

Affordable Housing Audit December 2018



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Audit Team:

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Audit Objective

- Examined internal controls for the creation and maintenance of affordable homes through:
 - Affordable Housing Permanent Fund Ordinance;
 - Inclusionary Housing Ordinance; and
 - City financing to developers



Audit Scope

- Affordable Housing Permanent Fund Ordinance: 2017 - July, 2018
- Inclusionary Housing Ordinance: 2002 – July, 2018
- Gap-funded projects: 2002 – July, 2018



Inclusionary Housing Ordinance (2002-2016)

- Enacted in 2002 to increase number of low- and moderate-income housing units
 - 10 percent of units in residential developments of 30 or more for-sale homes must be affordable
 - Developer may also pay a cash-in-lieu fee instead



Affordable Housing Permanent Fund Ordinance (2017-present)

- Approved a dedicated permanent source of funding for affordable housing in September 2016
- Consists of two funding sources:
 - Property Tax Revenue Fund
 - Linkage Fee Revenue Fund



Affordable Housing Fund, continued

Department of Community Planning and Development

- Responsible for the calculation and collection of linkage fees
- Responsible for coordinating approvals for linkage fee exemptions



Affordable Housing Procedures

Procedures apply to both Inclusionary Housing Ordinance and Affordable Housing Ordinance:

- Initial sale prices
- Re-sale prices
- Eligibility determination
- Covenant recording process



Finding 1

The Office of Economic Development's Lack of Proper Implementation and Enforcement of Regulations Is Not Ensuring Affordability of Housing



Sub-Finding 1: Initial Sales Prices

Inaccurate Initial Sale Prices Resulted in Mispricing of Homes

The Office of Economic Development:

- Calculates maximum sale prices for affordable homes
- Publishes maximum sale price tables

MAXIMUM SALE PRICES, INCOME & RENT LIMITS 2018						
SALES PRICES						
% AMI	Number of Bedrooms					
	Studio	1 BDRM	2 BDRM	3 BDRM	4 BDRM	
80%	\$176,181	\$187,553	\$232,167	\$262,816	\$278,259	
95%	\$214,004	\$230,751	\$285,936	\$320,725	\$340,508	
AREA MEDIAN INCOMES						
% AMI	Household Size					
	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
30%	\$18,900	\$21,600	\$24,300	\$26,950	\$29,420	\$33,740
50%	\$31,500	\$36,000	\$40,500	\$44,950	\$48,550	\$52,150
60%	\$37,800	\$43,200	\$48,600	\$53,940	\$58,260	\$62,580
80%	\$50,350	\$57,550	\$64,750	\$71,900	\$77,700	\$83,450
95%	\$59,850	\$68,400	\$76,950	\$85,405	\$92,245	\$99,085
100%	\$63,000	\$72,000	\$81,000	\$89,900	\$97,100	\$104,300
110%	\$69,300	\$79,200	\$89,100	\$98,890	\$106,810	\$114,730
115%	\$72,450	\$82,800	\$93,150	\$103,385	\$111,665	\$119,945
120%	\$75,600	\$86,400	\$97,200	\$107,880	\$116,520	\$125,160



Initial Sales Prices, continued

Sampling of Incorrect Initial Sales under the Inclusionary Housing Ordinance

Date of Initial Home Sale	Selling Price of Home	Maximum Allowed Sale Price	Amount Buyer Overpaid	Percentage Buyer Overpaid
September 2006	\$155,000	\$141,309	\$13,691	10%
December 2006	\$155,000	\$141,309	\$13,691	10%
March 2012	\$170,650	\$155,189	\$15,461	10%



Initial Sales Prices, continued

OED failed to calculate max sale price table for 2007

- 51 affordable homes possibly sold for less than they should have



Recommendation 1:

OED should design internal controls to ensure maximum sale price tables are calculated annually according to Inclusionary Housing Ordinance rules and that the correct table is used when selling an affordable unit.

