August 2, 2018

Kansas City, Missouri Housing Policy Task Force  
C/o John A. Wood, Assistant City Manager/Director  
Neighborhoods & Housing Services Department  
4th Floor, City Hall  
414 E. 12th Street  
Kansas City, MO 64106

Dear Task Force Members,

The Urban Neighborhood Initiative, an organization dedicated to breaking the cycle of poverty by building healthy neighborhoods where all residents can succeed and thrive. For the past three and a half years we have been the convener of a Collective impact Initiative called Vacant to Vibrant (V2V), established to help accelerate the pace at which we are able to transform vacant properties to productive use. We have been pleased to have some of Kansas City’s most knowledgeable and committed individuals serve on V2V’s five Action Groups formed to address the most pressing issues related to vacancies.

As the housing market changed and interest in properties in the urban heart of our city grown, we recognized the threat to the maintenance and expansion of housing for residents of low and moderate means, those who have been the long time resident of our urban core areas. Subsequently we have turned much of our recent efforts to this issue.

We convened members of our Action Groups, neighborhood residents and a number of others concerned about this issue. Over the last seven months that group has met to discuss the challenges and potential solutions to what we see as an “affordability crisis”. The group spent significant time hearing presentations from experts, asking questions and dialoging in large and small groups. Based on that process, which culminated in a ranking of strategies, the group now recommends 24 strategies to preserve and expand affordable housing. This includes both programmatic and policy recommendations. While we limited our recommendations to 24 we recognized and discussed other very worthwhile strategies. For example, we did not include a strategy around energy efficiency and sustainability though we discussed a number of these and recognize that they are critical to making housing affordable on a long term basis. We have included Policy Briefs on our number of our recommendations to provide more in-depth background on them.
Many of our recommendations align with recommendations to those who attended the Town Hall meetings on this subject and we urge your adoption of them. I know that we want us to be the kind of city where residents at all income levels have housing options throughout our city that are safe, sound and healthy. The work of the Housing Policy Task Force is critical in making that happen.

Thank you for your consideration.

Dianne Cleaver

President & CEO
Urban Neighborhood Initiative
Acknowledgements

Many thanks to the individuals who contributed their time, ideas and expertise to the development of the Affordable Housing Recommendations! The following people participated in one or more UNI Task Force convening:

Maleah Ahuja, Legal Aid of Western Missouri
Ted Anderson, Land Bank of Kansas City
James Baker, BNIM
Paul Barham, Codes for KC
Karen Boyd, Ivanhoe Neighborhood Council
Tori Cawman, Kansas City Police Department
Dianne Charity, Manheim Park Neighborhood Association
Michael Charity, Manheim Park Neighborhood Association
Erica Dobreff, Kansas City Equity Fund
Bill Drummond, Manheim Park Neighborhood Association
Michael Duffy, Legal Aid of Western Missouri
Monica Enloe, Clemons Real Estate
Gloria Fisher, Westside Housing
Jeff Goodman, Better Homes and Gardens Real Estate
Myeisha Green, The Real Estate House
Colleen Hernandez, Community Volunteer
Lindsay Hicks, Habitat for Humanity Kansas City
Peter Hughes, Center City Neighborhood Council
Winfred Jamison, Jackson County Legislature 2nd District
Abby Judah, Legal Aid of Western Missouri
Alecia Kates, Mid America Regional Council
Katie Killen Legal Aid of Western Missouri
Obiagele Lake, Food for People KC
Amanda Lazorshack, Center City Neighborhood Council
Gregg Lombardi, Neighborhood Legal Services for KC
Bob Long, Economic Development Corporation of Kansas City
Nailay M’Biti, Ivanhoe Neighborhood Council
Brandon Mason, Legal Aid of Western Missouri
Jerry McEvoy, National Association of Construction Contractors Cooperation
Clay McQuerry, Rebuilding Together KC
Tafita Medina-Thomas, Family First Funding
Heidi Moore, Family First Funding
Larry Myer, ICR Real Estate Services
Ben Peyton, LISC
Blaine Proctor, SAVE, Inc.
Stacy Purvis, First Federal Bank
Connor Reeves, Think Realty
Dennis Robinson, Ivanhoe Neighborhood Council
LaShyeka Roland, City of Kansas City
Ben Ryan, Kansas City Police Department
Leslie Scott, Squier Park Neighborhood
Daniel Serda, LISC
Doug Shafer, Manheim Park Neighborhood Association
Jerry Shechter, City of Kansas City
Jeannine Short, Community Linc
Trevor Singer, Kansas City Police Department
Jim Stacy, Stacy Company LLC
Joy Stamps, Manifest Properties
Jennifer Tidwell, City of Kansas City
Vicki Tomlinson, Community Volunteer
Pat Turner, Habitat for Humanity Kansas City
Sheryl Vickers, Select Properties
Ross Vogel, Heartland Housing Partners
Chris Vukas, Sunflower Development Group
Brandon Weiss, UMKC School of Law
Vera Williams, Surface Water Solutions
Amanda Wilson, LISC
Endorsements

The following individuals/organizations lend their full endorsement to the attached recommendations:

Maleah Ahuja, Community Supporter

Darryl Answer, Ivanhoe Neighborhood resident

Drew Arensberg and Kara Tweedy, East Aster Brewing Company, Mount Hope Neighborhood

James Baker, Ward Parkway Neighborhood resident

Paul Barham, 49/63 Neighborhood resident

Beacon Hill McFeders Community Council, Dee Evans, President

Rev. Chauncey R. Black, Boston Heights and Mount Hope Neighborhood Association

Blue Hills Neighborhood Association, Cheryl Barnes, President

Center City Neighborhood Council Board of Directors, Peter Hughes, President

Diane Charity, Bancroft School Apartments tenant, Historic Manheim Park Neighborhood

Erica Dobreff, President, Kansas City Equity Fund / Gateway CDFI

Jill Erickson, Oak Meyer Gardens Neighborhood resident

Ron Farmer, Vice President, CHES, Inc.

Gloria Fisher, Kansas City, Missouri 6th District

Colleen Hernandez, Westside Neighborhood resident

John James, President, Wendell Phillips Neighborhood Association

Esther Kershaw, President, Boston Heights and Mount Hope Neighborhood Association

Emily Keimig, Oak Meyer Gardens Neighborhood resident

Amanda Lazorchack, Center City Neighborhood resident

Gregg Lombardi, Neighborhood Legal Services of Kansas City, Inc.

Nailah R. M’Biti, Ivanhoe Neighborhood resident

Sonya Nicholson, Historic Manheim Park Neighborhood resident

Dennis L. Robinson, President, Ivanhoe Neighborhood Council
Eric Rosell, Blue Hills resident
Leslie Scott, Squier Park Neighborhood resident
Daniel Serda, Greater Kansas City LISC
Doug Shafer, Vice-President, Historic Manheim Neighborhood Association
Karen Slaughter, President, Key Coalition Neighborhood Association
Wanda Taylor, Troostwood resident
Pat Turner, President/CEO, Habitat for Humanity of Kansas City.
Sheryl Vickers, Select Sites LLC and CRV LLC
Sherita Williams, President, Historic Manheim Park Association
Brandon M. Weiss, Associate Professor of Law, UMKC School of Law
Affordable Housing Policy Recommendations
from the Urban Neighborhood Initiative
Affordable Housing Task Force

*Asterisk indicates that a short policy paper is available on the strategy*

Category 1 Preserve naturally occurring (not subsidized) affordable housing

A. * Establish a Community Land Trust
   ▪ Requires purchase-restrictive covenants so that when the house is sold, it continues to be affordable

B. * Extend current property tax abatement programs and/or establish additional abatement programs for residents meeting certain criteria in gentrifying areas

*Maintenance*

C. * Revive the Rehab Loan Corporation for homeowners and rehabbers; The RLC was a highly successful city program that made very low interest loans to homeowners to keep up their properties and to rehabbers. The default rate was low. The RLC shut down due to management issues, not program failure.
   ▪ Requires $20 M City capitalization, administration

D. Provide core operating support for nonprofit CDCs rehabbing homes. *Core operating support would help to stabilize nonprofit CDCs who are primary builders of affordable housing.*

E. Expand funding for the city minor home repair program.

*Expiring federally subsidized rental housing*

Estimates are that nationally nearly 500,000 federally assisted apartments or rental homes will reach the end of their current subsidy contracts and affordability restrictions in the next five years.

F. * Pass a local ordinance that requires owners of subsidized properties with expiring or terminating use restrictions to 1) provide a one-year notice to affected tenants and the KC Department of Neighborhoods and Housing Services Department of the upcoming loss of restrictions, and 2) require that such owners provide tenants or their chosen qualified nonprofit a right of first refusal in the event the owner intends to sell the property.

G. The City helps nonprofits to acquire deteriorated rental housing when ownership is changing due to litigation *in order for them to convert to affordable housing.*
Category 2  Create new affordable housing

A. * Lobby for restoration of state Low Income Housing Tax Credits (LIHTC)

B. * Require affordable housing set asides for...
   - Tax abated new construction like downtown
   - New construction near new street car lines since they are generating much development along proposed routes
   - Other high value areas of the City

C. * In lieu of set asides, development linkage fees for new development. Linkage fees, sometimes called impact fees, are fees based on rationale that new development {Office, retail, hotel, industrial, multifamily residential} creates an increased demand for affordable housing for new workers drawn to the area.

D. Require inclusionary zoning for all new housing development

E. Establish smaller permit fees and faster approval for affordable housing

F. Pass new subdivision ordinance that requires affordable set aside or buy out option (like those used to preserve parkland to ensure that some green space remains).

G. * Develop a comprehensive strategy to clear titles of low value homes

H. City regulation of contract-for-deed home purchases - Under a contract for deed, the buyer of real estate makes a down payment and agrees to make remaining payments at a specified rate of interest in installments to the seller. The buyer normally takes possession of the property at the time the contract for deed is made. ... The contract for deed is a form of owner financing and holds risks for both the seller and buyer.

I. *Exempt nonprofit owners of affordable housing from property taxes

J. *City provides financial assistance to City employees to convert them from renters to home owners

K. Create a City housing trust fund with a funding source to support affordable housing
Category 3  Increase stability of affordable rental housing

A. Create a rental eviction legal clinic staffed by Legal Aid and others thereby making legal representation possible for low income individuals.

B. Require increased notice time for eviction trials

C. Limit tenant late fees

D. Take legal action against extra-judicial tenant evictions which are barred by City ordinance
   ▪ City prosecution of offending rental managers

E. Expand Healthy Homes ordinance (if approved in August)
   ▪ Standardize lease terms
   ▪ * Prevent source-of-income discrimination: In searching for a dwelling, many households face discrimination by landlords who are unwilling to rent to voucher holders. A number of states and localities have made source of income a protected class, meaning a property owner cannot choose to reject an applicant based on where his income comes from as long as it is a lawful source (e.g., alimony, child support or other compensation). This also includes Section 8 housing subsidies.
   ▪ Create a public data base of affordable housing so that affordable housing options can be easily identified.

