Units	Not specified.	The mix of units by size (number of bedrooms) should be proportional to mix of market rate units.	Not specified.	Mix of affordable units should be proportional to the market rate units.
Tracking and Enforcement	Not specified.	The City should track the implementation and outcomes of inclusionary zoning and strictly enforce it with penalties that are strong enough to dissuade non-compliance. See CEDA staff recommendations in 2006 draft ordinance.	Not specified.	Ownership units require City review/approval prior to sale Rental projects monitored annually Affordability restrictions enforceable by third parties Noncompliance can result in fine equal to current in-lieu fee Annual status report to City Council on units produced and use of fees

**INCLUSIONARY ZONING
(continued)**

Term	Blue Ribbon Commission (BRC)	Oakland People's Housing Coalition (OPHC)	Brunner Proposal	Mayor's Proposal
Teacher/Public Safety Housing	Not specified.	Not specified.	20% of total in-lieu fees dedicated to teacher/public safety mortgage assistance program	See separate proposal for modifying existing teacher program.
Public Funding	Not specified.	Require that all market rate residential developers include a percentage of affordable units in their projects <u>without</u> City subsidy to meet inclusionary zoning obligations.	Use of public affordable housing funds prohibited except for transit village projects and affordable projects funded under City NOFA.	Use of public affordable housing funds prohibited except for tax-exempt bonds and 4% tax credits Transit village projects would be exempt from this prohibition

CONDOMINIUM CONVERSIONS

Item	Current	McConnell Proposal	"Balanced Approach" Memo	Oakland People's Housing Coalition (OPHC)	Brunner Proposal	Mayor's Proposal
Units Covered	<p>In Impact Areas (Lake Merritt areas, Grand and Lakeshore, Piedmont Avenue, Upper Rockridge) covers all buildings and replacement units must be in Impact Area</p> <p>Outside of Impact Areas, covers only buildings with 5 or more units, and replacement units can be anywhere in City.</p>	<p>Inside impact areas, all conversions are covered.</p> <p>Outside impact areas, 2-4 unit buildings are exempted, or alternatively include them in the cap but exempt from Planning Commission review, conversion fees, etc.</p>	<p>Extend coverage to all 2-4 unit buildings</p>	<p>Extend coverage to 2-4 unit buildings outside of Impact Areas</p> <p>Prohibit conversion of 2-4 units buildings inside Impact Areas</p> <p>Extend Impact Area to include Rockridge and a 1/4 mile perimeter of Lake Merritt.</p>	<p>Extend coverage to all 2-4 unit buildings</p>	<p>Extend coverage to all 2-4 unit buildings</p>
Annual Cap on Conversions	<p>None</p>	<p>800 units per year or 1% of rental housing stock</p> <p>Not more than 400 units (of the 800 units) in Lake Merritt/North Oakland</p>	<p>125 units per year</p>	<p>100 units per year</p> <p>Equitable distribution (no more than 15% variance between Council districts)</p> <p>2-4 unit buildings cannot account for more than 25% of annual conversions allowed</p>	<p>200 units per year distributed equally among the 7 council districts</p> <p>OR</p> <p>Cap equal to number of inclusionary units built in the previous year</p>	<p>Limit the number of condominium conversions each year to the number of inclusionary housing units completed (or for which in-lieu fees were paid) in the previous year.</p>

CONDOMINIUM CONVERSIONS
(continued)

Item	Current	McConnell Proposal	"Balanced Approach" Memo	Oakland People's Housing Coalition (OPHC)	Brunner Proposal	Mayor's Proposal
Replacement Rental Units	1 for 1 replacement.	Maintain replacement requirement, but provide a conversion fee alternative.	Maintain requirement for replacement housing only in Impact Areas, with exceptions noted below.	<p>Maintain 1 for 1 replacement requirement administered by City by tracking private development. Replacement housing must be new construction, or substantial rehab in vacant or abandoned building, built with previous 7 years.</p> <p>Publicly-assisted units can't be counted.</p> <p>Replacement units can never be converted to condos.</p>	Not specified.	<p>Maintain existing requirement for 1-for-1 replacement of rental housing units, including geographic restrictions on replacement of units in the existing Impact Zones, with in-lieu fee option as described below.</p> <p>Eliminate ability to use previously built housing as credit for replacement housing.</p>
Conversion Fee	None	<p>Fee in lieu of replacement housing equal to \$2,000 per room outside Impact Areas and \$3,000 per room inside Impact Areas</p> <p>Fees could be waived for units affordable to 120% AMI.</p> <p>Funds placed in Housing Trust Fund</p>	<p>15% of sales price (fee option not available in Impact Areas)</p> <p>Funds placed in fund for development of replacement units. Portion of fees could be used for administration and enforcement, or to assist tenants to purchase converted units.</p>	<p>20% of sales price payable at time of application</p> <p>Funds to be used for Housing Trust Fund for rental housing production and tenant assistance programs, including relocation services.</p>	<p>20% of sales price</p> <p>Funds placed in Housing Trust Fund for low-income families.</p>	<p>Create an option to pay an in-lieu conversion fee equal to 20% of the unit's sales price.</p> <p>Establish a mechanism to ensure that fee must be paid upon sale of units.</p> <p>Fees must be deposited into Affordable Housing Trust Fund and restricted for development of rental housing affordable at or below 60% of median income.</p> <p>Fee option not available in Impact Zones.</p>