Agency Response: Agree

Implementation Date: March 31, 2019



Sub-Finding 2: Income Eligibility

The Office of Economic Development Is Not Properly Determining Income Eligibility for Prospective Homebuyers of Affordable Homes



Income Eligibility, continued

Errors in Income Verification Process

- The Office of Economic Development did not ensure affordability of housing payments
- Seven of 23 for-sale units had housing payments above 30 percent of owner's gross income



Recommendation 2:

OED should design internal controls to ensure applicants' maximum monthly payments are calculated based on household monthly gross income

Agency Response: Agree

Implementation Date: Completed



Sub-Finding 3: Recording Process

Errors Exist in the Office of Economic Development's Recording Process



Recording Process, continued

Memoranda of Acceptance and Reception Number Errors

- Six improperly categorized Memoranda of Acceptance
- Three Memoranda of Acceptance recorded under misspelled names
- Five incorrect or missing reception numbers

Secondary Liens Could Improve Controls



Recommendation 3a:

OED should design internal controls so that recorded covenants and memoranda of acceptance are accurate, including incorporating a final review. Additionally, the Housing Officer should coordinate with the Clerk and Recorder's Office to remediate existing errors.

Agency Response: Agree

Implementation Date: May 31, 2019



Recommendation 3b:

OED should research the feasibility of using secondary liens to prevent improper resales of affordable homes.

Agency Response: Agree

Implementation Date: May 31, 2019



Sub-Finding 4: Resale Prices

The Office of Economic Development Miscalculated Maximum Resale Prices



Resale Prices, continued

- Incorrect and unsupported appraisals
- Incorrect and unsupported Case/Shiller Index rates applied
- Miscalculations in total days of ownership



Recommendation 4:

OED should design internal controls to ensure maximum resale pricing calculations are accurate and reviewed before issuing final quotes to prospective home sellers

Agency Response: Agree

Implementation Date: March 1, 2019



Sub-Finding 5: Cash-in-Lieu Payments

The Office of Economic Development Mishandled Cash-in-Lieu Payments



Cash-in-Lieu Payments, continued

Two options under Inclusionary Housing Ordinance:

1. Allocate 10 percent of units in development as affordable units and sell at below-market rates

OR

2. Pay fee instead of building, called “cash-in-lieu fee”

How a Cash-In-Lieu Fee Is Calculated:



OFFICE OF ECONOMIC DEVELOPMENT Housing & Neighborhood Development

Effective: January 1, 2014

MAXIMUM PRICES, CASH IN LIEU FEES, INCOME & RENT LIMITS					
SALES PRICES					
% AMI	Number of Bedrooms				
	Studio	1 BDRM	2 BDRM	3 BDRM	4 BDRM
80%	\$141,446	\$149,258	\$193,527	\$209,232	\$233,569
95%	\$182,992	\$196,805	\$252,845	\$273,392	\$302,339
CASH IN LIEU PRICES					
% AMI	Number of Bedrooms				
	Studio	1 BDRM	2 BDRM	3 BDRM	4 BDRM
80%	\$70,723	\$74,629	\$96,764	\$104,616	\$116,784
95%	\$91,496	\$98,402	\$126,423	\$136,696	\$151,169



Cash-in-Lieu Payments, continued

- Only two cash-in-lieu payments have been made since 2014
 1. OED used wrong table when determining cash-in-lieu
 - Over-charged developer \$35,762
 2. This error allowed City to issue building permit AND certificate of occupancy prior to collecting cash-in-lieu.
 - Took City 12 years to collect \$1.5 million cash in lieu fee



Recommendation 5:

OED should rectify the overpayment the office received in 2014

Agency Response: Agree

Implementation Date: January 31, 2019



Sub-Finding 6: Incomplete Data

**The Office of Economic Development Lacks
an Accurate and Complete Compliance
Database of Affordable Units**



Incomplete Data, continued

Data Inaccuracies Found:

- 27 units from two developments missing
- Nine reception dates in place of dates of sale
- One instance each of:
 - Owner placed in incorrect field,
 - Duplicate owner with incorrect sales price, and
 - Missing sales price



Recommendation 6:

OED should design internal controls to ensure a complete and accurate inventory of affordable units is maintained