F. * City funding for retrofitting homes to support aging-in-place including lobbying for a Missouri legislative waiver allowing home modifications for Medicaid-eligible seniors to be an allowable Medicaid expense so that older adults can stay put and still be safe
Category 1A
Form a Community Land Trust Under the City Land Bank
A Tool to Provide Permanent Affordable Housing Units for Owner Occupants

Issue

Because the private market determines housing prices, it can be difficult to maintain affordable owner-occupant housing in a specific geographic area. A home is a basic human need, but it is also an investment and a potential source of wealth. Homeowners aim to not only recoup acquisition and improvement expenses, but to make a profit upon sale. Depending on the initial purchase price, this ability to recover living expenses often makes homeownership more affordable than renting in the long run. With this steady increase in home values since the recession, however, the number of affordable homes available to purchase continues to decrease, especially for first time homebuyers.\(^1\) Further, the Kansas City metro’s population has increased by nearly 100,000 people since 2010 and the number of available homes has decreased 55.4% from 2012 to 2017, making affordable home ownership even less attainable.\(^2\)

While affordable housing is one issue, Kansas City also has a surplus of vacant lots and abandoned properties. The primary focus for the past few years has been the elimination of blight, either by rehabilitation or demolition. In 2016, the City of Kansas City announced a plan to demolish over 800 dangerous buildings.\(^3\) While this program has led to the elimination of hundreds of dangerous structures in Kansas City’s neighborhoods, this has also increased the number of vacant lots held by the Land Bank, which has over 3,000 vacant lots in its inventory.\(^4\) The Land Bank has been successful in selling most of its inventory of houses and structures, but other than being purchased as a side yard, most people have little use for a vacant lot. This leaves the City with the burden of owning and maintaining thousands of vacant parcels.

Solution

A Community Land Trust (“CLT”) is a nonprofit corporation that holds land in trust for agricultural, commercial, or residential uses. It has more recently been implemented as a tool for preserving affordability for owner-occupied homes. The CLT form was established in the 1960s and there are now approximately 225 CLTs in 46 states.\(^5\)

---

\(^1\) Home values have increased 11% in the past year. *Kansas City Home Prices & Values*, Zillow (May 31, 2018), https://www.zillow.com/kansas-city-mo/home-values/.


\(^4\) Interview with Michael Patillo, Operations Manager, Land Bank Kansas City, Missouri (July 13, 2018).


Principal Author: Abby Judah
With the traditional model, the CLT acquires the land and maintains ownership of the land, but not the home, permanently. The CLT is usually comprised of a specific service area, with corporate members and a tripartite board. This specific service area can be a general geographic location with scattered sites or could resemble something akin to a subdivision. The homeowners purchase the structure, the CLT maintains ownership of the land on which the structures sit, and the two are typically bound through a 99-year ground lease. The deed or lease will likely contain various covenants and/or restrictions regarding the use of the property and describe the parties’ responsibilities, such as the duty to perform regular maintenance on the property.

The deed and/or lease will also stipulate restrictions of use and resale, often capping the amount for which the property can be sold. To promote affordability, the initial listing price is usually below market value, and increases in value are then determined by a variety of factors, such as area median income and improvements made. Some CLTs use an “appraisal-based formula” to cap the resale value, where the appraisal at the time of purchase is subtracted from the appraisal at the time of sale, and that amount is then multiplied by an established percentage, such as 25%. In addition to these caps on sale prices, the CLT may also implement certain income guidelines for purchasers, in order to provide affordable housing in a targeted manner.

While CLTs are often owned by an independent nonprofit corporation, a municipality, especially one with a land bank, would be well-positioned to start its own CLT. One example is the Irvine Community Land Trust, formed by the City of Irvine, California. This CLT is not directly governed by the City of Irvine, but the City appoints all of the CLT’s directors. This format is similar to the Kansas City, Missouri Homesteading Authority, a separate nonprofit corporation

---

6 For example, the Springfield Community Land Trust requires nine directors on its board; three representing the “Lessee Members,” three representing the community, and three representing the interests of the general public.

7 The formula used by the Irvine Community Land Trust to determine the resale price is the initial purchase price added to the increase in price based on change in area median income plus the value of approved capital improvements. What is a Community Land Trust, Irvine Community Land Trust, [link](http://www.irvineclt.com/about/what).


9 The Irvine Land Trust requires the following:
   [1] The head of the household must be at least 18 years of age,
   [2] Pre-qualify for prime mortgage financing
   [3] Contribute at least 5% to the total purchase price, including closing costs
   [4] Understand and agree to the restrictions of CLT ownership, particularly the limited equity resale formula.

Most units will be limited to households earning less than 120% of the Area Median Income (AMI) and many will be limited to those earning less than 80% of AMI. ICLT may offer some units for households earning more than 120% of AMI.

FAQ, Irvine Community Land Trust, [link](http://www.irvineclt.com/about/faq.html).

10 Davis, supra note 8, at 6.

that is controlled by the City of Kansas City. Even with the city-governed CLT, there is still some autonomy, as shown in the classic organization of the entity:

(1) A corporate membership that is open to any adult resident of the CLT’s service area;

(2) A governing board that is composed of equal numbers of lessees, corporate members who are not lessees, and any other category of persons described in the CLT’s bylaws; and

(3) Direct election of a majority of the directors on the governing board by the CLT’s members.12

This model is appropriate for Kansas City because the Land Bank of Kansas City, MO already has a large inventory of vacant lots. These lots are often sold for $75-$1,000, depending on the size and intended use. The CLT has a compatible goal of acquiring the land at a low price. Because both the CLT and the Land Bank have owner occupancy as a primary goal, the Land Bank board could have the discretion to convey the properties for a combination of monetary and nonmonetary consideration.

Revenue and Expense Implications

Funding would be needed for the formation of the CLT, title clearing actions, building and/or rehabilitating the structures, and land acquisition. With most of the land being acquired from the Land Bank, the acquisition costs should be low. Development costs, however, will likely need to be subsidized by the City to promote affordability, but purchase prices of the homes should cover at least two-thirds of construction or rehabilitation expenses.

Legislative Implications

An ordinance will likely be required for the City of Kansas City to form a Community Land Trust.

Party Responsible for Implementation

The City’s Neighborhoods and Housing Services Department, including the Land Bank, should implement this policy.

Timeline

This will likely take a few years to implement. The formation of the CLT should be furthered studied to determine the costs associated with this project and potential developers need to be identified.

---

12 Davis, supra note 8, at 98.
Category 1B

Use City Tax Abatement Tools to Ease Gentrification Effects

The Problems

A number of Kansas City’s urban core neighborhoods are experiencing gentrification and displacement. Gentrification may generally be described as an influx of residents with higher incomes into a neighborhood whose existing residents have lower incomes. Displacement may generally be described as the economic replacement of lower-income residents by higher income residents due to increasing rents and property values that newer higher income residents are willing and able to pay. Several neighborhoods, such as the Westside (particularly the northern portion), the Central Business District, Columbus Park, Crossroads, Beacon Hill, Pendleton Heights, Scarritt Renaissance, and Longfellow/Dutch Hill, are already well into the gentrification process. Other neighborhoods, such as Squier Park, Manhien, and Troostwood, are showing signs of gentrification.

Many, but not all, of the neighborhoods experiencing or showing signs of gentrification and displacement are located within existing redevelopment incentive areas or have specific projects within the neighborhood boundaries that benefitted from redevelopment incentives. These redevelopment incentives largely consist of property tax abatement, which is intended to help make projects feasible and attractive to developers by reducing annual operating costs. These property tax abatements can be provided by the Land Clearance for Redevelopment Authority (LCRA) through its Urban Renewal Areas, the Planned Industrial Expansion Authority (PIEA) through its Planned Industrial Expansion Areas, and a Chapter 353 Plan. While many low income housing tax credit (lihtc) projects and other affordable or workforce housing projects have benefitted from these property tax abatement programs, many of the projects approved in recent years have been market-rate or luxury residential projects.

There is a growing feeling that many of these projects have accelerated the gentrification and displacement processes in their neighborhoods. All properties within existing Urban Renewal Areas, Planned Industrial Expansion Areas, and Chap. 353 Plans are eligible for property tax abatement; however, projects must be specifically approved in order to receive property tax abatement (with the exception of homeowners). A moratorium on tax abatement has been suggested, but this would disincentivize all property owners from making any improvements to existing buildings or constructing new buildings.

The Proposal

The City of Kansas City and its statutory agencies (LCRA, PIEA, and Chap. 353 Advisory Board) should consider changing policy regarding who qualifies for tax abatement, what projects qualify for tax abatement, and which projects would not qualify for tax abatement.

The proposed policy alternatives are described below:

- In order to not reward gentrification, property tax abatement should be limited to new homes whose construction costs or existing homes whose rehabilitation costs are at or below 100% (120%?) of the Market Value Assessment average for that neighborhood. This would avoid

Principal Author: Bob Long
rewarding newcomers who are building expensive new homes; however, it would not prohibit such investments.

- Consider limiting property tax abatement to homeowners that have owned and resided at the property for five or more years (10 years).
- For proposed multifamily projects, consider limiting property tax abatement to only affordable or workforce housing projects, or mixed-income projects that are at least 20% or more of the units are either affordable or workforce housing.
- In order to reduce or eliminate displacement of low-/mod.-income homeowners within gentrifying neighborhoods, consider the creation of “overlay” Chap. 353 Plans and/or Urban Renewal Areas that would provide property tax abatement to only long-term, low-/mod.-income homeowners. Eligible homeowners would be required to keep the property free of exterior code violations and maintain residency throughout the term of the property tax abatement.
- In order to prevent the conversion of existing affordable (lihtc) projects to market-rate, consider not providing property tax abatement to projects seeking to do so or consider granting a new tax abatement in order to enable a developer to maintain the project as affordable or workforce housing.
- In order to prevent or mitigate the loss of existing residential units, especially affordable and workforce units, consider requiring one-for-one replacement as part of any project proposed by a developer.

Legislative & Implementation Implications

These policy alternatives do not appear to require state legislative changes. The City Council could consider adopting Resolutions asking the statutory agencies to consider and implement these policy alternatives.

After seeking appropriate input, the statutory agencies, LCRA, PIEA, and Chap. 353 Advisory Board, could consider and adopt these policy changes after any modifications deemed necessary or advisable. The LCRA could, for example, amend its Workable Program to reflect any approved policy changes and apply it to all existing and future Urban Renewal Areas. The PIEA could consider a similar policy. The Chap. 353 Advisory Board and City Council could consider adopting these alternatives as part of new Chap. 353 Plans, Plan amendments, and Redevelopment Contracts.
Category 1C
Reinstitute City-Sponsored Home Rehab Loan Agency

Problem

Financing for small and moderate home rehabilitation in the inner-city is very difficult to find. Conventional lenders rarely serve this need. The resulting lack of ability to maintain lower-value homes over the years has lead to family displacement, abandonment, loss of affordable housing stock, and blighted neighborhoods.

Solution

The City shall reinstitute its Rehab Loan Agency and recapitalize it. The Agency will make affordable, medium term loans to homeowners and rehabbers of lower value homes in Kansas City, where the conventional credit options are meager.

Background

Kansas City established its Rehab Loan Corporation (RLC) in 1976, and operated it until 1997, when it was merged into the City Housing and Economic Development Finance Corporation (HEDFC), and phased out. The RLC’s mission was to make loans to low-income homeowners and apartment owners in the inner-city to perform home improvements needed to maintain habitability and avoid abandonment.

This proposal¹ is to bring back the best elements of the Rehab Loan Corporation, with the purpose of serving it’s original mission of preserving low-income housing for homeowners, and now to meet the current need of financing short and medium terms loans for rehabbers of vacant, blighted homes in distressed areas of Kansas City. The new entity would be called the Home Rehab Loan Agency (HRLA).

