



# PLANNING COMMISSION AGENDA June 23, 2022

**PUBLIC ADVISORY:  
THE CITY COUNCIL CHAMBER IS NOW OPEN TO THE PUBLIC.**

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## ***How Can Members of the Public Observe the Meeting?***

The meeting may be viewed via Spectrum Channel 3 and 22, AT&T U-verse Channel 99, and/or El Segundo TV at YouTube.com.

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## ***How Can Members of the Public Participate in the Meeting and/or Provide Public Comments?***

For Public Communications, members of the public may provide comments in the Lobby and/or Council Chamber. For in person comments, please fill out a Speaker Card located in the Chamber Lobby. *The time limit for comments is five (5) minutes per person. Before speaking to the Commission, please state: your name and residence or the organization you represent. Please respect the time limits.*

Members of the public may also provide comments electronically by sending an email to the following address prior to the start of the meeting: [planning@elsegundo.org](mailto:planning@elsegundo.org). ***Please include the meeting date and item number in the subject line.*** If you would like to request that your emailed comment be read into the record, please include that request at the top of your email, limit your comments to 150 words or less, and email your comments at least 30 minutes prior to the start of the meeting. Depending on the volume of communications, the emails may be read to Commission at the appropriate time. Please note that all emailed comments are public records subject to disclosure under the Public Records Act.

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## ***Additional Information:***

**Unless otherwise noted in the agenda, the public can only comment on City-related business that is within the jurisdiction of the Planning Commission and/or items listed on the agenda during the public communications portions of the meeting. Additionally, the public can comment on any public hearing item on the agenda during the public hearing portion of such item. The time limit for comments is five (5) minutes per person. Before speaking to the Planning Commission, please state your name and residence and the organization you represent, if desired. Please respect the time limits.**

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DATE: Thursday, June 23, 2022

TIME: 5:30 p.m.

PLACE: City Council Chambers, City Hall  
350 Main Street, El Segundo, CA 90245

VIDEO: El Segundo Cable Channel 3 (Live).  
Replayed Friday following Thursday's meeting  
at 1:00 pm and 7:00 pm on Channel 3.  
(Schedule subject to change)

All files related to this agenda are available for public review by appointment in the Planning Division office, Monday through Thursday 7:00 am to 5:00 pm and on Fridays until 4:00 pm, beginning at 7:00 am on the Monday prior to the Planning Commission meeting.

The Planning Commission, with certain statutory exceptions, can only discuss, deliberate, or take action upon properly posted and listed agenda items.

Unless otherwise noted in the agenda, the public can only comment on City-related business that is within the subject-matter jurisdiction of the Planning Commission and items listed on the Agenda during the public communications portion of the meeting. Additionally, the public can comment on any public hearing item on the agenda during the public hearing portion of such item. The time limit for comments is generally five minutes per person.

Playing of video tapes or use of visual aids may be permitted during meetings if they are submitted to the Planning and Building Safety Director a minimum of two working days before the meeting and they do not exceed five minutes in length. Written materials distributed to the Planning Commission within 72 hours of the Planning Commission meeting are available for public inspection immediately upon distribution in the Development Services Department and on the City's website, [www.elsegundo.org](http://www.elsegundo.org).

**In compliance with the Americans with Disabilities Act, if you need assistance to participate in this meeting, please contact City Clerk, (310) 524-2307. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.**

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**A. Call to Order**

**B. Pledge of Allegiance**

**C. Roll Call**

**D. Public Communications** (Related to items on the agenda only—5 minutes per person; 30 minutes total). Individuals who received value of \$50 or more to communicate to the Planning Commission on another’s behalf, and employees speaking on their employer’s behalf, must so identify themselves before addressing the Commission. Failure to do so is a misdemeanor. While all comments are welcome, the Brown Act does not allow the Commission to discuss, deliberate, or take action on any item not on the agenda. The Commission may respond to comments after public communications is closed.

**E. Written Communications** (other than what is included in agenda packets)

Per the by-laws, the Chair and Vice-Chair are to be elected in December with the term to commence at the Commission’s first meeting in January

**F. Consent Calendar**

All items are to be adopted by one motion without discussion. If a request for discussion of an item is made, the items should be considered individually under the next agenda heading.

**1. Approval of the Planning Commission Meeting Minutes:**

- June 9, 2022
- March 28, 2019

**RECOMMENDED ACTION:** Approve the Minutes.

**G. Continued Business – Public Hearing**

None.

**H. New Public Hearings**

**2. Environmental Assessment No. EA-1314 and Zone Text Amendment No. 21-04. A Zone Text Amendment to Add Chapter 15-35 (Density Bonus) to the El Segundo Municipal Code. (PS)**

**Applicant:** City of El Segundo  
**Project Address:** Citywide

**Project Description:** A proposed amendment to the El Segundo Municipal Code to add Chapter 15-35 (Density Bonus) to Title 15 (Zoning Regulations) of the El Segundo Municipal Code to establish density bonus application procedures in compliance with state Density Bonus Law.

**Environmental Determination:** The proposed zone text amendment is exempt from the requirements of the California Environmental Quality Act (CEQA Section 15061), because it consists only of minor revisions to existing zoning regulations and related procedures and does not have the potential for causing a significant effect on the environment.

**RECOMMENDED ACTION:** Adopt Resolution No. 2921, recommending the City Council approve adding Chapter 15-35 (Density Bonus) to Title 15 (Zoning Regulations) of the El Segundo Municipal Code.

**3. Environmental Assessment No. EA-1316 and Zone Text Amendment No. 21-06. Zone Text Amendment to Permit Transitional and Supportive Housing in Residential Zones (PS)**

**Applicant:** City of El Segundo

**Project Address:** Citywide

**Project Description:** A proposed amendment to Chapter 4 in Title 15 (Zoning Regulations) of the El Segundo Municipal Code to permit transitional and supportive housing as allowed uses in the City's residential zones.

**Environmental Determination:** The proposed zone text amendment is exempt from the requirements of the California Environmental Quality Act (CEQA Section 15061), because it consists only of minor revisions to existing zoning regulations and related procedures and does not have the potential for causing a significant effect on the environment.

**RECOMMENDED ACTION:** Adopt Resolution No. 2922, recommending the City Council approve amending Title 15 of the El Segundo Municipal Code to permit transitional and supportive housing as allowed uses in the City's residential zones.

**I. New Business:**

**4. Follow-up discussion regarding micro-units and provide direction to staff on preparing a micro-unit ordinance.**

**J. Report from Director of Development Services or designee**

**K. Report from the City Attorney's office**

**L. Planning Commissioners' Comments**

**M. Adjournment**—next regular scheduled meeting for July 14, 2022, at 5:30 p.m.

POSTED: Venus Wesson  
(Signature)

June 17, 2022 / 3:01 pm  
(Date and time)



**MINUTES OF THE  
EL SEGUNDO PLANNING COMMISSION  
Regularly Scheduled Meeting**

**June 9, 2022**

**A. Call to Order**

Chair Baldino called the meeting to order at 5:30 p.m.

**B. Pledge of Allegiance**

Chair Baldino led the pledge.

**C. Roll Call**

Present: Chair Baldino  
Present: Vice Chair Newman  
Present: Commissioner Keldorf  
Present: Commissioner Maggay  
Absent: Commissioner Hoeschler

**D. Public Communications**

None.

**E. Written Communications** (other than what is included in Agenda packets)

None.

**F. Consent Calendar**

1. Approval of the Planning Commission Meeting Minutes:
  - April 28, 2022
  - February 28, 2019
  - January 24, 2019

**MOTION: Approve the minutes.**

**Moved by Vice Chair Newman, second by Commissioner Maggay  
Motion carried, 4-0, by the following vote:  
Ayes: Baldino, Newman, Keldorf, Maggay.**

**G. Call items from Consent Calendar**

None.

**H. Continued Business—Public Hearing**

None.

**I. New Public Hearings**

**2. Environmental Assessment No. EA-1321, CUP No. 22-01, AUP No. 22-02, and PDS No. 22-01 for an Outdoor Cinema on the Top Deck of a Parking Structure (MB)**

Assistance Planner Maria Baldenegro presented a power point presentation in which she explained why the applicant is requesting a Conditional Use Permit to operate an outdoor cinema located on the rooftop of a four-story parking structure, an Administrative Use Permit to allow the sale of beer and wine for on-site consumption with food service; and a Parking Demand Study to allow parking to be shared with office and light industrial buildings.

**Chair Baldino opened the public hearing.**

- Vice Chair Newman questioned the hours of business the Resolution states. Planning Manager, Eduardo Schonborn, explained the conditions tied to the Resolution and clarified that the sale of beer, wine and food would only occur during the hours of operation.
- Commissioner Maggay asked if cooking will occur on site. Mrs. Baldenegro informed the Commission that there will be no cooking on site, as most of the food will only require to be warmed up. She added that the sale of food is a requirement ABC has.
- Applicant representative, David Balian, informed the Commission that the total occupancy decreased compared to the prior Conditional Use Permit, they are under plan check review to make the temporary restrooms permanent and he reassured the Commission that the sale of beer, wine and food will only occur during the hours of operation.
- Commissioner Keldorf inquired if the venue space is available for private gatherings. Mr. Balian advised that the building permit is based on occupancy, and it is limited to 250 people. Mrs. Baldenegro added that a private gathering of that sort would trigger a Conditional Use Permit varying on the type of event.

**Chair Baldino closed the public hearing.**

**MOTION: Adopt Resolution No. 2920, conditionally approving Environmental Assessment No. EA-1321, Conditional Use Permit No. 22-01, Administrative Use Permit No. 22-02, and Parking Demand Study No. PDS 22-01.**

**Moved by Commissioner Keldorf, second by Commissioner Maggay.**

**Motion carried, 4-0, by the following vote:**

**Ayes: Baldino, Newman, Keldorf, Maggay.**

**J. New Business**

None.

**K. Report from Development Services Director or designee**

Planning Manager, Eduardo Schonborn, congratulated Commission Keldorf and Hoeschler for being reappointed to the Planning Commission. Mr. Schonborn alerted the Commission that Staff is working towards updating the Downtown Specific Plan and are seeking more

input from the Community via a questionnaire and workshop. He stated that Consultants are assisting Staff by conducting outreach, gathering/analyzing data, and conducting studies and further research on the matter.

**L. Report from City Attorney's Office**

None.

**M. Planning Commissioners' Comments**

None.

**N. Adjournment**—the meeting adjourned at 6:18 pm.  
The next meeting scheduled for June 23,2022 at 5:30 pm.

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Michael Allen, Director of Development Services

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Ryan Baldino, Planning Commission Chair



**MINUTES OF THE  
EL SEGUNDO PLANNING COMMISSION  
Regularly Scheduled Meeting**

**March 28, 2019**

**A. Call to Order**

The meeting was called to order at 5:30 p.m.

**B. Pledge of Allegiance**

Commissioner Hoeschler led the pledge.

**C. Roll Call**

Present: Chair Baldino  
Present: Vice Chair Newman  
Present: Commissioner Hoeschler  
Absent: Commissioner Wingate  
Absent: Commissioner Keldorf

**D. Public Communications**

None.

**E. Consent Calendar**

None.

**F. Call items from Consent Calendar**

None.

**G. Written Communications (other than what is included in Agenda packets)**

None.

**H. New Business—Public Hearing**

**1. Park Place Extension and Grade Separation Project Environmental Impact Report.**

Principal Planner Paul Samaras outlined the staff report. Mr. Samaras informed the Commission that the City of El Segundo is proposing to extend Park Place from Allied Way to Nash Street with a railroad grade separation to implement a critical project as identified in the City's 2004 General Plan Circulation Element Update, its 2005 Traffic Impact Fee Study Update, and the Southern California Association of Governments (SCAG) 2017 Federal Transportation Improvement Program (FTIP). The project would implement a gap closure to develop Park Place as an alternate east-west route between Sepulveda Boulevard and Douglas Street to relieve

congestion along portions of Rosecrans Avenue and Sepulveda Boulevard, as well as to improve local traffic circulation and access to and from the I-105 freeway.

**Chair Baldino opened the public hearing.**

- Vice Chair Newman inquired where the funding would come from. Public Works Director Ken Berkman informed the Commission that funding for the City project is not secured yet. However, Metro has the authority to manage the project.
- Mr. Samaras informed the Commission that the Public Utility Commission is adamant about new at grade crossings and if they do not approve it the City cannot get a road.
- Commissioner Hoeschler expressed his concerns with the pedestrian access at the roundabout.

**Chair Baldino closed the public hearing.**

**MOTION: To recommend City Council to approve and certify the Park Place Extension and Grade Separation Project Environmental Impact Report.**

**Moved by, Commissioner Hoeschler, second by Vice Chair Newman.  
Motion carried, 3-0, by the following vote:  
Ayes: Baldino, Newman, Hoeschler**

**I. Continued Business—Public Hearing**

None.

**J. Report from City Attorney's Office**

**2. Update regarding Status of Zone Text Amendment to Allow Short-term Rentals.**

City Attorney, David H. King, provided an update on the legal developments involving short-term rental regulations including the Ninth Circuit case, *Homeaway.com, Inc. et al. v. City of Santa Monica*; and, a status on staff's preparation of a draft ordinance regulating Short-Term Rentals in residential zones throughout the City.

**Chair Baldino opened the public hearing.**

- Planning Commissioners discussed possible controls the City can implement to regulate short-term rentals.

**Chair Baldino closed the public hearing.**

**K. Report from Planning and Building Safety Director or designee**

Planning Manager, Gregg McClain summarized the current zoning process and informed the Planning Commission of the departments goals to revitalize the zoning process.

**I. Planning Commissioners' Comments**

None.

**J. Adjournment**—the meeting adjourned at 6:58 pm.  
The next meeting scheduled for April 11, 2019 at 5:30 pm.

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Sam Lee, Director of Planning and Building Safety

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Ryan Baldino, Planning Commission Chair



## Planning Commission Agenda Statement

**Meeting Date:** June 23, 2022

**Agenda Heading:** Public Hearing

**Item Number:** H.2

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### **TITLE:**

An Ordinance Adding Chapter 15-35 (Density Bonus) to the El Segundo Municipal Code (ESMC) in Compliance with State Law.

### **RECOMMENDATION:**

1. Adopt resolution No. 2921, recommending City Council approve Adding Chapter 15-35 (Density Bonus) to the ESMC.

### **BACKGROUND:**

The ESMC does not address the current requirements of State Density Bonus Law (California Government Code sections 65915-65918). The State Density Bonus Law entitles a property owner or developer to build more housing units than a local zoning code would otherwise allow, provided they reserve a share of the units for lower income and/or senior residents. The law provides an incentive for property owners and developers to construct more affordable housing in California to help meet the growing need. All cities and counties are required to adopt an ordinance that specifies how the Density Bonus Law will be implemented. Attachment Nos. 2 and 3 provide a summary of the Density Bonus Law provisions and a project example based on a site that is in the Housing Element Site Inventory. Attachment No. 4 provides the full text of California Government Code sections 66915-65918.

### **Planning Commission Study Session**

On April 28, 2022, the Planning Commission held a study session to discuss a potential Density Bonus ordinance in El Segundo. The Commission inquired whether the City could require a discretionary application for Density Bonus requests and whether the City could reduce the density bonus or other concessions granted to applicants. Staff clarified that the City could not require a discretionary application for Density Bonus requests. Staff also clarified that the City could not reduce the level of density bonus or other concessions.

**DISCUSSION:**

**Draft ordinance**

The intent of the proposed ordinance (Attachment No. 1) is to facilitate production of very low-income, low-income, moderate-income and senior citizens housing units in accordance with State Density Bonus Law. Specifically, the proposed ordinance ensures the ESMC is consistent with and incorporates all the provisions of State Law and establishes procedures for processing Density Bonus requests.

a) State Law consistency

The draft ordinance refers to State Law regarding minimum criteria for affordable housing projects, and bonus and concession levels that the City must award qualifying projects. The project criteria and concession levels are not specifically listed in the ordinance to avoid amending the City's ordinance each time State Density Bonus Laws change. The current project criteria and concession levels are provided in attachment Nos. 3 and 4.

b) Application procedures

The application procedures are listed in the ordinance and cover the following areas:

- i. Application submittal requirements
- ii. Review of qualified projects and calculation of concession levels
- iii. Waiver of development standards process and findings
- iv. Requirement for an affordable housing agreement and miscellaneous requirements

**ENVIRONMENTAL REVIEW**

The project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines § 15061(b)(3), because it consists only of minor revisions to existing zoning regulations and related procedures and does not have the potential for causing a significant effect on the environment.

**PREPARED BY:** Paul Samaras, Principal Planner <sup>AS</sup>  
**REVIEWED BY:** Eduardo Schonborn, AICP, Planning Manager   
**APPROVED BY:** Michael Allen, AICP, Development Services Director 

**ATTACHED SUPPORTING DOCUMENTS:**

1. Draft Resolution No. 2920
  - a. Draft Ordinance
2. Factsheet regarding the State Density Bonus
3. Guide to the California Density Bonus Law by Meyers Nave (January 2021)

**Density Bonus Ordinance**

**June 23, 2022**

**Page 3 of 3**

4. California Government Code sections 65915-65918 (full text)

## RESOLUTION NO. 2921

### **A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL APPROVE ENVIRONMENTAL ASSESSMENT NO. EA-1317 AND ZONE TEXT AMENDMENT NO. ZTA 22-01 ADDING CHAPTER 15-35 (DENSITY BONUS) TO THE EL SEGUNDO MUNICIPAL CODE TITLE 15 (ZONING CODE).**

The Planning Commission of the City of El Segundo does resolve as follows:

#### SECTION 1: The Planning Commission finds and declares that:

- A. The State Legislature has declared that the lack of housing, including providing for a variety of housing types for all income levels and special needs groups, is a critical problem that threatens the economic, environmental, and social quality of life in California.
- B. Government Code Section 65583 requires that the City's Housing Element address governmental constraints to the development of housing, including providing for a variety of housing types for all income levels.
- C. Government Code Section 65915 requires that local governments adopt procedures for processing a density bonus application.
- D. The City Council of the City of El Segundo adopted the City's 2021-2029 Housing Element on February 1, 2022.
- E. Program 7 of the City's 2014-2021 Housing Element provides that the City will establish a density bonus program that is consistent with California Law.
- F. The Legislature amended Government Code Section 65915 in 2019 to clarify certain provisions of Density Bonus Law, and the City wishes to update the Zoning Code to ensure consistency with State law and clarify how to implement the density bonus program.
- G. On October 7, 2021, the City initiated an application for Environmental Assessment No. EA 1314 and Zone Text Amendment No. ZTA 21-04 to chapter 15-35 implementing a density bonus program;
- H. The City reviewed the project's environmental impacts under the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the "CEQA Guidelines");
- I. On April 28, 2022, the Planning Commission conducted a study session regarding a potential density bonus program;

- J. On June 23, 2022, the Planning Commission held a duly noticed public hearing to receive public testimony and other evidence regarding the proposed ordinance, including, without limitation, information provided to the Planning Commission by City staff and public testimony; and,
- K. This Resolution and its findings are made based upon the evidence presented to the Commission at its June 23, 2022, hearing including, without limitation, the staff report submitted by the Development Services Department and the totality of the evidence in the administrative record.

SECTION 2: *Factual Findings and Conclusions.* The Planning Commission finds, without limitation, that the proposed Zone Text Amendment ordinance ("Ordinance") to add ESMC Chapter 15-35 (Density Bonus) will amend the City's municipal code to bring it into compliance with state law.

SECTION 3: *General Plan Consistency Findings.* As required under Government Code § 65454 the proposed Ordinance is consistent with the City's General Plan as follows:

- A. The proposed zone text amendment is consistent with the Housing Element goals, objectives and policies. Specifically, the zone text amendment is consistent with Goal No. 4 to remove governmental constraints on housing development, in that it will remove development restrictions that limit the number of affordable housing units that can be produced in the City. In addition, the zone text amendment is consistent with Goal No. 2 (assisting in the production of affordable housing) and Program 7, Zoning Revisions.

SECTION 4: *Zone Text Amendment Findings.* In accordance with ESMC § 15-27-3 and based on the findings set forth in Section 3, the proposed amendment is consistent with the goals, policies, and objectives of the ESMC as follows:

- A. The amendment is consistent with the purpose of the ESMC, which is to serve the public health, safety, and general welfare and to provide the economic and social advantages resulting from an orderly planned use of land resources.
- B. It is necessary to facilitate the development process and ensure the orderly location of uses within the City.

SECTION 5: *Environmental Assessment.* Based on the facts set forth in Section 2, the City Council finds that the zone text amendment is exempt from further review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines § 15061(b)(3)), because it consists only of minor revisions to existing zoning regulations and related procedures and does not have the potential for causing a significant effect on the environment.

SECTION 6: Recommendations. The Planning Commission recommends that the City Council adopt the Ordinance attached as Exhibit "A" which would implement the Zone Text Amendment.

SECTION 7: Reliance on Record. Each and every one of the findings and determination in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the Planning Commission in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 8: Limitations. The Planning Commission's analysis and evaluation of the project is based on information available at the time of the decision. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. In all instances, best efforts have been made to form accurate assumptions.

SECTION 9: This Resolution will remain effective unless and until superseded by a subsequent resolution.

SECTION 10: The Commission secretary is directed to mail a copy of this Resolution to any person requesting a copy.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_ 2022.

\_\_\_\_\_  
Ryan Baldino, Chair  
City of El Segundo Planning Commission

ATTEST:

\_\_\_\_\_  
Michael Allen, Secretary and  
Development Services Director

Baldino -  
Newman -  
Keldorf -  
Hoeschler -  
Maggay -

APPROVED AS TO FORM:  
Mark D. Hensley, City Attorney

By: \_\_\_\_\_  
Joaquin Vazquez, Deputy City Attorney

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE ADDING CHAPTER 15-35 (DENSITY BONUS) TO THE  
EL SEGUNDO MUNICIPAL CODE**

The City Council of the city of El Segundo does ordain as follows:

**SECTION 1:** The Council finds and declares as follows:

- A. The State Legislature has declared that the lack of housing, including providing for a variety of housing types for all income levels and special needs groups, is a critical problem that threatens the economic, environmental, and social quality of life in California.
- B. Government Code Section 65583 requires that the City's Housing Element address governmental constraints to the development of housing, including providing for a variety of housing types for all income levels.
- C. The City Council of the City of El Segundo adopted the City's 2021-2029 Housing Element on February 1, 2022.
- D. Government Code Section 65915 requires that local governments adopt procedures for processing a density bonus application.
- E. Program 7 of the City's 2014-2021 Housing Element provides that the City will establish a density bonus program that is consistent with California Law.
- F. The Legislature amended Government Code Section 65915 in 2019 to clarify certain provisions of Density Bonus Law, and the City wishes to update the Development Code to ensure consistency with State law and clarify how to implement the density bonus program.
- G. On June 23, 2022, the Planning Commission held a public hearing to receive public testimony and other evidence regarding the proposed ordinance; the Planning Commission adopted Resolution No. 2921 recommending that the City Council introduce and adopt the density bonus ordinance.

**SECTION 2:** *Factual Findings and Conclusions.* The City Council finds that introducing and adopting the proposed ordinance will amend the City's municipal code to bring it into compliance with state law.

**SECTION 3:** *General Plan Findings.* As required under Government Code § 65454 the proposed Ordinance is consistent with the City's General Plan as follows:

- A. The proposed zone text amendment is consistent with the Housing Element goals, objectives and policies. Specifically, the zone text amendment is consistent with Goal No. 4 to remove governmental constraints on housing development, in that it will remove development restrictions that limit the number of affordable housing units that can be produced in the City. In addition, the zone text amendment is consistent with Goal No. 2 (assisting in the production of affordable housing) and Program 7, Zoning Revisions.

SECTION 4: Zone Text Amendment Findings. In accordance with ESMC § 15-26-4 and based on the findings set forth in Section 3, the proposed amendments are consistent with the goals, policies, and objectives of the ESMC as follows:

- A. The amendments are consistent with the purpose of the ESMC, which is to serve the public health, safety, and general welfare and to provide the economic and social advantages resulting from an orderly planned use of land resources.
- B. It is necessary to facilitate the development process and ensure the orderly location of uses within the City.

SECTION 5: Environmental Assessment. Based on the facts set forth in Section 2, the City Council finds that the zone text amendment is exempt from further review under the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines § 15061(b)(3)), because it consists only of minor revisions to existing zoning regulations and related procedures and does not have the potential for causing a significant effect on the environment.

SECTION 6: ESMC Chapter 15-35 (Density Bonus) is added to read as follows:

**CHAPTER 35  
Density Bonus**

- 15-35-1: Purpose**
- 15-35-2: Application**
- 15-35-3: Density Bonus Application**
- 15-35-4: Review and Determination**
- 15-35-5: Waiver of Development Standards**
- 15-35-6: Agreement and Additional Provisions**

**15-35-1: Purpose**

It is the purpose of this Chapter to encourage the production of very low-income, low-income, moderate-income and senior citizens housing units in accordance with Government Code Sections 65915 through 65918, as may be amended from time to time (“State Density Bonus Law”). In enacting this section, it is also the intent of the City to facilitate the development of affordable housing and to implement the goals, objectives,

and policies of the housing element of the City's General Plan. A copy of the current State Density Bonus Law shall be kept on file with the Development Services Department.

### **15-35-2: Application**

This Chapter shall apply to any qualifying residential development application which meets the criteria to receive a density bonus.

### **15-35-3: Density Bonus Application**

- A. In addition to any other review required for a proposed housing development, applications for density bonus shall be filed on a form approved by the Development Services Director ("director"). The application for a density bonus shall be filed concurrently with an application for a development. At the time the application is submitted, the applicant shall pay a density bonus application fee, established by City Council resolution.
- B. An applicant for a density bonus must file an application for a density bonus with the director concurrently with the application for all other entitlements necessary for the proposed housing development.
- C. The application must contain information sufficient to fully evaluate the request under the requirements of this chapter and Government Code section 65915, including, without limitation, the following:
  - 1. A description of the proposed housing development, including an explanation of how the proposed project will satisfy the eligibility requirements of Government Code section 65915;
  - 2. The total number of housing units proposed in the project, including unit sizes and the number of bedrooms;
  - 3. The total number of units proposed to be granted through the density increase over and above the otherwise maximum density for the project site;
  - 4. The total number of units to be made affordable to or reserved for sale or rental to very low, low or moderate-income households, or senior citizens, or other qualifying residents consistent with state law;
  - 5. A list of any concessions or incentives being requested to facilitate the development of the project, together with documentation of resulting cost reductions necessary to provide for affordable housing costs; and
  - 6. Any other information the director determines necessary to process and evaluate the proposal consistent with Government Code section 65915.

### **15-35-4: Review and Determination**

- A. For a housing development qualifying pursuant to the requirements of Government Code Section 65915, the City shall grant a density bonus in an amount specified

by Government Code Section 65915. Except as otherwise required by Government Code Section 65915, the density bonus units shall not be included when calculating the total number of housing units that qualifies the housing development for a density bonus.

- B. For the purpose of calculating the density bonus, the “maximum allowable residential density” shall be the maximum density allowed under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the maximum density allowed in the general plan shall prevail.
- C. The City shall grant the applicant the number of incentives and concessions required by Government Code Section 65915. The City shall grant the specific concession(s) or incentive(s) requested by the applicant, unless it makes any of the relevant written findings stated in Government Code Section 65915(d)(1).
- D. The applicant may request, and the City shall grant, a reduction in parking requirements in accordance with Government Code Section 65915(p), as that section may be amended from time to time.

#### **15-35-5: Waiver of Development Standards**

- A. Except as restricted by Government Code Section 65915, the applicant for a density bonus may submit a proposal for the waiver or reduction of development standards that have the effect of physically precluding the construction of a housing development incorporating the density bonus and any incentives or concessions granted to the applicant. A request for a waiver or reduction of development standards shall be accompanied by documentation demonstrating that the waiver or reduction is physically necessary to construct the housing development with the additional density allowed pursuant to the density bonus and incorporating any incentives or concessions required to be granted. The City shall approve a waiver or reduction of a development standard, unless it finds that:
  - 1. The application of the development standard does not have the effect of physically precluding the construction of a housing development at the density allowed by the density bonus and with the incentives or concessions granted to the applicant;
  - 2. The waiver or reduction of the development standard would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact;

3. The waiver or reduction of the development standard would have an adverse impact on any real property that is listed in the California Register of Historical Resources; or
4. The waiver or reduction of the development standard would be contrary to state or federal law.

