

CITY OF OAKLAND
AGENDA REPORT

TO: Office of the City Manager
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: July 15, 2003

RE: **SUPPLEMENTAL REPORT ON SRO HOUSING**

At the May 13 meeting of the Community and Economic Development Committee, staff presented a report on Single Room Occupancy (SRO) housing, also known as residential hotels. The committee directed staff to prepare a supplemental report containing additional information, including a resolution to require replacement of SRO units demolished or converted by Redevelopment Agency actions. This supplemental report includes the following:

1. A proposed resolution expanding existing State law requirements for replacement housing to explicitly require that any SRO units removed from the housing supply in connection with a Redevelopment Agency project be replaced on a one-for-one basis with units of comparable size and with affordability to the same income level as the units being removed, including affordability to persons of extremely low income. Also included is a discussion of how such a policy could affect current and future redevelopment activities.
2. A discussion of the possible implications if the City were to enact stricter requirements for one-for-one replacement of SRO units removed as a result of private actions not assisted by the City or Redevelopment Agency.
3. Information regarding the extent to which recent housing projects assisted by the Redevelopment Agency or the City have provided units affordable to persons of extremely low income.

Fiscal Impact

As discussed below, adoption of the proposed resolution may have a significant fiscal impact on Redevelopment Agency projects. Provision of replacement housing units will require substantial financial subsidies which would need to be funded from housing funds typically used for family or senior housing or the first time homebuyer program since there are no available Central District dollars. For example, in order for housing units in the Forest City development to qualify as replacement units for the Westerner Hotel (which will be demolished to make way for the Forest City development), the Redevelopment Agency may need to provide additional subsidies of \$47,000 per unit, for a total of \$1,598,000. If replacement units are provided elsewhere, the required subsidies could be as much as \$100,000 or more per unit, (\$3,400,000 for the Westerner) because the Forest City project already includes financing to make units affordable to low income households (50 percent of area median income). In addition, ongoing

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subsidies for support services (several thousand dollars per year) would need to be paid by the Agency if no other sources could be identified.

One-for-One Replacement Requirement

A resolution has been prepared by staff and reviewed by the City Attorney that will establish a policy to require one-for-one replacement of SRO units removed from the housing supply as the result of a Redevelopment Agency project. This will include units removed directly by the Agency and units removed in connection with projects that are assisted by the Redevelopment Agency with financial subsidies, land writedowns or land purchased from or with the assistance of the Redevelopment Agency.

The resolution requires that SRO units be replaced with either SRO or studio units, and that the replacement units be affordable to the same income category as the persons residing in the units being removed. Replacement units could be studios, with rents affordable to a 1-person household, or SRO units with rents set at 75 percent of the level for a studio. When some of the units being demolished are vacant, the vacant units must have affordability levels in the same mix as the occupied units.

Requirements Under State Law

California Redevelopment law (Health and Safety Code Section 33315; relevant section are included in Attachment A) requires one-for-one replacement of housing units removed from the low and moderate income housing supply. Whenever a redevelopment project results in the removal of units housing persons of very low, low or moderate income (see Attachment B for current income limits), the redevelopment agency is responsible for ensuring that those units are replaced on a one-for-one basis with units affordable to very low, low or moderate income (depending on the incomes of the persons occupying the units removed). Replacement units must have an equal or larger number of bedrooms than the units removed.

As noted in the May 13 report, State law refers only to very low, low and moderate income, with no reference to replacement of units housing persons of extremely low income (incomes less than 30 percent of median income). As a result, if a project results in the removal of SRO units housing extremely low income persons, replacement units could be provided in the form of studio apartments (or even larger units) affordable to persons of very low income. These units would not be affordable to extremely low income single individuals, the typical residents of SRO units.

State law requires that at least 30 days prior to entering into an agreement with a developer of a project that would remove units from the low and moderate income housing supply, the Redevelopment Agency must adopt a replacement housing plan that includes, among other things, the general location of units to be developed or rehabilitated, a timetable for meeting the replacement housing requirement, and identification of an adequate means of financing the replacement units.

These requirements apply to the Redevelopment Agency, not to individual developers. While replacement housing units may be provided within the same projects that remove affordable units, this is not a requirement of the law. If the Redevelopment Agency can provide a replacement housing plan, housing units can be demolished or otherwise removed from the supply.

Summary of Proposed Resolution

The proposed resolution would establish a local policy to ensure one-for-one replacement of SRO units that are comparable in size and are affordable to extremely low income persons. The resolution generally follows the parameters of State law, but goes beyond those requirements by (a) explicitly requiring that only SRO or studio units be considered units of comparable size, and (b) explicitly requiring rents affordable to extremely low income households when units housing such households are demolished or otherwise removed from the low and moderate income housing supply.

Under current income limits, as published by the U.S. Department of Housing and Urban Development, SRO units occupied by single persons with incomes less than \$16,800 would have to be replaced by studios renting for no more than \$420 per month or SRO units renting for no more than \$315 per month.