During its more than twenty year life, the Rehab Loan Corporation made over 1,000 loans and recoverable grants. It was a stand-alone nonprofit, operating under a funding agreement with the City. It was one of the City’s most successful housing programs ever, until its ill-conceived merger with Housing and Economic Development Finance Corporation (HEDFC). Once the City Council voted in 1997 to merge the Rehab Loan Corporation with the HEDFC, the loan program atrophied under ineffective leadership and eventually fell into receivership and demise.

Establishment of a Home Rehab Loan Agency, overseen by the City with an expanded mission, could be funded by City general revenue, a bond issue, and/or a TIF housing

¹ Text taken in part from an original study prepared by James M. White in 2006.

Principal Author: Michael Duffy
overlay in the inner-city area,' and serve to finance the rehabilitation of hundreds of now vacant, blighted homes, as well as finance the repair of occupied homes in danger of abandonment.

The original Rehab Loan Corporation was initially capitalized with $10 Million of CDBG federal funds, which are not likely available today. Once established, the original Rehab Loan Corporation became self-sufficient due to revolving loans and program income. It had a staff of 22, creating operating expenses of about $2 million per year, and an additional $2.5 million in annual revenue to be loaned out.

The Rehab Loan Corporation made about 100 home loans per year, averaging about $20,000 per loan. The loans were low interest, 3%, and secured by a 5-20 year mortgage lien, often a second mortgage. The non-economic part of the loan (debt exceeding the home value) became a recoverable grant (recovered only upon sale, if proceeds were available). An internal Loan Review Committee examined borrower qualifications, but used flexible underwriting criteria. The default rate was about 1%—less than with conventional lenders.

Like the Rehab Loan Corporation, the new Home Rehab Loan Agency would maintain a list of pre-approved contractors. When a borrower wanted a loan for home repairs they would be required to seek bids from three contractors from the list and pick the lowest. Home Rehab Loan Agency staff would do an initial scope of work analysis and approve the bid and loan only if it fell close to that analysis. Ten percent of the loan, and payment to the contractor, was withheld for up to a year to guarantee satisfactory work.

A maintenance reserve account was established by the Rehab Loan Corporation, adding about $10 per month to the borrowers’ installment payments, to pay for future repair costs without need for added borrower debt. This would essentially insure the home for the duration of the loan, making the loan more secure as well as assuring habitability to the homeowner. When the Rehab Loan Corporation was ended in 1997, the maintenance reserve account held about $2 million, some of which the City may still retain.

**Targeting**

Reclamation of vacant, blighted homes should proceed on a targeted basis, to avoid dilution of effort. There are a number of possible alternative targeting strategies. For example, the City recently completed a market value analysis which could be used to target distressed areas of the City which have potential resale values sufficient to match loan investments. In the alternative, the City could target based upon its HUD approved five year plan. Or, targeting could be based upon critical mass interest from potential rehabbers in certain distressed areas.
Initial Capitalization

Based upon the startup costs of the original Rehab Loan Corporation, it is estimated that an initial capitalization of a new Home Rehab Loan Agency would cost about $20 Million, and a start-up operating appropriation of about $500,000.

Next Steps

In order to create the Home Rehab Loan Agency, it would be advisable to locate as much historical documentation as possible to determine usable loan procedures, forms and manuals from the original Rehab Loan Corporation.

Next, expert assistance should be retained to map out a more detailed operating business plan, with startup costs and expenses, organizational structure, targeting guidelines, capitalization plan, and staffing plan.

Then, an administering structure should be selected, either within an agency affiliated with the City such as the EDC, or with a contracted nonprofit organization as done with the original RLC.

---

1 A housing TIF overlay would be new to Kansas City, but is a tested concept elsewhere.

The idea is to use tax increment financing (TIF) generated by the increase in value attributable to inflation and appreciation of all the residential parcels in the inner-city to fund home repair of vacant and occupied distressed housing. While the increment per house on an annual basis is modest, by including a large number of homes in the TIF district along with the compounding which occurs over 23 years a program can be funded. For example, UNI’s 9,600 homes alone would produce about $23 million in TIF revenue over a 23 year period based on housing value appreciation of 2% per year. Bonding this future revenue for an initial capitalization of a loan fund could yield approximately $10 million. Expanding the benefit area to the entire inner-city would yield multiples of this figure. The goal is for the housing investment to produce positive neighborhood change, trigger other housing investments, and increase the rate of appreciation so that the increment on parcels grows and the rate of investment accelerates. There is a risk that property values will not appreciate or may depreciate.

Several years ago, a group of Kansas City public officials, including Economic Development Corporation representatives, visited Chicago to analyze a TIF program based on this model. They were impressed with the results and decided to begin a housing program, relying on economic activity taxes (EATS) rather than property tax increment, using “excess” revenues from the Midtown TIF. This was a premise of the Midtown TIF as articulated by Councilman Glover—some TIF revenues beyond those needed by the commercial development should go to improve housing in the neighborhoods around the development thereby helping assure long term success of both the commercial enterprises and the neighborhoods. This led to creation of the Rehabilitation Assistance for Midtown Properties (RAMP) in the Broadway-Gillham Neighborhood. Positive experience with RAMP led to creation of similar programs in Southmoreland (Block TIF) and the Northland (Chouteau/I35 TIF). In every case, the increment used to fund housing came from TIF funds generated by a commercial development.

Encouraged by the successes of these TIF housing programs, the Blue Hills Neighborhood Association (BHNA) and the Ivanhoe Neighborhood Council (INC), supported by Brush Creek Community Partners (BCCP), made a preliminary application in the fall of 2005 to create a TIF housing overlay plan in their neighborhoods. Initially there appeared to be support for the strategy among staff and Commission members but it eroded quickly when TIF became a controversial target for change in the upcoming legislative session. Feedback from the TIF Commission and the Mayor’s Office made it clear that the neighborhoods’ application was viewed as problematic in a climate where the survival of TIF as a redevelopment tool had come into question. The neighborhood leaders did not want their application to add any fuel to the fires in Jefferson City and quietly pulled back. Now, however, the imminent threat to TIF is not as severe, and the conditions in the neighborhoods have become more compelling as a result of rapid deterioration.
Chicago and Portland

The TIF Neighborhood Improvement Program, as it is called in Chicago, has evolved into one of the City's primary revitalization tools. TIF/NIP makes funds available to homeowners and small landlords in neighborhoods where they are needed most. While TIFs have traditionally been created to stimulate commercial and industrial development, TIF/NIP provides low-income homeowners and building owners with grants to fix their units by tapping into the future tax revenues produced by the TIF district in which they are located. Grant funds can be used in Chicago for exterior improvements such as roofs, windows, entryways, porches, siding and masonry.

In Portland, urban renewal areas are TIF housing overlays; i.e., when an urban renewal area is formed by the City Council, taxes are frozen and any subsequent increase in property values becomes increment used for housing and other revitalization investments, notably affordable housing development. As the City and others invest in the urban renewal area, property values go up. No more than 15% of the city can be urban renewal areas at any given time. This urban renewal strategy has been fundamental to Portland's revitalization.

Where is the Increment Generator?

One criticism raised about this approach is that there is no increment generator, no tax engine analogous to the property and economic activity taxes created by the usual commercial TIF project. The simplest response to this complaint is that an engine is not required. The Chicago and Portland experiences demonstrate that a TIF housing overlay can be an effective revitalization tool based only on capturing the increment from inflation and appreciation. In both cities, appreciation has accelerated as a result of the housing investments made under TIF so that more increment is being generated and more investment is being made. If successful, this is a long term strategy which can help revitalize core city neighborhoods—the original goal of the TIF legislation—and reverse the dramatic declines in property values which have ravaged neighborhoods like the UNI area and put the school district into financial difficulty through lost tax revenue.

Does TIF hurt the school district?

A legitimate concern is that TIF could lessen the amount of money available for education in Kansas City, Missouri.

However, one of the reasons income to the schools has fallen is disinvestment in the core city, leading to lower housing values, vacant land, and loss of the middle class. Revitalization work intends to stop these trends, increase values, build new houses on vacant lots, increase the tax base, and lower crime so that people of all incomes feel better about living in the core. Taking a long view, the proposed TIF program is an investment which, if successful in spurring revitalization, may pay off dramatically over time by increasing tax revenue for the schools as well as other public purposes.

Exploring the Idea

The Economic Development Corporation, which staffs the TIF Commission, could help flesh out this concept, preparing pro-forma scenarios estimating the financing options and potential TIF revenues, and how these revenues could be bonded to capitalize a revived Rehab Loan Corporation, and what operational structure would be appropriate to execute the plan. A City-funded, outside consultant may be needed to assist.

Eventually a plan would need to be submitted to the TIF Commission. A seed grant possibly on the order of $100,000 would need to be sought from local sources (foundations, Chamber, major property owners as well as the City) to help cover various application costs, blight study, mailings and the "but for" analysis. An initial City appropriation would also be needed to get the operational structure for the revived Rehab Loan Corporation up and running, until it became self-sufficient.

The setup and transaction costs of a TIF overlay would be substantial. Hence a bond issue would be a preferable capitalization mechanism. But failing such a bond issue, TIF may be a viable alternative,
Policy Brief
Preservation of Subsidized Housing
Brandon Weiss, UMKC School of Law
(Draft: 6/26/18)

The Problem:

U.S. subsidized housing programs often rely on time-limited use restrictions in order to memorialize the applicable household rent and income limitations. For example, the federal Low-Income Housing Tax Credit (LIHTC) program requires projects that receive an award of tax credits to comply with certain rent and income limits for a 15-year compliance period and for an additional 15-year extended use period.¹

Data contained in the January 16, 2018 KCSTAT Housing report show that 1,140 units of subsidized housing in the downtown Kansas City area are at-risk of loss from the affordable housing stock given the impending expiration of use restrictions over the next five years.² Such loss threatens to destabilize and displace the households currently occupying the expiring units. Per the federal LIHTC statute, landlords may not raise rents or evict tenants (other than for good cause) for a period of three years following the expiration of use restrictions.³ However, following this three-year “safe harbor period,” barring other state and local protections, landlords may attempt to raise rents to market levels and evict current residents. In addition to the threat of displacement, the expiration of these units would be a significant loss to the already insufficient supply of affordable housing options in the downtown area (the KCSTAT report estimates it would represent a 41% decline, assuming no new units).⁴

This is not the first time expiring use challenges have surfaced. In the 1980s, 1990s, and 2000s, a number of older project-based affordable housing programs (project-based Section 8, Section 221(d)(3)(b)(v), Section 236, etc.) went through a similar “expiring use crisis.” The National Housing Trust estimates that 300,000 HUD-subsidized housing units were lost nationally during this period.⁶ Interestingly, in one report by HUD looking specifically at opt-outs from the project-based Section 8 Program, nonprofit owners were significantly less likely to opt-out of the program (9.2%) than for-profit owners (86.1%).⁷

---

¹ See 26 U.S.C. §§ 42(i)(1) & 42(h)(6)(D).
⁴ See KCSTAT, supra note 2.
⁵ See James Grow & Brandon Weiss, Preservation of Affordable Housing, in THE LEGAL GUIDE TO AFFORDABLE HOUSING DEVELOPMENT 411–47 (Tim Iglesias & Rochelle E. Lento eds., 2d ed. 2011).
⁶ Testimony of Michael Bodaken, National Housing Trust Statement to House Subcommittee on Housing and Community Opportunity, House Financial Services Committee (Jul. 20, 2004).
The Proposal:

The City of KCMO should draft a local preservation ordinance, incorporating a number of measures aimed at alleviating the magnitude of the impending expiring use problem in Kansas City. Such an ordinance should be informed by useful insights from preservation efforts in other jurisdictions. Upon my last review, at least the following jurisdictions had enacted preservation policies that can serve as extremely useful precedent:

- States: California, Colorado, Connecticut, Illinois, Maine, Maryland, Massachusetts, Minnesota, Ohio, Rhode Island, Texas, and Washington.