#### **15-35-6: Agreement and Additional Provisions**

- A. The applicant shall enter into an agreement with the City to ensure the continued affordability of all affordable units or the continued reservation of such units for qualifying senior citizens. Prior to receiving a building permit for any project that receives a density bonus or any incentive, concession, waiver, or reduction of development standards pursuant to this section, such agreement shall be recorded as a covenant against the property.
- B. For any development project that is granted a density bonus or other benefit pursuant to this section, the affordable units that qualify the project as eligible for a density bonus, must be constructed concurrently with or prior to the construction of any market rate units.
- C. In addition, the affordable units must be integrated with the market rate units so that there is a mix of affordable and market rate units, if any, in each building of the development project.
- D. An applicant shall not receive a density bonus or other incentive or concession unless the housing development is entitled to such a bonus, incentive or concession under Government Code Section 65915.
- E. The provisions of this subdivision shall be interpreted to fulfill the requirements of Government Code Section 65915. Any changes to that Government Code Section 65915 shall be deemed to supersede and govern any conflicting provisions contained herein.
- F. The director is authorized to adopt administrative regulations and procedures necessary to implement this chapter consistent with Chapter 4.3 (Density Bonuses and Other Incentives) of Division 1 of Title 7 of the Government Code.

**SECTION 7:** If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 8:** The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of El Segundo's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within 15 days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 9: This Ordinance will become effective 30 days following its passage and adoption.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Drew Boyles, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Mark D. Hensley, City Attorney

ATTEST:

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES    )     SS  
CITY OF EL SEGUNDO            )

I, Tracy Weaver, City Clerk of the City of El Segundo, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance No. \_\_\_\_\_ was duly introduced by said City Council at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_ 2022, and was duly passed and adopted by said City Council, approved and signed by the Mayor, and attested to by the City Clerk, all at a regular meeting of said Council held on the \_\_\_\_ day of \_\_\_\_\_, 2022, and the same was so passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Tracy Weaver, City Clerk

# Guide to the California Density Bonus Law

BY JON GOETZ AND TOM SAKAI

REVISED JANUARY 2021



# Table of Contents

INTRODUCTION AND OVERVIEW..... 2

HOW THE DENSITY BONUS WORKS..... 3

    DENSITY BONUS CHART..... 4

HOW THE DENSITY BONUS CAN HELP IN A FRIENDLY JURISDICTION..... 10

HOW THE DENSITY BONUS CAN HELP IN A HOSTILE JURISDICTION..... 11

CEQA ISSUES IN DENSITY BONUS PROJECTS..... 11

USING THE DENSITY BONUS TO SATISFY INCLUSIONARY HOUSING REQUIREMENTS..... 11

DENSITY BONUS AND REPLACEMENT HOUSING..... 12

DENSITY BONUS IN THE COASTAL ZONE..... 12

DENSITY BONUS - A FLEXIBLE TOOL..... 12

DENSITY BONUS STATUTES..... 13

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# Introduction and Overview

Savvy housing developers are taking advantage of California's Density Bonus Law, a mechanism which allows them to obtain more favorable local development requirements in exchange for offering to build or donate land for affordable or senior units. The Density Bonus Law (found in California Government Code Sections 65915 – 65918) provides developers with powerful tools to encourage the development of affordable and senior housing, including up to a 50% increase in project densities for most projects, depending on the amount of affordable housing provided, and an 80% increase in density for projects which are completely affordable. The Density Bonus Law is about more than the density bonus itself, however. It is actually a larger package of incentives intended to help make the development of affordable and senior housing economically feasible. Other tools include reduced parking requirements, and incentives and concessions such as reduced setback and minimum square footage requirements. Often these other tools are even more helpful to project economics than the density bonus itself, particularly the special parking benefits. Sometimes these incentives are sufficient to make the project pencil out, but for other projects financial assistance is necessary to make the project feasible.

In determining whether a development project would benefit from becoming a density bonus project, developers also need to be aware that:

- The Density Bonus is a state mandate. A developer who meets the requirements of the state law is entitled to receive the density bonus and other benefits as a matter of right. As with any state mandate, some local governments will resist complying with the state requirement. But many local governments favor the density bonus as a helpful tool to cut through their own land use requirements and local political issues.
- Use of a density bonus may be particularly helpful in those jurisdictions that impose inclusionary housing requirements for new developments.
- Special development bonuses are available for developers of commercial projects who partner with affordable housing developers to provide onsite or offsite affordable housing. Special bonuses are also available for condominium conversion projects and projects that include childcare facilities.
- The Legislature has recently added density bonuses for housing developments for foster youth, disabled veterans, homeless persons and college students.

# How the Density Bonus Works

## PROJECTS ENTITLED TO A DENSITY BONUS

Cities and counties are required to grant a density bonus and other incentives or concessions to housing projects which contain one of the following:

- At least 5% of the housing units are restricted to very low income residents.
- At least 10% of the housing units are restricted to lower income residents.
- At least 10% of the housing units in a for-sale common interest development are restricted to moderate income residents.
- 100% of the housing units (other than manager's units) are restricted to very low, lower and moderate income residents (with a maximum of 20% moderate).
- At least 10% of the housing units are for transitional foster youth, disabled veterans or homeless persons, with rents restricted at the very low income level.
- At least 20% of the housing units are for low income college students in housing dedicated for full-time students at accredited colleges.
- The project donates at least one acre of land to the city or county for very low income units, and the land has the appropriate general plan designation, zoning, permits and approvals, and access to public facilities needed for such housing.
- The project is a senior citizen housing development (no affordable units required).
- The project is a mobilehome park age-restricted to senior citizens (no affordable units required).

## DENSITY BONUS AMOUNT

The amount of the density bonus is set on a sliding scale, based upon the percentage of affordable units at each income level, as shown in the chart on the following page. (Note that maximum density bonus amounts for very low, lower and moderate income housing were increased by legislation approved in 2020.)



# DENSITY BONUS CHART\*

AFFORDABLE UNIT PERCENTAGE**	VERY LOW INCOME DENSITY BONUS	LOW INCOME DENSITY BONUS	MODERATE INCOME DENSITY BONUS***	LAND DONATION DENSITY BONUS	SENIOR****	FOSTER YOUTH/ DISABLED VETS/ HOMELESS	COLLEGE STUDENTS
5%	20%	-	-	-	20%	-	-
6%	22.5%	-	-	-	20%	-	-
7%	25%	-	-	-	20%	-	-
8%	27.5%	-	-	-	20%	-	-
9%	30%	-	-	-	20%	-	-
10%	32.5%	20%	5%	15%	20%	20%	-
11%	35%	21.5%	6%	16%	20%	20%	-
12%	38.75%	23%	7%	17%	20%	20%	-
13%	42.5%	24.5%	8%	18%	20%	20%	-
14%	46.25%	26%	9%	19%	20%	20%	-
15%	50%	27.5%	10%	20%	20%	20%	-
16%	50%	29%	11%	21%	20%	20%	-
17%	50%	30.5%	12%	22%	20%	20%	-
18%	50%	32%	13%	23%	20%	20%	-
19%	50%	33.5%	14%	24%	20%	20%	-
20%	50%	35%	15%	25%	20%	20%	35%
21%	50%	38.75%	16%	26%	20%	20%	35%
22%	50%	42.5%	17%	27%	20%	20%	35%
23%	50%	46.25%	18%	28%	20%	20%	35%
24%	50%	50%	19%	29%	20%	20%	35%
25%	50%	50%	20%	30%	20%	20%	35%
26%	50%	50%	21%	31%	20%	20%	35%
27%	50%	50%	22%	32%	20%	20%	35%
28%	50%	50%	23%	33%	20%	20%	35%
29%	50%	50%	24%	34%	20%	20%	35%
30%	50%	50%	25%	35%	20%	20%	35%
31%	50%	50%	26%	35%	20%	20%	35%
32%	50%	50%	27%	35%	20%	20%	35%
33%	50%	50%	28%	35%	20%	20%	35%
34%	50%	50%	29%	35%	20%	20%	35%
35%	50%	50%	30%	35%	20%	20%	35%
36%	50%	50%	31%	35%	20%	20%	35%
37%	50%	50%	32%	35%	20%	20%	35%
38%	50%	50%	33%	35%	20%	20%	35%
39%	50%	50%	34%	35%	20%	20%	35%
40%	50%	50%	35%	35%	20%	20%	35%
41%	50%	50%	38.75%	35%	20%	20%	35%
42%	50%	50%	42.5%	35%	20%	20%	35%
43%	50%	50%	46.25%	35%	20%	20%	35%
44%	50%	50%	50%	35%	20%	20%	35%
100%*****	80%	80%	80%	35%	20%	20%	35%

\*All density bonus calculations resulting in fractions are rounded up to the next whole number.

\*\*Affordable unit percentage is calculated excluding units added by a density bonus.

\*\*\*Moderate income density bonus applies to for sale units, not to rental units.

\*\*\*\*No affordable units are required for senior units.

\*\*\*\*\* Applies when 100% of the total units (other than manager's units) are restricted to very low, lower and moderate income (maximum 20% moderate).

## REQUIRED INCENTIVES AND CONCESSIONS

In addition to the density bonus, the city or county is also required to provide one or more “incentives” or “concessions” to each project which qualifies for a density bonus (except that market rate senior citizen projects with no affordable units, and land donated for very low income housing, do not appear to be entitled to incentives or concessions). A concession or incentive is defined as:

- A reduction in site development standards or a modification of zoning code or architectural design requirements, such as a reduction in setback or minimum square footage requirements; or
- Approval of mixed use zoning; or
- Other regulatory incentives or concessions which actually result in identifiable and actual cost reductions.

The number of required incentives or concessions is based on the percentage of affordable units in the project:

NO. OF INCENTIVES/ CONCESSIONS	VERY LOW INCOME PERCENTAGE	LOWER INCOME PERCENTAGE	MODERATE INCOME PERCENTAGE
1	5%	10%	10%
2	10%	17%	20%
3	15%	24%	30%
4	100% Low/Very Low/Mod (20% Moderate allowed)	100% Low/Very Low/Mod (20% Moderate allowed)	100% Low/Very Low/Mod (20% Moderate allowed)

The city or county is required to grant the concession or incentive proposed by the developer unless it finds that the proposed concession or incentive does not result in identifiable and actual cost reductions, would cause a public health or safety problem, would cause an environmental problem, would harm historical property, or would be contrary to law. The Density Bonus Law restricts the types of information and reports that a developer may be required to provide to the local jurisdiction in order to obtain the requested incentive or concession. The local jurisdiction has the burden of proof in the event it declines to grant a requested incentive or concession. Financial incentives, fee waivers and reductions in dedication requirements may be, but are not required to be, provided by the city or county. The developer may be entitled to the incentives and concessions even without a request for a density bonus.

## OTHER FORMS OF ASSISTANCE

A development qualifying for a density bonus also receives two additional forms of assistance which have important benefits for a housing project:

- **Waiver or Reduction of Development Standards.** If any other city or county development standard would physically prevent the project from being built at the permitted density and with the granted concessions/incentives, the developer may propose to have those standards waived or reduced. The city or county is not permitted to apply any development standard which physically precludes the construction of the project at its permitted density and with the granted concessions/incentives. The city or county is not required to waive or reduce development standards that would cause a public health or safety problem, cause an environmental problem, harm historical property, or would be contrary to law. The waiver or reduction of a development standard does not count as an incentive or concession, and there is no limit on the number of development standard waivers that may be requested or granted. Development standards which have been waived or reduced utilizing this section include setback, lot coverage and open space requirements, and should apply to building height limits as well. This ability to force the locality to modify its normal development standards is sometimes the most compelling reason for the developer to structure a project to qualify for the density bonus.

- **Maximum Parking Requirements.** Upon the developer's request, the city or county may not require more than the following parking ratios for a density bonus project (inclusive of parking for persons with disabilities):

Studio	1 space
1 Bedroom	1 space
2 Bedroom	1.5 spaces
3 Bedroom	1.5 spaces
4 Bedroom	2.5 spaces

- **Special Parking Requirements.** Lower parking ratios apply to specified projects (although local jurisdictions can require higher parking ratios if supported by a specified parking study):

Rental/for sale projects with at least 11% very low income or 20% lower income units, within 1/2 mile of accessible major transit stop	0.5 spaces per unit
Rental projects 100% affordable to lower income, within 1/2 mile of accessible major transit stop	0 spaces per unit
Rental senior projects 100% affordable to lower income, either with paratransit service or within 1/2-half mile of accessible bus route (operating at least eight times per day)	0 spaces per unit
Rental special needs projects 100% affordable to lower income households, either with paratransit service or within 1/2-half mile of accessible bus route (operating at least eight times per day)	0 spaces per unit
Rental supportive housing developments 100% affordable to lower income households	0 spaces per unit

Onsite spaces may be provided through tandem or uncovered parking, but not onstreet parking. Requesting these parking standards does not count as an incentive or concession, but the developer may request further parking standard reductions as an incentive or concession. This is one of the most important benefits of the density bonus statute. In many cases, achieving a reduction in parking requirements may be more valuable than the additional permitted units. In higher density developments requiring the use of structured parking, the construction cost of structured parking is very expensive, costing upwards of \$20,000 per parking space. While this provision of the density bonus statute can be used to reduce excessive parking requirements, care must be taken not to impact the project's marketability by reducing parking to minimum requirements which lead to parking shortages.

## AFFORDABLE HOUSING RESTRICTIONS

- **Rental Units.** Affordable rental units must be restricted by an agreement which sets maximum incomes and rents for those units. As of January 1, 2015, the income and rent restrictions must remain in place for a 55 year term for very low or lower income units (formerly only a 30 year term was required).

Rents must be restricted as follows (continue to page 7):



- For very low income units, rents may not exceed 30% x 50% of the area median income for a household size suitable for the unit.
  - For lower income units, rents may not exceed 30% x 60% of the area median income for a household size suitable for the unit.
  - In 100% affordable housing developments, the rent for at least 20% of the units must meet the rent standards of Health and Safety Code Section 50053, and the remaining units may instead meet Low Income Housing Tax Credit rent standards.
  - Area median income is determined annually by regulation of the California Department of Housing and Community Development, based upon median income regulations adopted by the U.S. Department of Housing and Urban Development.
  - Rents must include a reasonable utility allowance.
  - Household size appropriate to the unit means 1 for a studio unit, 2 for a one bedroom unit, 3 for a two bedroom unit, 4 for a three bedroom unit, etc.
- **For Sale Units.** Affordable for sale units must be sold to the initial buyer at an affordable housing cost. Housing related costs include mortgage loan payments, mortgage insurance payments, property taxes and assessments, homeowner association fees, reasonable utilities allowance, insurance premiums, maintenance costs, and space rent.
    - For very low income units, housing costs may not exceed 30% x 50% of the area median income for a household size suitable for the unit.
    - For lower income units, housing costs may not exceed 30% x 70% of the area median income for a household size suitable for the unit.
    - For moderate income units, housing costs may not exceed 35% x 110% of the area median income for a household size suitable for the unit.
    - Buyers must enter into an equity sharing agreement with the city or county, unless the equity sharing requirements conflict with the requirements of another public funding source or law. The equity sharing agreement does not restrict the resale price, but requires the original owner to pay the city or county a portion of any appreciation received on resale.
    - The city/county percentage of appreciation is the purchase price discount received by the original buyer, plus any down payment assistance provided by the city/county. (For example, if the original sales price is \$300,000, and the original fair market value is \$400,000, and there is no city/county down payment assistance, the city/county subsidy is \$100,000, and the city/county's share of appreciation is 25%).



- The seller is permitted to retain its original down payment, the value of any improvements made to the home, and the remaining share of the appreciation.
- The income and affordability requirements are not binding on resale purchasers (but if other public funding sources or programs are used, the requirements may apply to resales for a fixed number of years).

## **LOCAL GOVERNMENT PROCESSING OF DENSITY BONUS APPLICATIONS**

Under new legislation effective in 2019, local governments are now required to notify developers what information must be submitted for a complete density bonus application. Once a development application is determined to be complete, the local government must notify the developer the level of density bonus and parking ratio the development is eligible to receive. If the developer requests incentives, concessions, waivers or reductions of development standards, the local jurisdiction is required to notify the developer if it has submitted sufficient information necessary for the local government to make a determination on those issues.

## **HOW THE DENSITY BONUS WORKS FOR 100% AFFORDABLE PROJECTS**

2019 legislation requires local governments to grant an 80% density bonus to housing projects in which all of the units (other than manager’s units) are restricted to very low, low and moderate income residents, with a maximum of 20% restricted to moderate income units. If a 100% affordable project is located within a half mile of a major transit stop, the local government may not impose any maximum density limits at all, and the project is further entitled to receive a maximum height increase of up to three additional stories or 33 feet. However, if the project receives a waiver from maximum controls on density, it is not eligible for the waiver or reduction of any development standards which would otherwise be available. 100% affordable projects are also entitled to a fourth incentive or concession.

## **HOW THE DENSITY BONUS WORKS FOR SENIOR PROJECTS**

As shown in the Density Bonus Chart on page 4, a senior citizen housing development of at least 35 units meeting the requirements of Section 51.3 or 51.12 of the Civil Code qualifies for a 20% density bonus. This is a very desirable option for senior housing developments. In jurisdictions where the local ordinances do not reduce the parking requirements for senior housing developments, the reduced parking requirements alone may justify applying for a density bonus.

## **HOW THE DENSITY BONUS WORKS FOR STUDENT HOUSING PROJECTS**

New legislation taking effect in 2019 requires cities and counties to grant a 35% density bonus for housing developments that will include at least 20% of the units for low income college students. The housing must be used exclusively for full-time students at accredited colleges, and must be subject to an operating agreement or master lease with one or more colleges. Unlike the maximum income requirements for other forms of affordable housing, resident income levels are determined through the student’s eligibility for the state’s Cal Grant financial aid program. Affordable rent levels are also specially tailored for a student population, with maximum rents established per bed for individual residents, rather than for the entire apartment unit. Homeless students receive priority for affordable units.

## **HOW THE DENSITY BONUS WORKS FOR COMMERCIAL PROJECTS**

The Density Bonus Law requires that cities and counties provide a “development bonus” to commercial developers who partner with affordable housing developers for the construction of affordable housing on the commercial project site, or offsite within the jurisdiction located near schools, employment and a major transit stop. The commercial developer may participate through the donation of land or funds for the

affordable housing, or direct construction of the housing units. The partnership between the commercial developer and the affordable developer can occur through a newly formed legal entity such as a corporation, LLC or partnership, or can take the shape of a contractual agreement between the parties. To be eligible for the development bonus, at least 30% of the housing units must be restricted to lower income residents or 15% of the housing units must be restricted to very low income residents. Unlike the primary Density Bonus Law, there is no fixed amount of increased density awarded to the developer. Instead, the development bonus can be any mutually agreeable incentive, including up to a 20% increase in development intensity, floor area ratio, or height limits, up to a 20% reduction in parking requirements, use of a limited use elevator, or an exception to a zoning ordinance or land use requirement. Commercial developers who need extra leverage to obtain more favorable development standards for their project may want to consider providing affordable housing in order to take advantage of the benefits of the development bonus.

## **HOW THE DENSITY BONUS WORKS FOR CONDOMINIUM CONVERSION PROJECTS**

The density bonus statute provides for a density bonus of up to 25% for condominium conversion projects providing at least 33% for the total units to low or moderate income households or 15% of the units to lower income households. Many condominium conversion projects are not designed in a manner that allows them to take advantage of the opportunity to construct additional units, but some projects may find this helpful.

## **HOW THE DENSITY BONUS WORKS FOR CHILDCARE**

Housing projects that provide childcare are eligible for a separate density bonus equal to the size of the childcare facility. The childcare facility must remain in operation for at least the length of the affordability covenants. A percentage of the childcare spaces must also be made available to low and moderate income families. A separate statute permits cities and counties to grant density bonuses to commercial and industrial projects of at least 50,000 square feet, when the developer sets aside at least 2,000 square feet in the building and 3,000 square feet of outside space for a childcare facility.

## **HOW TO OBTAIN A DENSITY BONUS THROUGH LAND DONATION**

Many market rate housing developers are uncomfortable with building and marketing affordable units themselves, whether due to their lack of experience with the affordable housing process or because of their desire to concentrate on their core market rate homes. Other developers may have sites that are underutilized in terms of project density. The Density Bonus Law contains a special sliding scale bonus for land donation which allows those developers to turn over the actual development of the affordable units to local agencies or experienced low income developers. The density bonus is available for the donation of at least an acre of fully entitled land, with all needed public facilities and infrastructure, and large enough for the construction of a high density very low income project containing 10% of the total homes in the development. The parcel must be located within the boundary of the proposed development or, subject to the approval of the jurisdiction, within one-fourth mile of the boundary of the proposed development. The more units that can be built on the donated land, the larger the density bonus. Because of the parcel size requirements, this option is only practical for larger developments. The land donation density bonus can be combined with the regular density bonus provided for the development of affordable units, up to a maximum 35% density bonus. A master planned community developer needs to carefully evaluate the land donation option as opposed to engaging an affordable housing developer to fulfill the project's affordable housing obligations. In many cases the master developer will prefer to control the affordable component of the project through a direct agreement with the affordable housing developer, rather than allowing the local government to control the project.

## **FLOOR AREA RATIO BONUSES**

Under new legislation effective in 2019, a local jurisdiction is permitted to grant a floor area ratio bonus rather than a traditional density bonus to certain high density affordable housing projects adjacent to public

transit. Eligible projects are also entitled to special parking ratios of one-tenth of a parking space per affordable unit and one-half space per market rate unit. To be eligible for the floor area ratio bonus, the project must restrict at least 20 percent of the units to very low income tenants, must be located within a transit priority area or near a major transit stop, and must be in compliance with local height limits.

## How the Density Bonus Can Help in a Friendly Jurisdiction

While the Density Bonus Law is often used by developers to obtain more housing than the local jurisdiction would ordinarily permit, it can also be a helpful land use tool in jurisdictions which favor the proposed project and want to provide support. Planners in many cities and counties may be disposed by personal ideology or local policy to encourage the construction of higher density housing and mixed use developments near transit stops and downtown areas, but are hampered by existing general plan standards and zoning from approving these sorts of projects. Elected officials often support these projects too, but may find it politically difficult to oppose neighborhood and environmental groups over the necessary general plan amendments, zoning changes and CEQA approvals.

The density bonus can provide a useful mechanism for increasing allowable density without requiring local officials to approve general plan amendments and zoning changes. A project that satisfies the requirements of the Density Bonus Law often can obtain the necessary land use approvals through the award of the density bonus units and requested concessions and incentives, without having to amend the underlying land use requirements. Friendly local officials may encourage the use of the density bonus to “force” the jurisdiction to approve a desired project.



## How the Density Bonus Law Can Help in a Hostile Jurisdiction

It is important to know that the density bonus is a state law requirement which is mandatory on cities and counties, even charter cities which are free from many other state requirements. A developer who meets the law's requirements for affordable or senior units is entitled to the density bonus and other assistance as of right, regardless of the locality's desires (subject to limited health and safety exceptions). The density bonus statute can be used to achieve reductions in development standards or the granting of concessions or incentives from jurisdictions that otherwise would not be inclined to grant those items. Examples might include a reduction in parking standards if those standards are deemed excessive by the developer, or other reductions in development standards if needed to achieve the total density permitted by the density bonus.

Developers who nonetheless encounter hostility from local jurisdictions are provided several tools to ensure that a required density bonus is actually granted. Developers are entitled to an informal meeting with a local jurisdiction which fails to modify a requested development standard. If a developer successfully sues the locality to enforce the density bonus requirements, it is entitled to an award of its attorneys' fees. The obligation to pay a developer's attorneys' fees is a powerful incentive for local jurisdictions to voluntarily comply with the state law density bonus requirements, even when the jurisdiction is not in favor of its effects on the project.

## CEQA Issues in Density Bonus Projects

Although there is no specific density bonus exemption from the California Environmental Quality Act (CEQA), many density bonus projects are likely candidates for urban infill and affordable housing exemptions from CEQA. One commonly invoked exemption is the Class 32 urban infill exemption found in CEQA Guidelines Section 15332. That exemption is available if the project is consistent with applicable general plan designation and zoning, the site is five acres or less and surrounded by urban uses, is not habitat for endangered, rare or threatened species, does not have any significant effects relating to traffic, noise, air quality or water quality, and is adequately served by utilities and public services. Other exemptions are available for high density housing projects near major transit stops (CEQA Guidelines Section 15195) and affordable housing projects of up to 100 units (CEQA Guidelines Section 15194).

A 2011 case, *Wollmer v. City of Berkeley*, clarified the use of the CEQA infill exemption for density bonus projects. In that case, an opponent of a Berkeley density bonus project challenged the City's use of the urban infill exemption on the grounds that the City's modifications and waivers of development standards, as required under the Density Bonus Law, meant that the project was not consistent with existing zoning. The court rejected that argument, finding that the modifications required by the Density Bonus Law did not disqualify the project from claiming the exemption.

Not all density bonus projects will qualify for one of these CEQA exemptions, however. Sometimes the additional density provided to non-exempt projects may bring the project out of the coverage of an existing CEQA approval for a general plan, specific plan or other larger project. For instance, if a previously approved environmental impact report analyzed a 100 unit project as the largest allowed under existing zoning, but the developer is able to qualify for 120 units with a density bonus, the existing EIR may not cover the larger project. The larger density bonus project may require additional CEQA analysis for approval.

## Using the Density Bonus to Satisfy Inclusionary Housing Requirements

Many of California's cities and counties have adopted inclusionary housing ordinances, which typically require that a specified percentage of units in a new housing development be restricted as affordable units. The inclusionary requirements significantly reduce income from rental units and sales prices of for-sale homes. In today's tight housing market, compliance with local inclusionary requirements may make many projects economically infeasible. The density bonus provides one method for developers to improve the economics of their project while still complying with the inclusionary A 2013 case, *Latinos Unidos del Valle de*

*Napa y Solano v. County of Napa*, held that inclusionary units qualify as affordable units for purposes of the Density Bonus Law. The case confirmed that the density bonus is a financial tool available to help developers achieve city and county inclusionary housing requirements.

## Density Bonus and Replacement Housing

Developers obtaining a density bonus are required to replace existing units which were previously occupied by very low or lower income households or subject to rent control, when those units have been demolished or vacated prior to the density bonus application. The housing development must also meet the applicable affordable housing standards, including the replacement units. As a result of uncertainty about how to apply these standards when the income levels of prior residents is unknown. The Density Bonus Law establishes a rebuttable presumption for the income level of the replacement unit when the income level of the actual prior resident is unknown.

## Density Bonus in the Coastal Zone

When affordable housing is proposed in the coastal zone, the Density Bonus Law's focus on encouraging the development of affordable housing could clash with the California Coastal Act's focus on environmental protection. Legislation effective in 2019 now requires the density bonus to be administered in the Coastal Zone in a manner that is consistent and harmonized with the California Coastal Act. This legislation overturns a 2016 appellate court ruling, *Kalnel Gardens, LLC v. City of Los Angeles*, which found that a proposed housing project that violates the Coastal Act as a result of a density bonus could be denied on that basis. The court in *Kalnel Gardens* held that the Density Bonus Law is subordinate to the Coastal Act, but the new language attempts to strike a balance between the state goals of promoting housing and protecting the coast.

## Density Bonus – A Flexible Tool

The Density Bonus Law can be a powerful tool for different types of development projects, whether they are traditional affordable housing projects, predominantly market rate housing developments, or senior projects. Obtaining greater density can help the developer of any project bring costs and financing sources into line by putting more homes on the land, reducing the per unit land costs. Use of the favorable parking requirements can reduce the amount of costly land needed for parking. The incentives and concessions to be provided by the local government can provide a helpful way to modify development requirements which may stand in the way of a successful project. Of course there is a price to pay for these benefits—the affordable units needed to earn the density bonus. Developers need to make a cost-benefit determination whether the cost of compliance is worth the benefits. But the Density Bonus Law is unquestionably a useful option for housing developers trying to make financial sense of projects in today's economy.