Agency Response: Agree

Implementation Date: Fourth Quarter 2019



Sub-Finding 7: Incentive Payments

The Office of Economic Development Exceeded Incentive Payment Annual Maximum



Incentive Payments, Continued

- Incentive to developers for building affordable units under the Inclusionary Housing Ordinance
 - Sunsetted December 2016
- \$250,000 max can be paid out to any ONE developer per year
- The Office of Economic Development violated cap and paid out \$318,500 to one developer in 2018



Recommendation 7:

OED should design internal controls to ensure future Inclusionary Housing Ordinance incentive payments are processed, accounted for, and disbursed in a timely and accurate manner

Agency Response: Agree

Implementation Date: Completed



Sub-Finding 8: Rental Monitoring

The Office of Economic Development Is Not Monitoring Federally Funded Rental Projects in a Timely Manner



Rental Monitoring, continued

Code of Federal Regulations:

“The participating jurisdiction must review rents for compliance and approve or disapprove them every year.”

Section 92.252(f)(2) of Code of Federal Regulations states that “[t]he participating jurisdiction must review rents for compliance and approve or disapprove them every year.”



Rental Monitoring, continued

Rent-Monitoring Issues:

- No desk review for 10 of 14 HOME-funded rental projects for more than a year



Recommendation 8:

OED should perform desk reviews on a rolling, annual basis and work toward automating the process to reduce time spent performing reviews