Definition of Single Room Occupancy Housing

The City's Planning and Building Codes do not provide definitions of "Single Room Occupancy" or residential hotel units. The Planning Code distinguishes between rooming units and dwelling units, which collectively are known as living units. The major distinction is that dwelling units must have private cooking facilities, while rooming units do not. However, rooming units are found not only in traditional residential hotels, but also in dormitories and other facilities.

The proposed resolution establishes a definition of "Single Room Occupancy Unit" based on existing provisions of the Oakland Municipal Code and consistent with standard definitions used in Federal and State housing programs targeted to single room occupancy units. As used in the resolution, the term refers to housing units with a single room (not counting bathrooms), located in buildings that are used or intended for use for "Permanent Residential Activities" or "Semi-Transient Residential Activities" (at least 70 percent of units rented for periods of one week or longer). Single room occupancy units may or may not have cooking and bathroom facilities. Demolition or removal of "efficiency" or "studio" apartments would not be subject to the stricter requirements of the resolution (but are still covered by existing State law). Dormitories, rooming houses and other such facilities are explicitly excluded, as are commercial hotels serving tourists and business travelers, and any motel facility. To further specify the affected properties, a list of the 29 SROs identified by staff are identified in an attachment to the resolution.

Proposed Resolution May Make Certain Projects Infeasible

There are specific financial and development consequences that will result from the proposed resolution. As is true under current law, until the Redevelopment Agency adopts a replacement housing program, it cannot proceed to enter into agreements with, or provide financing to, developers of projects that would remove SRO units from the housing supply.

For example, under existing law, the proposed Forest City development could go forward because enough of the units in the development will qualify as replacement housing, and the Redevelopment Agency's replacement housing plan could identify units in the new development.

Under the proposed resolution, the new units in the Forest City development would not qualify as replacement units. Because the resolution requires that rents be affordable to extremely low income households, rents on some of the studio units would have to be reduced from approximately \$700 to \$420 in order to be affordable to extremely low income households. The resulting loss of income (\$280 per unit per month) would reduce the amount of private debt the project could support, and would require additional subsidies of approximately \$47,000 per unit to close the gap. This could add up to \$1.6 million to the subsidy required for the Forest City development, in order to replace 34 SRO units in the Westerner Hotel, which will be demolished to make way for the Forest City project.

If replacement units could not be provided in the Forest City project, then the Redevelopment Agency would have to adopt a plan to develop such units elsewhere. This could require the Agency to provide as much as \$100,000 per unit for development costs. In addition, it is likely that housing targeted to extremely low income households would need to include supportive services of some type. These services generally cannot be financed with public funds for affordable housing development, so it would also be necessary to find separate funds that could pay for such services on an ongoing basis.

As noted in the May 13 report, operation of new or substantially rehabilitated SRO housing is unlikely to be feasible without substantial subsidies, and most local nonprofit developers have expressed an unwillingness to take on new SRO projects without long-term rental subsidies through the Section 8 program. At present, this rules out many areas of the City, and where Section 8 can be used, it can only assist 25 percent of the units in a building. Unless Section 8 subsidies can be secured, it may not be possible to find developers willing to build traditional SRO units, and the replacement housing would then consist of studio apartments affordable to extremely low income households. This alternative may produce more desirable housing (somewhat larger units, with private kitchens and bathrooms), but could also include rents that are \$100 per month higher than rents for SRO units.

If the Redevelopment Agency were able to identify locations, timing and financial resources to develop replacement units either adjacent to the project site or elsewhere in the City, it would then be possible to adopt a replacement housing plan and proceed with the development. However, given the lack of adequate financing mechanisms, it may prove extremely difficult to provide replacement units at some other location.

It is therefore possible that adoption of this resolution could delay or stop the development of the Forest City project, at least as the project is currently proposed.

Another project that may be affected is the Royal Hotel at 20th Street and San Pablo Avenue. However, as is true under current law, this project would only be affected if the developer receives assistance from the Redevelopment Agency.

Replacement Housing Requirements for Private Projects

Neither existing State law nor the proposed resolution affect projects undertaken without public financial assistance. Without involvement by the Redevelopment Agency, the projects themselves would not trigger requirements for one-for-one replacement as outlined above.

There is an existing City ordinance (Section 17.102.230) that requires a major conditional use permit (approved by the Planning Commission and appealable to the City Council). In order to demolish an SRO or convert the units to some other non-residential use (other than a commercial hotel), a project must obtain a conditional use permit based on one of four criteria. This ordinance is explained in greater detail in the May 13 report.

If the City wanted to require one-for-one replacement of SRO units removed through private action, it could revise the Planning Code to (a) provide a better definition of SRO units, (b) define exactly what qualifies as replacement units, (c) define what kinds of actions are subject to the ordinance (e.g., conversion to apartments, conversion to a commercial hotel, etc.), and (d) provide clearer criteria for making the finding that the benefits to the City from the proposed conversion or demolition of SRO units outweigh the loss of the units.