## Density Bonus Statutes

### Government Code Sections 65915 – 65918.

Effective as of January 1, 2021

**65915.** (a) (1) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall comply with this section. A city, county, or city and county shall adopt an ordinance that specifies how compliance with this section will be implemented. Except as otherwise provided in subdivision (s), failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(2) A local government shall not condition the submission, review, or approval of an application pursuant to this chapter on the preparation of an additional report or study that is not otherwise required by state law, including this section. This subdivision does not prohibit a local government from requiring an applicant to provide reasonable documentation to establish eligibility for a requested density bonus, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p).

(3) In order to provide for the expeditious processing of a density bonus application, the local government shall do all of the following:

(A) Adopt procedures and timelines for processing a density bonus application.

(B) Provide a list of all documents and information required to be submitted with the density bonus application in order for the density bonus application to be deemed complete. This list shall be consistent with this chapter.

(C) Notify the applicant for a density bonus whether the application is complete in a manner consistent with the timelines specified in Section 65943.

(D) (i) If the local government notifies the applicant that the application is deemed complete pursuant to subparagraph (C), provide the applicant with a determination as to the following matters:

(I) The amount of density bonus, calculated pursuant to subdivision (f), for which the applicant is eligible.

(II) If the applicant requests a parking ratio pursuant to subdivision (p), the parking ratio for which the applicant is eligible.

(III) If the applicant requests incentives or concessions pursuant to subdivision (d) or waivers or reductions of

development standards pursuant to subdivision (e), whether the applicant has provided adequate information for the local government to make a determination as to those incentives, concessions, or waivers or reductions of development standards.

(ii) Any determination required by this subparagraph shall be based on the development project at the time the application is deemed complete. The local government shall adjust the amount of density bonus and parking ratios awarded pursuant to this section based on any changes to the project during the course of development.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and, if requested by the applicant and consistent with the applicable requirements of this section, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development, as defined in Section 4100 of the Civil Code, for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(E) Ten percent of the total units of a housing development for transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low income units.

(F) (i) Twenty percent of the total units for lower income students in a student housing development that meets the following requirements:

(I) All units in the student housing development will be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the city, county, or city and county that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. An operating agreement or master lease entered into pursuant to this subclause is not violated or breached if, in any subsequent year, there are not sufficient students enrolled in an institution of higher education to fill all units in the student housing development.

(II) The applicable 20-percent units will be used for lower income students. For purposes of this clause, "lower income students" means students who have a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in paragraph (1) of subdivision (k) of Section 69432.7 of the Education Code. The eligibility of a student under this clause shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education that the student is enrolled in, as described in subclause (I), or by the California Student Aid Commission that the student receives or is eligible for financial aid, including an institutional grant or fee waiver, from the college or university, the California Student Aid Commission, or the federal government shall be sufficient to satisfy this subclause.

(III) The rent provided in the applicable units of the development for lower income students shall be calculated at 30 percent of 65 percent of the area median income for a single-room occupancy unit type.

(IV) The development will provide priority for the applicable affordable units for lower income students experiencing homelessness. A homeless service provider, as defined in paragraph (3) of subdivision (e) of Section 103577 of the Health and Safety Code, or institution of higher education that has knowledge of a person's homeless status may verify a person's status as homeless for purposes of this subclause.

(ii) For purposes of calculating a density bonus granted pursuant to this subparagraph, the term "unit" as used in this section means one rental bed and its pro rata

share of associated common area facilities. The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years.

(G) One hundred percent of all units in the development, including total units and density bonus units, but exclusive of a manager's unit or units, are for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the units in the development, including total units and density bonus units, may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), an applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), (D), (E), (F), or (G) of paragraph (1).

(3) For the purposes of this section, "total units," "total dwelling units," or "total rental beds" does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(c) (1) (A) An applicant shall agree to, and the city, county, or city and county shall ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

(B) (i) Except as otherwise provided in clause (ii), rents for the lower income density bonus units shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(ii) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), rents for all units in the development, including both base density and density bonus units, shall be as follows:

(I) The rent for at least 20 percent of the units in the development shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(II) The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.

(2) An applicant shall agree to, and the city, county, or

city and county shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(B) For purposes of this subdivision, the local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

(3) (A) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

(i) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in subdivision (b).

(ii) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(B) For the purposes of this paragraph, "replace" shall mean either of the following:

(i) If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. If the income category of the household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, it shall be rebuttably presumed that low-income and very low

income renter households occupied these units in the same proportion of low-income and very low income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(C) Notwithstanding subparagraph (B), for any dwelling unit described in subparagraph (A) that is or was, within the five-year period preceding the application, subject to a form of rent or price control through a local government's valid exercise of its police power and that is or was occupied by persons or families above lower income, the city, county, or city and county may do either of the following:

(i) Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) Require that the units be replaced in compliance with the jurisdiction's rent or price control ordinance, provided that each unit described in subparagraph (A) is replaced. Unless otherwise required by the jurisdiction's rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.

(D) For purposes of this paragraph, "equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

(E) Subparagraph (A) does not apply to an applicant seeking a density bonus for a proposed housing development if the applicant's application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or

city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

(B) Two incentives or concessions for projects that include at least 17 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(C) Three incentives or concessions for projects that include at least 24 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(D) Four incentives or concessions for projects meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b). If the project is located within one-half mile of a major transit stop, the applicant shall also receive a height increase of up to three additional stories, or 33 feet.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this

section, the court shall award the plaintiff reasonable attorney’s fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section that shall include legislative body approval of the means of compliance with this section.

(4) The city, county, or city and county shall bear the burden of proof for the denial of a requested concession or incentive.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. Subject to paragraph (3), an applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney’s fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(3) A housing development that receives a waiver from any maximum controls on density pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f) shall only be eligible for a waiver or reduction of development standards as provided in subparagraph (D) of paragraph (2) of subdivision (d) and clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f), unless the city, county, or city and county agrees to additional waivers or reductions of development standards.

(f) For the purposes of this chapter, “density bonus” means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the city, county, or city and county, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

PERCENTAGE LOW-INCOME UNITS	PERCENTAGE DENSITY BONUS
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35
21	38.75
22	42.5
23	46.25
24	50

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

PERCENTAGE VERY LOW-INCOME UNITS	PERCENTAGE DENSITY BONUS
5	20
6	22.5

7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

(3) (A) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(B) For housing developments meeting the criteria of subparagraph (E) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that subparagraph.

(C) For housing developments meeting the criteria of subparagraph (F) of paragraph (1) of subdivision (b), the density bonus shall be 35 percent of the student housing units.

(D) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), the following shall apply:

(i) Except as otherwise provided in clause (ii), the density bonus shall be 80 percent of the number of units for lower income households.

(ii) If the housing development is located within one-half mile of a major transit stop, the city, county, or city and county shall not impose any maximum controls on density.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

PERCENTAGE MODERATE-INCOME UNITS	PERCENTAGE DENSITY BONUS
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13

19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35
41	38.75
42	42.5
43	46.25
44	50

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

PERCENTAGE VERY LOW-INCOME	PERCENTAGE DENSITY BONUS
10	15
11	16
12	17
13	18
14	19

15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing

units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government before the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

(h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a childcare facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the childcare facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The childcare facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the childcare facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the

percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a childcare facility if it finds, based upon substantial evidence, that the community has adequate childcare facilities.

(4) "Childcare facility," as used in this section, means a child daycare facility other than a family daycare home, including, but not limited to, infant centers, preschools, extended daycare facilities, and schoolage childcare centers.

(i) "Housing development," as used in this section, means a development project for five or more residential units, including mixed-use developments. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) (1) The granting of a concession or incentive shall not require or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, study, or other discretionary approval. For purposes of this subdivision, "study" does not include reasonable documentation to establish eligibility for the concession or incentive or to demonstrate that the incentive or concession meets the definition set forth in subdivision (k). This provision is declaratory of existing law.

(2) Except as provided in subdivisions (d) and (e), the granting of a density bonus shall not require or be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.

(k) For the purposes of this chapter, concession or

incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this section and Division 20 (commencing with Section 30000) of the Public Resources Code.

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) "Located within one-half mile of a major transit stop" means that any point on a proposed development, for which an applicant seeks a density bonus, other incentives or concessions, waivers or reductions of development standards, or a vehicular parking ratio pursuant to this section, is within one-half mile of any point on the property on which a major transit stop is located, including any parking lot owned by the transit authority or other local agency operating the major transit stop.

(3) "Major transit stop" has the same meaning as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(4) "Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. If the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(p) (1) Except as provided in paragraphs (2), (3), and (4), upon the request of the developer, a city, county, or city and county shall not require a vehicular parking ratio, inclusive of parking for persons with a disability and guests, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: one and one-half onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) (A) Notwithstanding paragraph (1), if a development includes at least 20 percent low-income units for housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b) or at least 11 percent very low income units for housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), is located within

one-half mile of a major transit stop, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds 0.5 spaces per unit.

(B) For purposes of this subdivision, a development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments. For purposes of this subparagraph, "natural or constructed impediments" includes, but is not limited to, freeways, rivers, mountains, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit.

(3) Notwithstanding paragraph (1), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose vehicular parking standards if the development meets either of the following criteria:

(A) The development is located within one-half mile of a major transit stop and there is unobstructed access to the major transit stop from the development.

(B) The development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code and the development has either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(4) Notwithstanding paragraphs (1) and (8), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, and the development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose any minimum vehicular parking requirement. A development that is a special needs housing development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(5) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide onsite parking through tandem parking or

uncovered parking, but not through onstreet parking.

(6) This subdivision shall apply to a development that meets the requirements of subdivisions (b) and (c), but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

(7) This subdivision does not preclude a city, county, or city and county from reducing or eliminating a parking requirement for development projects of any type in any location.

(8) Notwithstanding paragraphs (2) and (3), if a city, county, city and county, or an independent consultant has conducted an areawide or jurisdictionwide parking study in the last seven years, then the city, county, or city and county may impose a higher vehicular parking ratio not to exceed the ratio described in paragraph (1), based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low-income and very low income individuals, including seniors and special needs individuals. The city, county, or city and county shall pay the costs of any new study. The city, county, or city and county shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.

(9) A request pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(q) Each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number. The Legislature finds and declares that this provision is declaratory of existing law.

(r) This chapter shall be interpreted liberally in favor of producing the maximum number of total housing units.

(s) Notwithstanding any other law, if a city, including a charter city, county, or city and county has adopted an ordinance or a housing program, or both an ordinance and a housing program, that incentivizes the development of affordable housing that allows for density bonuses that exceed the density bonuses required by the version of this section effective through December 31, 2020, that city, county, or city and county is not required to amend or otherwise update its ordinance or corresponding affordable housing incentive program to comply with the amendments

made to this section by the act adding this subdivision, and is exempt from complying with the incentive and concession calculation amendments made to this section by the act adding this subdivision as set forth in subdivision (d), particularly subparagraphs (C) and (D) of paragraph (2) of that subdivision, and the amendments made to the density tables under subdivision (f).

#### **65915.5.**

(a) When an applicant for approval to convert apartments to a condominium project agrees to provide at least 33 percent of the total units of the proposed condominium project to persons and families of low or moderate income as defined in Section 50093 of the Health and Safety Code, or 15 percent of the total units of the proposed condominium project to lower income households as defined in Section 50079.5 of the Health and Safety Code, and agrees to pay for the reasonably necessary administrative costs incurred by a city, county, or city and county pursuant to this section, the city, county, or city and county shall either (1) grant a density bonus or (2) provide other incentives of equivalent financial value. A city, county, or city and county may place such reasonable conditions on the granting of a density bonus or other incentives of equivalent financial value as it finds appropriate, including, but not limited to, conditions which assure continued affordability of units to subsequent purchasers who are persons and families of low and moderate income or lower income households.

(b) For purposes of this section, "density bonus" means an increase in units of 25 percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion.

(c) For purposes of this section, "other incentives of equivalent financial value" shall not be construed to require a city, county, or city and county to provide cash transfer payments or other monetary compensation but may include the reduction or waiver of requirements which the city, county, or city and county might otherwise apply as conditions of conversion approval.

(d) An applicant for approval to convert apartments to a condominium project may submit to a city, county, or city and county a preliminary proposal pursuant to this section prior to the submittal of any formal requests for subdivision map approvals. The city, county, or city and county shall, within 90 days of receipt of a written proposal, notify the applicant in writing of the manner in which it will comply with this section. The city, county, or city and county shall establish procedures for carrying out this section, which shall include legislative body approval of the means of compliance with this section.

(e) Nothing in this section shall be construed to require a city, county, or city and county to approve a proposal to convert apartments to condominiums.

(f) An applicant shall be ineligible for a density bonus or other incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were provided under Section 65915.

(g) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the condominium project is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed condominium project replaces those units, as defined in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65915, and either of the following applies:

(1) The proposed condominium project, inclusive of the units replaced pursuant to subparagraph (B) of paragraph (3) of subdivision (c) of Section 65915, contains affordable units at the percentages set forth in subdivision (a).

(2) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(h) Subdivision (g) does not apply to an applicant seeking a density bonus for a proposed housing development if their application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

#### **65915.7.**

(a) When an applicant for approval of a commercial development has entered into an agreement for partnered housing described in subdivision (c) to contribute affordable housing through a joint project or two separate projects encompassing affordable housing, the city, county, or city and county shall grant to the commercial developer a development bonus as prescribed in subdivision (b). Housing shall be constructed on the site of the commercial development or on a site that is all of the following:

(1) Within the boundaries of the local government.

(2) In close proximity to public amenities including schools and employment centers.

(3) Located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(b) The development bonus granted to the commercial developer shall mean incentives, mutually agreed upon by the developer and the jurisdiction, that may include, but are not limited to, any of the following:

(1) Up to a 20-percent increase in maximum allowable intensity in the General Plan.

(2) Up to a 20-percent increase in maximum allowable floor area ratio.

(3) Up to a 20-percent increase in maximum height requirements.

(4) Up to a 20-percent reduction in minimum parking requirements.

(5) Use of a limited-use/limited-application elevator for upper floor accessibility.

(6) An exception to a zoning ordinance or other land use regulation.

(c) For the purposes of this section, the agreement for partnered housing shall be between the commercial developer and the housing developer, shall identify how the commercial developer will contribute affordable housing, and shall be approved by the city, county, or city and county.

(d) For the purposes of this section, affordable housing may be contributed by the commercial developer in one of the following manners:

(1) The commercial developer may directly build the units.

(2) The commercial developer may donate a portion of the site or property elsewhere to the affordable housing developer for use as a site for affordable housing.

(3) The commercial developer may make a cash payment to the affordable housing developer that shall be used towards the costs of constructing the affordable housing project.

(e) For the purposes of this section, subparagraph (A) of paragraph (3) of subdivision (c) of Section 65915 shall apply.

(f) Nothing in this section shall preclude any additional allowances or incentives offered to developers by local governments pursuant to law or regulation.

(g) If the developer of the affordable units does not

commence with construction of those units in accordance with timelines ascribed by the agreement described in subdivision (c), the local government may withhold certificates of occupancy for the commercial development under construction until the developer has completed construction of the affordable units.

(h) In order to qualify for a development bonus under this section, a commercial developer shall partner with a housing developer that provides at least 30 percent of the total units for low-income households or at least 15 percent of the total units for very low-income households.

(i) Nothing in this section shall preclude an affordable housing developer from seeking a density bonus, concessions or incentives, waivers or reductions of development standards, or parking ratios under Section 65915.

(j) A development bonus pursuant to this section shall not include a reduction or waiver of the requirements within an ordinance that requires the payment of a fee by a commercial developer for the promotion or provision of affordable housing.

(k) A city or county shall submit to the Department of Housing and Community Development, as part of the annual report required by Section 65400, information describing a commercial development bonus approved pursuant to this section, including the terms of the agreements between the commercial developer and the affordable housing developer, and the developers and the local jurisdiction, and the number of affordable units constructed as part of the agreements.

(l) For purposes of this section, "partner" shall mean formation of a partnership, limited liability company, corporation, or other entity recognized by the state in which the commercial development applicant and the affordable housing developer are each partners, members, shareholders or other participants, or a contract or agreement between a commercial development applicant and affordable housing developer for the development of both the commercial and the affordable housing properties.

(m) This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

#### **65916.**

Where there is a direct financial contribution to a housing development pursuant to Section 65915 through participation in cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, the city, county, or city and county shall assure continued availability for low- and moderate-income units for 30 years. When appropriate, the agreement provided for in Section 65915 shall specify

the mechanisms and procedures necessary to carry out this section.

#### **65917.**

In enacting this chapter it is the intent of the Legislature that the density bonus or other incentives offered by the city, county, or city and county pursuant to this chapter shall contribute significantly to the economic feasibility of lower income housing in proposed housing developments. In the absence of an agreement by a developer in accordance with Section 65915, a locality shall not offer a density bonus or any other incentive that would undermine the intent of this chapter.

#### **65917.2.**

(a) As used in this section, the following terms shall have the following meanings:

(1) "Eligible housing development" means a development that satisfies all of the following criteria:

(A) The development is a multifamily housing development that contains five or more residential units, exclusive of any other floor area ratio bonus or incentive or concession awarded pursuant to this chapter.

(B) The development is located within one of the following:

(i) An urban infill site that is within a transit priority area.

(ii) One-half mile of a major transit stop.

(C) The site of the development is zoned to allow residential use or mixed-use with a minimum planned density of at least 20 dwelling units per acre and does not include any land zoned for low density residential use or for exclusive nonresidential use.

(D) The applicant and the development satisfy the replacement requirements specified in subdivision (c) of Section 65915.

(E) The development includes at least 20 percent of the units, excluding any additional units allowed under a floor area ratio bonus or other incentives or concessions provided pursuant to this chapter, with an affordable housing cost or affordable rent to, and occupied by, persons with a household income equal to or less than 50 percent of the area median income, as determined pursuant to Section 50093 of the Health and Safety Code, and subject to an affordability restriction for a minimum of 55 years.

(F) The development complies with the height

requirements applicable to the underlying zone. A development shall not be eligible to use a floor area ratio bonus or other incentives or concessions provided pursuant to this chapter to relieve the development from a maximum height limitation.

(2) "Floor area ratio" means the ratio of gross building area of the eligible housing development, excluding structured parking areas, proposed for the project divided by the net lot area. For purposes of this paragraph, "gross building area" means the sum of all finished areas of all floors of a building included within the outside faces of its exterior walls.

(3) "Floor area ratio bonus" means an allowance for an eligible housing development to utilize a floor area ratio over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of a city or county, calculated pursuant to paragraph (2) of subdivision (b).

(4) "Major transit stop" has the same meaning as defined in Section 21155 of the Public Resources Code.

(5) "Transit priority area" has the same meaning as defined in Section 21099 of the Public Resources Code.

(b) (1) A city council, including a charter city council or the board of supervisors of a city and county, or county board of supervisors may establish a procedure by ordinance to grant a developer of an eligible housing development, upon the request of the developer, a floor area ratio bonus, calculated as provided in paragraph (2), in lieu of a density bonus awarded on the basis of dwelling units per acre.

(2) In calculating the floor area ratio bonus pursuant to this section, the allowable gross residential floor area in square feet shall be the product of all of the following amounts:

(A) The allowable residential base density in dwelling units per acre.

(B) The site area in square feet, divided by 43,560.

(C) 2,250.

(c) The city council or county board of supervisors shall not impose any parking requirement on an eligible housing development in excess of 0.1 parking spaces per unit that is affordable to persons and families with a household income equal to or less than 120 percent of the area median income and 0.5 parking spaces per unit that is offered at market rate.

(d) A city or county that adopts a floor area ratio bonus ordinance pursuant to this section shall allow an applicant seeking to develop an eligible residential

development to calculate impact fees based on square feet, instead of on a per unit basis.

(e) In the case of an eligible housing development that is zoned for mixed-use purposes, any floor area ratio requirement under a zoning ordinance or land use element of the general plan of the city or county applicable to the nonresidential portion of the eligible housing development shall continue to apply notwithstanding the award of a floor area ratio bonus in accordance with this section.

(f) An applicant for a floor area ratio bonus pursuant to this section may also submit to the city, county, or city and county a proposal for specific incentives or concessions pursuant to subdivision (d) of Section 65915.

(g) (1) This section shall not be interpreted to do either of the following:

(A) Supersede or preempt any other section within this chapter.

(B) Prohibit a city, county, or city and county from providing a floor area ratio bonus under terms that are different from those set forth in this section.

(2) The adoption of an ordinance pursuant to this section shall not be interpreted to relieve a city, county, or city and county from complying with Section 65915.

#### **65917.5.**

(a) As used in this section, the following terms shall have the following meanings:

(1) "Child care facility" means a facility installed, operated, and maintained under this section for the nonresidential care of children as defined under applicable state licensing requirements for the facility.

(2) "Density bonus" means a floor area ratio bonus over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of a city, including a charter city, city and county, or county of:

(A) A maximum of five square feet of floor area for each one square foot of floor area contained in the child care facility for existing structures.

(B) A maximum of 10 square feet of floor area for each one square foot of floor area contained in the child care facility for new structures.

For purposes of calculating the density bonus under this section, both indoor and outdoor square footage requirements for the child care facility as set forth in applicable state child care licensing requirements shall

be included in the floor area of the child care facility.

(3) "Developer" means the owner or other person, including a lessee, having the right under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors to make an application for development approvals for the development or redevelopment of a commercial or industrial project.

(4) "Floor area" means as to a commercial or industrial project, the floor area as calculated under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors and as to a child care facility, the total area contained within the exterior walls of the facility and all outdoor areas devoted to the use of the facility in accordance with applicable state child care licensing requirements.

(b) A city council, including a charter city council, city and county board of supervisors, or county board of supervisors may establish a procedure by ordinance to grant a developer of a commercial or industrial project, containing at least 50,000 square feet of floor area, a density bonus when that developer has set aside at least 2,000 square feet of floor area and 3,000 outdoor square feet to be used for a child care facility. The granting of a bonus shall not preclude a city council, including a charter city council, city and county board of supervisors, or county board of supervisors from imposing necessary conditions on the project or on the additional square footage. Projects constructed under this section shall conform to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other health, safety, and zoning requirements generally applicable to construction in the zone in which the property is located. A consortium with more than one developer may be permitted to achieve the threshold amount for the available density bonus with each developer's density bonus equal to the percentage participation of the developer. This facility may be located on the project site or may be located offsite as agreed upon by the developer and local agency. If the child care facility is not located on the site of the project, the local agency shall determine whether the location of the child care facility is appropriate and whether it conforms with the intent of this section. The child care facility shall be of a size to comply with all state licensing requirements in order to accommodate at least 40 children.

(c) The developer may operate the child care facility itself or may contract with a licensed child care provider to operate the facility. In all cases, the developer shall show ongoing coordination with a local child care resource and referral network or local governmental child care coordinator in order to qualify for the density bonus.

(d) If the developer uses space allocated for child care facility purposes, in accordance with subdivision (b), for purposes other than for a child care facility, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. If the developer fails to have the space allocated for the child care facility within three years, from the date upon which the first temporary certificate of occupancy is granted, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors in accordance with procedures to be developed by the legislative body of the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. A penalty levied against a consortium of developers shall be charged to each developer in an amount equal to the developer's percentage square feet participation. Funds collected pursuant to this subdivision shall be deposited by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors into a special account to be used for child care services or child care facilities.

(e) Once the child care facility has been established, prior to the closure, change in use, or reduction in the physical size of, the facility, the city, city council, including a charter city council, city and county board of supervisors, or county board of supervisors shall be required to make a finding that the need for child care is no longer present, or is not present to the same degree as it was at the time the facility was established.

(f) The requirements of Chapter 5 (commencing with Section 66000) and of the amendments made to Sections 53077, 54997, and 54998 by Chapter 1002 of the Statutes of 1987 shall not apply to actions taken in accordance with this section.

(g) This section shall not apply to a voter-approved ordinance adopted by referendum or initiative.

#### **65918.**

The provisions of this chapter shall apply to charter cities.

## Fact Sheet: Affordable Housing Density Bonus

In order to comply with State law, El Segundo must develop a procedure for processing applications for the Affordable Housing Density Bonus.

According to California Government Code sections 65915 – 65918, Affordable Housing Density Bonus entitles a property owner or developer to build more housing units than a local zoning code would otherwise allow provided they reserve a share of the units for **lower income** and/or **senior** residents. ***This law can result in a minimum density increase of 20%--for projects that reserve at least 5% very low, 10% low or 10% moderate units--and up to an 80% density increase for projects in which all units are affordable.***

In addition to a density bonus, an affordable or senior housing project may qualify for 1 - 4 incentives and reduced parking requirements as illustrated in Figure 1, below.

**Figure 1:**

Benefits that a project may be entitled to in exchange for providing affordable or senior housing

<b>Density Bonus</b>	<b>1 – 4 Incentives</b>	<b>Reduced Parking Ratio</b>
<p><i>Expressed as a percent, this represents the number of additional units the developer must be permitted, above what the zoning code would allow for a non-density bonus project. For example, 10% lower income units = 20% density bonus.</i></p>	<p><i>An incentive<sup>1</sup> is defined as:</i></p> <ul style="list-style-type: none"> <li>- <i>A reduction in site development standards or a modification of zoning code requirements (i.e. a reduced setback requirement)<sup>2</sup>,</i></li> <li>- <i>Approval of mixed-use zoning, or</i></li> <li>- <i>Other regulatory incentives or concessions which result in cost reductions</i></li> </ul>	<p><i>All projects that qualify for a density bonus may not be required to build more than the following number of parking spaces:</i></p> <ul style="list-style-type: none"> <li>- <i>Studio: 1 space</i></li> <li>- <i>1 bedroom: 1 space</i></li> <li>- <i>2 bedroom: 1.5 spaces</i></li> <li>- <i>3 bedroom: 1.5 spaces</i></li> <li>- <i>4 bedroom: 2.5 spaces</i></li> </ul> <p><i>Some projects that serve populations very unlikely to own cars, and that are close to transit stops, qualify for further reduced parking requirements.</i></p>

<sup>1</sup> The city may only reject an incentive requested by a developer if it finds that the proposed incentive would not result in a cost reduction; cause an environmental problem; harm historical property; cause a health or safety problem; or be contrary to law.

<sup>2</sup> Any development standard that would prevent a developer from building their permitted number of units after the density bonus has been applied is automatically waived or reduced to accommodate the density bonus. Any development standard that would prevent the project from being built with the developer’s granted incentives is automatically waived or reduced to accommodate the incentives.

**Ordinance Recommendations:**

- Include a procedure and timeline for processing applications.
  - The procedure and timeline would need to consider potential streamlining for qualifying projects per SB 35, AB 1934 or other bills.
- Require applicants to submit an application fee and reimbursement agreement, established by City Council at the time of ordinance adoption. The City may establish a reimbursement agreement to recover processing costs.
- Create a new Affordable Housing Density Bonus application form.

Require the applicant to submit reasonable documentation to establish eligibility for a density bonus or other incentives (such as plans identifying the location and layout of affordable units and a regulatory agreement to keep the units affordable and maintained for 55 years, etc.). Unless directed otherwise, a density bonus ordinance would be consistent with the State’s minimum requirements.

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**Project Example** — The following is only intended as an example of how density bonus could be applied to a site in the City.

This example is based on the 1.8-acre site at 835 N Pacific Coast Highway, which would allow 50 du/ac or 90 units under the PCH RHNA Mixed Use Overlay (RHNA MU-O) zone as part of the Housing Element update. A project at this site that qualifies for an affordable housing density bonus could build anywhere from 108 to 162 units. This does not represent the full range of density bonus and/or incentives possible for this site. All three of these project scenarios would qualify for the parking ratio shown in Figure 1.

**Figure 2:** Image of Case Study Site at 835 N. Pacific Coast Highway



**Figure 3:** Table showing three potential density bonus scenarios for the Case Study Site

Scenario	By-right units per Zoning (no bonus)	Affordability Component	Density Bonus	Total Units	Affordable Units	Number of Incentives
1	90	5% very low-income units	20%	108	5	1
2	90	24% low income units	50%	135	22	3
3	90	100% affordable <sup>3</sup> , not more than 20% at the moderate level	80%	162	161	4

**Minimum Project Qualifications:**

- At least 5% very low income
- At least 10% low income
- At least 10% for-sale common interest development restricted to moderate income
- 100% of the housing units (other than manager’s units) restricted to very low, lower, and moderate income (with a maximum of 20% moderate)
- At least 10% for transitional foster youth, disabled veterans, or homeless persons, with rents restricted at the very low income level
- At least 20% for low income college students in housing dedicated for full-time students at accredited colleges
- The project donates at least one acre of land to the city or county for very low income units<sup>4</sup>
- Senior citizen housing (no affordable units required)
- Mobile home park age-restricted to senior citizens (no affordable units required)

Note that the minimum project qualifications of the State Density Bonus will be included in the City’s zoning ordinance. The City’s ordinance will contain language clarifying that the City has adopted the State Density Bonus ordinance and will amend the City’s ordinance accordingly with State amendments, however City amendments may not always be timely with State amendments.