These policies contain a variety of measures aimed at preventing the loss of expiring use units, including:

- **Notice:** Almost all of the jurisdictions require that a one-year (or in some jurisdictions, two-year), as well as in some cases an updated 180-day, advance notice be sent to tenants, state and/or local government, and local qualified nonprofits prior to the expiration or termination of any subsidized housing restrictions. Some jurisdictions also require that the notices received by state and local agencies be posted for public access on the relevant agency website. Notice is helpful for allowing tenants and tenant advocates to ensure that all tenant rights are respected through the conversion process and, where necessary, to help tenants plan for relocation.

- **Purchase Rights:** Tenants and/or qualified nonprofits are often provided either a right to purchase the property to maintain affordability or a right of first refusal to match any offers the owner is entertaining. These provisions spell out which parties can exercise the purchase rights, the timeline for exercising such rights, mechanisms for valuing the subject property, and penalties and limits on future uses of the property should an owner fail to honor such purchase rights. California has a particularly sophisticated methodology (see CAL. GOV'T CODE §§ 65863.10, et seq.).

- **Impact Statement:** Owners may be required to submit a “statement of impact” to tenants and local government, identifying the number of units that will no longer be subject to use restrictions, the estimated rent to be charged of non-restricted units, and any actions the owner will take to assist displaced tenants.

- **Relocation Payments:** Some jurisdictions require owners to pay either all or a portion (in some cases, split with the city) of relocation payments to displaced tenants to help them transition to new housing.

Note that simply because a state may take the lead on some preservation efforts, cities may take action as well. For example, the state of Illinois passed the Illinois Federally Assisted Housing Preservation Act (310 ILL. COMP. STAT. 60/1-60/10.1), requiring that owners provide at
least a one-year notice to tenants, local government, the public housing authority and the state housing agency. In addition, the law gave tenant associations (representing at least a majority of the affected tenants) and their chosen nonprofit or private partners the right to purchase any assisted housing development ending its participation (by sale, disposition or any other conversion) in a specified federal subsidy program.

Notwithstanding this law, the City of Chicago passed the Affordable Housing Preservation Ordinance (Chicago, ILL., MUN. CODE § 2-44-111) to supplement the Illinois state law. The local ordinance requires owners of federally-assisted housing to notify the city housing department, in addition to the notifications that must be sent under the state law. Furthermore, where a tenant association has not exercised its purchase rights under the state law, owners must still give qualified entities the right of first refusal prior to sale of the property to a non-qualified entity, unless an affordability preservation agreement has been entered into by the owner extending affordability for a period of ten additional years.

In conjunction with any additional efforts at the Missouri state level, KCMO should consider the provisions of the above-mentioned ordinances related to notice, purchase rights, impact statements, and relocation payments, and should craft a comprehensive preservation ordinance for the city. In addition, at the very minimum, KCMO should ensure that it is not providing any incentives to developers who are proposing a project that would lead to the loss of subsidized housing units.

Revenue & Expense Implications:

The revenue and expense implications likely would primarily consist of additional staff necessary to monitor and enforce violations of the law (for example, where owners fail to provide the requisite advance notice to residents). However, this would depend upon the package of provisions ultimately adopted by City Council. Participation in making relocation payments of course would have more significant expense implications.

KCMO would be wise to work with other government agencies to leverage resources. For example, the Housing Authority of Kansas City could consider a Section 8 voucher preference for households at risk of displacement from other affordable housing. Likewise, the Missouri Housing Development Commission (MHDC) should consider giving additional priority to expiring use LIHTC projects in its allocation of tax credits, such that a resyndication can lead to an extension of the affordability restrictions. Restoration of the Missouri State Low-Income Housing Tax Credit program would be particularly helpful as more resources are needed to preserve expiring LIHTC properties. KCMO housing policy staff should actively reach out to the Housing Authority and MHDC to collaborate on, and advocate for, such approaches.

Legislative Implications:

Implementing this proposal would require the City Council to pass a local preservation ordinance. The drafting of such an ordinance would be relatively straightforward given the extensive precedent that exists in other jurisdictions.
Municipal Level Implementation Responsibility:

Given its expertise in housing matters, the KCMO Neighborhoods and Housing Department would be a logical agency to implement the program.

Timetable for Implementation:

The local preservation ordinance should be drafted, enacted, and implemented as soon as possible given the impending wave of expirations expected in the near term.
Promote Reinstatement and Use of Low Income Housing Tax Credits in the City

Principal Author - Kelley Hrabe, Prairie Fire Development

Problem: There is a lack of needed subsidy financing to create needed new, affordable housing. The major source in the past, low income tax credits, has been hobbled.

Most new, affordable housing created in Kansas City over the past decade entailed some form of subsidy. The major subsidy is State and Federal Low Income Housing Tax Credits (LIHTC). However, the Missouri Housing Development Commission recently eliminated the State Housing Tax Credit, halting much new affordable construction. In addition, the recent Federal tax reform diminished the value of Federal tax credits.

Solution: The City’s policy is to direct its lobbyists in Jefferson City to seek full reinstatement of the State low-income housing tax credit, federal and state, and in Washington seek expansion of the Federal tax credit (HR 1661, currently 160 co-sponsors; and SB 548, currently 40 co-sponsors), and to encourage and support developers in using this tax credit to create more affordable rental homes in Kansas City.

A successful economy is one that has a diversity of employers, employees and occupations at all income levels. Cities realize that a diversity of housing choices is key to maintaining and increasing its employment base and expanding its economy. But the number of Kansas City households which are cost-burdened, and thus need more affordable homes is significant:

- Over 40% of households in Kansas City pay more than 35% of their income to housing, which is considered “housing cost burdened.”
- 44% of all occupied housing in Kansas City is renter occupied.
- 40% of all households in Kansas City earn less than $35,000 per year, which would generally qualify them for affordable housing.
- As more luxury housing is developed in Kansas City, along with much of the affordable housing stock being converted to market rate housing, a greater percentage of households are being left with little or no affordable housing options. Without a viable incentive policy combined with LIHTC to encourage more affordable housing in Kansas City, the market will continue to build higher end housing.
- Only one affordable housing project has been built within the downtown loop since 2007, while most of all other housing built is for higher income renters. This diminishes any possibility for lower and moderate-income renters to live and participate in downtown’s redevelopment.
- As a result of the loss of LIHTC, at least two proposed affordable projects were cancelled, including a 400-unit mixed income project within the downtown loop of Kansas City.
- The continued use of development incentives provided to higher rent/luxury rentals without any tangible regard or consideration to provide more affordable housing units does nothing to solve the problem, but only exacerbates it. In general, developers have no market incentive to provide affordable or moderately priced housing in the absence of LIHTC.

LIHTC is the most effective tool to incentivize private sector efficiencies in the development and operation of affordable housing. LIHTC funds between 30% to 90% of the total development cost, allowing for lower debt. This in turn allows the property to be leased at a lower rental rate.
- The Low Income Housing Tax Credit is not a discretionary expense to the State and/or Federal budget. It is a credit that has to be earned by the developer by building the affordable housing, and keeping it compliant for at least 15 years. The housing has to be built and occupied on a continuous basis to earn the credit.
- LIHTC properties are immobile assets, LIHTC investments stay in the communities where they are developed and are key tools for place-based economic growth.

**Revenue and Expense Implications:** There would be only nominal expense to Kansas City in revitalization of LIHTC. Revenue, on the other hand, would increase significantly due to increased property tax collection, and greater discretionary spending by tenants who would not be so cost burdened by rent, and reduced social service and health care spending arising out of reduced homelessness and housing instability.

The research reviewed in this brief demonstrates that the development of affordable housing increases spending and employment in the surrounding economy, acts as an important source of revenue for local governments, and reduces the likelihood of foreclosure and its associated costs. Without a sufficient supply of affordable housing, employers—and entire regional economies—can be at a competitive disadvantage because of their subsequent difficulty attracting and retaining workers. Attracting employers to Kansas City, especially to downtown, is more difficult when their potential employees lack nearby, affordable housing. Finally, new construction means construction jobs for the City.

With the new governor (who is a supporter of State LIHTC) and a renewed legislature, now is the time to lobby for State LIHTC as well as at the Federal level as one of the more efficient and effective affordable housing finance tools.
Category 2B

Affordable Housing Community Benefits for Projects Receiving Public Subsidies
Amanda Wilson, Ben Peyton, Daniel Serda, Greater Kansas City LISC
7/18/2018

The Problem:
With downtown and the urban core becoming more desirable places to live and develop, the market for rental and purchase for multifamily and single family homes has become tighter. Property values in much of the urban core are rising and residential projects that have received public subsidy have included market rate or luxury apartments. As such, projects requesting public subsidy, especially those that are luxury/upper-end multifamily, have received scrutiny and criticism by members of the City Council and the public (e.g. Three Light and the BNIM headquarters with Helzberg).

Kansas City and many other cities facing the same challenges have started to implement affordable housing requirements for projects that receive public assistance like tax abatement or TIF. Goal 9 of the Regional Recommendations in the Affirmatively Furthering Fair Housing report from 2016 calls for a “model incentive policy to require any multi-unit housing construction or substantial renovation receiving a public subsidy to include some affordable, accessible units that meet universal design standards.” Though the City Council has enacted several ordinances around affordability and public subsidies, Kansas City does not yet have affordable housing requirements for projects that utilize public assistance.

The Proposal:
Kansas City and the various taxing authorities (LCRA, PIEA, and Chapter 353 Advisory Board) need a policy to ensure affordable housing is required when residential projects access public subsidies. That policy should be transparent, consistent, and predictable from one project to the next.

A new policy should include any or all of these community benefits for the creation and preservation of affordable housing:

1. The extent of affordable housing community benefits should be correlated to the subsidy awarded
2. The scoring sheet used to evaluate community benefits will be updated to include affordable housing criteria and a project’s score will be used to determine the level of subsidy (an amendment to KCMO Ordinance 180370 may be required)
3. A steering or advisory committee that includes representatives from community based organizations (CBOs), residents, and neighborhood leaders, along with city officials and staff will be formed to update and periodically review the score sheet, provide oversight and enforcement of CBA commitments, ensure that there is extensive community participation for a plan or development, and/or oversee the communication and outreach during the project’s development
4. The level of subsidy is tied to the strength of the residential market (both rental and for sale), as established by a market study or the Market Value Analysis. Density bonuses, parking variances, or expedited plan review could be offered to developers to provide additional affordable units.
5. A minimum percentage (10-30%) requirement of housing units built within the project for a range of income levels (from 30% to 100% of area median household income and based on the person’s/family’s household size), or a minimum required contribution toward a housing assistance fund or housing trust fund.
6. The affordability of units remains in place during the term of the grant, incentive, or subsidy, or longer.
7. Clawback provisions that reduce the abatement value if the required community benefits are not achieved. Compliance reporting could be added to the Redevelopment Contracts so that the statutory agencies could monitor the projects for compliance.
8. Consistent with the City’s TOD Policy, projects located along the new and existing streetcar and MAX lines will receive additional points.
9. Implement and enforce affordable housing requirements included in the Transit-Oriented Development (TOD) Policy.
10. Integrate into the development review process a design review to ensure quality, durability, safety, and programming that encourages live-work spaces and flexible units that can accommodate additional rooms (e.g., Michael Pyatok’s flexible interior design in affordable housing projects).