CONDOMINIUM CONVERSIONS
(continued)

Item	Current	McConnell Proposal	"Balanced Approach" Memo	Oakland People's Housing Coalition (OPHC)	Brunner Proposal	Mayor's Proposal
Exemptions	None	Cap would not include: <ul style="list-style-type: none"> • areas with low ownership rates • buildings with 100% tenant purchase • units that are subject to lifetime lease requirement • buildings owned as tenant-in-common or joint tenancy AND where all units are owner-occupied or all tenants have signed "intent to purchase" agreements 	Replacement requirement in Impact Areas and conversion fee would not include: <ul style="list-style-type: none"> • buildings with 100% tenant purchase • units affordable at 100% AMI 	Cap would not include: <ul style="list-style-type: none"> • buildings with 80% tenant purchase (in non-impact areas) • severely distressed rental buildings that have at least one year documentation of vacancy or abandonment 	Cap would not include: <ul style="list-style-type: none"> • buildings with 80% tenant purchase • Units set at 100% AMI Additional 100 units permitted if located in census tracts with low ownership rates (<20%) and high concentrations of low/mod (> 40% of households with incomes <80% of AMI)	Cap would not include: <ul style="list-style-type: none"> • Buildings with 75% of units purchased by existing tenants • Units priced affordable to households at 100% of AMI • These units would be exempt from 1-for-1 replacement and in-lieu fee provisions. • If these conditions are not met, in-lieu fee is due from seller/converter at time of sale. • Buildings that have been vacant and declared substandard for more than 3 years.
Qualifying Buildings	No limit	No limit	Owners must have owned for at least 5 years except for exempt buildings.	Owners must have owned for at least 5 years except for exempt buildings.	Owners must have owned for at least 3 years	Owners must have owned buildings for at least 3 years prior to application to convert to condominium.
Building Improvements Required	Current law requires noise mitigation between units.	Not specified	Major building systems must have remaining useful life of at least 10 years	Not specified	Require seismic upgrades and code compliance	Require seismic upgrades, noise mitigation, code compliance, and major systems to have remaining life of at least 10 years.

**CONDOMINIUM CONVERSIONS
(continued)**

Item	Current	McConnell Proposal	"Balanced Approach" Memo	Oakland People's Housing Coalition (OPHC)	Brunner Proposal	Mayor's Proposal
TENANT PROVISIONS						
Tenant Right to Purchase	First right of refusal for 90 days following issuance of final subdivision report (DRE report) or start of sales program.	First right of refusal within 6 months of being notified of intent to convert.	First right of refusal for 90 days from State DRE report	Tenants have an exclusive right of "first refusal" for 90 days from issuance of state Dept of Real Estate final subdivision report	Right of first refusal for tenants	Maintain existing provisions that give tenants first right of refusal for 90 days from issuance of State DRE final report or beginning of sales program.
Tenant Purchase Incentives	Tenant Assistance Program must include incentives to enable tenants to purchase	10% reduction in price if purchased within the 6 month notice period	10% discount Referral to City's 1st time homebuyers program	15% discount Referral to City's 1st time homebuyers program	15% discount	10% discount (not required for units already priced for 100% AMI) Referral to City's first-time homebuyer program.
Tenant Right to Reside in Unit	180 days after final DRE report or start of sales program	Not specified	180 days after final DRE report	180 days after final DRE report	Not specified	180 days after final DRE report or start of sales program.
Protection for Seniors and Disabled	Lifetime lease for tenants 62 and older with option for lifetime lease of other available units in the building. Rent increases limited to CPI	Lifetime lease for tenants 62 and older, but no right to lease other units in building.	Lifetime lease for seniors and disabled	Lifetime lease for seniors and disabled	Lifetime lease for seniors and disabled	Lifetime leases for seniors and disabled with rent increases limited to Rent Adjustment Ordinance annual increase.
Protection for Families and Low-Income	None	None	2 year right to remain for families with minor children	3-year lease with rent control protections for households with minor children or households at 60% AMI or below.	2 year lease for families with minor children	2 year right to remain for families with minor children, with rent increases limited to Rent Adjustment Ordinance annual increase.