**Formula for granting Incentives:**

The following table shows the number of incentives that must be granted to a project based on its share of affordable units.

<sup>3</sup> Units designated for on-site managers not required to be affordable.

<sup>4</sup> The donated land must have the appropriate general plan designation, zoning, permits and approvals, and access to public facilities needed for very low income housing.

Figure 4: Formula for granting incentives

<b>Number of Incentives</b>	<b>Very Low Income percentage</b>	<b>Lower income percentage</b>	<b>Moderate income percentage</b>
1	5%	10%	10%
2	10%	17%	20%
3	15%	24%	30%
4	100% Low/Very Low/Moderate (up to 20% Moderate)	100% Low/Very Low/Moderate (up to 20% Moderate)	100% Low/Very Low/Moderate (up to 20% Moderate)

## Sources

- Goetz, Jon and Sakai, Tom. "Guide to the California Density Bonus Law." Meyers Nave. January 2021.
- California Government code Sections 65915 - 65918

Statutes, codes, and regulations

CALIFORNIA CODES



Chapter 4.3 - DENSI...

## Cal. Gov. Code § 65915

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Current through the 2022 Legislative Session

Section 65915 - Granting density bonus

(a)

(1) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall comply with this section. A city, county, or city and county shall adopt an ordinance that specifies how compliance with this section will be implemented. Except as otherwise provided in subdivision (s), failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(2) A local government shall not condition the submission, review, or approval of an application pursuant to this chapter on the preparation of an additional report or study that is not otherwise required by state law, including this section. This subdivision does not prohibit a local government from requiring an applicant to provide reasonable documentation to establish eligibility for a requested density bonus, incentives or concessions, as described in subdivision (d), waivers or reductions of development

- (A) Adopt procedures and timelines for processing a density bonus application.
- (B) Provide a list of all documents and information required to be submitted with the density bonus application in order for the density bonus application to be deemed complete. This list shall be consistent with this chapter.
- (C) Notify the applicant for a density bonus whether the application is complete in a manner consistent with the timelines specified in Section 65943.
- (D)
- (i) If the local government notifies the applicant that the application is deemed complete pursuant to subparagraph (C), provide the applicant with a determination as to the following matters:
    - (I) The amount of density bonus, calculated pursuant to subdivision (f), for which the applicant is eligible.
    - (II) If the applicant requests a parking ratio pursuant to subdivision (p), the parking ratio for which the applicant is eligible.
    - (III) If the applicant requests incentives or concessions pursuant to subdivision (d) or waivers or reductions of development standards pursuant to subdivision (e), whether the applicant has provided adequate information for the local government to make a determination as to those incentives, concessions, or waivers or reductions of development standards.
  - (ii) Any determination required by this subparagraph shall be based on the development project at the time the application is deemed complete. The local government shall adjust the amount of density bonus and parking ratios awarded pursuant to this section based on any changes to the project during the course of development.
- (b)
- (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and, if requested by the applicant and consistent

units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

- (A) Ten percent of the total units of a housing development for rental or sale to lower income households, as defined in Section 50079.5 of the Health and Safety Code.
- (B) Five percent of the total units of a housing development for rental or sale to very low income households, as defined in Section 50105 of the Health and Safety Code.
- (C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.
- (D) Ten percent of the total dwelling units of a housing development are sold to persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.
- (E) Ten percent of the total units of a housing development for transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low income units.
- (F)
  - (i) Twenty percent of the total units for lower income students in a student housing development that meets the following requirements:
    - (I) All units in the student housing development will be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the city, county, or city and county that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all

sufficient students enrolled in an institution of higher education to fill all units in the student housing development.

(II) The applicable 20-percent units will be used for lower income students.

(III) The rent provided in the applicable units of the development for lower income students shall be calculated at 30 percent of 65 percent of the area median income for a single-room occupancy unit type.

(IV) The development will provide priority for the applicable affordable units for lower income students experiencing homelessness. A homeless service provider, as defined in paragraph (3) of subdivision (e) of Section 103577 of the Health and Safety Code, or institution of higher education that has knowledge of a person's homeless status may verify a person's status as homeless for purposes of this subclause.

(ii) For purposes of calculating a density bonus granted pursuant to this subparagraph, the term "unit" as used in this section means one rental bed and its pro rata share of associated common area facilities. The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years.

(G) One hundred percent of all units in the development, including total units and density bonus units, but exclusive of a manager's unit or units, are for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the units in the development, including total units and density bonus units, may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), an applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), (D), (E), (F), or (G) of paragraph (1).

(c)

applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

(B)

(i) Except as otherwise provided in clause (ii), rents for the lower income density bonus units shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(ii) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), rents for all units in the development, including both base density and density bonus units, shall be as follows:

(I) The rent for at least 20 percent of the units in the development shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(II) The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.

(2)

(A) An applicant shall agree to ensure, and the city, county, or city and county shall ensure, that a for-sale unit that qualified the applicant for the award of the density bonus meets either of the following conditions:

(i) The unit is initially occupied by a person or family of very low, low, or moderate income, as required, and it is offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code and is subject to an equity sharing agreement.

(ii) The unit is purchased by a qualified nonprofit housing corporation pursuant to a recorded contract that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code and that includes all of the following:

(i) A repurchase option that requires a subsequent purchaser of the property that

(II) An equity sharing agreement.

(III) Affordability restrictions on the sale and conveyance of the property that ensure that the property will be preserved for lower income housing for at least 45 years for owner-occupied housing units and will be sold or resold only to persons or families of very low, low, or moderate income, as defined in Section 50052.5 of the Health and Safety Code.

(B) For purposes of this paragraph, a "qualified nonprofit housing corporation" is a nonprofit housing corporation organized pursuant to Section 501(c)(3)(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code.

(C) The local government shall enforce an equity sharing agreement required pursuant to clause (i) or (ii) of subparagraph (A), unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(i) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation.

(ii) Except as provided in clause (v), the local government shall recapture any initial subsidy, as defined in clause (iii), and its proportionate share of appreciation, as defined in clause (iv), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(iii) For purposes of this subdivision, the local government's initial subsidy shall be

market value.

(iv) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

(v) If the unit is purchased or developed by a qualified nonprofit housing corporation pursuant to clause (ii) of subparagraph (A) the local government may enter into a contract with the qualified nonprofit housing corporation under which the qualified nonprofit housing corporation would recapture any initial subsidy and its proportionate share of appreciation if the qualified nonprofit housing corporation is required to use 100 percent of the proceeds to promote homeownership for lower income households as defined by Health and Safety Code Section 50079.5 within the jurisdiction of the local government.

(3)

(A) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

(i) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in subdivision (b).

(ii) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(B) For the purposes of this paragraph, "replace" shall mean either of the following:

(i) If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number

is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, it shall be rebuttably presumed that low-income and very low income renter households occupied these units in the same proportion of low-income and very low income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All

development is for-sale units, the units replaced shall be subject to paragraph (2).

(C) Notwithstanding subparagraph (B), for any dwelling unit described in subparagraph (A) that is or was, within the five-year period preceding the application, subject to a form of rent or price control through a local government's valid exercise of its police power and that is or was occupied by persons or families above lower income, the city, county, or city and county may do either of the following:

(i) Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) Require that the units be replaced in compliance with the jurisdiction's rent or price control ordinance, provided that each unit described in subparagraph (A) is replaced. Unless otherwise required by the jurisdiction's rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.

(D) For purposes of this paragraph, "equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

(E) Subparagraph (A) does not apply to an applicant seeking a density bonus for a proposed housing development if the applicant's application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

(d)

(1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive does not result in identifiable and actual cost reductions consistent with subdivision (b) to provide for affordable housing costs as

- (B) The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.
- (C) The concession or incentive would be contrary to state or federal law.
- (2) The applicant shall receive the following number of incentives or concessions:
- (A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a development in which the units are for sale.
- (B) Two incentives or concessions for projects that include at least 17 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a development in which the units are for sale.
- (C) Three incentives or concessions for projects that include at least 24 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a development in which the units are for sale.
- (D) Four incentives or concessions for a project meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b). If the project is located within one-half mile of a major transit stop, the applicant shall also receive a height increase of up to three additional stories, or 33 feet.
- (E) One incentive or concession for projects that include at least 20 percent of the total units for lower income students in a student housing development.
- (a) The applicant may initiate judicial proceedings if the city, county, or city and county

This subdivision shall not be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. This subdivision shall not be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section that shall include legislative body approval of the means of compliance with this section.

(4) The city, county, or city and county shall bear the burden of proof for the denial of a requested concession or incentive.

(e)

(1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. Subject to paragraph (3), an applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. This subdivision shall not be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. This subdivision shall not be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(3) A housing development that receives a waiver from any maximum controls on density pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f) shall only be eligible for a waiver or reduction of development standards as provided in subparagraph (D) of paragraph (2) of subdivision (d) and clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f), unless the city, county, or city and county agrees to additional waivers or reductions of development standards.

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the city, county, or city and county, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units Percentage Density Bonus

10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32

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21	38.75
22	42.5
23	46.25
24	50

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units Percentage Density Bonus

5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

units.

(B) For housing developments meeting the criteria of subparagraph (E) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that subparagraph.

(C) For housing developments meeting the criteria of subparagraph (F) of paragraph (1) of subdivision (b), the density bonus shall be 35 percent of the student housing units.

(D) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), the following shall apply:

(i) Except as otherwise provided in clause (ii), the density bonus shall be 80 percent of the number of units for lower income households.

(ii) If the housing development is located within one-half mile of a major transit stop, the city, county, or city and county shall not impose any maximum controls on density.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units Percentage Density Bonus

10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12

20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33

41	38.75
42	42.5
43	46.25
44	50

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g)

(1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income Percentage Density Bonus

10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22

20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed

appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government before the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

(h)

(1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a childcare facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The childcare facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the childcare facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a childcare facility if it finds, based upon substantial evidence, that the community has adequate childcare facilities.

(4) "Childcare facility," as used in this section, means a child daycare facility other than a family daycare home, including, but not limited to, infant centers, preschools, extended daycare facilities, and schoolage childcare centers.

(i) "Housing development," as used in this section, means a development project for five or more residential units, including mixed-use developments. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the

itself, to require a general plan amendment, local coastal plan amendment, zoning change, study, or other discretionary approval. For purposes of this subdivision, "study" does not include reasonable documentation to establish eligibility for the concession or incentive or to demonstrate that the incentive or concession meets the definition set forth in subdivision (k). This provision is declaratory of existing law.

(2) Except as provided in subdivisions (d) and (e), the granting of a density bonus shall not require or be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county,

Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this section and Division 20 (commencing with Section 30000) of the Public Resources Code.

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) "Located within one-half mile of a major transit stop" means that any point on a proposed development, for which an applicant seeks a density bonus, other incentives or concessions, waivers or reductions of development standards, or a vehicular parking ratio pursuant to this section, is within one-half mile of any point on the property on which a major transit stop is located, including any parking lot owned by the transit authority or other local agency operating the major transit stop.

(3) "Lower income student" means a student who has a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in paragraph (1) of subdivision (k) of Section 69432.7 of the Education Code. The eligibility of a student to occupy a unit for lower income students under this section shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education in which the student is enrolled or by the California Student Aid Commission that the student receives or is eligible for financial aid, including an institutional grant or fee waiver from the college or university, the California Student Aid Commission, or the federal government.

means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. If the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(6) "Total units" or "total dwelling units" means a calculation of the number of units that:

(A) Excludes a unit added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(B) Includes a unit designated to satisfy an inclusionary zoning requirement of a city, county, or city and county.

(p)

(1) Except as provided in paragraphs (2), (3), and (4), upon the request of the developer, a city, county, or city and county shall not require a vehicular parking ratio, inclusive of parking for persons with a disability and guests, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: one and one-half onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2)

(A) Notwithstanding paragraph (1), if a development includes at least 20 percent low-income units for housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b) or at least 11 percent very low income units for housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), is located within one-half mile of a major transit stop, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds 0.5 spaces per unit. Notwithstanding paragraph (1), if a development includes at least 40 percent moderate-income units for housing developments meeting the criteria of subparagraph

the development then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds 0.5 spaces per bedroom.

(B) For purposes of this subdivision, "unobstructed access to the major transit stop" means a resident is able to access the major transit stop without encountering natural or constructed impediments. For purposes of this subparagraph, "natural or constructed impediments" includes, but is not limited to, freeways, rivers, mountains, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit.

(3) Notwithstanding paragraph (1), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose vehicular parking standards if the development meets either of the following criteria:

(A) The development is located within one-half mile of a major transit stop and there is unobstructed access to the major transit stop from the development.

(B) The development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code and the development has either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(4) Notwithstanding paragraphs (1) and (8), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, and the development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose any minimum vehicular parking requirement. A development that is a special needs housing development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that

subdivision, a development may provide onsite parking through tandem parking or uncovered parking, but not through onstreet parking.

(6) This subdivision shall apply to a development that meets the requirements of subdivisions (b) and (c), but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

(7) This subdivision does not preclude a city, county, or city and county from reducing or eliminating a parking requirement for development projects of any type in any location.

(8) Notwithstanding paragraphs (2) and (3), if a city, county, city and county, or an independent consultant has conducted an areawide or jurisdictionwide parking study in the last seven years, then the city, county, or city and county may impose a higher vehicular parking ratio not to exceed the ratio described in paragraph (1), based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low-income and very low income individuals, including seniors and special needs individuals. The city, county, or city and county shall pay the costs of any new study. The city, county, or city and county shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.

(9) A request pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(q) Each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number. The Legislature finds and declares that this provision is declaratory of existing law.

(r) This chapter shall be interpreted liberally in favor of producing the maximum number of total housing units.

(s) Notwithstanding any other law, if a city, including a charter city, county, or city and county has adopted an ordinance or a housing program, or both an ordinance and a housing

otherwise update its ordinance or corresponding affordable housing incentive program to comply with the amendments made to this section by the act adding this subdivision, and is exempt from complying with the incentive and concession calculation amendments made to this section by the act adding this subdivision as set forth in subdivision (d), particularly subparagraphs (B) and (C) of paragraph (2) of that subdivision, and the amendments made to the density tables under subdivision (f).

(t)

(1) The Legislature finds and declares that the intent behind the Density Bonus Law is to allow public entities to reduce or even eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning ordinance in exchange for affordable units. It further reaffirms that the intent is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional public subsidy.

(2) It is therefore the intent of the Legislature to make modifications to the Density Bonus Law by the act adding this subdivision to further incentivize the construction of very low, low-, and moderate-income housing units. It is further the intent of the Legislature in making these modifications to the Density Bonus Law to ensure that any additional benefits conferred upon a developer are balanced with the receipt of a public benefit in the form of adequate levels of affordable housing. The Legislature further intends that these modifications will ensure that the Density Bonus Law creates incentives for the construction of more housing across all areas of the state.

*Ca. Gov. Code § 65915*

Amended by Stats 2021 ch 365 (SB 728),s 1.5, eff. 1/1/2022.

Amended by Stats 2021 ch 340 (SB 290),s 2, eff. 1/1/2022.

Amended by Stats 2020 ch 197 (AB 2345),s 2, eff. 1/1/2021.

Amended by Stats 2019 ch 666 (AB 1763),s 1, eff. 1/1/2020.

Amended by Stats 2019 ch 497 (AB 991),s 148, eff. 1/1/2020.

Amended by Stats 2018 ch 937 (SB 1227),s 1.3, eff. 1/1/2019.

Amended by Stats 2018 ch 921 (AB 2753),s 1, eff. 1/1/2019.

Amended by Stats 2018 ch 904 (AB 2797),s 2, eff. 1/1/2019.

Amended by Stats 2014 ch 682 (AB 2222),s 1, eff. 1/1/2015.  
Amended by Stats 2013 ch 76 (AB 383),s 102, eff. 1/1/2014.  
Amended by Stats 2012 ch 181 (AB 806),s 53, eff. 1/1/2013, op. 1/1/2014.  
Amended by Stats 2008 ch 454 (AB 2280),s 1, eff. 1/1/2009.  
Amended by Stats 2005 ch 496 (SB 435),s 2, eff. 1/1/2006  
Amended by Stats 2004 ch 724 (AB 2348),s 5, eff. 1/1/2005  
Amended by Stats 2003 ch 430 (AB 305), s 1, eff. 1/1/2004.  
Amended by Stats 2002 ch 1062 (AB 1866), s 3, eff. 1/1/2003.  
Amended by Stats 2000 ch 556 (AB 2755), s 1, eff. 1/1/2001.  
Previously Amended October 10, 1999 (Bill Number: SB 948) (Chapter 968).

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Next Section

[Section 65915.1 - Affordable housing impact fees not to be imposed on affordable units](#)

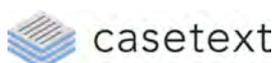
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## Planning Commission Agenda Statement

**Meeting Date:** June 23, 2022

**Agenda Heading:** Public Hearing

**Item Number:** H.3

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### **TITLE:**

An Ordinance Amending Title 15 of the El Segundo Municipal Code (ESMC) to Permit Transitional and Supportive Housing in Residential Zones in accordance with State Law.

### **RECOMMENDATION:**

1. Adopt resolution No. 2922, recommending City Council approve Amending Title 15 of the El Segundo Municipal Code (ESMC) to Permit Transitional and Supportive Housing in Residential Zones.

### **BACKGROUND:**

Government Code Section 65583 requires transitional and supportive housing to be considered a residential use and only subject to those restrictions that apply to other residential uses of the same type in the same zone.

The ESMC does not currently address this requirement. Transitional and supportive housing uses are currently not listed as a permitted use in any of the City's residential zones. The proposed ordinance adds these uses in the permitted uses list in the City's residential zones and brings the ESMC into compliance with state law.

### **Planning Commission Study Session**

On April 28, 2022, the Planning Commission held a study session to discuss a potential Transitional and Supportive Housing ordinance. The Commission inquired whether the City could require a discretionary application and/or impose security or other requirements. Staff clarified that the City could not require a discretionary application for these uses and could not require operational or other conditions not applicable to other residential uses in the same zones.

## **Transitional and Supportive Housing**

**June 23, 2022**

**Page 2 of 3**

### **DISCUSSION:**

#### **Draft Ordinance**

The proposed ordinance adds the following definitions to the ESMC:

- “Supportive housing” means housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing shall be considered a residential use of property. Supportive housing can take the form of single-family or multi-family units and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.
- “Target population” means persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Welfare and Institutions Code § 4500, et seq.) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.
- “Transitional housing” means buildings configured as rental housing developments but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance. Transitional housing shall be considered a residential use of property. Transitional housing can take the form of single-family or multi-family units and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

The proposed ordinance also adds “Transitional and Supportive Housing” to the list of permitted uses in the Single Family Residential (R-1) zone. The Two-Family (R-2) and Multi-Family (R-3) Residential zones’ permitted uses include all the uses permitted in the R-1 zone. Therefore, Transitional and Supportive Housing uses would become permitted uses in all three of the City’s residential zones in compliance with state law.

PREPARED BY: Paul Samaras, Principal Planner <sup>AS</sup>

REVIEWED BY: Eduardo Schonborn, Planning Manager 

APPROVED BY: Michael Allen, Development Services Director 

**ATTACHED SUPPORTING DOCUMENTS:**

1. Draft resolution
  - a. Draft ordinance
2. Factsheet regarding the Transitional and Supportive Housing

## RESOLUTION NO. 2922

### **A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL APPROVE ENVIRONMENTAL ASSESSMENT NO. EA-1316 AND ZONE TEXT AMENDMENT NO. ZTA 21-06 AMENDING EL SEGUNDO MUNICIPAL CODE TITLE 15 (ZONING CODE) TO PERMIT TRANSITIONAL AND SUPPORTIVE HOUSING IN RESIDENTIAL ZONES.**

The Planning Commission of the City of El Segundo does resolve as follows:

#### SECTION 1: The Planning Commission finds and declares that:

- A. The State Legislature has declared that the lack of housing, including providing for a variety of housing types for all income levels and special needs groups, is a critical problem that threatens the economic, environmental, and social quality of life in California;
- B. Government Code Section 65583 requires that the City's Housing Element address governmental constraints to the development of housing, including providing for a variety of housing types for all income levels;
- C. Government Code Section 65583 requires transitional and supportive housing to be considered a residential use and only subject to those restrictions that apply to other residential uses of the same type in the same zone;
- D. The City Council of the City of El Segundo adopted the City's 2021-2029 Housing Element on February 1, 2022;
- E. Program 8 of the City's 2014-2021 Housing Element provides that the City will amend the ESMC to permit transitional and supportive housing as required by California Law;
- F. On October 7, 2021, the City initiated an application for Environmental Assessment No. EA 1316 and Zone Text Amendment No. ZTA 21-06 to amend the ESMC to permit transitional and supportive housing;
- G. The City reviewed the project's environmental impacts under the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the "CEQA Guidelines");
- H. On April 28, 2022, the Planning Commission conducted a study session regarding transitional and supportive housing;
- I. On June 23, 2022, the Planning Commission held a duly noticed public hearing to receive public testimony and other evidence regarding the

proposed ordinance, including, without limitation, information provided to the Planning Commission by City staff and public testimony; and,

- J. This Resolution and its findings are made based upon the evidence presented to the Commission at its June 23, 2022, hearing including, without limitation, the staff report submitted by the Development Services Department and the totality of the evidence in the administrative record.

SECTION 2: *Factual Findings and Conclusions.* The Planning Commission finds, without limitation, that the proposed Zone Text Amendment ordinance ("Ordinance") will amend the City's municipal code to bring it into compliance with state law.

SECTION 3: *General Plan Consistency Findings.* As required under Government Code § 65454 the proposed Ordinance is consistent with the City's General Plan as follows:

- A. The proposed zone text amendment is consistent with the Housing Element goals, objectives and policies. Specifically, the zone text amendment is consistent with Goal No. 4 to remove governmental constraints on housing development, in that it will remove a restriction on the development of transitional and supportive housing in the City. In addition, the zone text amendment is consistent with Housing Element Program 8, Zoning Revisions.

SECTION 4: *Zone Text Amendment Findings.* In accordance with ESMC § 15-27-3 and based on the findings set forth in Section 3, the proposed amendment is consistent with the goals, policies, and objectives of the ESMC as follows:

- A. The amendment is consistent with the purpose of the ESMC, which is to serve the public health, safety, and general welfare and to provide the economic and social advantages resulting from an orderly planned use of land resources.
- B. It is necessary to facilitate the development process and ensure the orderly location of uses within the City.

SECTION 5: *Environmental Assessment.* Based on the facts set forth in Section 2, the City Council finds that the zone text amendment is exempt from further review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines § 15061(b)(3)), because it consists only of minor revisions to existing zoning regulations and related procedures and does not have the potential for causing a significant effect on the environment.

SECTION 6: *Recommendations.* The Planning Commission recommends that the City Council adopt the Ordinance attached as Exhibit "A" which would implement the Zone Text Amendment.

SECTION 7: *Reliance on Record.* Each and every one of the findings and determination in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the Planning Commission in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 8: *Limitations.* The Planning Commission's analysis and evaluation of the project is based on information available at the time of the decision. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. In all instances, best efforts have been made to form accurate assumptions.

SECTION 9: This Resolution will remain effective unless and until superseded by a subsequent resolution.

SECTION 10: The Commission secretary is directed to mail a copy of this Resolution to any person requesting a copy.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_ 2022.

\_\_\_\_\_  
Ryan Baldino, Chair  
City of El Segundo Planning Commission

ATTEST:

\_\_\_\_\_  
Michael Allen, Secretary and  
Development Services Director

Baldino -  
Newman -  
Keldorf -  
Hoeschler -  
Maggay -

APPROVED AS TO FORM:  
Mark D. Hensley, City Attorney

By: \_\_\_\_\_  
Joaquin Vazquez, Deputy City Attorney

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING TITLE 15 OF THE EL SEGUNDO MUNICIPAL CODE TO PERMIT TRANSITIONAL AND SUPPORTIVE HOUSING IN RESIDENTIAL ZONES**

The City Council of the City of El Segundo does ordain as follows:

**SECTION 1:** The Council finds and declares as follows:

- A. The State Legislature has declared that the lack of housing, including providing for a variety of housing types for all income levels and special needs groups, is a critical problem that threatens the economic, environmental, and social quality of life in California.
- B. Government Code Section 65583 requires that the City’s Housing Element address governmental constraints to the development of housing, including providing for a variety of housing types for all income levels.
- C. The City Council of the City of El Segundo adopted the City’s 2021-2029 Housing Element on February 1, 2022.
- D. Government Code Section 65583 requires transitional and supportive housing to be considered a residential use and only subject to those restrictions that apply to other residential uses of the same type in the same zone.
- E. Program 8 of the City’s 2021-2029 Housing Element provides that the City will amend the ESMC to permit transitional and supportive housing as required by California Law.
- F. On June 23, 2022, the Planning Commission held a public hearing to receive public testimony and other evidence regarding the proposed ordinance; the Planning Commission adopted Resolution No. 2922 recommending that the City Council introduce and adopt the transitional and supportive housing ordinance.

**SECTION 2:** *Factual Findings and Conclusions.* The City Council finds that introducing and adopting the proposed ordinance will amend the City’s municipal code to bring it into compliance with state law.

**SECTION 3:** *General Plan Findings.* As required under Government Code § 65454 the proposed Ordinance is consistent with the City’s General Plan as follows:

- A. The proposed zone text amendment is consistent with the Housing Element goals, objectives and policies. Specifically, the zone text amendment is

consistent with Goal No. 4 to remove governmental constraints on housing development, in that it will remove development restrictions that limit the number of affordable housing units that can be produced in the City. In addition, the zone text amendment is consistent with Housing Element Program 8, Zoning Revisions.

SECTION 3: Zone Text Amendment Findings. In accordance with ESMC § 15-27-3 and based on the findings set forth in Section 3, the proposed amendments are consistent with the goals, policies, and objectives of the ESMC as follows:

- A. The amendments are consistent with the purpose of the ESMC, which is to serve the public health, safety, and general welfare and to provide the economic and social advantages resulting from an orderly planned use of land resources.
- B. It is necessary to facilitate the development process and ensure the orderly location of uses within the City.

SECTION 4: Environmental Assessment. Based on the facts set forth in Section 2, the City Council finds that the zone text amendment is exempt from further review under the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines § 15061(b)(3)), because it consists only of minor revisions to existing zoning regulations and related procedures and does not have the potential for causing a significant effect on the environment.

SECTION 5: ESMC Section 15-1-6 (Definitions) is amended to add the following definitions:

*(after studio/soundstage):*

“Supportive housing” means housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing shall be considered a residential use of property. Supportive housing can take the form of single-family or multi-family units and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

*(after synthetic grass):*

“Target population” means persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Welfare and Institutions Code § 4500, et seq.) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

*(after transit support facility):*

“Transitional housing” means buildings configured as rental housing developments but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance. Transitional housing shall be considered a residential use of property. Transitional housing can take the form of single-family or multi-family units and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

**SECTION 6:** ESMC Section 15-4A-2 (R-1 Zone Permitted Uses) is amended to read as follows:

**15-4A-2: PERMITTED USES:**

Only the following uses and developments may be conducted or constructed in the R-1 Zone:

- A. A State authorized, certified or licensed family care home, foster family home, or group home serving six (6) or fewer children.
- B. A State authorized, certified or licensed residential facility, residential care facility, residential care facility for the elderly, intermediate care facility, developmentally disabled habilitative or nursing, or congregate living health facility, serving six (6) or fewer persons.