*Cities with Affordable Housing-Related Community Benefit Requirements* - Atlanta, Chicago, and Houston are cities that have enacted, through local legislation, affordable housing requirements when public subsidies are used.

1. Atlanta: In May 2018, Atlanta City Council passed an amendment to their Code of Ordinances (Section 54-1, entitled Affordable Housing), to require any multi-family residential property that receives a grant, incentive, or subsidy to include affordable housing during the term of the grant, incentive, or subsidy. Projects must set aside 15% of the total residential units for lease to households earning no more than 80% area median income (AMi), or 10% of the total residential units for lease to households earning no more than 60% of AMi, with rent capped at no more than thirty percent (30%) of monthly gross income. The affordable housing units shall be similar in construction and appearance (e.g., square footage, type and brand of appliances, materials used for countertops, flooring, etc.) to the market rate units and shall not be in isolated areas in the development, but shall be interspersed among market rate units. The AMi is determined by the Atlanta-Sandy Springs-Marietta HUD Metro Fair Market Rent Area using the family size having the same number of persons as the subject household.

2. Chicago: In 2015 the City of Chicago updated its Affordable Requirements Ordinance (ARO). The ARO requires residential developments that receive city financial assistance or city-owned land to provide a percentage of units at affordable prices. The ordinance applies to residential developments of 10 or more units and requires that developers provide 10 percent of their units at affordable prices. The ordinance also applies to: zoning changes granted that increase project density or allows a residential use not previously allowed or a “planned development’ within the downtown area. The ordinance requires for-sale units be affordable to households at or below 100 percent of AMi. Rental units must be affordable to households earning up to 60 percent of AMi. Some units have recapture mortgages to regulate the long-term affordability. At the time of purchase, the City records a 30-year lien for the difference between the unit’s market price and its affordable price. Other units will be targeted for the Chicago Community Land Trust (CCLT). These units will have a 30-year restrictive covenant with a maximum resale price. The maximum resale price will be the original purchase price plus a percentage of the market appreciation, and in most cases will be a below market price.

3. Houston: In May 2018 Houston’s City Council passed an amendment to their tax abatement guidelines. In order to receive tax abatements, developers must provide community benefits around hiring and prevailing wages, as well as choose from one of eight additional requirements, one of which is affordable housing. If a developer chooses the affordable housing option, they commit to developing
20% or more of the project’s residential units as affordable or workforce housing for residents with income levels between 30% and 120% of AMI for the duration of the tax abatement agreement. The tax abatement agreement will award a company based on its “community benefits” performance and will contain a provision that reduces the abatement value if the required community benefits are not achieved.

**Local examples of project-based community benefits:**
- The Midtown TIF plan that created Home Depot and Costco on Linwood created the Midtown Housing Program Project in 2001 for the rehab of single family homes (owner occupied, max grant up to $10k, must live in house 5 years after grant or repay portion, required match for owners making over 100% median income, for exterior only) and the rehab of small multifamily apartment-style buildings (2-12 units, max per unit of $5,000 grant, must own building 5 years after grant or repay portion, exterior only). Multifamily over 12 units are not eligible.
- Passed in May 2018, the KCMO Ordinance 180370 provides a definition of “affordable housing” in the scoring system for projects seeking economic incentives, and directs the City Manager to develop an updated scoring system with respect to the affordable housing component.
- KCMO Ordinance 171031 was passed in January 2018 to create a policy providing sales tax breaks on affordable housing projects.
- In 2016 City Council passed Resolution No. 160620 “that Community Benefits Agreements be incorporated into future agreements for economic development undertakings entered into after January 1, 2017 by development entities and entities with the authority to issue tax increment financing or grant tax abatement.”

**Revenue and Expense Implications:**
The revenue and expense implications will vary by project and depend on the market conditions and programming of the proposed project. Requiring the inclusion of affordable units or payment into a housing fund may increase the amount of tax abatement needed and should be considered when developing the policy. Additional EDC or City staff time will likely be necessary to work with developers and ensure the implementation of community benefits. Developers may have access to other resources including Low Income Housing Tax Credit (LIHTC), Opportunity Zone equity, the LISC Predevelopment Loan Fund, and the KC-CUR Capital Fund that LISC is developing.

**Legislative Implications:**
Implementing this proposal would require the City Council to pass a local ordinance. Most, but not all, public assistance goes through the Economic Development Corporation of Kansas City, the exception being the Port Authority. Any ordinance would need to ensure that all taxing jurisdictions maintain a transparent and equivalent process.

**Municipal Level Implementation Responsibility:**
Along with the EDC, KCMO Neighborhoods and Housing Department with the Planning Department would be a logical agency to implement the program.

**Timetable for Implementation:**
The affordable housing community benefits ordinance should be drafted, enacted, and implemented as soon as possible.
Category 2C
Policy Brief
Inclusionary Zoning & Linkage Fees
Brandon Weiss, UMKC School of Law
(Draft: 6/26/18)

The Problem:

The recent Plan for Affirmatively Furthering Fair Housing (AFFH Plan) prepared by the Mid-America Regional Council (MARC) for the Kansas City metropolitan area found that residential racial segregation remains a significant problem in the region.\(^1\) Data presented in the AFFH Plan show that black residents are 12 times more likely, and Hispanic residents 11 times more likely, than white residents to live in racially/ethnically concentrated areas of poverty.\(^2\) The plan also highlighted disparities in access to education, employment, and a variety of other measures of opportunity, as well as persistent and severe challenges related to housing cost burdens, overcrowding, and substandard housing.\(^3\)

The January 16, 2018 KCSTAT meeting on housing included discussion of the goal contained in the KCMO 2017 Update to the Citywide Business Plan to “[i]ncrease accessibility to socially and physically diverse quality housing throughout the City for all income groups.”\(^4\) In particular, the city set forth under its “objectives and strategies” section, the goals of, “Ensuring that City housing policies encourage the creation and retention of housing units at all levels of affordability and emphasize mixed-income housing.”\(^5\)

The Proposal:

In direct furtherance of the above-stated housing goals, the City of KCMO should adopt one of the following two types of city ordinances: 1) an inclusionary zoning ordinance with an in-lieu fee feature, or 2) a linkage/impact fee ordinance.

According to the Lincoln Institute of Land Policy, 886 jurisdictions across the United States located in 25 states and the District of Columbia have adopted one of these “inclusionary housing policies.”\(^6\) Jurisdictions employing these policies have reported creating a total of 173,707 affordable housing units.\(^7\)

Each of these two approaches is described in turn below.

---

\(^1\) Mid-America Regional Council, Plan for Affirmatively Furthering Fair Housing (November 2016), http://www.marc.org/Regional-Planning/Housing/Related-Projects/Affirmatively-Furthering-Fair-Housing-Assessment.

\(^2\) Id. at IV-B 7.

\(^3\) Id.


\(^5\) Id.


\(^7\) Id. at 31.
Option 1 – Inclusionary Zoning Ordinance:

Inclusionary zoning ordinances have existed since the early 1970s. A basic ordinance requires that developers of new multifamily for-sale and rental housing set aside a certain percentage of units for occupancy by low- and/or moderate-income households. Many jurisdictions provide the developer with an option of paying an “in-lieu fee” rather than providing the on-site rent-restricted units. The in-lieu fee is typically set to equal the cost of developing comparable off-site affordable housing.

In devising an inclusionary zoning ordinance, a city faces a number of policy design choices.  

- Designating the percentage of units required to be set aside. Typical ordinances require that between 10% – 30% of units be restricted for affordable housing purposes.

- Designating the level of affordability required of the restricted units. Some jurisdictions target extremely low-income households (i.e., those making no more than 30% of area median income), whereas others target higher-income households (e.g., very-low income households making no more than 50% of area median income). Some jurisdictions give the developer a variety of options, with typically fewer restricted units being required the deeper the level of affordability provided.

- Designating the duration of the affordability restrictions. Some jurisdictions require that they last for 30 years, some 55 years, some in perpetuity.

Many jurisdictions provide developers with various incentives to help alleviate the impact of the inclusionary requirement. These incentives may include: density bonuses, fee reductions/waivers, expedited permitting, tax abatement, parking reductions and other variances, and, in some cases, direct public subsidy.

Option 2 – Linkage/Impact Fee:

As an alternative, a linkage fee, also sometimes referred to as an impact fee, is a fee charged not just of new residential development, but also of all new office, retail, hotel, and industrial development. The rationale underlying a linkage fee is that new development has an impact on the need for affordable housing in the area by new employees who come from a spectrum of income levels. Developers are required to pay a modest fee to help fund affordable housing for these new workers.

---

In devising an inclusionary zoning ordinance, a city again faces a number of policy design choices:

- Designating the size of the linkage fee. Typically, a “nexus study” (see below under “Revenue & Expense Implications”) is commissioned to ensure that the linkage fee is both fair and feasible. Linkage fees are generally imposed as a dollar amount (e.g., $1, $5, $10, etc.) per sq. ft. of new development.

- Designating how the fee is applied to various sub-markets within the city. For example, in certain “hot” markets, a relatively higher fee is imposed as compared to “softer” markets where little development is occurring.

- Designating what new development will be exempt from the ordinance (e.g., hospitals, grocery stores, religious institutions, development below a certain magnitude of incremental square footage, etc.).

- Designating other features of the ordinance, such as: setting annual increases to the linkage fee to keep pace with inflation; providing an option to build new affordable housing units on-site rather than paying the fee; and reevaluating the fee and the sub-market maps to ensure the policy remains appropriate over time given changing market conditions.

Similar developer incentives as described above under the “Inclusionary Zoning” section can also be extended to developers to help offset the burden of the linkage fee.

Revenue & Expense Implications:

The City of Los Angeles passed a linkage fee in December of 2017. It is anticipated to generate as much as $100 million annually. The Lincoln Institute of Land Policy finds that 373 jurisdictions have reported that impact or in-lieu fees across the nation have generated at least $1.7 billion. Of course, local development activity would determine the ultimate magnitude of revenue generated in Kansas City.

The first step in designing either an inclusionary zoning ordinance or an in-lieu fee ordinance is to commission a nexus study. A nexus study, conducted by consultants/economists, evaluates a variety of local demographic and economic data to help determine what sort of requirement is both fair and feasible in a given jurisdiction. The nexus study helps to answer

---


10 Dakota Smith, Los Angeles Times, “L.A. City Council approves development fee to raise money for affordable housing,” (Dec. 13, 2017), http://www.latimes.com/local/lanow/la-me-in-linkage-fee-city-council-20171212-htmlstory.html (“The fee approved Wednesday takes into account both the type of project being built and its location — a formula that officials estimate will raise about $100 million annually when it fully goes into effect in 2019.”).