Unlike State Redevelopment Law, the City ordinance would cover purely private actions. If a project could not meet the standards for granting a conditional use permit, it would not secure a permit for demolition. One alternative to direct provision of replacement housing would be an "in lieu" option that allows developers to deposit funds with the City in an amount sufficient to assist future (but identified) housing development projects.

Impacts on Private Development and Existing Hotel Owners

These kinds of changes would have major impacts on existing hotels and on future development. First, if the only basis on which a conditional use permit can be awarded is that replacement units will be provided, this would require substantial contributions by the developer to ensure that comparable replacement units are provided. Payment of in-lieu fees could be equally costly. Second, these additional costs could make new development infeasible, thereby hindering the City's efforts to redevelop the downtown. Third, it could prevent hotel owners from finding buyers for their properties.

As described in the May 13 report, private financing for rehabilitation of SROs is not feasible (because it would require rent increases in excess of market rents), and it has been difficult to

interest private owners in public financing because they consider the rent and occupancy limitations too restrictive. If owners face greater difficulty in selling their properties, but are also unable to finance the rehabilitation of those buildings, the result could be further deterioration in the condition of the SRO housing stock.

Assisted Housing Projects Serving Extremely Low Income Households

The Community and Economic Development Committee also requested a report on the extent to which recent City-assisted affordable housing projects serve extremely low income households. Staff has analyzed the affordability of all assisted housing produced since 1999, as well as projects that are in predevelopment and under construction. Out of 2,091 units, 86 units are affordable to households at 35 percent of median income.

An additional 638 units are affordable to extremely low income households. However, these units are affordable only because they are receiving project-based rental assistance from the Federal government, as part of the HOPE VI assisted public housing and Section 8 programs, or in conjunction with grants provided for development of housing for seniors and persons with disabilities. These units are available to households with incomes up to 50 percent of median, but in practice the average income of the residents in these units is between 20 and 30 percent of median income, and residents pay no more than 30 percent of their income for rent.

Most of the units affordable to extremely low income households are targeted to families and seniors; very few are available to single, non-elderly individuals. As a result, these units are unlikely to provide adequate replacement housing for SRO units that are removed from the housing supply.

Respectfully submitted,

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**Interim City Manager for the Community
and Economic Development Agency**

APPROVED AND FORWARDED TO THE
CITY COUNCIL

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Attachments

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Replacement Housing Requirements of California Health and Safety Code

33413. (a) Whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project that is subject to a written agreement with the agency or where financial assistance has been provided by the agency, the agency shall, within four years of the destruction or removal, rehabilitate, develop, or construct, or cause to be rehabilitated, developed, or constructed, for rental or sale to persons and families of low or moderate income, an equal number of replacement dwelling units that have an equal or greater number of bedrooms as those destroyed or removed units at affordable housing costs within the territorial jurisdiction of the agency. When dwelling units are destroyed or removed after September 1, 1989, 75 percent of the replacement dwelling units shall replace dwelling units available at affordable housing cost in the or a lower income level of very low income households, lower income households, and persons and families of low and moderate income, as the persons displaced from those destroyed or removed units. When dwelling units are destroyed or removed on or after January 1, 2002, 100 percent of the replacement dwelling units shall be available at affordable housing cost to persons in the same or a lower income category (low, very low, or moderate), as the persons displaced from those destroyed or removed units.

33413.5. Not less than 30 days prior to the execution of an agreement for acquisition of real property, or the execution of an agreement for the disposition and development of property, or the execution of an owner participation agreement, which agreement would lead to the destruction or removal of dwelling units from the low- and moderate-income housing market, the agency shall adopt by resolution a replacement housing plan. For a reasonable time prior to adopting a replacement housing plan by resolution, the agency shall make available a draft of the proposed replacement housing plan for review and comment by the project area committee, other public agencies, and the general public.

The replacement housing plan shall include (1) the general location of housing to be rehabilitated, developed, or constructed pursuant to Section 33413, (2) an adequate means of financing such rehabilitation, development, or construction, (3) a finding that the replacement housing does not require the approval of the voters pursuant to Article XXXIV of the California Constitution, or that such approval has been obtained, (4) the number of dwelling units housing persons and families of low or moderate income planned for construction or rehabilitation, and (5) the timetable for meeting the plan's relocation, rehabilitation, and replacement housing objectives. A dwelling unit whose replacement is required by Section 33413 but for which no replacement housing plan has been prepared, shall not be destroyed or removed from the low- and moderate-income housing market until the agency has by resolution adopted a replacement housing plan.

Nothing in this section shall prevent an agency from destroying or removing from the low- and moderate-income housing market a dwelling unit which the agency owns and which is an immediate danger to health and safety. The agency shall, as soon as practicable, adopt by resolution a replacement housing plan with respect to such dwelling unit.

Attachment B

**Income Limits Under California State Law
(Maximum household income for each category)**

Income Level	Percent of Median Income	Household Size	
		1 person	2 persons
Extremely Low	Less than 30 percent	\$16,800	\$19,200
Very Low	30 – 50 percent	\$28,050	\$32,050
Low	50 – 80 percent	\$44,850	\$51,250
Moderate	80 – 120 percent	\$56,100	\$76,920