**C. Transitional or Supportive Housing.**

**D** ~~G~~. Home occupations.

**E** ~~D~~. Large family daycare homes pursuant to section 15-4A-4 of this article.

**F** ~~E~~. One (1) mobile or manufactured home subject to the following:

1. The mobile or manufactured home has been certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, and has not been altered in violation of applicable codes; and
2. The mobile or manufactured home must be installed on a permanent foundation in compliance with all applicable building regulations and division 13, part 2 (commencing with section 18000) of the California Health and Safety Code.

**G** ~~F~~. Parks, playgrounds, recreational areas (publicly owned and operated) but excluding ballparks, bleachers, swimming pools or other types of facilities where racing or contests are conducted or public amusement devices are for hire.

**H** ~~G~~. Single-family dwellings; provided, that where a dwelling containing seven hundred (700) square feet or less exists on the rear portion of the lot and was placed thereon prior to, or for which a building permit was issued prior to December 26, 1947, in conformance to the requirements of ordinance 293 of the City, a second one-family

dwelling may be erected on the front portion of the lot, whereupon the dwelling on the rear portion of the lot shall assume the status of a nonconforming use as defined herein, but may be expanded to a maximum of seven hundred (700) square feet.

I H. Small family daycare homes.

J I. The keeping of animals and pets in accordance with [title 6, chapter 2](#) of this Code.

K J. On compliant parcels only, home sharing of a permitted single-family dwelling unit, or portion thereof, when conducted in accordance with a valid Short-term Home Sharing Rental Permit issued pursuant to Title 4, Chapter 16 of this Code. This subsection will automatically sunset 15 months after the pilot program established by Chapter 4-16 commences.

1. For purposes of this subsection, a compliant parcel is one that provides off-street parking on the parcel at a ratio of not less than one parking space per guest bedroom in the residence on the parcel. Parking spaces may include garage or driveway spaces. Tandem parking spaces are acceptable provided each tandem space measures at least 9 feet by 20 feet and does not extend into public right-of-way
2. Home sharing is not a permitted use in the absence of a valid Short-term Home Sharing Rental Permit.
3. An accessory dwelling unit may not be used for home sharing or as a short-term rental.

L K. Other similar uses approved by the Director, as provided by [chapter 22](#) of this title.

**SECTION 7:** If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 8:** The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of El Segundo's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within 15 days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 9: This Ordinance will become effective 30 days following its passage and adoption.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Drew Boyles, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Mark D. Hensley, City Attorney

ATTEST:

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES    )       SS  
CITY OF EL SEGUNDO            )

I, Tracy Weaver, City Clerk of the City of El Segundo, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance No. \_\_\_\_\_ was duly introduced by said City Council at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_ 2022, and was duly passed and adopted by said City Council, approved and signed by the Mayor, and attested to by the City Clerk, all at a regular meeting of said Council held on the \_\_\_\_ day of \_\_\_\_\_, 2022, and the same was so passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Tracy Weaver, City Clerk

## Factsheet: Transitional and Supportive Housing

Senate Bill No. 2 (SB 2), and Assembly Bill 139 (AB 139) require cities to amend their Zoning Ordinances to permit transitional and supportive housing in all zones where residential uses are permitted, subject to the same development standards and permitting processes as the same type of housing in the same zone.

### Transitional vs Supportive Housing

#### Transitional housing

- Intended to serve as a short-term stay when an individual or household is either:
  - waiting to secure permanent housing, or
  - has secured permanent housing that is not immediately available.
- Also known as “bridge” or “interim housing.”
- Services are provided to prepare residents to transition to permanent housing.

#### Supportive housing

- Permanent housing with a lease where the tenant pays a percentage of their income for rent.
- Health and social services (medical care, mental health and addiction therapy, employment training, and case management) are offered on-site or in close proximity.

### Why are these uses critical to addressing homelessness?

Supportive housing provides a combination of **affordable housing** and **supportive services** designed to help vulnerable individuals and families use stable housing as a platform for health, recovery and personal growth.

### Transitional and Supportive Housing Defined

The following terms would be added to El Segundo Municipal Code Section **15-1-6: DEFINITIONS**.

**Transitional housing**, means buildings configured as rental housing developments but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance (Government Code § 65582 (h)).

**Supportive housing**, means housing with no limit on length of stay, that is occupied by the **Target population**, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community (Government Code Section 65582 (f)).

**Target population**, means persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Welfare and Institutions Code §§ 4500, et seq.) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults

April 21, 2022

aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people (Government Code Section 65582 (g)).

### **Municipal Code Applicability**

Transitional and supportive housing would be amended and implemented in the **R-1 zoning** code. As the R-2 and R-3 zones permit any use in the R-1 zone, transitional and supportive housing would also apply.



## Planning Commission Agenda Statement

**Meeting Date:** June 23, 2022

**Agenda Heading:** Public Hearing

**Item Number:** I.4

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### **TITLE:**

Presentation and Study Session Regarding Preparation of a Potential Ordinance on Micro-Unit Regulations.

### **RECOMMENDATION:**

That the Planning Commission consider the presentation and provide feedback and direction to staff on a potential ordinance.

### **BACKGROUND AND DISCUSSION:**

#### **Micro-unit Definition and Characteristics**

Micro-units, sometimes called single-room occupancy units (SROs), are smaller dwelling units, typically 150-400 square feet. They often include shared amenities and communal spaces to make up for the lack of space in individual units. They are typically part of higher density developments and are subject to lower parking ratios compared to conventional, larger unit development projects. The attached factsheet provides a more detailed description of micro-unit developments and characteristics (Attachment No. 1).

#### **Regulatory Framework**

The ESMC does not currently address the topic of Micro-Units. State Law does not require that cities permit/regulate micro-units. However, micro-units can provide an affordable housing option for various population groups as well as a means for making higher density development more feasible in built-out cities with limited housing sites, such as El Segundo. A Code amendment could permit micro-unit developments subject to a discretionary permit and establish development standards, location requirements, and/or incentives for these units.

#### **Planning Commission Study Session**

On April 28, 2022, the Planning Commission conducted a study session to discuss a potential Micro-Unit ordinance for El Segundo. The Planning Commission discussed the following topics during the meeting:

## Micro-Unit Regulations

June 23, 2022

Page 2 of 4

- RHNA credit. The Planning Commission inquired whether micro-units would qualify as “affordable housing” and help meet the City’s obligation to facilitate construction of affordable housing units. The Planning Commission consensus was that they could not support an ordinance incentivizing micro-units unless they qualified as affordable units for RHNA purposes. Staff has since confirmed that micro-units irrespective of their size can qualify for RHNA credit if they are restricted by an affordability covenant.
- Federal and State Low Income Housing Tax Credit Laws. The Planning Commission inquired whether micro-units would qualify for Federal and State low income housing tax credits. Staff has since reviewed the applicable law (Attachment No. 2) and confirmed that while it is possible for micro-unit projects to qualify for those tax credits, the qualification criteria are extensive and may be difficult to meet. A potential ordinance would have to be consistent with that criteria. Some of the criteria include
  - Ninety percent of units in a project must be micro-units/Single Resident Occupancy (SRO) units
  - Minimum sizes
    - 450 square feet for 1-bedroom units
    - 700 square feet for 2-bedroom units
    - 900 square feet for 3-bedroom units

For reference purposes, micro-units range from 150 to 400 square feet. However, the City could establish a different size requirement to correspond to the Federal and State tax credit criteria. Also, for reference, the studio units in the approved Pacific Coast Commons project range from 479 to 588 square feet.

- Minimum number of bedrooms
  - Twenty-five percent of units must be 2-bedroom units
- Minimum play/recreational areas

The complete text of the tax credit regulations is attached to this report (Attachment No. 2)

- Parking. The Planning Commission expressed a concern about the parking impacts from new housing, especially housing with reduced parking. The discussion also included a suggestion that the City pursue a citywide parking management plan.
- Micro-Unit case studies. The Planning Commission directed staff to research case studies on Micro-Units demonstrating the impacts and benefits of Micro-Unit projects. Staff has found several studies and articles on the topic, which identify benefits, barriers, impacts and solutions for development of Micro-Unit projects. Several articles and studies are attached to this report for reference (Attachment No. 3).

The research findings are summarized as follows:

- Micro-unit developments meet the housing demand for population groups, such as college students, young professionals, singles, couples without children, and seniors

## Micro-Unit Regulations

June 23, 2022

Page 3 of 4

- Micro-unit developments are more efficient to build and can be more profitable than conventional, larger unit developments
- Micro-unit developments are affordable by design and more sustainable than conventional, larger unit developments
- Some barriers to micro-unit development include:
  - zoning standards, such as parking, height, design, and opens space
  - financing due to lack of familiarity
  - negative perceptions/concerns regarding the well-being of residents
- Ideal locations for micro-unit developments are in urban settings, close to transit and grocery stores

### Potential Ordinance

To develop a draft ordinance, staff seeks direction on the following topics and any other topics the Planning Commission chooses to cover.

- Locations. Where should micro-unit developments be permitted in the City?
  - ¼-mile radius from bus stops
  - 1-mile radius from Green Line
  - Other criteria or locations?
- Percentage of micro-units. Should there be a percentage limit of micro-units in larger projects?
  - If yes, what percentage and for what size of project?
- Affordability. Should a potential ordinance include an affordability requirement/incentive?
  - If yes, what percentage and for what size project?
- Parking/Traffic. Currently, multi-family residential developments must provide two parking spaces per unit, plus one guest space for every three units. Should Micro-units benefit from reduced parking requirements?
  - If yes, how should parking or traffic impacts be addressed/mitigated?

After the conclusion of the study session, staff will complete its review of case studies and literature on micro-units and prepare a draft ordinance reflecting the literature and the Planning Commission's direction on the aforementioned topics.

**PREPARED BY:** Paul Samaras, Principal Planner   
**REVIEWED BY:** Eduardo Schonborn, AICP, Planning Manager   
**APPROVED BY:** Michael Allen, AICP, Development Services Director 

## Micro-Unit Regulations

June 23, 2022

Page 4 of 4

### ATTACHED SUPPORTING DOCUMENTS:

1. Factsheet regarding the Micro-unit Developments
2. Federal and State Low Income Housing Tax Credit Regulations
3. Micro-unit Case Studies and Articles
  - Infranca - Spaces for Sharing\_ Micro-Units amid the Shift from Ownership to Access 2016
  - Morlan - City's Long List of Regulations Prevents Smaller, Cheaper Apartments \_ Voice of San Diego 2017
  - Renn and Armlovich Chapter 3 - Retooling Metropolis 2016
  - Riggs et al - Prefab micro units as a strategy for affordable housing - Housing Studies 2022
  - Toronto NHS - Microhousing Barriers Report 2020
  - ULI - Macro View on Micro Units Report 2015
4. Additional online resources
  - Chandler – Santa Monica temporarily bans micro-apartments that aren't affordable, 2019  
Discusses ban on non-affordable micro-units and emergency ordinance on SROs  
URL: <https://la.curbed.com/2019/3/27/18281150/santa-monica-micro-apartment-ban>
  - Cuadrado – Micro Units: Return of the SRO, 2016  
Discusses history and resurgence of smaller unit living in SROs  
URL: <https://rheniumcap.com/rheniumblog/micro-units-return-of-the-sro/>
  - Durning – Bring Back Flophouses, Rooming Houses, and Micro-apartments, 2013  
Discusses history and resurgence of smaller unit living types including SRO and microunits  
URL: <https://slate.com/business/2013/07/sros-flophouses-microapartments-smart-cities-are-finally-allowing-the-right-kind-of-housing-for-the-poor-young-and-single.html>
  - Morlan – City's Long List of Regulations Prevents Smaller, Cheaper Apartments, 2019  
Discusses zoning and regulatory challenges for micro-units and SROs in San Diego  
URL: <https://voiceofsandiego.org/2017/12/19/citys-long-list-regulations-prevents-smaller-cheaper-apartments/>

## Fact Sheet: Micro-Unit Ordinance

A Micro-Unit Ordinance will create a pathway to the construction of affordable micro-unit housing near public transportation (for example, within 0.25 miles of Beach Cities Transit or within 1 mile of Metro Green Line). It will fulfill goal 4, program 8 of El Segundo's 2021 – 2029 Housing Element, which would allow micro-unit buildings in the R-3 Multi-family Residential Zone. The allowance for micro-unit buildings is not a state requirement, but it can speed up progress toward housing goals by allowing more housing units per project.

### What is a Micro-Unit?

- Micro-units, sometimes called single-room occupancy units (SROs), are smaller dwelling units, typically 150-400 square feet.
- Often include shared amenities and communal spaces to make up for the lack of space in individual units.
- Higher density
- Low parking ratio
- Little or no private amenities
- Affordable entry-point into the housing market for low-income and formerly homeless people
- Housing for students or young professionals who want to live in a communal environment

### How do Micro-Units differ from small Multi-family units?

- A Micro-Unit Ordinance would create a procedure for projects in specific transit-adjacent areas within the R-3 Multi-family Residential Zoning District, subject to a Conditional Use Permit. Micro-Units will only be permitted in R-3 zoned areas within areas that are within an acceptable distance from transit (for example, either 1 mile of a Metro Green line station or ¼ Mile from a bus stop).
- Reduced parking minimums would be permitted
- Efficiency or partial kitchens would be permitted
- Shared/communal amenity areas—gathering spaces like community rooms, accessible to all residents, with seating and/or larger kitchen appliances – would be permitted

Micro-Units are commonly subject to the following requirements:

**On-Site Management:** Provide on-site management in buildings with more than 16 Micro-Units

**Operational Standards:** Meet operational standards defined by the City, including a 30-day minimum length of stay

**Affordability:** Affordability is not required per State law, but the City may choose to add this requirement. Another option would be to provide incentives for offering affordable units.

**Reduced Parking Minimum:** Require as little as a minimum of 0.5 parking space per unit + 1 space per manager's unit. Micro-unit parking minimums set by other communities in the region range from 0.2 to 0.5 parking spaces per unit. Note that reasonable proximity to transit can potentially offset a reduced parking requirement.

**Kitchens:** Require kitchens to include, at minimum, a sink, 16" x 24" countertop, fridge, and miniature stove/oven feature. Require a communal full-size kitchen.

**Location:** Could require micro-unit projects to be within 1 mile of a high-frequency transit stop, such as the Metro Green Line, **OR** within ¼ from any bus stop. **See maps on pages 2-3 for reference.** The Metro Green Line is considered a High Quality Transit Stop because it is an existing rail transit station with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. El Segundo's Beach Cities Transit bus service is NOT considered High Quality Transit because service intervals are more than 15 minutes during peak commute hours. If the distance from the Metro Green Line station were set at a half mile (as is typical), then no R-3 sites would be eligible for Micro-Units. The option to permit Micro-Units within 0.25 miles of all bus stops would provide significantly more eligible residential units than the 1 mile from the Green Line option. The City can decide what an appropriate distance/location would be.

**Zoning and building envelope standards:** Apply the same zoning and exterior design standards to micro-units as to other buildings in the R-3 Zoning District other than those specifically outlined in the ordinance.

**Micro-unit concentration:** Establish a maximum percentage of micro-units within individual multi-family residential projects, such as 20 percent.

**Occupancy:** Limit Occupancy to two residents per unit. Require a minimum 30-day length of occupancy.

**Bathroom:** Require each unit to contain a bathroom with sink, toilet, and bathtub or shower.

**Storage:** Require minimum 48 cubic feet of on-site storage per unit.

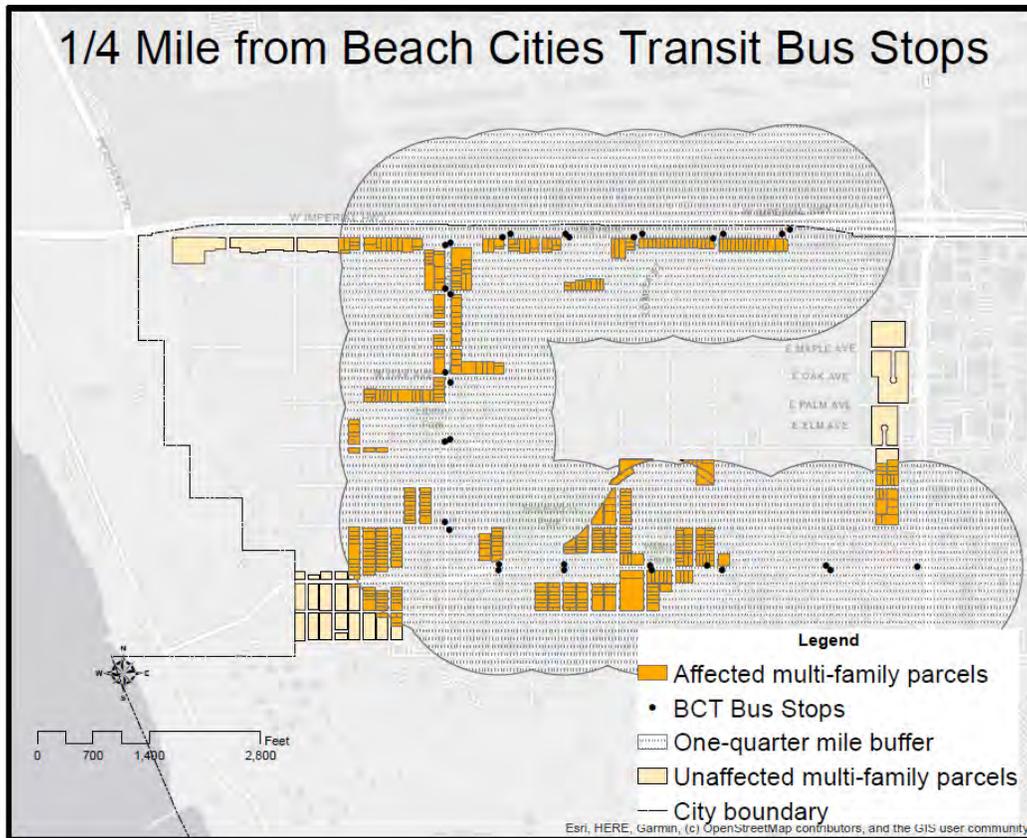
**Laundry:** Allow either in-unit or communal on-site laundry facilities.

**Bicycle storage:** Require minimum one bicycle rack per 3 units

**Lighting:** Require parking areas to be lit at an intensity of 1.25 foot-candles and entire perimeter of the building to be lit at an intensity of 0.5 foot-candles, subject to Police Department review.

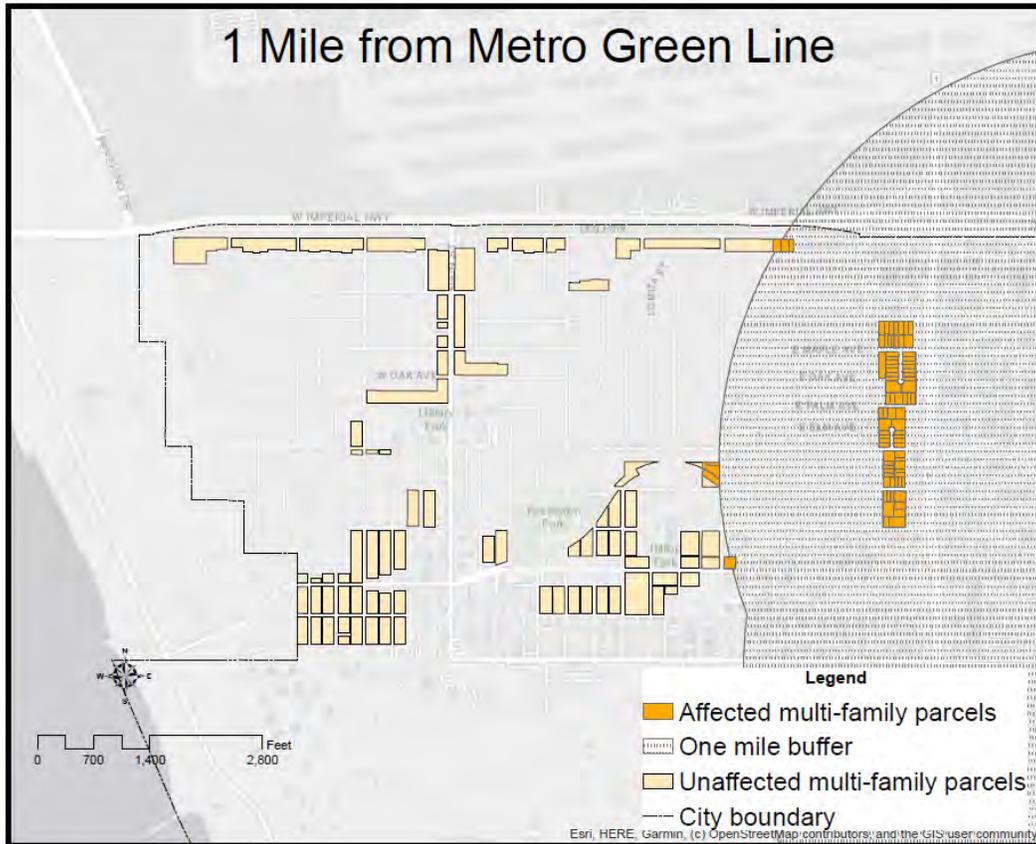
**Operational Standards:** Require an onsite manager for micro-unit buildings with more than 16 units. Each facility operator must provide a detailed management plan as part of the conditional use permit application.

Location Option 1: ¼ mile from Beach Cities Transit bus stops



Beach Cities Transit runs north and south of El Segundo, from LAX to Torrance. It is **NOT** considered a High Quality transit line by the State because the typical waiting time at a bus stop is longer than fifteen minutes.

Location Option 2: One mile from the Metro Green Line



The Metro Green Line is considered a High Quality Transit line because typical wait times are less than fifteen minutes. El Segundo has no residential zoning within half mile of the Green Line, but Micro-Units could be allowed within one mile of the Green Line.

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE REGULATIONS IMPLEMENTING THE  
FEDERAL AND STATE LOW INCOME HOUSING TAX CREDIT LAWS

CALIFORNIA CODE OF REGULATIONS  
TITLE 4, DIVISION 17, CHAPTER 1

June 16, 2021

Section 10300. Purpose and Scope

These regulations establish procedures for the reservation, allocation and compliance monitoring of the Federal and State Low-Income Housing Tax Credit Programs (“Housing Tax Credit Programs”, “Programs”, or individually, “Federal Program” or “State Program”) and establish policies and procedures for use of the Tax Credits to meet the purposes contained in Section 252 of Public Law No. 99-514 (October 22, 1986), known as the Federal Tax Reform Act of 1986, as amended, and Chapter 658, California Statutes of 1987, as amended, and Chapter 1138, California Statutes of 1987, as amended.

Internal Revenue Code (“IRC”) Section 42 provides for state administration of the Federal Program. California Health and Safety (H & S) Code Sections 50199.4 through 50199.22, and California Revenue and Taxation (R & T) Code Sections 12205, 12206, 17057.5, 17058, 23610.4 and 23610.5 establish the California State Program and designate the California Tax Credit Allocation Committee (“CTCAC”) as the Housing Credit Agency to administer both the Federal and State Housing Tax Credit programs in California. These regulations set forth the policies and procedures governing the Committee’s management of the Programs. In addition to these regulations, program participants shall comply with the rules applicable to the Federal Program as set forth in Section 42 and other applicable sections of the Internal Revenue Code. In the event that Congress, the California Legislature, or the IRS add or change any statutory or regulatory requirements concerning the use or management of the Programs, participants shall comply with such requirements.

Note: Authority cited: Section 50199.17, Health and Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Section 10302. Definitions

- a) Adaptive reuse. Adaptive reuse means retrofitting and repurposing of existing buildings that create new residential rental units, and expressly excludes a project that involves rehabilitation of any construction affecting existing residential units. Adaptive reuse may include retrofitting and repurposing of existing hotels or motels if the hotel or motel is not currently a place of residence for the occupants, and/or sites that have been received a Project Homekey allocation.
- b) AHP. The Affordable Housing Program of the Federal Home Loan Bank.
- c) Allocation. The certification by the Committee of the amount of Federal, or Federal and State, Credits awarded to the applicant for purposes of income tax reporting to the IRS and/or the California Franchise Tax Board (“FTB”).
- d) Applicable Credit Percentage. The monthly rate, published in IRS revenue rulings pursuant to IRC Section 42(b)(1), applicable to the Federal Program for purposes of calculating annual Tax Credit amounts.
- e) Bath or bathroom. A bath or bathroom must be equipped with an exhaust fan, a toilet, a sink, a shower or bathtub, and a receptacle outlet.

- f) **Bedroom.** A bedroom be at least 70 square feet, must include an interior door, a closet or free-standing wardrobe provided by the project owner, and at least one receptacle outlet.
- g) **Capital Needs Assessment or CNA.** The physical needs assessment report required for all rehabilitation projects, described in Section 10322(h)(26)(B).
- h) **Chairperson.** The Chairperson of the California Tax Credit Allocation Committee.
- i) **Committee.** The California Tax Credit Allocation Committee (“CTCAC”) or its successor.
- j) **Community Foundation.** A local foundation organized as a public charity under section 509(a)(1) of the Internal Revenue Code.
- k) **Compliance Period.** That period defined by IRC Section 42(i)(1) and modified by R & T Code Section 12206(h), and further modified by the provisions of these regulations.
- l) **Credit(s).** Housing Tax Credit(s), or Tax Credit(s).
- m) **Credit Ceiling.** The amount specified in IRC Section 42(h)(3)(C) for Federal Program purposes (including the unused credits from the preceding calendar year, the current year’s population based credits, returned credits and national pool credits), and in R & T Code Section 17058(g) for State Program purposes.
- n) **CTCAC.** California Tax Credit Allocation Committee.
- o) **Developer Fee.** All Funds paid at any time as compensation for developing the proposed project, to include all processing agent fees, developer overhead and profit, construction management oversight fees if provided by the developer, personal guarantee fees, syndicator consulting fees, and reserves in excess of those customarily required by multi-family housing lenders.
- p) **Development Team.** The group of professionals identified by the applicant to carry out the development of a Tax Credit project, as identified in the application pursuant to subsection 10322(h)(5).
- q) **Eligible Project.** A proposed 9% Tax Credit project that has met all of the Basic Threshold Requirements and Additional Threshold Requirements described in Sections 10325(f) and (g) below.
- r) **Executive Director.** The executive director of the California Tax Credit Allocation Committee.
- s) **Farmworker Housing.** A development of permanent housing for agricultural workers (as defined by California Labor Code Section 1140.4(b)) in which at least 50 percent of the units are available to, and occupied by, farmworkers and their households. The Committee may permit an owner to temporarily house nonfarmworkers in vacant units in the event of a disaster or other critical occurrence. However, such emergency shelter shall only be permitted if there are no pending qualified farmworker household applications for residency.
- t) **Federally Subsidized.** As defined by IRC Section 42(i)(2).
- u) **Federal Credit.** The Tax Credit for low-income rental housing provided under IRC Section 42 and implemented in California by the Committee.
- v) **Financial Feasibility.** As required by, IRC Section 42(m)(2), and further defined by these regulations in Section 10327.
- w) **FTB.** State of California Franchise Tax Board.