**CONDOMINIUM CONVERSIONS
(continued)**

Item	Current	McConnell Proposal	"Balanced Approach" Memo	Oakland People's Housing Coalition (OPHC)	Brunner Proposal	Mayor's Proposal
Moving and Relocation Assistance	Tenant Assistance Plan required but no specific provisions for content.	Relocation fees for tenants who voluntarily relocate within 6 month notice period Relocation and moving expenses for owner move-ins.	6 months rent or 2.5% of sales prices, whichever is greater Up to \$1,000 for moving expenses.	\$3,000 moving assistance fee; AND Relocation assistance of 6 months of rent at HUD Fair Market Rate Elderly or disabled tenant receives \$5,000 moving assistance fee.	Relocation assistance of 6 months rent \$1000 moving expenses	Greater of current rent or 6 months rent at Section 8 Fair Market Rent, plus \$1,500 moving assistance (\$2,500 for senior and disabled) Referral to nonprofit housing search agencies. Protections apply to tenants in place at time of application and all subsequent tenants, who must receive notice of rights.

CONDOMINIUM CONVERSIONS
(continued)

Item	Current	McConnell Proposal	"Balanced Approach" Memo	Oakland People's Housing Coalition (OPHC)	Brunner Proposal	Mayor's Proposal
<p>Impact and Cost of Building Improvements</p>	<p>Cannot remodel the interior of the tenant's unit until 30 days after issuance of the final subdivision public report or after the start of subdividers' sales program (e.g. the start of tenants' 90 days first-right-of-refusal period).</p>	<p>Tenants may refuse involuntary cosmetic upgrades to interiors of units</p> <p>Rent reductions due to lengthy service interruption from common area improvements</p>	<p>Cost of any upgrade made within 18 months of conversion cannot be passed on to tenants</p>	<p>Costs of any capital improvement made w/in 18 months of conversion application cannot be passed on to tenants</p> <p>No rent increase for any units in the building is permitted during the 12-month period dating from the initial filing for conversion.</p> <p>No remodeling of interior without consent of continuing tenant</p> <p>Damages for constructive eviction to include non-payment of rent and/or back pay of rent during period of disruptive construction</p> <p>Temporary replacement housing during construction for tenants who consent to interior remodeling.</p>	<p>Not specified</p>	<p>No construction work that could lead to eviction or move-out of tenants.</p> <p>Cost of improvements within 18 months of initial application cannot be passed on to tenants.</p>

**CONDOMINIUM CONVERSIONS
(continued)**

Item	Current	McConnell Proposal	"Balanced Approach" Memo	Oakland People's Housing Coalition (OPHC)	Brunner Proposal	Mayor's Proposal
Notice of Tenant Rights	State and local law have some protections but no requirement to provide notice of these to tenants	6 month notice must spell out tenant rights, assistance and protection (not clear when 6-month period begins) Referral to housing rights organizations	Tenants must receive notice of their rights & referral to tenant counseling agencies at same time as application for conversion or for the DRE public report	City to prepare information on "tenant bill of rights" & "tenant assistance programs," including information on notices, appeals, process, regulations, timeline, responsibilities, privileges, obligations, minimum public health impacts and standards, contact information, etc. Owners must provide to all tenants.	6 months notification for tenants	City-prepared notice of rights and resources must be distributed by owner to all current and future tenants. Notice of rights to be available in English, Spanish, Cantonese and Vietnamese.