11 LINCOLN INSTITUTE OF LAND POLICY, supra note 6, at 31.
developer concerns about such ordinances, as well as to provide a solid legal basis for the ordinance.

BAE Urban Economics (https://www.bae1.com/), the consultancy group that conducted the nexus study for the Los Angeles ordinance,\(^\text{12}\) provided a rough estimate that a study for a city the size of Kansas City would cost approximately $100,000.

**Legislative Implications:**

The city would need to design and pass either an inclusionary zoning or linkage fee ordinance. Much precedent exists from which to draw.

*The city also should strongly consider establishing an Affordable Housing Trust Fund to serve as a vehicle to receive the in-lieu fees or linkage fees.*\(^\text{13}\) The collected funds could be put to use to further any number of city affordable housing programs (e.g., providing gap financing for new development or preservation, helping to fund a community land trust to work in concert with the Kansas City Land Bank, funding various home rehab programs, etc.). Many of the ideas currently under consideration as part of the city’s housing plan will require new funding – in-lieu fees or linkage fees can be a permanent source of funding.

**Municipal Level Implementation Responsibility:**

Given its expertise in housing matters, the KCMO Neighborhoods and Housing Department would be a logical agency to implement the program, though it would need to coordinate its activities with others, including the City Council and the Department of Planning.

**Timetable for Implementation:**

A nexus study could be commissioned immediately. Once complete, an ordinance could be drafted in relatively short order. The ordinance could be phased in over time. For example, Los Angeles used such an approach with its linkage fee: first 120 days after enactment (no fee); 121-305 days after enactment (1/3 fee); 306-484 days after enactment (2/3 fee); 485+ days after enactment (full fee).\(^\text{14}\)


\(^{13}\) For the law creating the City of Los Angeles Housing Impact Trust Fund, see City of Los Angeles Ordinance No. 185341 (Dec. 13, 2017), https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ecfi.viewrecord&efnumber=17-0274.

Category 2G (1 of 5 papers)  
Improve the Jackson County Tax Foreclosure Process  

Issue  
The cost of obtaining and rehabilitating distressed homes could prevent some landlords from providing more affordable rental rates. Purchasers often have difficulty obtaining marketable title for properties that have gone through tax foreclosure, either purchased from the Kansas City, Missouri Land Bank or directly from the Jackson County Delinquent Land Tax Sale. Title companies frequently express concerns that Jackson County, in conducting its delinquent tax foreclosure sale, has not furnished proper notice to all interested parties, so extra steps are needed (e.g., quiet title lawsuits and/or quitclaim deeds from necessary parties) to attain marketable title to purchase title insurance. Further complicating matters, delinquent tax sales, by their nature, often include many distressed properties that are likely to suffer from various title defects (i.e., deceased owners, unreleased mortgages, judgment liens, etc.).  

One of largest barriers to providing proper notice in a tax sale is identifying all interested parties. Conducting title research based on public records is time consuming, and indexing errors in the records can lead to inaccurate findings and missed parties. Not only must the County Collector identify all parties with a legal interest in the property, it must also provide those interested parties notice in a manner that is “reasonably calculated under all the circumstances to apprise interested parties of the pendency of the action.”¹  

Until they can get title insurance on the property, these purchasers may be unable to obtain financing to make necessary repairs. This could require a quiet title action or contacting interested parties for quitclaim deeds, all of which can take several months. This delay, along with the added cost of curing potential title issues, can deter investment and lead to less being spent on the home’s repairs.  

Solution  
A few steps can be taken that would greatly improve the Jackson County tax foreclosure process. Purchasing title reports from a reputable title company would better ensure that parties with an interest in the property, including record owners, unnamed spouses, mortgagors, lien holders, etc., are identified so that proper notice can be provided. Purchasing title insurance company commitments could be done for all properties, or limited to properties where County title examiners believe there is a strong probability they will not be able to identify all necessary parties. After foreclosure is complete, the same title insurance company that provided the commitment would then be in position to insure the property upon proof that all interested parties were properly notified of the foreclosure. Without purchasing a title commitment, Jackson County can still improve its process by utilizing better tools for identifying and locating necessary parties to tax sales. A number of services exist to track individuals and mortgage companies.  


Principal Author: Abby Judah
Westlaw’s CLEAR, Lexis Nexis’s Accurint, Payoff Assist, or MERS, if not already utilized, could help the Collector to locate all of the interested parties.

Title insurance companies are also more likely to insure properties where personal notice of the tax foreclosure lawsuit was achieved. Personal notice of lawsuits guarantees actual notice that the suit is pending. Attempting personal service of that notice, especially with local owners, will help ease title companies’ concerns about whether interested parties were properly notified. The County could use its own deputies or could contract with special process servers to attempt personal service. Lastly, an affidavit verifying the steps taken to effectuate service in accordance with case law and local rules should be filed and the Court should enter a finding that service was adequate. These actions would demonstrate for the record that personal service of notice was attempted. After the foreclosure, the company providing these title reports would be in a position to insure the property upon proof of service. Assuming these title reports are accurate, this would allow for insurable title from other companies as well.

Revenue and Expense Implications

Purchasing title reports en masse would save the Collector a significant amount of staff time and would likely increase the accuracy of identifying interests and title defects of each property. Title reports usually cost around $250 per report, although a lesser rate could likely be negotiated given the number of reports that would be ordered. In addition, the foreclosure statute could be modified to allow the cost of the title reports to be added to the minimum bid to cover any extra expenses. The ability to sell marketable title, however, will likely increase the sale price, putting the City of Kansas City and other interested parties in a better position to collect excess proceeds on liens.

Legislative Implications

In order to recoup the expenses for title reports or personal service, RSMo. § 141.070 would need to be modified slightly. This section already allows for the employment of an abstractor, but it would need to be amended to allow for compensation of certified title examiners. Chapter 21 of the Jackson County Code of Ordinances should also be amended to define and require notice to all interested parties. Further notice requirements for occupants and interested parties, including attempting personal service, notice by publication, service via first class mail, and posting upon property, should also be incorporated into Chapter 21.

Party Responsible for Implementation

Jackson County and the Missouri Legislature would be responsible for implementing this solution, but the City of Kansas City shall negotiate with the County to seek these remedies. Smaller steps, however, can also be taken to start implementing these practices locally. The City Manager’s office shall attempt to enter into a cooperative agreement between it and the Jackson County Collector’s Office to pilot some of these recommendations, with shared City/County cost.

Timeline
While it is too late to make these changes for the 2018 sale, the County could test these theories on a few properties for the 2019 sale. More realistically, however, this would be implemented by the 2020 or 2021 sales.
Amending Missouri’s Tax Foreclosure Statutes

1. Issue

Missouri’s Chapter 141 foreclosure law predates important case law concerning the constitutional requirements for providing notice of tax sales. The current law is based on a 1983 United States Supreme Court case, *Mennonite Board of Missions v. Adams*. The Court ruled that “notice [must be] reasonably calculated, under all circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” Other courts viewed this standard and determined that personal service or mailed notice is most effective. In the event that actual notice cannot be obtained through personal service or service by registered/certified mail, then additional steps should be taken to post notice, provide notice through regular mail, and advertise the sale in a newspaper of general circulation.

Title companies typically rely on the *Mennonite* standard and will not issue title commitments, effectively rendering these titles unmarketable. Without marketable title, property owners face difficulty in obtaining financing on the property and may be unable to sell it in the future. These issues can lead to further abandonment and could prevent the property from returning to productive use.

2. Solution

The solution to this problem would be to amend Missouri’s Tax Foreclosure Statutes. Amending Chapter 141 to better comply with the *Mennonite* standard by attempting personal service or service through certified/registered mail on all interested parties would lead to more marketable titles. This will likely increase the actual value of the property because title

---

companies will be more willing to insure titles where all parties have received actual notice of the lawsuit.

3. **Revenue and Expense Implications**

   While these service requirements will increase costs associated with the tax foreclosure process, these fees may be passed along to the purchaser.

4. **Legislative Implications**

   This will require a change to the current statute.

5. **Party Responsible for Implementation**

   While this would require a change to state law, support from the City of Kansas City could improve the likelihood that such changes would actually be passed by the Missouri Legislature.

6. **Timeline**

   Because this solution requires a legislative change, the timeline is difficult to predict. Once the change of law has been made, however, the County could implement the new service requirements in the following sale.
Category 2G (3 of 5 papers)

City & County Backstops for Title Insurance for Tax Foreclosed Homes

Issue

While acquisition costs are generally low, many purchasers of tax sale properties require outside financing to complete necessary repairs. Because properties have often been vacant for several years before going through tax foreclosure, there are often issues with stolen wiring and pipes, fire damage, water damage, and more. Proof of title insurance is often required by lenders before they will issue financing. Title insurers will only issue policies for properties that have marketable title. Because most interested parties are mailed notice of the lawsuit via regular mail, instead of personal service or registered/certified mail, there is no way to prove that the parties actually received notice. Due to this uncertainty, title insurance companies will often operate under caution and refuse to issue a policy.

Solution

Kansas City and Jackson County can minimize the underwriters’ perceived risks associated with insuring a tax title by making a commitment to defend any challenges to tax foreclosure for a given period. Local government may be able to handle this “re-insurance” in-house, or through contracting with a third-party reinsurer. With this arrangement, the County, City, or a special purpose entity would guarantee to defend or contracting with a third party to defend any challenges to title resulting from tax foreclosure for the ten year adverse possession period.

Successful challenges to set aside confirmed tax sales following the issuance of a County Court Administrator’s Deed are largely nonexistent. In the event a challenge is presented, government entities could potentially protect themselves in several ways: first by defending or paying claims to challengers (essentially meaning that either the City or the County would self-insure), or; municipalities may be able to utilize their eminent domain authority to condemn any unaccounted for interest as a blight to title, for the public purpose of redevelopment.

The backstop would limit the title insurance underwriter’s exposure to risk and enable the issuance of a title insurance policy. This limitation of risk would also improve purchasers’ access to bank financing for the rehabilitation. With better access to financing, more homes can be purchased from the sale and rehabilitated. Further, without the need of a quiet title action, the process can start more quickly. The money that would have been spent on legal fees can then be invested into the house or additional properties, ultimately increasing the number of available housing units.

Revenue and Expense implications

Additional resources would be needed from the party defending the suit in the event that the need ever arose. These challenges are largely nonexistent, so it is unlikely that such resources would ever need to be spent. Because this backstop is being offered, however, the quality of the title is better and would allow for investment and ultimately more tax revenue.

Principal Author: Abby Judah
Legislative Implications

The Missouri Constitution limits the types of sovereign immunity local governments can waive and accordingly, the type of liability it can assume on behalf of others. The Missouri Constitution also prohibits local governments from assuming unquantifiable debt. Thus, if a local government were to agree to re-insure tax titles itself, it may be necessary to identify the costs of risk through actuarial tables and cap their losses at the total value represented by tax sales, or to limit the backstop to a test pool containing a specific number of properties.\(^1\) Another potential workaround to the prohibition against indemnity would require a local government entity to contract with a third party reinsurer to defend any post-confirmation challenges. Costs to protect against potential losses can be generated by increased registration fees for Land Bank or tax sale buyers. Additional funding for a loss reserve pool could conceivably be pulled from a percentage of collected premiums from other title insurance sales throughout the state. These public option approaches received support at the City Council level and have gained support from title underwriters, though a question remains as to whether a backstop would be acceptable under state underwriting standards.