- x) Hard construction costs. The amount of the construction contract, excluding contractor profit, general requirements and contractor overhead.
- y) High-Rise Project(s). A project which applies for a Credit reservation pursuant to Section 10325 in which 100 percent (100%) of the residential units are Tax Credit Units and for which the project architect has certified concurrently with the submission of an application to the Committee that (1) one or more of the buildings in the project would have at least six stories; and (2) the construction period for the project is reasonably expected to be in excess of 18 months.
- z) Hybrid project or development. A new construction development constructed with separate 9% and 4% Federal Credit Allocations. The development must meet the conditions set forth in Section 10325(c)(9)(A).
- aa) IRS. United States Internal Revenue Service.
- bb) Local Development Impact Fees. The amount of impact fees, mitigation fees, or capital facilities fees imposed by municipalities, county agencies, or other jurisdictions such as public utility districts, school districts, water agencies, resource conservation districts, etc.
- cc) Local Reviewing Agency. An agency designated by the local government having jurisdiction that will perform evaluations of proposed projects in its locale according to criteria set forth by the Committee.
- dd) Low-Income Unit. As defined by IRC Section 42(i)(3).
- ee) Market-Rate Unit. A unit other than a Tax Credit Unit as defined by these regulations.
- ff) MHP. Multifamily Housing Program of California's Department of Housing and Community Development.
- gg) "Net Project Equity" shall mean the total sale or refinancing proceeds resulting from a Transfer Event less the payment of all obligations and liabilities of the owner, including any secured and unsecured related and third party debt thereof (including, without limitation, repayment of deferred developer fees and repayment of any advances made by a partner to fund operating and/or development deficits).
- hh) Net Tax Credit Factor. The estimated or actual equity amount raised or to be raised from a tax credit syndication or other instrument, not including syndication related expenses, divided by the total amount of Federal and State Tax Credits reserved or allocated to a project. The calculation must include the full ten-year amount of Federal Tax Credits and the total amount of State Tax Credits.
- ii) QAP. The "Low Income Housing Tax Credit Program Qualified Allocation Plan," as adopted in regulation Sections 10300 et. seq., and in accordance with the standards and procedures of IRC Section 42(m)(1)(B).
- jj) "Qualified Capital Needs Assessment" shall mean a capital needs assessment for a property subject to a Transfer Event dated within one hundred eighty (180) days of the proposed Transfer Event which (i) meets the requirements of (a) the Fannie Mae Multifamily Instructions for the PNA Property Evaluator, (b) Freddie Mac's Property Condition Report requirements in Chapter 14 of the Small Balance Loan Addendum, (c) HUD's Multifamily Capital Needs Assessment section in Appendix 5G of the Multifamily Accelerated Process Guide, or (d) Standard Guide for Property Condition Assessments: Baseline Property Condition Assessment Process (ASTM Designation E 2018-08) utilizing a recognized industry standard to establish useful life estimates for the replacement reserve analysis, and (ii) clearly sets forth (a) the capital needs of the project for the next three (3) years (the "Short-Term Work") and the projected costs thereof, and (b) the capital needs of the project for the subsequent twelve (12) years (the "Long Term Work") and the projected contributions to reserves that will be needed to accomplish that work.

- kk) Qualified Nonprofit Organization. An organization that meets the requirements of IRC Section 42(h)(5), whose exempt purposes include the development of low-income housing as described in IRC Section 42, and which, if a State Tax Credit is requested, also qualifies under H & S Code Section 50091.
- ll) RHS. United States Rural Housing Service, formerly Rural Housing and Community Development Service or RHCDS, formerly Farmers Home Administration or FmHA
- mm) Related Party.
- (1) the brothers, sisters, spouse, ancestors, and direct descendants of a person;
  - (2) a person and corporation where that person owns more than 50% in value of the outstanding stock of that corporation;
  - (3) two or more corporations, general partnership(s), limited partnership(s) or limited liability corporations connected through debt or equity ownership, in which
    - (A) stock is held by the same persons or entities for
      - (i) at least 50% of the total combined voting power of all classes that can vote, or
      - (ii) at least 50% of the total value of shares of all classes of stock of each of the corporations or
      - (iii) at least 50% of the total value of shares of all classes of stock of at least one of the other corporations, excluding, in computing that voting power or value, stock owned directly by that other corporation;
    - (B) concurrent ownership by a parent or related entity, regardless of the percentage of ownership, or a separate entity from which income is derived;
    - (C) concurrent ownership by a parent or related entity, regardless of the percentage of ownership, or a separate entity where a sale-leaseback transaction provides the parent or related entity with income from the property leased or that creates an undue influence on the separate entity as a result of the sale-leaseback transaction;
    - (D) concurrent ownership by a parent or related entity, regardless of the percentage of ownership, of a separate entity where an interlocking directorate exists between the parent or related entity and the separate entity.
  - (4) a grantor and fiduciary of any trust;
  - (5) a fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
  - (6) a fiduciary of a trust and a beneficiary of that trust;
  - (7) a fiduciary of a trust and a corporation where more than 50% in value of the outstanding stock is owned by or for the trust or by or for a person who is a grantor of the trust;
  - (8) a person or organization and an organization that is tax-exempt under Subsection 501(c)(3) or (4) of the IRC and that is affiliated with or controlled by that person or the person's family members or by that organization;
  - (9) a corporation and a partnership or joint venture if the same persons own more than:
    - (A) 50% in value of the outstanding stock of the corporation; and
    - (B) 50% of the capital interest, or the profits' interest, in the partnership or joint venture;

- (10) one S corporation or limited liability corporation and another S corporation or limited liability corporation if the same persons own more than 50% in value of the outstanding stock of each corporation;
- (11) an S corporation or limited liability corporation and a C corporation, if the same persons own more than 50% in value of the outstanding stock of each corporation;
- (12) a partnership and a person or organization owning more than 50% of the capital interest, or the profits' interest, in that partnership; or
- (13) two partnerships where the same person or organization owns more than 50% of the capital interests or profits' interests.

The constructive ownership provisions of IRC Section 267 also apply to subsections 1 through 13 above. The more stringent of regulations shall apply as to the ownership provisions of this section.

- nn) Reservation. As provided for in H & S Code Section 50199.10(e) the initial award of Tax Credits to an Eligible project. Reservations may be conditional.
- oo) Rural. An area defined in H & S Code Section 50199.21.
- pp) Scattered Site Project. A project in which the parcels of land are not contiguous except for the interposition of a road, street, stream or similar interposition.
  - (1) For acquisition and/or rehabilitation projects with one pre-existing project-based Section 8 contract in effect for all the sites, there shall be no limit on the number or proximity of sites.
  - (2) For acquisition and/or rehabilitation projects with any of the following: (A) existing federal or state rental assistance or operating subsidies, (B) an existing CTCAC Regulatory Agreement, or (C) an existing regulatory agreement with a federal, state, or local public entity, the number of sites shall be limited to five, unless the Executive Director approves a higher number, and all sites shall be either within the boundaries of the same city, within a 10-mile diameter circle in the same county, or within the same county if no location is within a city having a population of five-hundred thousand (500,000) or more.
  - (3) For new construction projects and all other acquisition and/or rehabilitation projects, the number of sites shall be limited to five, and all sites shall be within a 1 mile diameter circle within the same county.
- qq) State Credit. The Tax Credit for low-income rental housing provided by the Revenue and Taxation Code Sections 12205, 12206, 17057.5, 17058, 23610.4 and 23610.5, including the State Farmworker Credit, formerly the Farmworker Housing Assistance Program provided by the Revenue and Taxation Code Sections 12206, 17058, and 23610.5 and by the Health and Safety Code Sections 50199.2 and 50199.7.
- rr) Tax Credit Units. Low-Income Units and manager units.
- ss) Tax-Exempt Bond Project. A project that meets the definition provided in IRC Section 42(h)(4).
- tt) Tax forms. Income tax forms for claiming Tax Credits: for Federal Tax Credits, IRS Form 8609; and, for State Tax Credits, FTB Form 3521A.
- uu) "Transfer Event" shall mean (i) a transfer of the ownership of a project, (ii) the sale or assignment of a partnership interest in a project owner and/or (iii) the refinancing of secured debt on a project. The following shall not be deemed a Transfer Event: (i) the transfer of the project or a partnership or membership interest in a project owner in which reserves remain with the project and the debt

encumbering the project is not increased, refinanced or otherwise modified, (ii) the refinancing of project debt which does not increase the outstanding principal balance of the debt other than in the amount of the closing costs and fees paid to the project lender and third parties as transaction costs, provided that reserves remain with the project, (iii) the replacement of a general partner by a limited partner upon the occurrence of a default by a general partner in accordance with partnership agreement of the project owner, (iv) a transfer pursuant to a foreclosure or deed in lieu of foreclosure to a non-related party, (v) a "Subsequent Transfer" pursuant to Section 10320(b)(4)(B) hereof, (vi) a transfer of the ownership of a project subject to an existing tax credit regulatory agreement with a remaining term of five (5) or less years if the transfer is made in connection with a new reservation of 9% or 4% tax credits, or (vii) the sale of a project, or the sale or assignment of a partnership interest in a project owner, to an unrelated party for which the parties entered into a purchase agreement prior to October 9, 2015. Notwithstanding the foregoing, the term "Transfer Event" shall be applicable only to projects in which at least 50% of the units are Tax Credit Units.

- vv) **Threshold Basis Limit.** The aggregate limit on amounts of unadjusted eligible basis allowed by the Committee for purposes of calculating Tax Credit amounts. These limits are published by CTCAC on its website, by unit size and project location, and are based upon average development costs reported within CTCAC applications and certified development cost reports. CTCAC staff shall use new construction cost data from both 9 percent and 4 percent funded projects, and shall eliminate extreme outliers from the calculation of averages. Staff shall publicly disclose the standard deviation percentage used in establishing the limits, and shall provide a worksheet for applicant use. CTCAC staff shall establish the limits in a manner that seeks to avoid a precipitous reduction in the volume of 9 percent projects awarded credits from year to year.
- ww) **Tribe.** A federally recognized Indian tribe located in California, or an entity established by the tribe to undertake Indian housing projects, including projects funded with federal Low Income Housing Tax Credits.
- xx) **Tribal Trust Land.** Real property located within the State of California that meets both the following criteria:
  - (1) is trust land for which the United States holds title to the tract or interest in trust for the benefit of one or more tribes or individual Indians, or is restricted Indian land for which one or more tribes or individual Indians holds fee title to the tract or interest but can alienate or encumber it only with the approval of the United States.
  - (2) the land may be leased for housing development and residential purposes under Federal law.
- yy) **Waiting List.** A list of Eligible Projects approved by CTCAC following the last application cycle of any calendar year, pursuant to Section 10325(h) below.
- zz) **TCAC/HCD Opportunity Area Map.** A map or series of maps approved annually by the Committee as the TCAC/HCD Opportunity Area Map.

Note: Authority cited: Section 50199.17, Health and Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

#### Section 10305. General Provisions

- (a) **Meetings.** The Committee shall meet on the call of the Chairperson.

- (b) Report. At each meeting of the Committee at which Tax Credit reservations from the Credit Ceiling are made, the Executive Director shall make a report to the Committee on the status of the Federal and State Tax Credits reserved and allocated.
- (c) Forms. CTCAC shall develop such forms as are necessary to administer the programs and is authorized to request such additional information from applicants as is appropriate to further the purposes of the Programs. Failure to provide such additional information may cause an application to be disqualified or render a reservation null and void.
- (d) Tax Credit Limitations. No applicant shall be eligible to receive Tax Credits if, together with the amount of Federal or State Tax Credits being requested, the applicant would have, in the capacity of individual owner, corporate shareholder, general partner, sponsor, or developer, received a reservation or allocation greater than fifteen percent (15%) of the total Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year.
- (e) Notification. Upon receipt of an application, CTCAC shall notify the Chief Executive Officer (e.g., city manager, county administrative officer, tribal chairperson) of the local jurisdiction within which the proposed project is located and provide such individual an opportunity to comment on the proposed project (IRC Section 42(m)(1)(ii)).
- (f) Conflicting provisions. These regulations shall take precedence with respect to any and all conflicts with provisions of the QAP or other guidance provided by the Committee. This subsection shall not be construed to limit the effect of the QAP and other guidance in cases where said documents seek to fulfill, without conflict, the requirements of federal and state statutes pertaining to the Tax Credit Programs.
- (g) The Committee may, at its sole discretion, reject an application if the proposed project fails to meet the minimum point requirements established by the Committee prior to that funding round. The Committee may establish a minimum point requirement for competitive rounds under either Section 10325 or 10326.
- (h) Notwithstanding any other provision of these regulations, the State Tax Credits allocated pursuant to subsection (g)(1)(B) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code shall be awarded to applicants for eligible projects receiving an allocation of State Ceiling from CDLAC and the applicant criteria shall be applied in accordance with Section 10326. Projects shall begin construction within 180 days of award pursuant to Section 10317(j). Up to two hundred million dollars (\$200,000,000) may be allocated for housing financed by CalHFA's Mixed-Income Program, and this amount may be reduced upon agreement of the Executive Directors of CalHFA and CTCAC.

Note: Authority cited: Section 50199.17, Health and Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

#### Section 10310. Reservations of Tax Credits

- (a) Reservation cycles. The Committee shall reserve Tax Credits on a regular basis in accordance with H. & S Code Section 50199.14(a), pursuant to these regulations and the QAP, incorporated by reference in full.
- (b) Credit Ceiling available. The approximate amount of Tax Credits available in each reservation cycle may be established by the Committee at a public meeting designated for that purpose as of February first of the calendar year, in accordance with the following provisions:
  - (1) Amount of Federal Tax Credits. The amount of Federal Tax Credits available for reservation in a reservation cycle shall be equal to the sum of:

- (A) the per capita amount authorized by law for the year, plus or minus the unused, Federal Credit Ceiling balance from the preceding calendar year, multiplied by a percentage amount established by the Committee for said cycle;
- (B) the amount allocated, and available, under IRC Section 42(h)(3)(D) as of the date that is thirty days following the application deadline for said cycle;
- (C) the amount of Federal Credit Ceiling returned, and available, as of the date that is thirty days following the application deadline for said cycle; and,
- (D) additional amounts of Federal Credit Ceiling, from the current or subsequent year, necessary to fully fund projects pursuant to the allocation procedures set forth in these regulations.

For calendar year 2020, and 2021 if applicable, the amount of the Federal Credit Ceiling established by the Further Consolidated Appropriations Act, 2020 ("FCAA") shall be allocated pursuant to Section 10325(d)(1). For calendar year 2021, and 2022 if applicable, the amount of the Federal Credit Ceiling established by the Consolidated Appropriations Act, 2021 ("CAA") shall be allocated pursuant to Section 10325(d)(1).

- (2) Amount of State Tax Credits. The amount of State Tax Credits available for reservation in a reservation cycle shall be equal to:
  - (A) the amount authorized by law for the year, less any amount set-aside for use with certain tax-exempt bond financed projects, plus the unused State Credit Ceiling balance from the preceding calendar year, multiplied by a percentage amount established by the Committee for said cycle;
  - (B) the amount of State Credit Ceiling returned, and available, by the date that is thirty days following the application deadline for said cycle; plus,
  - (C) additional amounts of State Credit Ceiling, from the current or subsequent year, necessary to fully fund projects pursuant to the allocation procedures set forth in these regulations and,
  - (D) five hundred thousand dollars (\$500,000) per calendar year in State Farmworker Credits to provide Farmworker Housing, plus any returned and unused State Farmworker Credit balance from the preceding calendar year.
- (3) Waiting List Tax Credits. Tax Credits returned (other than those returned pursuant to Section 10328(g)) and Tax Credits allocated under IRC Section 42(h)(3)(D) during any calendar year, and not made available in a reservation cycle, shall be made available to applications on Committee Waiting Lists, pursuant to subsection 10325(h).

Note: Authority cited: Section 50199.17, Health and Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

#### Section 10315. Set-asides and Apportionments

CTCAC will accept applications from Qualified Nonprofit Organizations for the Nonprofit set-aside upon the request of the qualified applicant, regardless of the proposed housing type. Thereafter, CTCAC shall review each non-rural pending competitive application applying as an at-risk or special needs housing type under subsection (h) below, first, within that housing type's relevant set-aside. Non-rural applicants meeting the criteria for both the special needs and at-risk housing types pursuant to Section 10325(g) may

request to be considered in both set-asides. Applicants receiving an award from either the At-Risk or Special Needs set-aside shall be considered as that housing type for purposes of paragraph (h).

- (a) Nonprofit set-aside. Ten percent (10%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set-aside for projects involving, over the entire restricted use period, Qualified Nonprofit Organizations as the only general partners and developers, as defined by these regulations, and in accordance with IRC Section (42)(h)(5).
- (b) Each funding round, credits available in the Nonprofit set-aside shall be made available as a first-priority, to projects providing housing to homeless households at affordable rents, consistent with Section 10325(g)(3) in the following priority order:
  - First, projects with 1) McKinney-Vento Homeless Assistance Act, MHP-Supportive Housing Program, HCD Veterans Housing and Homeless Prevention Program, Mental Health Services Act (MHSA), CalHFA Local Government Special Needs Housing Program, Governor's Homeless Initiative, Housing for a Healthy California, or HCD No Place Like Home development capital funding committed for which the amount of development capital funding committed shall be at least \$500,000 or \$10,000 per unit for all Low-Income Units in the project (irrespective of the number of units assisted by the referenced programs), whichever is greater; or 2) projects with rental or operating assistance funding commitments from federal, state, or local governmental funding sources. The rental assistance must be sponsor-based or project-based and the remaining term of the project-based assistance contract shall be no less than one (1) year and shall apply to no less than fifty percent (50%) of the Low-Income Units in the proposed project. For local government funding sources, ongoing assistance may be in the form of a letter of intent from the governmental entity.
  - Second, other qualified homeless assistance projects.

To compete as a homeless assistance project, at least fifty percent (50%) of the Low-Income Units within the project must be designated for homeless households as described in category (1) immediately below:

- (1) Individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
  - (A) Has a primary nighttime residence that is a public or private place not meant for human habitation;
  - (B) Is living in a publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, and local government programs); or
  - (C) Is exiting an institution and resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.
- (2) Individual or family who will imminently lose their primary nighttime residence, provided that:
  - (A) Residence will be lost within 14 days of the date of application for homeless assistance;
  - (B) No subsequent residence has been identified; and
  - (C) The individual or family lacks the resources or support networks needed to obtain other permanent housing.
- (3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
  - (A) Are defined as homeless under the other listed federal statutes;
  - (B) Have not had a lease, ownership interest, or occupancy agreement in permanent housing during the 60 days prior to the homeless assistance application;
  - (C) Have experienced persistent instability as measured by two moves or more during the preceding 60 days; and
  - (D) Can be expected to continue in such status for an extended period of time due to special needs or barriers.

- (4) Any individual or family who:
  - (A) Is fleeing, or is attempting to flee, domestic violence;
  - (B) Has no other residence; and
  - (C) Lacks the resources or support networks to obtain other permanent housing.

For all projects receiving a reservation under the first or second priority, owners, property managers, and service providers shall comply with the core components of Housing First, as defined in Welfare and Institutions Code Section 8255(b), with respect to the units designated for homeless households. For projects receiving a reservation under the first or second priority, the applicant also shall commit to reserving vacant homeless assistance units for 60 days for occupancy by persons or households referred, where such systems or lists exist, by either 1) the relevant coordinated entry or access system, 2) the relevant county health department from a list of frequent health care users; or 3) the relevant behavioral health department from a list of persons with chronic behavioral health conditions who require supportive housing. The applicant shall enter into a memorandum of understanding with the relevant department or system administrator prior to placing in service unless a reasonable memorandum is refused by the department or administrator.

Any amount of Tax Credits not reserved for homeless assistance projects during a reservation cycle shall be available for other applications qualified under the Non-profit set-side.

- (c) Rural set-aside. Twenty percent (20%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set-aside for projects in rural areas as defined in H & S Code Section 50199.21 and as identified in supplemental application material prepared by CTCAC. For purposes of implementing Section 50199.21(a), an area is eligible under the Section 515 program on January 1 of the calendar year in question if it either resides on the Section 515 designated places list in effect the prior September 30, or is so designated in writing by the USDA Multifamily Housing Program Director. All Projects located in eligible census tracts defined by this Section must compete in the rural set-aside and will not be eligible to compete in other set-asides or in the geographic areas unless the Geographic Region in which they are located has had no other Eligible Projects for reservation within the current calendar year. In such cases the rural project may receive a reservation in the last round for the year, from the geographic region in which it is located, if any.

Within the rural set-aside competition, the first tiebreaker shall be applied as described in Section 10325(c)(9), except that the Senior and Large Family New Construction in Highest or High Resource Tract housing type goals established by Section 10315(h) shall be calculated relative to the rural set-aside dollars available each round, rather than against the total credits available statewide each round.

- (1) RHS and HOME program apportionment. In each reservation cycle, fourteen percent (14%) of the rural set-aside shall be available for new construction projects which have a funding commitment from RHS of at least \$1,000,000 from either RHS's Section 514 Farm Labor Housing Loan Program, RHS's Section 515 Rural Rental Housing Loan Program, or a reservation from a Participating Jurisdiction or the State of California of at least \$1,000,000 in HOME funding.

All projects meeting the RHS and HOME program apportionment eligibility requirements shall compete under the RHS and HOME program apportionment. Projects that are unsuccessful under the apportionment shall then compete within the general rural set-aside described in subsection (c). Any amount reserved under this subsection for which RHS or HOME funding does not become available in the calendar year in which the reservation is made, or any amount of Credit apportioned by this subsection and not reserved during a reservation cycle shall be available for applications qualified under the Rural set-aside.

- (2) Native American apportionment. One million dollars (\$1 million) in annual federal credits shall be available during the first round and, if any credits remain, in the second round for applications proposing projects on land to be owned by a Tribe, whether the land is owned

in fee or in trust, and in which occupancy will be legally limited to tribal households, except that up to 20% of Low-Income Units may serve non-tribal households if required by the HOME Program. Apportioned dollars shall be awarded to projects sponsored by Tribes using the scoring criteria in Section 10325(c), and achieving the minimum score established by TCAC under Section 10305(h). In addition, the application shall receive the minimum points available for both general partner and management company experience under Section 10325(c)(1), except that the management company minimum scoring cannot be obtained through the point category for a housing tax credit certification examination.

- (d) “At-Risk” set-aside. After accounting for the second supplemental set-aside described in (g), five percent (5%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set aside for projects that qualify and apply as an “At risk” housing type pursuant to subsection (h) below. Any proposed project that applies and is eligible under the Nonprofit set-aside but is not awarded credits from that set-aside shall be eligible to be considered under this At-Risk set-aside if the project meets the housing type requirements.
- (e) Special Needs set-aside. After accounting for the second supplemental set-aside described in (g), four percent (4%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set aside for projects that qualify and apply as a Special Needs housing type project pursuant to subsection (h) below. Any proposed project that applies and is eligible under the Nonprofit set-aside, but is not awarded credits from that set-aside, shall be eligible to be considered under this Special Needs set-aside if the project meets the housing type requirements.
- (f) First supplemental set-aside. After accounting for the second supplemental set-aside described in (g), an amount equal to three percent (3%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be held back to fund overages that occur in the second funding round set-asides and/or in the Geographic Apportionments because of funding projects in excess of the amounts available to those Set Asides or Geographic Apportionments, the funding of large projects, such as HOPE VI projects, or other Waiting List or priority projects. In addition to this initial funding, returned Tax Credits and unused Tax Credits from Set Asides and Geographic Apportionments will be added to this Supplemental Set Aside, and used to fund projects at year end so as to avoid loss of access to National Pool credits.
- (g) Second supplemental set-aside. For each calendar year an amount of the Federal Credit Ceiling determined by the Executive Director, calculated as of February first of the calendar year, shall be held back to fund projects designated as DDA project pursuant to Section 10327(d)(3).
- (h) Housing types. To be eligible for Tax Credits, all applicants must select and compete in only one of the categories listed below, exclusive of the Acquisition and/or Rehabilitation and Large Family New Construction located in a Highest or High Resource Area housing types which are listed here solely for purposes of the tiebreaker, and must meet the applicable “additional threshold requirements” of Section 10325(g), in addition to the Basic Threshold Requirements in 10325(f). The Committee will employ the tiebreaker at Section 10325(c)(9) in an effort to assure that no single housing type will exceed the following percentage goals where other housing type maximums are not yet reached:

<b>Housing Type</b>	<b>Goal</b>
Large Family	65%
Large Family New Construction receiving the tiebreaker increase for being located in census tracts, or census block groups as applicable, designated on the TCAC/HCD Opportunity Area Map as Highest or High Resource Areas (effective for 2019 and later reservations)	30%

Special Needs	30%
Single Room Occupancy (SRO)	15%
At-Risk	15%
Seniors	15%
Acquisition and/or Rehabilitation within the rural set-aside only	30% of the credits available in the rural set-aside

For purposes of the Acquisition and/or Rehabilitation Housing Type Goal, a project will be considered an acquisition and/or rehabilitation project if at least 50% of the units were previously residential dwelling units.

A large family new construction project that receives a tiebreaker increase for being located in a Highest or High Resource census tract shall count against both that housing type and the general Large Family housing type.

- (i) Geographic Apportionments. Annual apportionments of Federal and State Credit Ceiling shall be made in approximately the amounts shown below:

<b>Geographic Area</b>	<b>Apportionments</b>
City of Los Angeles	17.6%
Balance of Los Angeles County	17.2%
Central Valley Region (Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare Counties)	8.6%
San Diego County	8.6%
Inland Empire Region (San Bernardino, Riverside, Imperial Counties)	8.3%
East Bay Region (Alameda and Contra Costa Counties)	7.4%
Orange County	7.3%
South and West Bay Region (San Mateo, Santa Clara Counties)	6.0%
Capital Region (El Dorado, Placer, Sacramento, Sutter, Yuba, Yolo Counties)	5.7%
Central Coast Region (Monterey, San Benito, San Luis Obispo, Santa Barbara, Santa Cruz, Ventura Counties)	5.2%
Northern Region (Butte, Marin, Napa, Shasta, Solano, and Sonoma Counties)	4.4%
San Francisco County	3.7%

- (j) Credit available for geographic apportionments. Geographic apportionments, as described in this Section, shall be determined prior to, and made available during each reservation cycle in the approximate percentages of the total Federal and State Credit Ceiling available pursuant to Subsection 10310(b), after CTCAC deducts the federal credits set aside in accordance with Section 10315(a) through (g) from the annual Credit Ceiling.

Note: Authority cited: Section 50199.17, Health and Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

### Section 10317. State Tax Credit Eligibility Requirements

- (a) General. In accordance with the R & T Code Sections 12205, 12206, 17057.5, 17058, 23610.4 and 23610.5, there shall be allowed as a Credit against the “tax” (as defined by R & T Code Section 12201) a State Tax Credit for Federal Credit Ceiling projects pursuant to subsection (g)(1)(A) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code and Tax Exempt Bond Projects pursuant to subsection (g)(1)(B) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code in an amount equal to no more than 30 percent (30%) of the project’s requested construction-related eligible basis. Except for State Farmworker Credits and projects meeting subparagraphs (A) through (D) in subsection (c)(4) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code, the maximum State Tax Credit award amount for a Tax Exempt Bond Project pursuant to subsection (g)(1)(A) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code, or basis described in paragraph (f) below, is 13 percent (13%) of that project’s requested eligible basis. The maximum State Farmworker Credit award amount for a Tax Exempt Bond Project, or basis described in paragraph (f) below, is 75 percent (75%) of that project’s requested eligible basis. The maximum State Credit award for a project meeting subparagraphs (A) through (D) in subsection (c)(4) of 12206 of the Revenue and Taxation Code, or basis described in paragraph (f) below, is 95 percent (95%) of that project’s requested eligible basis. Insufficient credits due to a low appraised value as described in Subparagraph (C) shall be evidenced as defined in Section 10322(h)(9)(A) of these Regulations: the sum of third party debt encumbering the seller’s property exceeds the appraised value. Substantial rehabilitation as described in Subparagraph (D) shall be evidenced by Section 10326(g)(7) of these Regulations. Award amounts shall be computed in accordance with IRC Section 42, except as otherwise provided in applicable sections of the R & T Code.
- (b) Allocation of Federal Tax Credits required. State Tax Credit recipients shall have first been awarded Federal Tax Credits, or shall qualify for Tax Credits under Section 42(h)(4)(b), as required under H & S Code Section 50199.14(e) and the R & T Code Section 12206(b)(1)(A). State Farmworker Credits are exempt from this requirement.
- (c) Limit on Credit amount. Except for applications described in paragraph (d) below, all credit ceiling applications may request State credits provided the project application is not requesting the federal 130% basis adjustment for purposes of calculating the federal credit award amount. Projects are eligible for State credits regardless of their location within a federal Qualified Census Tract (QCT) or a Difficult Development Area (DDA). Notwithstanding paragraph (d) below, applications for the Federal Credit established by the Further Consolidated Appropriations Act, 2020 or the Consolidated Appropriations Act, 2021 are not eligible for State Tax Credits.

An applicant requesting state credits shall not reduce basis related to federal tax credits except to reduce requested basis to the project’s threshold basis limit or the credit request to the amount available in the project’s geographic region or the limits described in Section 10325(f)(9)(C). CTCAC shall revise the basis and credit request if the applicant fails to meet this requirement.

In the event that reservations of state credits to credit ceiling applications exceed the amount of state credits available, CTCAC post-reservation shall designate applications for which there are insufficient state credits as difficult development area (DDA) projects pursuant to Section 10327(d)(3) and exchange state credits for federal credits in an amount that will yield equal equity based solely on the tax credit factors stated in the application.

