



Housing Advisory Commission

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ACTION CALENDAR
October 16, 2012

To: Honorable Mayor and Members of the City Council
From: Housing Advisory Commission
Submitted by: Vince Casalaina, Chairperson, Housing Advisory Commission
Subject: Affordable Housing Mitigation Fee

RECOMMENDATION

Adopt a Resolution setting the Housing Mitigation Fee for new residential rental projects developed in the City of Berkeley. Consider the Commission's recommendations on changes to the provisions of the Affordable Housing Mitigation Fee Ordinance.

FISCAL IMPACTS OF RECOMMENDATION

None.

BACKGROUND

On September 6, 2012, after much discussion, the Housing Advisory Committee (HAC) repeated its support for setting the amount of the Affordable Housing Mitigation Fee pursuant to Berkeley Municipal Code Section 22.20.065, added by Ordinance No. 7,192-N.S. The HAC also supported inclusion of the following four additional points in the City Council's Resolution Establishing an Affordable Housing Mitigation Fee on the Council's action agenda for October 16, 2012.

- **Amount of the Fee** - The HAC reiterates its recommendation that the Affordable Housing Mitigation Fee be set at \$28,000 per unit. (M/S/C: Soto-Vigil/Rios. Ayes: Casalaina, Murphy, Rios, Soto-Vigil, Wang, Wolfe. Noes: None.)
- **Destruction of Rental Unit** - If a rental unit is destroyed through no fault or negligence of the owner, the newly constructed replacement unit shall not be subject to the Affordable Housing Mitigation Fee. Fault or negligence shall be determined by either city staff or by a finding of a court. (M/S/C: Wolfe/Soto-Vigil. Ayes: Casalaina, Murphy, Rios, Soto-Vigil, Wang, Wolfe. Noes: None.)
- **No Automatic Reduction** - Affordable Housing Mitigation Fees under this resolution would be imposed on projects located throughout the City. For a project located within the Downtown Area and subject to the Downtown Area Plan fees may be reduced only if a financial feasibility study demonstrates that the Affordable Housing Mitigation Fee would make the development financially infeasible. Such a study would be the developer's responsibility and would be

reviewed by City staff who would determine whether the claimed financial infeasibility was due to the Affordable Housing Mitigation Fee. (M/S/C: Soto-Vigil/Wolf. Ayes: Casalaina, Murphy, Rios, Soto-Vigil, Wang, Wolfe. Noes: None.)

- Applicability to Five (5) or More Units - The Housing Mitigation Fee should only apply to properties of five (5) or more units. This is in keeping with the provisions of the City's Inclusionary Housing Ordinance. (M/S/C: Casalaina/Soto-Vigil. Ayes: Casalaina, Murphy, Rios, Soto-Vigil, Wang, Wolfe. Noes: None.)
- Periodic Payment option - If there is a financial hardship for a developer to pay the Affordable Housing Mitigation Fee prior to the issuance of a certificate of occupancy, a qualifying developer has the option to pay the fee with interest over a period not to exceed five (5) years. (M/S/C: Wolfe/Soto-Vigil. Ayes: Casalaina, Murphy, Rios, Soto-Vigil, Wang, Wolfe. Noes: None.)

RATIONALE FOR RECOMMENDATION

As the HAC has previously stated, the uncertainty regarding the amount of the Housing Impact Fee is likely to have a detrimental effect on the development of market rate housing in the City and to delay additional funding for the City's Housing Trust Fund. The HAC believes the other recommendations will improve the City's implementation of the new fee.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

Please see the companion staff report for the City Manager's comments on the HAC recommendations.

CONTACT PERSON

Kathryn Hoover, Commission Secretary, (510) 981-5415
Vincent Casalaina, Commission Chairperson