CONDOMINIUM CONVERSIONS
(continued)

Item	Current	McConnell Proposal	"Balanced Approach" Memo	Oakland People's Housing Coalition (OPHC)	Brunner Proposal	Mayor's Proposal
<p>Ellis Act and Just Cause Coordination</p>	<p>Provisions in two ordinances are different.</p>	<p>No recommendation</p>	<p>Apply notice & protections to units receiving DRE final public subdivision report regardless of when the conversion was approved by the City</p>	<p>A building that is removed from the rental market shall not apply for condo conversion for at least 3 years from date of the last tenant displacement.</p> <p>Conform City's Ellis Act ordinance protections & relocation assistance requirements to the recommendations contained here. Extend Just Cause protections to all converted units regardless of construction date</p> <p>Apply notice & protections to units receiving DRE final public subdivision report regardless of when the conversion was approved by the City</p>	<p>Not specified</p>	<p>Conform City's Ellis Act ordinance protections & relocation assistance requirements to the recommendations contained here</p> <p>Extend Just Cause protections to all converted units and units that have applied for conversion regardless of construction date</p>

**CONDOMINIUM CONVERSIONS
(continued)**

Item	Current	McConnell Proposal	"Balanced Approach" Memo	Oakland People's Housing Coalition (OPHC)	Brunner Proposal	Mayor's Proposal
Enforcement	<p>Enforcement of conversions by Building and Planning departments.</p> <p>Minimal enforcement of tenant protections.</p>	Not specified	Not specified	<p>Expand jurisdiction of Rent Board to review, monitor, and provide initial approval of condo conversion applications</p> <p>Create a City administrative complaint procedure</p> <p><i>Provide for a right of action for tenants including damages, injunctive relief & attorneys fees similar to rent control provisions</i></p> <p>Enforcement by City Attorney's office</p>	<p>Direct staff to create appropriate enforcement mechanisms</p> <p>Annual report to City Council including location and number of conversions, number of condos purchased by existing tenants or priced at 100% AMI, and tenant assistance provided.</p>	<p>Owners to provide City with annual reports on tenant status, sales of units, etc..</p> <p>City staff to develop appropriate monitoring and enforcement mechanisms.</p>

RENT ADJUSTMENT PROGRAM

ITEM	CURRENT	PHC POSITION	MAYOR'S PROPOSAL
Annual General Increase	Average of CPI-U and CPI-U less housing costs.	All rental units are subject, at landlord's option, to an annual general adjustment for inflation (CPI adjustment) each 12 months or longer, for the purpose of adjusting operating expense in line with inflation.	Average of CPI-U and CPI-U less housing costs.
Individual Adjustments Above Annual Increase	A landlord may increase rents above the annual CPI rate without filing a petition based on: [1] banking (recapture of deferred annual increases); [2] Capital Improvements; [3] Increased debt service costs; [4] increased housing service costs; [5] uninsured repairs or [6] Constitutional Fair Return. <i>If tenant petitions, landlord must justify increase.</i>	To increase rent above the CPI adjustment, a landlord must file a petition for increases based on: [1] Individual Rent Adjustment (IRA) [2] Capital Improvements (CI) or [3] Constitutional Fair Return (CFR). Use 2004 as base year.	To increase rent above the CPI adjustment, a landlord must file a petition for increases based on: [1] Maintenance of Net Operating (MNOI); [2] Capital Improvements (CI); or [3] Constitutional Fair Return (CFR). Use last year prior to adoption of the Amendments as base year (probably 2007).
Maximum Annual Increase	No maximum.	Maximum Individual Rent Adjustment of 7%, not more than once every 24 months. CI and CFR increases not less than once every 12 months.	Fixed maximum annual increase of 7% for all purposes.

**RENT ADJUSTMENT PROGRAM
(continued)**

ITEM	CURRENT	PHC POSITION	MAYOR'S PROPOSAL
Capital Improvement Rent Increases	100% of capital improvements costs amortized over 5 years. Uses IRS definition of Capital Improvement. Financing costs allowed. Increase expires after 5 years.	100% of Capital Improvements 10 year fixed amortization 5% maximum increase per year. No financing costs. Use IRS definition of capital improvements.	Empower Staff or Board to define "capital improvements" consistent with IRS definition and publish schedule. 100% recovery over fixed period of 7 or 15 years depending on improvement. Minimum \$3000 expenditure to qualify. Financing costs allowed. Increase permanent (added to base rent)
Debt Service Increases	Debt Service increase allowed without limit as long as loan secured by property and proceeds used to purchase or invested in property.	No debt service allowed	No debt service allowed on buildings larger than 3 units. Allowed for purchase money only. Seller must hold property min. 5 years. Adopt "standard" minimum loan terms (e.g. 30 yr, fully amortized, max interest rate of some Index rate + X%, secured only by deed of trust on rented property, amount of principal limited to X times gross rents.
Increases for Uninsured Repair Costs	Allowed.	Not specified	Combine with capital improvements increases.
Frequency of Increases	One increase per year	CPI increase each year. Other increases every 2 years.	One increase per year