- (d) (1) Under authority granted by Revenue and Taxation Code Sections 12206(b)(2)(E)(ii), 17058(b)(2)(E)(ii), and 23610.5(b)(2)(E)(ii), applications for Special Needs projects with at least 50% special needs units and within a QCT or DDA may request the federal 130%

basis boost and may also request State credits, provided that the applicant does not reduce basis related to federal tax credits except to reduce requested basis to the project's threshold basis limit or the credit request to the amount available in the project's geographic region or the limits described in Section 10325(f)(9)(C). CTCAC shall revise the basis and credit request if the application fails to meet this requirement. Under authority granted by Internal Revenue Code Section 42(d)(5)(B)(v), CTCAC designates Special Needs housing type applicants for credit ceiling credits as Difficult Development Area projects, regardless of their location within a federally-designated QCT or DDA.

- (2) Under authority granted by Revenue and Taxation Code Sections 12206(b)(2)(E)(iii), 17058(b)(2)(E)(iii), and 23610.5(b)(2)(E)(iii), applications for 4% federal tax credits plus State Farmworker Credits within a QCT or DDA may request the federal 130% basis boost and may also request State credits
- (3) Under authority granted by Revenue and Taxation Code Sections 12206(b)(2)(E)(iii), 17058(b)(2)(E)(iii), and 23610.5(b)(2)(E)(iii), new construction applications for 4% federal tax credits plus State Credits pursuant to subsection (g)(1)(B) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code within a QCT or DDA may request the federal 130% basis boost and may also request State credits.

Applications for the Federal Credit established by the Further Consolidated Appropriations Act, 2020 or the Consolidated Appropriations Act, 2021, including Special Needs projects described in this section (d), are not eligible for State Tax Credits.

- (e) State Tax Credit exchange. Applications for projects not possessing one of the allocation priorities described in subsection (d) may also include a request for State Tax Credits. During any reservation cycle and/or following any reservation or allocation of State Tax Credits to all applications meeting the above allocation priorities, remaining balances of State Tax Credits maybe awarded to applicants having received a reservation of Federal Tax Credits during the same year, in exchange for the "equivalent" amount of Federal Tax Credits. Said exchanges shall be offered at the discretion of the Executive Director, who may consider and account for any fiscal or administrative impacts on the project or applicant pool when deciding to whom he/she will offer State Tax Credits.
- (f) Acquisition Tax Credits. State Tax Credits for acquisition basis are allowed only for projects meeting the definition of a project "at risk of conversion," pursuant to Section 42 and R & T Code Section 17058(c)(4).
- (g) Tax-Exempt Bond Financing. Projects financed under the tax-exempt bond financing provisions of Section 42(h)(4)(b) of the IRC, subsection (g)(1)(A) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code and Section 10326 of these regulations may apply for State Tax Credits if the following conditions are met:
  - (1) the project is comprised of 100% Tax Credit Units. Excepted from this rule are projects proposed for acquisition and rehabilitation that were developed under the HUD Section 236 or 202 programs, and are subject to those programs' use restrictions. Projects under those circumstances may propose a lesser percentage of Tax Credit Units to accommodate existing over-income residents who originally qualified under Section 236 or 202 income eligibility;
  - (2) one or more buildings is not eligible for the 130% basis adjustment, in which case the State Tax Credits shall be available only for the buildings not eligible for the 130% basis adjustment. This paragraph shall not apply to projects referenced in Section 10317(d);
  - (3) State Tax Credits will not be available to projects that have already received a reservation of 4% credit in the previous year; and

- (4) the applicant must demonstrate, by no later than 10 business days after the tax credit preliminary reservation, that a tax-exempt bond allocation has been received or applied for.

For projects financed under the tax-exempt bond financing provisions of Section 42(h)(4)(b) of the IRC, subsection (g)(1)(B) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code and Section 10326 of these regulations applying for State Tax Credits. State Tax Credits will not be available to projects that have already received a reservation of 4% credit in a previous year.

- (h) State Farmworker Credit. Applicants may request State Farmworker Credits for eligible Farmworker Housing in combination with federal credits, or they may request State Farmworker Credits only. If seeking a federal Credit Ceiling reservation, applicants may apply only during competitive rounds as announced by CTCAC and shall compete under the provisions of Section 10325(c) et. seq. If requesting federal credits for use with tax exempt bond financing, or State Farmworker Credits only, applicants may apply over the counter and shall meet the threshold requirements for projects requesting 4% federal credits.
  - (1) If more than one applicant is requesting nine percent (9%) federal credits in combination with State Farmworker Credits during a competitive round, CTCAC shall award available State Farmworker Credits to the highest scoring Farmworker Housing application that will receive a reservation of federal credits.

If available State Farmworker Credits are inadequate to fully fund a pending request for eligible Farmworker Housing, CTCAC may reserve a forward commitment of subsequent year's State Farmworker Credits for that project alone.

- (i) State Tax Credit Allocations pursuant to subsection (g)(1)(A) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code to bond financed projects. The following parameters apply:
  - (1) In calendar years where there are additional state tax credits available to bond financed projects, an amount equal to fifteen percent (15%) of the annual State Tax Credit authority will be available for acquisition and/or rehabilitation bond financed projects, with a ranking priority for projects meeting subparagraphs (A) through (D) in subsection (c)(4) of 12206 of the Revenue and Tax Code. In all other years, an amount equal to fifteen percent (15%) of the annual State Tax Credit authority will be available for bond financed projects of any construction type. CTCAC shall make reservations up to the 15% limit beginning with the first application review period of a calendar year for tax-exempt bond financed projects;
  - (2) The project will be competitively scored by CDLAC according to the CDLAC scoring and ranking system delineated in Section 5230 of the CDLAC Regulations. Notwithstanding the foregoing, existing tax credit projects must comply with the requirements of Section 10326(g)(8)(A);
  - (3) If the 15% set-aside has not been reserved prior to year end it may be used in a State Tax Credit exchange for projects that have received 9% Tax Credit reservations;
  - (4) The Committee may reserve an amount in excess of the 15% set-aside of State Tax Credits for the last funded tax-exempt bond financed project if that project requires more than the State Tax Credits remaining in this set aside if (1) fewer than half of the State Tax Credits annually available for the credit ceiling competition are reserved in the first competitive credit round, or (2) if State Credits remain available after funding of competitive projects in the second CTCAC funding round.
  - (5) Staff shall identify high cost projects by comparing each scored project's total eligible basis against its total adjusted threshold basis limits, excluding any increase for deeper targeting pursuant to Section 10327(c)(5)(C). CTCAC shall calculate total eligible basis consistent with the method described in Section 10325(d), except that the amount of developer fee in

basis that exceeds the project's deferral/contribution threshold described in Section 10327(c)(2)(B) shall be excluded. A project will be designated "high cost" if a project's total eligible basis exceeds its total adjusted threshold basis limit by 30%. Staff shall not recommend such project for credits. Any project may be subject to negative points if the project's total eligible basis at placed in service exceeds the revised total adjusted threshold basis limits for the year the project is placed in service (or the original total eligible threshold basis limit if higher) by 40%.

- (j) State Tax Credit Allocations pursuant to subsection (g)(1)(B) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code. For calendar years beginning in 2021, an amount up to five hundred million dollars (\$500,000,000) in total State Tax Credit authority will be available (if authorized in the California Budget Act or related legislation) for new construction Tax Exempt Bond Projects subject to the requirements of the California Debt Limit Allocation Committee regulations and the requirements of Section 10326 of these regulations, for projects that can begin construction within 180 days from award. Failure to begin construction within 180 days of award shall result in rescission of the Tax Credit Reservation and may result in assessment of negative points.

Readiness to begin construction within 180 days from award shall be evidenced in the application as set forth in Section 10325(c)(7) of these regulations. Within 180 days of the award the applicant must submit to CTCAC building permits (a grading permit does not suffice to meet this requirement except that in the event that the city or county as a rule does not issue building permits prior to the completion of grading, a grading permit shall suffice; if the project is a design-build project in which the city or county does not issue building permits until designs are fully complete, the city or county shall have approved construction to begin) or the applicable tribal documents, and notice to proceed delivered to the contractor.

Failure to begin construction within 180 days of award shall result in rescission of the Tax Credit Reservation and may result in assessment of negative points.

- (k) All projects that have received state credits shall comply with the limitations on cash distributions required pursuant to Sections 12206(d), 17058(d), and 23610.5(d) of the Revenue and Taxation Code.
- (1) In the initial application, applicants requesting state credits shall make an election to sell ("certificate") or not sell all or any portion of the state credit, as allowed pursuant to Revenue and Taxation Code Sections 12206(o), 17058(q), and 23610.5(r). The applicant for a certificated credit shall be a non-profit entity and the state credit price shall not be less than eighty (80) cents per dollar of credit. The applicant may, only once, revoke an election to sell at any time before CTCAC issues the Form(s) 3521A for the project, at which the point the election shall become irrevocable.
- (2) An applicant who elects to sell any portion of the state credit and a buyer who later resells any portion of the credit shall report to CTCAC within 10 days of the sale of the credit, in a form specified by CTCAC, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the party or parties to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received for the sale of the credit. At the request of the owner, CTCAC shall reissue the Form(s) 3521A in the name of the buyer.

Note: Authority cited: Section 50199.17, Health and Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Section 10320. Actions by the Committee

- (a) Meetings. Except for reservations made pursuant to Section 10325(h) of these Regulations, Reservations of Tax Credits shall occur only at scheduled meetings of the Committee, which shall announce application-filing deadlines and the approximate dates of reservation meetings as early in the year as possible.
- (b) Approvals required by this Section 10320(b) shall not be unreasonably withheld if all of the following requirements, as applicable, are satisfied:
  - (1) No allocation of the Federal or State Credits, or ownership of a Tax Credit project, may be transferred without prior written approval of the Executive Director. In the event that prior written approval is not obtained, the Executive Director may assess negative points pursuant to section 10325(c)(2)(M), in addition to other remedies. The following requirements apply to all ownership or Tax Credit transfers requested after January 31, 2014:
    - (A) Any transfer of project ownership (including changes to any general partner, member, or equivalent responsible party), or allocation of Tax Credits shall be evidenced by a written agreement between the parties to the transfer, including agreements entered into by the transferee and the Committee.
    - (B) The entity replacing a party or acquiring ownership or Tax Credits shall be subject to a “qualifications review” by the Committee to determine if sufficient project development and management experience is present for owning and operating a Tax Credit project. Information regarding the names of the purchaser(s) or transferee(s), and detailed information describing the experience and financial capacity of said persons, shall be provided to the Committee. Any general partner change during the 15-year federal compliance and extended use period must be to a party earning equal capacity points pursuant to Section 10325(c)(1)(A) as the exiting general partner. At a minimum this must be three (3) projects in service more than three years, or the demonstrated training required under Section 10326(g)(5). Two of the three projects must be Low Income Housing Tax Credit projects in California. If the new general partner does not meet these experience requirements, then substitution of general partner shall not be permitted. The requirements of this paragraph apply to a change to any general partner, member, or equivalent responsible party where an exiting party meets the experience capacity and the remaining party does not have experience equal to the minimum stated above.
    - (C) The transferor shall deliver all tenant files, inspection records, financial statements, and reserve balances to the transferee prior to or concurrent with the transfer. Failure to deliver such records may subject the transferor to negative points or a fine.
  - (2) In addition to any applicable requirements set forth in Section 10320(b)(1), all Transfer Events shall be subject to the prior written approval of the Executive Director. In the event that prior written approval is not obtained, the Executive Director may assess negative points pursuant to section 10325(c)(2)(M), in addition to other remedies. The following requirements apply to all Transfer Events for which approval is requested on or after October 21, 2015:
    - (A) Prior to a Transfer Event, the owner of the project shall submit to the Executive Director a Qualified Capital Needs Assessment. In the case of a Transfer Event in which a third-party lender is providing financing, the Qualified Capital Needs Assessment shall be commissioned by said third-party lender.
    - (B) The entity which shall own the project subsequent to the Transfer Event (the “Post Transfer Owner”) shall covenant to the Committee (the “Capital Needs Covenant”) that the Post Transfer Owner (and any assignee thereof) shall:

- (i) set aside at the closing of the Transfer Event adequate funds to perform the Short Term Work (the "Short Term Work Reserve Amount");
- (ii) perform the Short Term Work within three (3) years from the date of the Transfer Event;
- (iii) make deposits to reserves as are necessary to fund the Long Term Work, taking into account any balance in replacement reserve accounts upon the conclusion of the Transfer Event beyond those required by clause (i). Notwithstanding the foregoing, the Post Transfer Owner shall have no obligation to fund any reserve amount from annual operations to the extent that the funding of the reserve causes the project to have a debt service coverage ratio of less than 1.00 to 1.00. In calculating the debt service coverage ratio for the purposes herein, the property management fee shall not exceed the greater of (a) 7% the project's effective gross income, or (b) such amount approved by HUD or USDA, as applicable. Any property management fee in excess of these limitations shall be subordinate to the funding of the required reserves and shall not be considered when calculating the debt service coverage ratio; and
- (iv) complete the Long Term Work when required, or prior thereto, pursuant to the Qualified Capital Needs Assessment.

The Executive Director may waive or modify the requirements of this Section 10320(b)(2)(A) and (B) if the owner can demonstrate that the Transfer Event will not produce, prior to any distributions of Net Project Equity to parties related to the sponsor, developer, limited partner(s) or general partner(s), sufficient Net Project Equity to fund all or any portion of the work contemplated by the Qualified Capital Needs Assessment. There shall be a presumption that a Transfer Event has insufficient Net Project Equity (and the requirements of this Section 10320(b)(2)(A) and (B) shall be waived) if no Net Project Equity from the Transfer Event is distributed to parties related to the sponsor, developer, general partner(s) or limited partner(s) of the owner other than a distribution or a payment to the limited partner(s) of the selling entity in the amount equal to, or less than, all federal, state, and local taxes incurred by the limited partner(s) as a result of the Transfer Event.

- (3) The Capital Needs Covenant shall at all times be subordinate to any deed of trust given to any third party lender to a project. The owner of a project subject to a Capital Needs Covenant shall certify compliance with the terms of said Capital Needs Covenant to CTCAC annually for the term of the Capital Needs Covenant on a form to be developed by the Executive Director. Failure to comply with the terms of the Capital Needs Covenant may subject the owner to negative points and/or a ban on buying or receiving future properties.
- (4) If a project seeks to receive a new reservation of 9% or 4% tax credits concurrently with a Transfer Event or during the time that the project is subject to a Capital Needs Covenant, the following provisions shall apply in lieu of paragraph (2):
  - (A) The applicant shall submit a Qualified Capital Needs Assessment. In cases in which a third-party lender is providing financing, the Qualified Capital Needs Assessment shall be commissioned by said third-party lender.
  - (B) The rehabilitation scope of work shall include all of the Short Term Work. The applicant may receive eligible basis for the costs of the Short Term Work only if the applicant can demonstrate that the Short Term Work was funded by one of the following:
    - (i) a credit from the seller of the project equal to the costs of Short Term Work.

- (ii) a reduction in the purchase price of the project as compared to the purchase price of the project had the project not been subject to the Transfer Event requirement, as shown by an appraisal that calculates the impact of the Short Term Work requirement on value.
  - (iii) general partner equity.
  - (iv) developer fee contributed to the project (a deferred developer fee does not qualify).
- (C) After the Transfer Event giving rise to the covenant required pursuant to Section 10320(b)(2)(B) (the “Initial Transfer”), if the project will be subsequently transferred in connection with the closing of the new reservation of 9% or 4% credits (a “Subsequent Transfer”), any increase in acquisition price (if the Initial Transfer was a sale) or the project valuation (if the Initial Transfer was a refinancing) between the Initial Transfer and the Subsequent Transfer which is attributable to a reduction in the amount of annual deposits into the replacement reserve account from those required pursuant to Section 10320(b)(2)(B)(iii) because all or a portion of the Long Term Work will be performed in connection with the new reservation of 9% or 4% credits, must be evidenced in the form of (i) a seller carryback note or (ii) a general partner equity contribution.
- (D) Upon the closing of the syndication of the new 9% or 4% credits reserved for the project, any Capital Needs Covenant shall automatically terminate without any further action of the project owner and/or the Committee.

The Executive Director shall waive or modify the requirements of this Section 10320(b)(4) if the owner can demonstrate that the Transfer Event will not produce, prior to any distributions of Net Project Equity to parties related to the sponsor, developer, limited partner(s) or general partner(s), sufficient Net Project Equity to fund all or any portion of the work contemplated by the Qualified Capital Needs Assessment. There shall be a presumption that a Transfer Event has insufficient Net Project Equity if no Net Project Equity from the Transfer Event is distributed to parties related to the sponsor, developer, general partner(s) or limited partner(s) of the owner other than a distribution or a payment to the limited partner(s) of the selling entity in the amount equal to, or less than, all federal, state, and local taxes incurred by the limited partner(s) as a result of the Transfer Event.

Sections 10320(b)(4)(B) and 10320(b)(4)(C) shall not be applicable to any project with an existing tax credit regulatory agreement with a remaining term of five (5) or less years.

- (5) No management company of an existing or new tax credit project shall be replaced without prior written approval of the Executive Director. In the event that prior written approval is not obtained, the Executive Director may assess negative points or a fine. With respect to 4% tax credit projects, management companies ineligible for at least two management company experience points pursuant to Section 10325(c)(1)(B) shall obtain training in project operations, on-site certification, fair housing law, and manager certification in IRS Section 42 program requirements from CTCAC or a CTCAC-approved, nationally recognized entity. The out-going management company shall deliver all tenant files, inspection records, financial statements, and reserve balances to the in-coming management company prior to or concurrent with the transfer. Failure to deliver such records may subject the out-going management company to negative points or a fine.
- (6) Except for resyndication applications without a distribution of Net Project Equity, if a project seeks to receive a new reservation of 9% or 4% tax credits, any uncorrected Form(s) 8823 for life and safety violations (life-threatening and non-life threatening) and for Uniform Physical Condition Standards violations that are in existence at the time of the CTCAC application must be corrected by the project owner that received the Form(s) 8823. The resyndication application shall not include any costs to correct these Form(s) 8823.

- (7) An applicant seeking to (1) demolish or similarly alter any of the existing structures currently subject to CTCAC regulatory restrictions when seeking a new reservation of 9% and/or 4% tax credits; and/or (2) separate an existing project currently subject to CTCAC regulatory restrictions into multiple projects must request and receive prior written approval of the Executive Director. Projects that involve the demolition of existing residential units or separating an existing project must increase the unit count by (i) 25 or (ii) 50% of the existing demolished units, whichever is greater.
  - (8) A project owner seeking to sell a portion of vacant or unused land must request and receive prior written approval of the Executive Director. The sales proceeds must either: 1) be contributed (not loaned) to a new multifamily affordable housing restricted project; or 2) reduce rents at the existing property by the aggregate amount of the proceeds. The project owner must request and receive prior written approval of the Executive Director.
- (c) CTCAC shall initially subordinate its regulatory contract to a permanent lender but thereafter shall not subordinate existing regulatory contracts to acquisition or refinancing debt, except in relation to new Deeds of Trust for rehabilitation loans, FHA-insured loans, restructured public loans, or as otherwise permitted by the Executive Director. At the request of the owner, CTCAC shall enter into a stand-still agreement permitting the acquisition or refinance lender 60 days to work with the owner to remedy a breach of the regulatory contract prior to CTCAC implementing any of the remedies in the regulatory contract, except that CTCAC shall not enter into a stand-still agreement related to a Transfer Event requested on or after October 21, 2015 unless the conditions of Section 10320(b)(2) have been satisfied. If CTCAC enters into a stand-still agreement related to a Transfer Event, Sections 10320(b)(2), (b)(3) and (b)(4) shall apply to the project.
  - (d) False information. Upon being informed, or finding, that information supplied by an applicant, any person acting on behalf of an applicant, or any team member identified in the application, pursuant to these regulations, is false or no longer true, and the applicant has not notified CTCAC in writing, the Committee may take appropriate action as described in H & S Code Section 50199.22(b) and in section 10325(c)(2) of these regulations. Additionally the Executive Director may assess negative points to any or all members of the development team as described in Section 10322(h)(5).
  - (e) CTCAC shall not enter into a qualified contract, as defined in IRC Section 42(h)(6)(F).

Note: Authority cited: Section 50199.17, Health and Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

#### Section 10322. Application Requirements

- (a) Separate Application. A separate application is required for each project.
- (b) Application forms. Applications shall be submitted on forms provided by the Committee. Applicants shall submit the most current Committee forms and supplementary materials in a manner, format, and number prescribed by the Committee.
- (c) Late application. Applications received after an application-filing deadline shall not be accepted.
- (d) Incomplete application. Determination of completeness, compliance with all Basic and Additional Thresholds, the scoring of the application, and any application submission requirements pursuant to these regulations and the application form shall be based on the documents contained in the application as of the final filing deadline. Application omissions may be accepted after the application-filing deadline pursuant to Section 10322(e) if the Executive Director, at his or her sole discretion, determines that the deficiency is an application omission of either a document existing

as of the application-filing deadline, or a document certifying to a condition existing at the time of the application-filing deadline. Applications not meeting these requirements shall be considered incomplete, and shall be disqualified from receiving a reservation of Tax Credits during the cycle in which the application was determined incomplete. An applicant shall be notified by the Committee should its application be deemed incomplete and the application will not be scored.

- (e) Complete application. No additional documents pertaining to: the Basic or Additional Threshold Requirements; scoring categories; and any application submission requirements pursuant to these regulations and the application form shall be accepted after the application-filing deadline unless the Executive Director, at his or her sole discretion, determines that the deficiency is an application omission of either a document existing as of the application-filing deadline, or a document certifying to a condition existing at the time of the application-filing deadline. In such cases, applicants shall be given up to five (5) business days from the date of receipt of staff notification, to submit said documents to complete the application. For application omissions, the Executive Director may request additional clarifying information from third party sources, such as local government entities, or the applicant, but this is entirely at the Executive Director's discretion. Upon the Executive Director's request, the information sources shall be given up to five (5) business days, from the date of receipt of staff notification, to submit said documents to clarify the application. The third party sources shall certify that all evidentiary documents deemed to be missing from the application had been executed, and were in the third-party source's possession, on or prior to, the application-filing deadline.

If required documents are not submitted within the time provided, the application shall be considered incomplete and no appeal will be entertained.

- (f) Application changes. Only the Committee may change an application as permitted by Sections 10317(d), 10325(c)(6)(B), and 10327(a). Any changes made by the Committee pursuant to those sections shall never increase the score or credit amount of the application as submitted, and may reduce the application's score and/or credit amount.
- (g) Applications not fully evaluated. Incomplete applications or others not expected to receive a reservation of Tax Credits due to relatively low scores, may or may not be fully evaluated by the Committee.
- (h) Standard application documents. The following documentation relevant to the proposed project is required to be submitted with all applications:
- (1) Applicant's Statement. A signed statement signifying the responsibility of the applicant to:
    - (A) provide application related documentation to the Committee upon request;
    - (B) be familiar with and comply with Credit program statutes and regulations;
    - (C) hold the Committee and its employees harmless from program-related matters;
    - (D) acknowledge the potential for program modifications resulting from statutory or regulatory actions;
    - (E) acknowledge that Credit amounts reserved or allocated may be reduced in some cases when the terms and amounts of project sources and uses of funds are modified
    - (F) agree to comply with laws outlawing discrimination;
    - (G) acknowledge that the Committee has recommended the applicant seek tax advice;
    - (H) acknowledge that the application will be evaluated according to Committee regulations, and that Credit is not an entitlement;

- (I) acknowledge that continued compliance with program requirements is the responsibility of the applicant;
  - (J) acknowledge that information submitted to the Committee is subject to the Public Records Act;
  - (K) agree to enter with the Committee into a regulatory contract if Credit is allocated; and,
  - (L) acknowledge, under penalty of perjury, that all information provided to the Committee is true and correct, and that applicant has an affirmative duty to notify the Committee of changes causing information in the application or other submittals to become false.
- (2) The Application form. Completion of all applicable parts of Committee-provided application forms which shall include, but not be limited to:
- (A) General Application Information
    - (i) Credit amounts requested
    - (ii) minimum set-aside election
    - (iii) application stage selection
    - (iv) set-aside selection
    - (v) housing type
  - (B) Applicant Information
    - (i) applicant role in ownership
    - (ii) applicant legal status
    - (iii) developer type
    - (iv) contact person
  - (C) Development Team Information
  - (D) Subject Property Information
  - (E) Proposed Project Information
    - (i) project type
    - (ii) Credit type
    - (iii) building and unit types
  - (F) Land Use Approvals
  - (G) Development Timetable
  - (H) Identification and Commitment Status of Fund Sources
  - (I) Identification of Fund Uses
  - (J) Calculation of Eligible, Qualified and Requested Basis
  - (K) Syndication Cost Description
  - (L) Determination of Credit Need and Maximum Credit Allowable
  - (M) Project Income Determination
  - (N) Restricted Residential Rent and Income Proposal
  - (O) Subsidy Information

- (P) Operating Expense Information
  - (Q) Projected Cash Flow Calculation
  - (R) Basic Threshold Compliance Summary
  - (S) Additional Threshold Selection
  - (T) Tax-exempt Financing Information
  - (U) Market Study
- (3) Organizational documents. An organizational chart and a detailed plan describing the ownership role of the applicant throughout the low-income use period of the proposed project, and the California Secretary of State certificate for the project owner (if available). An executed limited partnership agreement may be submitted as documentation that the project ownership entity is formed. If the project owner is not yet formed, provide the certificate for the managing general partner or the parent company of the proposed project owner. A reservation of credit cannot be made to a to-be-formed entity.
- (4) Designated contact person. A contract between the applicant and the designated contact person for the applicant signifying the contact person's authority to represent and act on behalf of the applicant with respect to the Application. The Committee reserves its right to contact the applicant directly.
- (5) Identification of project participants. For purposes of this Section all of the following project participants, if applicable will be considered to be members of the Development Team. The application must contain the company name and contact person, address, telephone number, and fax number of each:
- (A) developer;
  - (B) general contractor;
  - (C) architect;
  - (D) attorney
  - (E) tax professional;
  - (F) property management company;
  - (G) consultant;
  - (H) market analyst and/or appraiser; and
  - (I) CNA consultant.

If any members of the Development Team have not yet been selected at the application filing deadline, each must be named and materials required above must be submitted at the 180 or 194 day deadline described in Section 10325(c)(7).

- (6) Identities of interest. Identification of any persons or entities (including affiliated entities) that plan to provide development or operational services to the proposed project in more than one capacity, and full disclosure of Related Parties, as defined.
- (7) Legal description. A legal description of the subject property.

- (8) Site Layout, Location, Unique Features and Surrounding Areas.
- (A) A narrative description of the current use of the subject property;
  - (B) A narrative description of all adjacent property land uses, the surrounding neighborhood, and identification and proximity of services, including transportation
  - (C) Labeled photographs, or color copies of photographs of the subject property and all adjacent properties;
  - (D) A layout of the subject property, including the location and dimensions of existing buildings, utilities, and other pertinent features.
  - (E) A site or parcel map indicating the location of the subject property and showing exactly where the buildings comprising the Tax Credit Project will be situated. (If a subdivision is anticipated, the boundaries of the parcel for the proposed project must be clearly marked; and
  - (F) A description of any unique features of the site, noting those that may increase project costs or require environmental mitigation.
- (9) Appraisals. Appraisals are required for 1) all rehabilitation applications except as noted in (A), 2) all competitive applications except for new construction projects that are on tribal trust land or that have submitted a third party purchase contract with, or evidence of a purchase from, an unrelated third party, 3) all applications seeking tiebreaker credit for donated or leased land, and 4) all new construction applications involving a land sale from a related party. For purposes of this paragraph only, a purchase contract or sale with a related party shall be deemed to be a purchase contract or sale with an unrelated party if the applicant demonstrates that the related party is acting solely as a pass-through entity and the tax credit partnership is only paying the acquisition price from the last arms-length transaction, plus any applicable and reasonable carrying costs. Appraisals shall not include the value of favorable financing.

