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City Deliberates Its Options for New Affordable Housing Units

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Low-income housing units require a steady source of funding. The city is considering alternatives to charging development fees.

As the city of Berkeley plans to raise money for new affordable housing units by charging a fee on all market development, an in lieu option of providing low-income units on-site appears to be a more feasible solution to provide the housing.

At its Feb. 15 meeting, the Berkeley City Council voted to authorize the preparation of an ordinance implementing a housing impact fee on new housing to generate more money for low-income units. The money garnered by the fee would go into the city's Housing Trust Fund - made available to local developers to fund affordable housing units - and would not necessarily be used to finance new development, since trust fund money is often allocated for maintenance of completed housing projects, according to Vincent Casalaina, chair of the city's Housing Advisory Commission.

According to Jane Micallef, director of the city's Housing and Community Services Department, the city plans to provide developers the option of including affordable units on-site - in lieu of paying the fee - through a negotiated

settlement between developers and the city.

Berkeley has been considering how to create a steady source of funding for affordable housing units since 2009, when a court case in Los Angeles deemed the city's inclusionary housing policies - which required that 20 percent of the units in new development be set aside as affordable - in violation of the Costa Hawkins Rental Housing Act of 1995, which prohibited California cities from imposing their own rent control laws.

Casalaina said the commission supports levying the fee at a price that will encourage developers to choose the option of including housing on-site - as they did under inclusionary housing requirements. He added that while development projects completed through the Housing Trust Fund are necessary in that they usually provide specialized services to different groups of people, they take time.

"It takes years and years ... if you just got the developer to put the units into the building, you'd have the units much, much sooner," Casalaina said, adding that projects completed with trust fund money sometimes lead to a segregated community. "There is a certain ghettoization that takes place when you have all of one type of resident in a building."

A nexus study completed by the firm Bay Area Economics in October at the request of city staff suggests the city could place the housing impact fee at a maximum of \$34,000 per unit, based on the calculated impact that providing affordable housing has on the community.

In the Feb. 15 recommendation, city staff suggested the council set the fee at \$20,000 per unit - which would mimic the cost of inclusionary housing - in order to raise money for affordable units without depressing the climate of development.

The city's Rent Stabilization Board and the Housing Advisory Commission have argued in support of a \$28,000 fee per unit.

But Patrick Kennedy, founder of the for-profit development firm Panoramic Interests, said the proposed fees combined with additional costs are too high at a time when financing is "impossible," the credit market frozen and equity limited.

"We hope that the city will look at this in a big picture and not feel like they just have to charge a fee and get on with it," said Chris Hudson, a principal of the for-profit firm Hudson Macdonald.

Hudson pointed out several flaws in the nexus study, most notably its failure to include the impact that the state density bonus - a building increase allowance for developers who set aside a certain number of units for low-income residents - would have on the levying of any fee.

According to Micallef, city staff will offer the council a number of recommendations regarding the incorporation of the density bonus into the fee calculation at May 31 work session.

"We're looking at making it attractive to the developer - a cost-savings to the developer to include the units in their building," Casalaina said. "It's more likely that developers will look at the bottom line, put the affordable units and go for the density bonus."

However, Kennedy said plans for the fee make it unappealing for developers to continue working in Berkeley.

"They were able to get away with it in the past," he said. "It's just that adding a huge surcharge cost to doing business at a time when the market is flat on its back is of dubious value ... they're trying to get that in through a back door."

Tags: berkeley city council, affordable housing, rent stabilization board, Housing and Community Services Department, housing impact fee, Housing Advisory Commission, Costa Hawkins Rental Housing Act, Bay Area Economics

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