**RENT ADJUSTMENT PROGRAM
(continued)**

ITEM	CURRENT	PHC POSITION	MAYOR'S PROPOSAL
Constitutional Fair Return Standard	Constitutional Fair Return requirement not defined.	Constitutional Fair Return petitions may not include mortgage or financing costs.	"Constitutional Fair Return petitions" are not defined, but City cannot categorically exclude financing costs.
Rent Reduction for Uninhabitable Conditions	Rent reduction for uninhabitable conditions of property is undefined.	Not specified.	Clearly permit rent reduction for uninhabitable conditions whether cited or not. Set standard amounts for such reductions.
Exemptions	Exemptions from Just Cause and Rent Adjustment Ordinance are different.	Not specified.	Make exemptions the same.
Security Deposits	No interest on security deposits	Interest paid on security deposits.	No interest on security deposits
Section 8 Units	Section 8 units exempt from Rent Adjustment.	Section 8 rentals starting in the <i>second contract year</i> are covered.	No change. Could dissuade landlords from participating in the program.
2 and 3 Unit Buildings	Owner-occupied 2 and 3 unit buildings exempt from Rent Adjustment after one year.	Owner-occupied two- and three-unit buildings are covered units under the Rent Adjustment Program	Owner-occupied 2 and 3 unit buildings are controlled.

**RENT ADJUSTMENT PROGRAM
(continued)**

ITEM	CURRENT	PHC POSITION	MAYOR'S PROPOSAL
Exemption for Substantial Rehabilitation	Substantially rehabilitated units (50% of the average basic cost of new construction) are permanently exempt from rent adjustment.	The period of exemption from rent control for "substantially rehabilitated units" is established at 7 years, to allow for recouping of invested capital. In the 8 th year, the unit becomes subject to rent control, and the rent in effect during the 7 th year becomes the base rent for the unit.	Substantially rehabilitated units (50% of the average basic cost of new construction) are permanently exempt from rent adjustment.
Authority to Modify Ordinance and Regulations	City Council modifies Rent Adjustment Ordinance and regulations	Not specified.	City Council modifies Rent Adjustment Ordinance. Rent Board modifies Rent Adjustment Regulations in accord with Ordinance.
Code Provisions	Separate provisions in Housing Code (2) in Health and Safety Code regarding Rent Board	Not specified.	Coordinate Rent Board provisions in Municipal Code: Code Enforcement, Relocation and Rent Adjustment.

OTHER AFFORDABLE HOUSING PROPOSALS

	Blue Ribbon Commission (BRC)	Oakland People's Housing Coalition (OPHC)	Brunner Proposal	Mayor's Proposal
Foreclosure Crisis				<p>Require lenders/trustees to send copy of Notices of Default and Notices of Trustee Sale to the City.</p> <p>Strict and pro-active code enforcement efforts for bank-owned foreclosed properties.</p> <p>Establish programs to acquire and rehab foreclosed properties and resell them as affordable limited-equity ownership.</p> <p>Encourage banks to do bulk sales of foreclosed homes at a discount to nonprofits or land trusts, and to provide funding for counseling</p>
Land Trusts			Create an Oakland Land Trust using funds from the annual NOFA funds (HOME, Low/Mod Set-aside, Housing Trust Fund) to create affordable homeownership. Funds will be allocated at the time there is a concrete program and project. Could be used to acquire bank-owned foreclosed homes.	<p>Consider development of an Oakland Community Land Trust to acquire foreclosed homes and re-sell as affordable limited-equity homeownership.</p> <p>Funding to come from first year increases in the Low/Mod Housing Fund.</p>
Individual Development Accounts (IDAs)			Maintain and expand existing Individual Development Account (IDA) programs, including the Department of Human Services' City-wide Families Building Wealth IDA program. Seek new State, Federal and private funding: The IDA program will include both active education and a matching funds component to help low-income households save funds for home ownership, education or micro-enterprise development.	Support existing programs sponsored by the City and by nonprofits.