One final public option may be for the state to consider the Iowa model, issuing title insurance policies itself. This final option would require a fairly sizeable overhaul of state statutes to allow government to overtake this function of underwriting.\(^2\) Though this approach is most likely unfeasible politically, the perceived involvement by government competing in this market could encourage private insurers to consider other reforms.

Party Responsible for Implementation

The County would ultimately be responsible for implementation, but support from the City is imperative. The Law Department’s expertise may be needed in defending such suits if they arise.

Timeline

This solution would likely be difficult to implement and require changes to state law due to the Missouri Constitution limitation on what types of sovereign immunity can be waived and other political issues. It could, however, encourage private insurers to consider other reforms.


\(^2\) See MO. REV. STAT. §§ 381.071.1(2), .052 (2016). The Director of Insurance may also need to promulgate regulations allowing certain omissions in title reports stemming from tax sales be omitted as “not serious risks.”
Encourage Development of New Private Products for Tax Titles

1. Issue

Title companies often view tax titles as higher risk transactions, and thus usually do not insure them. This is due to the involuntary nature of the foreclosure action and because parties are almost never personally served with notice of the sale. In addition, because lien holders are often served by regular mail, it is difficult to prove whether or not they received actual notice. In reality, parties almost never challenge the validity of the sale, despite the fact that they may have legal authority to do so. These potential challenges make insuring these properties more difficult than normal transactions.

With the exception of Iowa, states approve title insurance premiums in one of two ways. “Inclusive” states allow insurers to charge a premium encompassing both the cost of insurance coverage (risk component) and the costs associated with the background search process and ancillary services performed during the title process. “Separation” states do not combine these functions meaning a premium is charged by the insurer to cover the risk component only, while additional fees are assessed separately to cover the background search and ancillary services.

Missouri is a “separation” state, so the insurance premiums charged are not only regulated by the State; they only cover the cost of insurance coverage. While title insurers are allowed under Missouri law to perform the background search and ancillary services, the unregulated title agents representing the insurer(s) perform the majority of these functions. These agents can only perform the background search and ancillary services and are not allowed to handle the insurance coverage. In Missouri, only title insurers can handle the insurance coverage and the State
requires title companies to serve only the title insurance market. They are not allowed to handle other lines of insurance.¹

2. Solution

Most title insurance companies appear to have made the business decision that tax sale titles are not worth insuring because of the extra risk and low reward. One potential solution is for title insurers to charge a higher premium for tax sale properties. This might be accomplished through work groups with underwriters and the Missouri Department of Insurance. Some companies have already begun special programs to insure tax titles, such as “tax certificates” and reinsurance programs, with minimum fees starting at around $1,400. While these fees are higher than marketable title insurance premiums, they will provide a sense of security to the purchasers of the property and encourage investment into the property.

3. Revenue and Expense implications

This will place the cost burden upon the purchaser of the property. Because it will likely enable investment into previously neglected properties, it will provide additional property tax revenue. In addition to paying taxes on a property that was previously tax delinquent, this investment will also likely increase the assessed value of the property.

4. Legislative Implications

This solution will likely not require any legislative changes. Missouri requires insurers to file their rates and once filed, they can be used if not disapproved within 30 days. The State’s statutory standard for rate adequacy requires that premium rates not be excessive, inadequate or unfairly discriminatory.² The currently approved rate schedules in Missouri do not align with the

¹ TITLE INS. (C) TASK FORCE, NAT’L. ASS’N OF INS. COMM’RS, SURVEY OF STATE INSURANCE LAWS REGARDING TITLE DATA AND TITLE MATTERS, 8-12, 15-22 (2015).
² Id. at 12-13.
potential costs should a case go to trial. This could be solved easily if the insurer was able to justify charging a higher rate. The justifications would be that tax titles require more investigation and may involve a higher risk. Specific filings for high risk rates do not exist although several companies reserve the right to charge higher rates should circumstances justify a higher premium.

5. Party Responsible for Implementation

The City and the County may also be able to incentivize title companies to take on more risk by leveraging the sheer volume of title work needed by local government into an exclusive contract with a title company for a given period of time. Perhaps a title company might be willing to take on riskier properties if they had an exclusive contract to also handle other types of less risky title work.

6. Timeline

Depending on forces in the private market, this could be implemented rather quickly, in time for the 2019 sale.
Increase Number and Efficiency of Quiet Titles

1. Issue

Obtaining marketable title to tax sale properties often requires a quiet title lawsuit. Prior owners or lien holders are often deceased or dissolved, making non-judicial title clearing methods difficult, if not impossible. Hiring a private attorney is costly and, depending on the value of the property and the amount of repairs needed, could render a project infeasible.

2. Solution

Increasing the number of quiet title actions and improving the efficiency of such lawsuits could improve access to this affordable housing stock. Quiet title lawsuits are filed in circuit court and are used to clear a party’s title to property. Section 141.1009 of the Kansas City, Missouri Land Bank’s enabling statute authorizes special quiet title actions for the Land Bank, allowing it to include more than one property in each lawsuit. The University of Missouri-Kansas City School of Law started a law clinic in 2015 to begin filing these lawsuits. In addition, Land Bank and Legal Aid of Western Missouri have partnered to put on Continuing Legal Education workshops to encourage private attorneys to begin filing these actions pro bono. To improve efficiency, Urban Neighborhood Initiative has worked with the 16th Judicial Circuit to start a special docket, called the “Urban Core Property Docket.” Now that there is a regular venue allowing these cases to receive expedited treatment, getting more volunteer attorneys involved and expanding UMKC’s legal clinic will help make more tax titles marketable titles and will be able to be done more quickly than ever.

3. Revenue and Expense implications
Providing additional funding to the UMKC Law School and continuing to fund Legal Aid of Western Missouri’s Economic Development Unit would be needed to implement this system. The upfront expense depends on the needs of the law school, but these properties will increase in value once title defects have been cured and repairs have been completed, thus increasing tax payments. Because the Land Bank is exempt from filing fees, funding would be reserved for services fees and costs associated with ordering title reports and conducting in-depth research on potential defendants using background search software such as Thompson-Reuters CLEAR.

4. Legislative Implication

This item in the budget would need to be approved by City Council, but no changes to state law are needed.

5. Party Responsible for Implementation

The Law School’s project could either be funded by the law department or by Neighborhood Housing Services.

6. Timeline

Once approved by the city’s budget, this could be implemented by the School of Law the following semester.
Category 21
Property Tax Exemption for Nonprofit Owners of Affordable Rental Housing

Problem

A small but significant supply of affordable rental housing is furnished by nonprofit organizations. The need for this affordable housing is growing.¹ For these owners a significant barrier to reaching affordability for the lowest and neediest income households is the property tax.

Much of the affordable rental housing furnished by non-profits is developed using federal and state low-income housing tax credits, which restrict incomes and rents for a 15 to 30-year period. To assist in maintaining affordability, Missouri statute² permits county tax assessors to use an income-based approach to assessing property values for these properties, which substantially reduces the tax. But with the expiration of restrictions after 15-30 years, the assessment methodology changes, and property taxes shoot up. This becomes a significant disincentive to keep the housing affordable.

Solution

Rental properties owned by non-profit organizations should be permanently exempt from property tax, under a joint City-County process.

Existing state law allows local county assessors to exempt property owned by non-profit organizations and used for charitable purposes.³ Missouri court opinions,⁴ have determined that operating service-enriched, affordable rental housing for low-income households is a charitable purpose.

While the counties in which Kansas City is located are charged under state statute with determining whether non-profit owners of affordable rental property qualify for property tax exemption, there is no standard application process, or standard for what qualifies as low-income household, service-enriched, or low rent. Hence, this exemption is rarely used.

Kansas City will negotiate with the County assessors to establish an application process for nonprofit rental owners. Kansas City will propose standards for limits on rent and household

¹ The United States is facing an affordable housing crisis and Kansas City is no exception. In Jackson County, low-income individuals experience a housing market where the demand vastly exceeds supply; for every 100 individuals whose income is at or below 30% of the area median income, there are only 51 housing units available which they can afford. Nationally, since 1960, rents charged to tenants have increased 64% while renter incomes have increased only 18%, creating a severe cost burden on renters. The Urban Institute. 2014. Available at http://apps.urban.org/features/rental-housing-crisis-map/
² §137.076 RSMo.
³ §137.100(5) RSMo.
⁴ Franciscan Tertiary Province of Missouri, Inc., v. State Tax Commission, 566 S.W.2d 213, 226 (Mo. en banc, 1978)
income (affordable for households under 40% of area median income), and propose standards for service enrichment for tenants. In addition, Kansas City shall offer to enter into long term land use restriction agreements with the non-profit owners (after MHDC tax credit agreements expire) committing them to these standards, and monitoring them for compliance under threat of loss of tax exempt status. This City service should give County assessors the assurance they need to liberally utilize their authority to grant tax exemption for non-profit owned affordable housing.

Revenue and Expense Implications

This exemption is potentially revenue net-neutral, if not cost saving. Currently, the number of vacant properties in the Greater Kansas City Area exceeds 15,000. These vacant properties carry significant costs for the City, including trash clearing, grass cutting, and boarding up to prevent unlawful entry. These properties result in significant costs to the City. These properties will serve as attractive development potential for developers, potentially removing their upkeep and associated costs from the City.

Taxes collected from properties that are already utilized as affordable housing will likely be revenue neutral. Many of these properties are subject to income-based property tax assessments, which is not far from tax exempt status.

Legislative Implications and Requirements for Implementation

County and City implementing ordinances would be necessary.

Who is responsible at the municipal level for implementation of the policy

The City Revenue Department is charged with implementing this policy.

Projected Timetable for Implementation

Given the impending wave of LIHTC and income-based assessment valuation expirations expected in the near term, this policy should be implemented in the first year of the plan.

---

Category 2J
Affordable Homeownership Opportunities for City Employees

The problem: Many low-to-moderate-income City employees are renters when they could be owners. In a study completed last year for the National Foundation of Credit Counseling (NFCC), the question was asked of 2,322 low-to-moderate income individuals, “Do you aspire to homeownership and, if not, why not?” The main answers were, “I have bad credit and no bank would lend to me; renting is cheaper than owning.” The City has tried to induce employees to become homeowners with the theory that the down payment was the principal impediment when, in fact, it is likelier that impaired credit is the bigger impediment.

Meanwhile many neighborhood rehabbers, both for profit and non-profit who are redeveloping vacant homes, see those homes go un-sold when there could be a robust pipeline of homeowners if the rehabbers were to tap into a base of City employees.

These two factors, potential homeowners and rehabbed vacant homes, are currently disconnected. In a study done by Kelsey Ryan of the Kansas City Star in June, 2016, she identified the salaries, names and positions of the 4,379 City employees. From that study we know there are 1,491 employees earning between $30,000 and $45,000. While no hard data is available, it is likely that this group, especially if they are single bread winner households, rent their homes. As renters they are not building equity, not amassing inter-generational wealth to pass on to their children, not having a stake in their community. And many neighborhoods and private rehabbers active in neighborhoods are finishing only one house a year instead of many more because they don’t see consumer demand, a market of qualified buyers who want to buy their fully rehabbed homes.

The solution: Connect the dots. Help City employees improve their credit, establish savings and pay down their debt to qualify for a mortgage and make them aware of affordable housing opportunities in the City. When a robust pipeline has been built, the level of housing activity, both new and rehabbed, particularly in the urban core, will increase substantially because there will be consumer demand for the homes being built and rehabbed.