Agency Response: Agree

Implementation Date: June 30, 2019



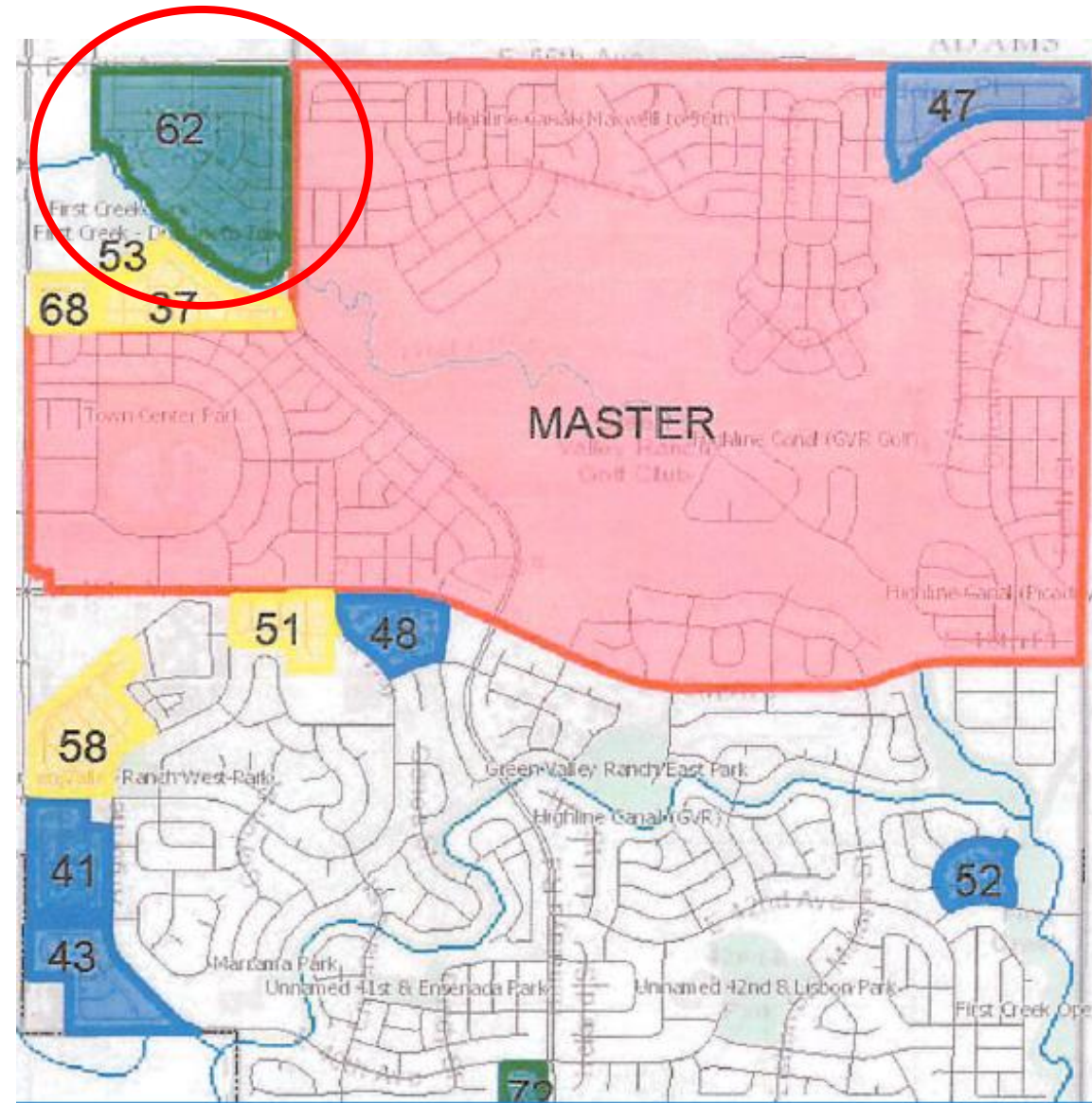
Finding 2

The Department of Community Planning and Development's Process for Assessing Linkage Fees Is Effective but Could Be Improved

Sub-Finding 1: Linkage Fees

Incorrectly Approved Linkage Fee Exemptions

- Examined 54 linkage fee exemptions
- Four residential projects incorrectly received exemptions





Recommendation 1:

CPD should create overlays for existing affordable housing plan's within department's mapping function

Agency Response: Agree

Implementation Date: February 15, 2019



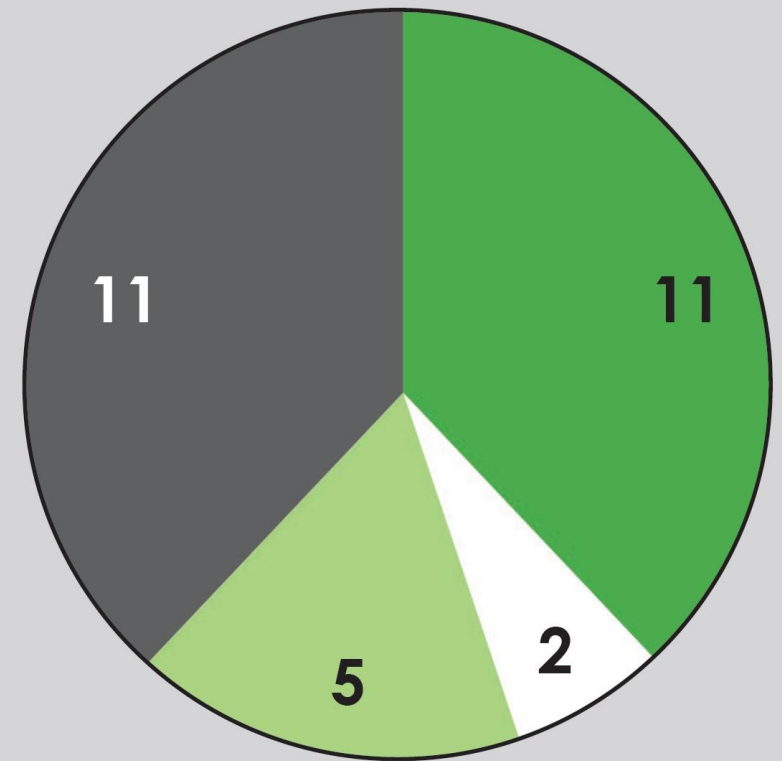
Sub-Finding 2: Application Review

Inconsistent Application of Review Procedures

- 19 of 54 linkage fee applications

PROCEDURE ERRORS BY ERROR TYPE

- Application Not on File
- No Indication of Review
- Exemption Misclassified
- Application Errors





Recommendation 2:

CPD should conduct training for staff who process and input linkage fee applications to ensure correct procedures are followed

Agency Response: Agree

Implementation Date: January 16, 2019