OTHER AFFORDABLE HOUSING PROPOSALS (continued)

	Blue Ribbon Commission (BRC)	Oakland People's Housing Coalition (OPHC)	Brunner Proposal	Mayor's Proposal
New Funding Sources	Place a measure on the ballot to issue \$200 million in general obligation bonds for affordable housing. Real Estate Transfer Tax generated by the initial sale of newly constructed housing should be dedicate for affordable housing development.		City Administrator will come back to Council with a report and recommendation on feasibility of a general obligation bond for affordable housing Investigate possibilities for new sources of funding for affordable housing.	City Administrator to evaluate and report on feasibility of a general obligation bond for affordable housing. Begin work to extend the life of the Central District (Downtown) Redevelopment Project Area, which would provide additional funding for lower income housing.
Home Ownership Assistance Program Expansion			Increase eligible income from 80% AMI to 100% AMI Increase loan limits on first-time homebuyer and homeowner rehab loans to 20% of median purchase price Increase teacher/public safety down payment program to \$50,000 with long-term deferred loans Use funds from the expanded Low-Mod fund to finance these changes.	Increase eligible income from 80% AMI to 100% AMI for both the First Time Homebuyer Program and the Homeowner Rehab Loan Program Increase loan limits on first-time homebuyer and homeowner rehab loans to 20% of median purchase price of homes in Oakland (with somewhat lower limits for households between 80% and 100% AMI). Increase teacher/public safety down payment program to \$50,000 with long-term deferred loans at 3% interest (similar to other programs). Use funds from the expanded Low-Mod fund to finance expanded homebuyer program. Expand Rehab Loan Program to entire City instead of 7 CD districts for borrowers below 80% AMI.

OTHER AFFORDABLE HOUSING PROPOSALS (continued)

	Blue Ribbon Commission (BRC)	Oakland People's Housing Coalition (OPHC)	Brunner Proposal	Mayor's Proposal
Legislative Priorities			<p>Support the establishment of a National Housing Trust Fund</p> <p>Support efforts to establish a permanent source of funding at the State level for affordable housing.</p> <p>Support legislation and regulations that provide maximum benefit to Oakland from Prop 1C housing and infrastructure funds.</p>	<p>Support establishment of National Housing Trust Fund.</p> <p>Work with Oakland's legislative representatives to increase appropriations in order to restore funding cuts and offset the decline in purchasing power of federal block grants for housing, homelessness and community development.</p> <p>Support efforts to establish a permanent source of funding at the State level for affordable housing.</p> <p>Support legislation and regulations that provide maximum benefit to Oakland from Prop 1C housing and infrastructure funds. Support targeting to mixed income projects with additional points for more affordability.</p>
Increase the Low Mod Set Aside	Increase the Redevelopment Low-Moderate set-aside of the tax increment from 25% to 35% within 2 years and 50% within 5 years.	Increase the Redevelopment Low-Moderate set-aside of the tax increment from 25% to 35%, at the earliest feasible time.	Increase the Redevelopment set aside to 35% for affordable housing development and first time homebuyers' programs	<p>Increase the Redevelopment set aside to 35% for affordable housing development and first time homebuyers' programs.</p> <p>Phase in this increase in each project area as total increment increases to not reduce current redevelopment activities.</p>
Dedicate Low Mod Funds	Require all Low Mod funds for new development to be spent for families at or below 60% AMI (maintaining the existing priority for 30% AMI and below), with exceptions for the first-time homebuyer program (up to 80% AMI)	Dedicate the existing Redevelopment Low Mod Housing funds to the lowest income communities (60% AMI and below, and maintain the existing priority for 30% AMI and below.)	<p>Require all Low Mod funds for new development to be spent for families at or below 60% AMI</p> <p>Require all low/mod funds used for first time homebuyers' programs to be spend for families at or below 100% AMI</p>	<p>Require all Low Mod funds for new development to be spent for families at or below 60% AMI, with additional competitive points for units serving 30% of AMI including homeless and special needs.</p> <p>Require all low/mod funds used for first time homebuyers' programs to be spend for families at or below 100% AMI</p> <p>Exemption for previously proposed assistance for Wood Street and Oak to Ninth projects</p>

OTHER AFFORDABLE HOUSING PROPOSALS (continued)

	Blue Ribbon Commission (BRC)	Oakland People's Housing Coalition (OPHC)	Brunner Proposal	Mayor's Proposal
Prevention and Eradication of Homelessness				<p>Provide \$500,000 per year in funding for emergency assistance (first and last months rent and security deposits) to tenants. Funding could also be used to provide emergency loans to low income tenants unable to pay rent.</p> <p>Provide \$1,000,000 per year in funding for social services in permanent supportive housing projects.</p>