The City would need to take five steps to make this idea a reality:

As the area’s largest employer of low-to-moderate income individuals, the City could develop a program to appreciably help these employees have better lives by becoming homeowners, thus stabilizing their housing situations and enabling them to build equity. The City sends these employees a message, “We care about you and your family. We want you to have good housing choices and to have the choice to own an affordable home of your own. We will help you get to this goal.”

1. **Offer Free Credit and Housing Counseling** on site at various City Departments that employ low-to-moderate income workers: Park Department, Water Department, Aviation Department, Fire Department. There are already three highly qualified non-

Principal Author: Colleen Hernandez
profits who offer this service: Credit and Housing Empowerment Services (CHES); NHS of Kansas City; Housing Information Center (HIC).

2. **Advertise quality affordable homeownership opportunities.** Use City communication vehicles to advertise quality affordable housing opportunities, especially in the Urban Core. Ensure these are quality homes by mandating to the rehabber or realtor that an independent quality inspection be done. And, in return, help them sell the home by advertising to a large base of stably employed workers.

3. **Give recognition to area banks** and other financial institutions which are offering affordable loans to City employees, especially to urban core, low-to-moderate income and minority households. The City employee base will be attractive to these banks because, unlike many households who earn $30-35,000 a year, this group is stably employed at a full-time job. They are not cobbled together several part-time jobs to earn their salaries. And they work for an organization that will continue to be in business. Currently the financial institutions offering affordable loans include: BMO Harris, NACA, Family First, First Federal and Wells Fargo. The terms of these loans vary but most include: 3% down payment, total indebtedness of up to 45%; minimum credit score of 620.

4. **Work collaboratively with area rehabbers and builders,** for profit and non-profit, who have already built the capacity to rehab and build new homes and who need to see that the City is their partner. Include neighborhood groups in the collaboration to address factors on the block which may impede sales: unkempt conditions, drug houses, weeded lots, dangerous buildings.

5. **Offer dollar for dollar down payment assistance to employees up to $1,500.** For a $100,000 rehabbed home with a 3% down payment, the City's contribution of $1,500 could expedite the purchase and further send a message that 'as your employer we are on your side.”

6. **Re-capitalization of the Maintenance Reserve Corporation (MRC),** which offers insurance to low-to-moderate income City employees purchasing homes so that if a major system fails, the furnace, the roof, the water line, they are insured against this catastrophic event and can continue to live in and own the home. Low-to-moderate income families are at risk of losing their homes to a major catastrophic event like a systems failure. The MRC insures against that. The MRC was originally part of the configuration that made up the Rehab Loan Corporation. It was capitalized with $250,000 in CDBG funds, homeowners paid in $8 a month. Fifteen years into its tenure, MRC had a balance of $1.5 Million. With initial capital from the City and regular monthly payments from borrowers, the fund will be solvent indefinitely.

**Revenue and Expense**
Assuming the City will phase the program and initially aim to build a pipeline of 200 low-to-moderate income employees, the costs for the initial phase would be $760,000.

<table>
<thead>
<tr>
<th>Activity</th>
<th>Volume</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housing and Credit Counseling</td>
<td>200 employees @$650 per employee</td>
<td>$130,000</td>
</tr>
<tr>
<td>Down payment matching funds</td>
<td>200 employees at $1,500 @</td>
<td>$300,000</td>
</tr>
<tr>
<td>------------------------------</td>
<td>---------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>Initial capital for</td>
<td>$250,000 with remainder</td>
<td>$250,000</td>
</tr>
<tr>
<td>Maintenance Reserve</td>
<td>of the capital coming</td>
<td></td>
</tr>
<tr>
<td>Corporation</td>
<td>from monthly borrower</td>
<td></td>
</tr>
<tr>
<td></td>
<td>payments</td>
<td></td>
</tr>
<tr>
<td>Program staffing</td>
<td>One full time employee</td>
<td>$80,000</td>
</tr>
<tr>
<td></td>
<td>with benefits</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$760,000</strong></td>
</tr>
</tbody>
</table>

**Legislation:** none of the measures described in this program require legislation. There may be some legal work to re-instate the Maintenance Reserve Corporation and update the operating procedures but nothing legislative should be required, other than ordinances which allocate funding.

**Responsibilities and Timetable:** Responsibility for executing the program would fall to the Director of Neighborhoods and Housing Services. Once the City has committed to the program, the ramp up period of 3—4 months would include:

1. Identifying lead staff
2. Forming partnerships and developing working arrangements with credit and housing counseling agencies
3. Doing legal review and updating Maintenance Reserve Corporation operations
4. Formulating communications strategy focused on the program for City employees
5. Identifying and contracting with agency to administer the down payment matching funds
6. Launching the program with an event to which all partners and press are invited.
7. Six month progress report to the Housing Committee of the City Council
8. One year evaluation of program strategies and revisions where needed.
Category 3E
Prevent Source of Income Discrimination

Problem

The Housing Choice Voucher program, also commonly referred to as Section 8, was at first created primarily to address affordability through tenant-based solutions rather than traditional public housing projects. Over time, the Voucher program’s goals have grown to also include promoting economic and racial/ethnic integration.¹

The Voucher program continues to be “active and expanding” in Kansas City with nearly 11,000 on the waiting list.² The Voucher program is also more effective at making “greater entry into the low-poverty tracts than do the older vintage programs of public housing.”³ That said, most Voucher recipients in Kansas City, Missouri are living in racial/ethnic concentrated areas of poverty, because of wide-spread discrimination by landlords against tenant voucher holders.

The problem of denying housing applicants based on income is commonly associated with Vouchers but also applies to alimony, disability, social security, child support, and other types of income that differ from employment sources. Project Sentinel, a HUD-approved Housing Counseling Agency in California, describes what source of income discrimination may look like: “refuses to rent to an applicant who has non-wage income; prefers one type of income over another, such as preferring applicants who earn employment income versus those who receive Social Security payments; states a preference for professionals...; only rents to applicants who have a job; requires multiple years of steady employment; denies an applicant because a representative payee is responsible for paying rent; demands a higher deposit because an applicant has non-wage income.”⁴

Landlords have cited working with government bureaucracy and the housing inspections as reasons for not housing tenants that use Vouchers and other income sources to pay rent. These bureaucratic complaints mask other harmful and malicious reasons that persist throughout the market, such as the explicit and implicit bias against the low-income voucher recipients, who often are people of color.

Solution

One answer is to prohibit housing discrimination based on “source of income”.

³ Ibid.

Principal Author: James Baker
Preventing discrimination based on source of income will help support an existing affordable housing program and allow voucher recipients to move more easily to lower poverty tracts bringing them closer to jobs and services. It will also protect and support Kansas City residents who receive other types of income, such as Social Security, alimony, and child support.

“Source of income” discrimination is difficult to quantify since this discrimination is not illegal throughout most of the country and thus not tracked. The discrimination is often subtle. Reporting of this type of discrimination does not have reporting procedures in many localities. It has been demonstrated, though, that localities with laws outlawing “source of income” discrimination have improved the voucher utilization rates and the locational outcomes of voucher recipients.5

Kansas City shall:

1) Draft and implement an ordinance that defines, bans, and creates reporting and enforcement mechanisms for housing discrimination based on “source of income.”6
   a. Include a requirement that the landlord must produce a stated reason why the prospective tenant’s application was denied.
2) Direct the Human Relations Department to receive, process, and investigate claims of discrimination based on source of income.

Revenue and Expense Implications

Implementing this ordinance will likely increase the workload for the Human Relations Department, who will address complaints.

Who is responsible at the municipal level for implementation of the recommended policy?

The City Council shall consider an appropriate ordinance. Examples are available from other cities to assist in this process. The Human Relations Department will be tasked to receive, process, and investigate claims of “source of income” discrimination.

Timetable for Implementation

The first step is to enact an ordinance, which could be considered in the first year.

5 Freeman, p. viii-ix.
6 This is Chicago’s “Source of Income Discrimination” ordinance. It is focused on Housing Choice Voucher discrimination by provides an example:
Category 3F
Aid Seniors Aging in Place

The Problem: As the baby boom generation reaches retirement age and beyond, there is a major national problem with providing appropriate housing. There are many categories ranging from the well-elderly who have the resources and strength to provide appropriate housing for themselves. The more compelling profile is seniors who have the capacity to live independently as well as the desire to remain in their homes and in their communities. Unfortunately, many of these seniors need home modifications like grab bars, railings, ramps in order to live safely in their homes and avoid falling. Many are low income, Medicaid eligible, and have neither the resources nor the confidence in finding a qualified contractor to make the modifications. As people age, their balance is affected and the likelihood that they will fall increases. According to the Senior Health and Wellness Blog public by Shell Point Retirement Community, on an annual basis:

- Falls are reported by one third of people over 65.
- Two thirds of those who fall do so again within six months.
- Falls are the leading cause of death of people over 65.
- One fourth of seniors who fracture a hip from a fall will die within six months of the injury.

Meanwhile the costs associated with treating seniors who fall averages $19,000 in emergency care. These seniors whose mobility is affected often end up needing to be placed in a nursing home where costs in Missouri average $55,000 per person per year. There are 7,750 Medicaid eligible seniors in Kansas City with that number slated to grow dramatically in coming years.

The Solution: Secure a legislative waiver allowing home modifications for Medicaid-eligible seniors to be an allowable Medicaid expense, as it now is in 38 other states. Then provide home safety modifications for Medicaid eligible seniors, thus allowing them to live more safely in their homes, avoid falls, remain in the community and provide major reductions for Medicaid expenditures. A non-profit organization, Rebuilding Together Kansas City, has developed a special program, Safe At Home, which provides these home modifications. Their results speak for themselves: In 2015, clients fell 62 times before modifications and only 2 times after modifications; in 2016 clients fell 94 times before modifications and 4 times after modifications. In 2016 Rebuilding Together provided service to 87 clients; they conducted a survey to which 55 people responded: 85% felt the modifications reduced their risk; 89% felt modifications increased their ability to stay in their home; 89% reported feeling increased confidence and safer after the modifications were made. This solution is a win/win/win. It’s a win for the seniors who want to age in place, a win for the community who want to retain and provide for their long-time residents, a win for the government in providing a cost-effective way to see that people are served and that expenditures are reduced.

Principal Author: Colleen Hernandez
**Revenue and Expenses:** The only expense the City would incur in this program is the lobbying team which the City currently retains. This could be a priority for them in the 2018-19 legislative session.

**Legislative:** There are many examples of waivers from the 38 states who have already approved this measure. If the City and the community advocates can garner support from the counties, the Kansas City state delegation, the state Democrat and Republican parties, neighborhood groups and community development corporations, United Way of Greater Kansas City, the Chambers of Commerce, the Greater Kansas City Health Care Foundation, this could be enacted in the upcoming session.

**Responsibility and Timetable for Implementation:** Once the waiver is secured, *Rebuilding Together Kansas City* will take the lead in coordinating service to eligible seniors, reaching out to the senior population to ensure they know the service is available, taking applications, mobilizing work teams and developing the administrative processes and systems to assist seniors in applying for Medicaid assistance for the home modifications. Ultimately, other non-profits, particularly those who have minor home repair expertise and workforce development expertise may begin to offer the service as well.