Appraisals must be prepared by a California certified general appraiser having no identity of interest with the development's partner(s) or intended partner or general contractor, acceptable to the Committee, and include, at a minimum, the following:

- (i) the highest and best use value of the proposed project as residential rental property, taking into account any on-going recorded rent restrictions;
- (ii) for rehabilitation and new construction applications, the Sales Comparison Approach and Income Approach valuation methodologies shall be used; for adaptive reuse applications, the Cost Approach valuation methodology shall be used for adaptive reuse of office buildings, retail buildings, and similar, and the Sales Comparison and Income Approaches may be used for hotels, motels, and similar;
- (iii) the appraiser's reconciled value except in the case of an adaptive reuse or conversion as mentioned in (ii) above;
- (iv) a value for the land of the subject property ("as if vacant" for rehabilitation or adaptive reuse applications);
- (v) an on site inspection; and

- (vi) a purchase contract verifying the sales price of the subject property.
- (A) Rehabilitation applications. An “as-is” appraisal is required with a date of value that is within 120 days before or after the execution of: a purchase contract; for leased land, an executed development agreement negotiated between the land owner and the applicant or developer; an option agreement; any other site control document pursuant to Section 10325(f)(2); or the transfer of ownership by all the parties

For tax-exempt bond-funded properties receiving credits under Section 10326 only or in combination with State Tax Credits, the applicant may elect to forego the appraisal required pursuant to this section and use an acquisition value equal to the sum of the third party debt encumbering the seller’s property, which may increase during subsequent reviews to reflect the actual amount.

- (B) New construction applications. Projects for which an appraisal is required above shall provide an “as-is” appraisal with a date of value that is within either:
  - (i) 120 days before or after the execution of a purchase contract; for leased land, an executed development agreement negotiated between the land owner and the applicant or developer; an option agreement; any other site control document pursuant to Section 10325(f)(2); the transfer of ownership by all the parties, or
  - (ii) one year of the application date if the latest purchase contract, development agreement, option agreement, or any other site control document pursuant to Section 10325(f)(2) was executed within that year.

An amendment to an agreement does not constitute any of the agreements listed in (i) or (ii) above.

- (C) Adaptive reuse applications. All adaptive reuse applications must submit an appraisal using an “as-is” appraisal date of value as stated in (B) above. For applications required to use the Cost Approach, the appraisal must consider the age, condition, and depreciated value of the existing building(s) when utilizing newly constructed “shell” sales comparisons and must include these calculations in the report.

For applications with existing project-based rental subsidy, the Income Approach shall not include post-rehabilitation contract rent(s). Rent(s) used in the Income Approach, if not the existing approved contract rent, must be supported by a rent comparable study or similar. For applications with existing affordability restrictions, the Income Approach must be based on the affordability restrictions and restricted rents encumbering the property (a “restricted value”) unless all affordability restrictions will expire within five years.

CTCAC may contract with an appraisal reviewer who may review submitted appraisals. If it does so, CTCAC shall commission an appraisal review. If the appraisal review finds the submitted appraisal to be inappropriate, misleading, or inconsistent with the data reported and with other generally known information, then the reviewer shall develop his or her own opinion of value and CTCAC shall use the opinion of value established by the appraisal reviewer.

- (10) Market Studies. A full market study prepared within 180 days of the filing deadline by an independent 3<sup>rd</sup> party having no identity of interest with the development’s partners, intended partners, or any other member of the Development Team described in Subsection (5) above. The study must meet the current market study guidelines distributed by the Committee, and establish both need and demand for the proposed project. CTCAC shall publicly notice any changes to its market study guidelines and shall take public comment

consistent with the comment period and hearing provisions of Health and Safety Code Section 50199.17. For scattered site projects, a market study may combine information for all sites into one report, provided that the market study has separate rent comparability matrices for each site. A new construction hybrid 9% and 4% tax credit development may combine information for both component projects into one report and, if not, shall reflect the other component project as a development in the planning or construction stages.

A market study shall be updated when either proposed subject project rents change by more than five percent (5%), or the distribution of higher rents increases by more than 5%, or 180 days have passed since the first site inspection date of the subject property and comparable properties. CTCAC shall not accept an updated market study when more than twelve (12) months have passed between the earliest listed site inspection date of either the subject property or any comparable property and the filing deadline. In such cases, applicants shall provide a new market study. If the market study does not meet the guidelines or support sufficient need and demand for the project, the application may be considered ineligible to receive Tax Credits.

For acquisition/rehabilitation projects meeting all of the following criteria, a comprehensive market study as outlined in IRS Section 42(m)(1)(A)(iii) shall mean a written statement by a third party market analyst certifying that the project meets these criteria:

- All of the buildings in the project are subject to existing federal or state rental assistance or operating subsidies, an existing TCAC Regulatory Agreement, or an existing regulatory agreement with a federal, state, or local public entity.
  - The proposed tenant-paid rents and income targeting levels shall not increase by more than five percent (5%) (except that proposed rents and income targeting levels for units subject to a continuing state or federal project-based rental assistance contract may increase more and proposed rents and income targeting levels for resyndication projects shall be consistent with Section 10325(f)(11) or Section 10326(g)(8)).
  - The project shall have a vacancy rate of no more than ten percent (10%) for special needs units and non-special needs SRO units without a significant project-based public rental subsidy and five percent (5%) for all other units at the time of the tax credit application.
- (11) Construction and design description. A detailed narrative description of the proposed project construction and design, including how the design will serve the targeted population.
- (12) Architectural drawings. Preliminary drawings of the proposed project, including a site plan, building elevations, and unit floor plans (including square footage of each unit). The project architect shall certify that the development will comply with building codes and the physical building requirements of all applicable fair housing laws. In the case of rehabilitation projects proceeding without an architect, the entity performing the Capital Needs Assessment shall note necessary fair housing improvements, and the applicant shall budget for and implement the related construction work. The site plan shall identify all areas or features proposed as project amenities, laundry facilities, recreation facilities and community space. Drawings shall be to a scale that clearly shows all requested information. Blueprints need not be submitted. A project applying as a High-Rise Project must include the project architect certification required by Section 10302(v).
- (13) Placed-in-service schedule. A schedule of the projected placed-in-service date for each building.
- (14) Identification of local jurisdiction. The following information related to the local jurisdiction within which the proposed project is located:

- (A) jurisdiction or tribe (e.g., City of Sacramento)
  - (B) chief executive officer or tribal chairperson and title (e.g., Susan Smith, City Manager)
  - (C) mailing address
  - (D) telephone number
  - (E) fax number
- (15) Sources and uses of funds. The sources and uses of funds description shall separately detail apportioned amounts for residential space and commercial space.
- (16) Financing plan. A detailed description of the financing plan, and proposed sources and uses of funds, to include construction, permanent, and bridge loan sources, and other fund sources, including rent or operating subsidies and reserves. The commitment status of all fund sources shall be described, and non-traditional financing arrangements shall be explained.
- (17) Eligible basis certification. A certification from a third party certified public accountant or tax attorney that project costs included in applicant's calculation of eligible basis are allowed by IRC Section 42, as amended, and are presented in accordance with standard accounting procedures. This must be delivered on the tax professional's corporate letterhead, in the prescribed CTCAC format and must include a statement that the Sources and Uses Budget was reviewed and that the accountant or attorney discussed the budget with the applicant as needed.
- (18) Use of tax benefits description. If the Tax Credits are not to be offered to investors, a detailed explanation of how the tax benefits will be used by the applicant.
- (19) Terms of syndication agreement. Written estimate(s) from syndicator(s) or financial consultants on their corporate letterhead and in the prescribed CTCAC format, of equity dollars expected to be raised for the proposed project, based on the amount of Tax Credits requested, including gross and net proceeds, pay-in schedules, syndication costs (including syndicator consulting fees), and an estimated net tax Credit factor, for both Federal and State Tax Credits if both are to be used or if State Tax Credits exchange points are requested. The syndicator shall not pay any fees or provide any other financial or other substantive benefit to a partnership developer unless all such fees or benefits are fully and completely disclosed to CTCAC in the Executed Letter of Intent.
- (20) Tax Credit certification. If the Tax Credits are not to be syndicated, a letter from a third party certified public accountant establishing the Tax Credit factor.
- (21) Utility allowance estimates. Current utility allowance estimates consistent with 26 CFR Section 1.42-10. The applicant must indicate which components of the utility allowance schedule apply to the project. For buildings that are using an energy consumption model utility allowance estimate, the estimate shall be calculated using the most recent version of the California Utility Allowance Calculator (CUAC) developed by the California Energy Commission (CEC), with any solar values for new construction or adaptive reuse determined from the CEC's Photovoltaic Calculator and any solar values for existing residential buildings determined from the CEC's Photovoltaic Calculator or the Expected Performance Based Buydown (EPBB) calculator with monthly scalars to be determined by CTCAC. The CUAC estimate shall be signed by a California Association of Building Energy Consultants (CABEC) Certified Energy Analyst (CEA). Measures that are used in the CUAC that require field verification shall be verified by a certified HERS Rater, in accordance with current HERS regulations. Use of CUAC is limited to (i) new construction projects, (ii) rehabilitation projects applying for tax credits for which the rehabilitation

improves energy efficiency by at least 20%, as determined consistent with the requirements of Section 10325(c)(5)(D) and (G), or installs solar generation that offsets 50% of tenant loads, as determined consistent with the requirements of Section 10325(c)(5)(G), and (iii) existing tax credit projects with new photovoltaics installed through the Multifamily Affordable Solar Housing (MASH) program or a solar program administered by a municipal utility or joint powers authority, which offsets tenants' electrical load. All CUAC utility allowances require a quality control review and approval. CTCAC will submit modeled CUAC utility allowance estimates to a quality control reviewer and shall establish a fee to cover the costs of this review. Existing tax credit projects and rehabilitation projects converting to the CUAC shall provide tenants at least 90 days prior to the effective date with an informative summary about the current utility allowance and the proposed CUAC allowances, including notice of any actual rent increase to the tenant. Except for existing tax credit projects with active MASH program reservations dated prior to March 1, 2018, any decrease in tenant's utility allowance that results from conversion to the CUAC shall not exceed \$15 per month over any 12-month period. Such projects shall also provide CTCAC with the actual rent increases in the first year's CUAC update submittal. For existing projects requesting CUAC utility allowances, cash flow is limited to 15.0% or less of residential income and a debt service coverage ratio of 1.50 or less, as verified by audited financial statements.

- (22) Certification of subsidies. The applicant must certify as to the full extent of all Federal, State, and local subsidies which apply (or for which the taxpayer expects to apply) with respect to the proposed project. (IRC Section 42(m)(2)(C)(ii)) If rental assistance, operating subsidies or annuities are proposed, all related commitments that secure such funds must be provided. Non-competitive Tax-Exempt Bond Projects may receive a reservation of tax credits with the condition to provide the applicable subsidy commitment within 180 days of the reservation. The source, monthly contract rent, annual amount (if applicable), term, number of units receiving assistance, and expiration date of each subsidy must be included.
- (23) Cash flow projection. A 15-year projection of project cash flow. Separate cash flow projections shall be provided for residential and commercial space. If a capitalized rent reserve is proposed to meet the underwriting requirements of Section 10327, it must be included in the cash flow projections. Use of a capitalized rent reserve is limited to Special Needs projects, projects applying under the Non-profit Homeless Assistance set-aside, HOPE VI projects, and Section 8 project based projects.
- (24) Self-scoring sheet as provided in the application.
- (25) Acquisition Tax Credits application. Applicants requesting acquisition Tax Credits shall provide:
  - (A) a chain of title report or, for tribal trust land, an attorney's opinion regarding chain of title;
  - (B) an applicant statement that the acquisition is exempt from, or a third party tax attorney's opinion stating that the acquisition meets the requirements of IRC Section 42(d)(2)(B)(ii) as to the 10-year placed-in-service rule; and,
  - (C) if a waiver of the 10-year ownership rule is necessary, a letter from the appropriate Federal official that states that the proposed project qualifies for a waiver under IRC Section 42(d)(6).
- (26) Rehabilitation application. Applicants proposing rehabilitation of an existing structure shall provide:
  - (A) An independent, third party appraisal prepared and submitted with the preliminary reservation application consistent with the guidelines in Section 10322(h)(9).

- (B) A Capital Needs Assessment (“CNA”) performed within 180 days prior to the application deadline (except as provided in Section 10322(h)(35)) that details the condition and remaining useful life of the building’s major structural components, all necessary work to be undertaken and its associated costs, as well as the nature of the work, distinguishing between immediate and long term repairs. The Capital Needs Assessment shall also include a pre-rehabilitation 15-year reserve study, indicating anticipated dates and costs of future replacements of all current major building components. The CNA must be prepared by the project architect, as long as the project architect has no identity of interest with the developer, or by a qualified independent 3rd party who has no identity of interest with any of the members of the Development Team. An adaptive reuse application is not required to submit a CNA.
- (27) Acquisition of Occupied Housing application. Applicants proposing acquisition of occupied rental residential housing shall provide all existing income, rent and family size information for the current tenant population.
- (28) Tenant relocation plan. In addition to any other applicable relocation requirements, applicants proposing rehabilitation or demolition of occupied housing shall comply with the requirements of the California Relocation Assistance Law, California Government Code Section 7260 et seq, or, if the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 already applies to the project, pursuant to this federal law. Applicants shall provide an explanation of the relocation requirements that they are complying with, and a detailed relocation plan consistent with one of the above-listed relocation standards including an itemized relocation cost estimate that calculates the tenant relocation expenses required pursuant to the applicable California or federal relocation law. The relocation plan must also address the potential displacement of current tenants who do not meet the CTCAC income eligibility requirements or who will receive a rent increase exceeding five percent (5%). The relocation plan must include: a detailed description of proposed temporary onsite or offsite relocation and any corresponding relocation payments for tenants who meet CTCAC income eligibility requirements; an estimate of the number of current tenants who do not meet CTCAC income eligibility requirements or will receive a rent increase exceeding five percent (5%), how this estimate was determined, and the estimated relocation cost; and a detailed description of how the current tenants will be provided notice and information about the required relocation assistance, including copies of such noticing document(s).
- (29) Owner-occupied Housing application. Applicants proposing owner-occupied housing projects of four units or less, involving acquisition or rehabilitation, shall provide evidence from an appropriate official substantiating that the building is part of a development plan of action sponsored by a State or local government or a qualified nonprofit organization (IRC Section 42(i)(3)(E)).
- (30) Nonprofit Set-Aside application. Applicants requesting Tax Credits from the Nonprofit set-aside, as defined by IRC Section 42(h)(5), shall provide the following documentation with respect to each developer and general partner of the proposed owner:
- (A) IRS documentation of designation as a 501(c)(3) or 501(c)(4) corporation;
  - (B) proof that one of the exempt purposes of the corporation is to provide low-income housing;
  - (C) a detailed description of the nonprofit participation in the development and ongoing operations of the proposed project, as well as an agreement to provide CTCAC with annual certifications verifying continued involvement;
  - (D) a third party legal opinion verifying that the nonprofit organization is not affiliated with, controlled by, or party to interlocking directorates with any Related Party of a for-profit organization, and the basis for said determination; and,

- (E) a third party legal opinion certifying that the applicant is eligible for the Nonprofit Set-Aside pursuant to IRC Section 42(h)(5).
- (31) Rural Set-Aside application. Applicants requesting Tax Credits from the Rural set-aside, as defined by H & S Code Section 50199.21 and Section 10315(c) of these regulations, shall provide verification that the proposed project is located in an eligible rural area. Evidence that project is located in an area eligible for Section 515 financing from RHS may be in the form of a letter from RHS's California state office.
- (32) RHS Section 514, 515 or HOME program applications. Rural housing applicants requesting Tax Credits for projects financed by the RHS Section 514 or 515 program or from a HOME Participating Jurisdiction shall submit evidence from RHS or the HOME Participating Jurisdiction that such funding has been committed, and such evidence shall meet the requirements of Section 10325(f)(8).
- (33) Community service facility. An applicant requesting basis for a community service facility shall submit a third party tax attorney's opinion stating that the community service facility meets the requirements of IRC Section 42(d)(4)(C). CTCAC may use its discretion in determining whether the community service facility meets the qualifications.
- (34) Mixed housing types. An applicant proposing a project to include senior housing in combination with non-senior housing shall provide a third party legal opinion stating that the project complies with fair housing law.
- (35) Reapplication documents. Notwithstanding the time sensitive document requirements, the Committee may permit the site control title report and the capital needs assessment report of an unsuccessful application to be submitted, only once, in the reapplication cycle immediately following the unsuccessful application.
- (i) Placed-in-service application. Within one year of completing construction of the proposed project, the project owner shall submit documentation including an executed regulatory agreement provided by CTCAC and the compliance monitoring fee required by Section 10335. CTCAC shall determine if all conditions of the reservation have been met. Changes subsequent to the initial application, particularly changes to the financing plan and costs or changes to the services amenities, must be explained by the project owner in detail. If all conditions have been met, tax forms will be issued, reflecting an amount of Tax Credits not to exceed the maximum amount permitted by these regulations. The following must be submitted:
- (1) certificates of occupancy for each building in the project (or a certificate of completion for rehabilitation projects). If acquisition Tax Credits are requested, evidence of the placed-in-service date for acquisition purposes, and evidence that all rehabilitation is completed;
- (2) an audited certification, prepared and signed by an independent Certified Public Accountant identified by name, under generally accepted auditing standards, with all disclosures and notes. The Certified Public Accountant (CPA) or accounting firm shall not have acted a manner that would impair independence as established by the American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct Section 101 and the Securities and Exchange Commission (SEC) regulations 17 CFR Parts 210 and 240. Examples of such impairing services, when performed for the final cost certification client, include bookkeeping or other services relating to the accounting records, financial information systems design and implementation, appraisal or evaluation services, actuarial services, internal audit outsourcing services, management functions or human resources, investment advisor, banking services, legal services, or expert services unrelated to the audit. Both the referenced SEC and AICPA rules shall apply to all public and private CPA firms providing the final audited cost certification. In order to perform audits of final cost certifications, the auditor must have a peer review of its accounting and auditing practice once every three years consistent with the AICPA Peer Review Program as required by the

California Board of Accountancy for California licensed public accounting firms (including proprietors); and make the peer review report publicly available and submit a copy to CTCAC along with the final cost certification. If a peer review reflects systems deficiencies, CTCAC may require another CPA provide the final cost certification. This certification shall:

- (A) as identified by the certified public accountant, reflect all costs, in conformance with 26 CFR § 1.42-17, and expenditures for the project up to the funding of the permanent loan as well as all sources and amounts of all permanent funding. Projects developed with general contractors who are Related Parties to the developer must be audited to the subcontractor level;
- (B) include a CTCAC provided Sources and Uses form reflecting actual total costs incurred up to the funding of the permanent loan; and
- (C) certify that the CPA has not performed any services, as defined by AICPA and SEC rules, that would impair independence.

The project owner must request approval from CTCAC if the final cost certification includes a prospective permanent loan or other source amount to be reduced at the time of the final tax credit equity installment, occurring after the Form(s) 8609 are issued. The equity must be used to pay principal balances and shall not be used to pay accrued interest. As a condition of accepting the projected equity, CTCAC will require documentation of the final equity payment and the reduction of the principal balance. A project owner must provide this documentation to CTCAC within 20 days of the loan payment. If the documentation does not support the equity amount or the projected loan or source reduction, the tax credits will be recalculated, the Form(s) 8609 will be amended, and the fee of section 10335(g) will be assessed.

- (3) an itemized breakdown of placed-in-service dates, shown separately for each building, on a Committee-provided form. If the placed-in service date(s) denoted are different from the date(s) on the certificate(s) of occupancy, a detailed explanation is required;
- (4) photographs of the completed building(s);
- (5) a request for issuance of IRS Form(s) 8609 and/or FTB Form(s) 3521A;
- (6) a certification from the investor or syndicator of equity raised and syndication costs in a Committee-provided format;
- (7) an updated application form;
- (8) an owner-signed certification documenting the services currently being provided to the residents, including identifying service provider(s), describing services provided, stating services dollar value, and stating services funding source(s) (cash or in-kind), with attached copies of contracts and MOUs for services;
- (9) a copy of the project owner limited partnership agreement;
- (10) a list of all amenities provided at the project site including any housing type requirements of Section 10325(h) committed to in the Tax Credit application, and color photographs of the amenities. If the list differs from that submitted at application, an explanation must be provided; housing type requirements must be completed. In addition, the project owner must provide a list of any project amenities not included in basis for which the property owner intends to charge an optional fee to residents;
- (11) a description of any charges that may be paid by tenants in addition to rent, with an explanation of how such charges affect eligible basis;

- (12) if applicable, a certification from a third party tax professional stating the percentage of aggregate basis (including land) financed by tax exempt bonds for projects that received Tax Credits under the provisions of Section 10326 of these regulations;
- (13) all documentation required pursuant to the Compliance and Verification requirements of Sections 10325(f)(7) and 10326(g)(6);
- (14) all documentation required pursuant to the Compliance and Verification requirements of Section 10327(c)(5)(B);
- (15) if seeking a reduction in the operating expenses used in the Committee's final underwriting pursuant to Section 10327(g)(1) of these regulations, the final operating expenses used by the lender and equity investor;
- (16) a certification from the project architect or, in the case of rehabilitation projects, from an architect retained for the purpose of this certification, that the physical buildings are in compliance with all applicable fair housing laws;
- (17) all documentation required pursuant to the Compliance and Verification requirements of Section 10325(c)(5), if applicable;
- (18) evidence that the project is in compliance with any points received under Section 10325(c)(8);
- (19) a current utility allowance estimate as required by 26 CFR Section 1.42-10(c) and Section 10322(h)(21) of these regulations. Measures that are used in the CUAC that require field verification shall be verified by a certified HERS rater, in accordance with current HERS regulations; and
- (20) for tribal trust land, the lease agreement between the Tribe and the project owner.
- (21) Evidence that the subject property is within the control of the project owner in the form of an executed lease agreement, a current title report within 90 days of application except as provided in section 10322(h)(35) (or preliminary title report, but not title insurance or commitment to insure) showing the project owner holds fee title, a grant deed, or, for tribal trust land, a title status report or an attorney's opinion regarding chain of title and current title status.
- (22) Evidence that the project is in compliance with the provisions of the CDLAC resolution, if applicable.
- (23) If the application includes a legal separation or subdivision of a building that is not a condominium plan:
  - (A) a legal opinion of how the legal separation meets the IRS definition of a building. The opinion must include a summary of the common area and building access ownership structure and any shared use agreements; and
  - (B) if the project owners are proposing any kind of proportionate cost where there is a single common area owner, a tax attorney must provide an opinion on how proportioning a cost and corresponding eligible basis to an entity that does not own the space is permissible under IRS LIHTC and/or tax law. The opinion must include an estimated cost breakdown and the methodology for how these shared area costs were proportioned and is subject to review and approved by CTCAC.

- (24) For multiphase projects proposing to share use of common areas and community space, a joint use agreement must be provided in the placed in service application. In addition, if there is any kind of proportionate cost for common area and community space to a project that does not own the area/space, a tax attorney must provide an opinion of how apportioning a cost and corresponding eligible basis to an entity that does not own the area/space is permissible under IRS LIHTC and/or tax law. The opinion must include an estimated cost breakdown and the methodology for how these shared area costs were apportioned and is subject to review and approval by CTCAC.

The Executive Director may waive any of the above submission requirements if not applicable to the project.

- (j) Revisions to 4% Reservations at Placed in Service. Proposals submitted under Section 10326 of these regulations do not require new applications for changes in costs or Tax Credits alone. Committee staff will adjust the Credit amount when the placed-in-service package is received and reviewed. Approval of the Executive Director is required for any change in unit mix or income targeting after reservation except for changes that decrease income targeting. It is the applicant's responsibility to notify CTCAC of any unit mix or income targeting change. Projects at placed-in-service that are requesting additional Tax Credits will be required to submit a fee equal to one percent (1%) of the increase from reservation in the annual federal tax credits allocated. This section shall apply to all projects for which TCAC issues tax forms after December 31, 2017.
- (k) Unless the proposed project is a Special Needs development, or within ten (10) years of an expiring tax credit regulatory agreement, applicants for nine percent (9%) Low Income Housing Tax Credits to acquire and/or rehabilitate existing tax credit properties still regulated by an extended use agreement shall:
- (1) certify that the property sales price is no more than the current debt balance secured by the property, and
  - (2) be prohibited from receiving any tax credits derived from acquisition basis.

All applicants for Low Income Housing Tax Credits to acquire and/or rehabilitate existing tax credit properties still regulated by an extended use agreement shall use all funds in the applicant project's replacement reserve accounts for rehabilitating the property to the benefit of its residents, except that an applicant may use existing reserves to reasonably meet CTCAC's or another funder's minimum reserve account requirement.

Note: Authority cited: Section 50199.17, Health and Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

#### Section 10323. The American Recovery and Reinvestment Act of 2009

- (a) General. The American Recovery and Reinvestment Act of 2009 was administered by CTCAC under regulations adopted October 22, 2009. Awards made under those prior regulations remain bound by the terms of related executed funding agreements, and regulatory agreements.
- (b) Fees.
- (1) No additional processing fees or performance deposits shall be collected from ARRA funding recipients beyond tax credit fees collected pursuant to Section 10335. Such tax credit fees must be paid by all ARRA fund recipients, including an allocation fee, even where an allocation of credits is not ultimately made. CTCAC may charge an ARRA funds recipient an asset management fee for such services. This fee may be in the form of an annual charge during the project's regulatory term, or may be charged at or about project

completion. In the event CTCAC contracts out for asset management services, the contracted entity may charge the sponsor an asset management fee directly.

- (2) Asset management fees shall be \$5,000 annually for projects of 30 units or fewer, and up to \$7,500 annually for projects of 31 to 75 units. Projects containing more than 75 units, will pay up to \$7,500 as a basic asset management fee annually, as well \$40 per unit of every unit over 75 units. Project owners may pay a one-time asset management fee equal to the total fee over the 15-year period, or a partial one-time upfront fee. If making a partial payment, the remaining annual payments shall be discounted accordingly to assure an equal total payment to a pure annual payment schedule. Where another State or federal housing entity is a project funding source, project sponsors may propose a plan to CTCAC wherein that source shares asset management information with CTCAC. Sponsors may also propose a plan to CTCAC where a syndicator or investor providing professional asset management services to the project shares asset management information with CTCAC. If CTCAC determines that those asset management functions meet federal requirements, CTCAC may agree to accept that information and discount or forgo a fee altogether

Note: Authority cited: Section 50199.17, Health and Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

#### Section 10325. Application Selection Criteria - Credit Ceiling Applications

- (a) General. All applications not requesting Federal Tax Credits under the requirements of IRC Section 42(h)(4)(b) and Section 10326 of these Regulations (for buildings financed by tax-exempt bonds) shall compete for reservations of Credit Ceiling amounts during designated reservation cycles. Further, no project that has a pending application for a private activity bond allocation or that has previously received a private activity bond allocation will be eligible to compete under the Credit Ceiling competition for Federal Tax Credits.
- (b) Authority. Selection criteria shall include those required by IRC Section 42(m), H & S Code Section 50199.14, and R & T Code Sections 12206, 17058, and 23610.5.
- (c) Credit Ceiling application competitions. Applications received in a reservation cycle, and competing for Federal and/or State Tax Credits, shall be scored and ranked according to the below-described criteria, except as modified by Section 10317(g) of these regulations. The Committee shall reserve the right to determine, on a case by case basis, under the unique circumstances of each funding round, and in consideration of the relative scores and ranking of the proposed projects, that a project's score is too low to warrant a reservation of Tax Credits. All point selection categories shall be met in the application submission through a presentation of conclusive, documented evidence to the Executive Director's satisfaction. Point scores shall be determined solely on the application as submitted, including any additional information submitted in compliance with these regulations. Further, a project's points will be based solely on the current year's scoring criteria and submissions, without respect to any prior year's score for the same projects.

Scattered Site Projects shall be scored proportionately in the site and service amenities category based upon (i) each site's score, and (ii) the percentage of units represented by each site, except that for scattered site projects of less than 20 Low-Income Units, service amenities shall be scored in the aggregate across all sites.

The number of awards received by individuals, entities, affiliates, and related entities is limited to no more than four (4) per competitive round. This limitation is applicable to a project applicant, developer, sponsor, owner, general partner, and to parent companies, principals of entities, and family members. For the purposes of this section, related or non-arm's length relationships are further defined as those having control or joint-control over an entity, having significant influence over an entity, or participating as key management of an entity. Related entity disclosure is required

at the time of application. Furthermore, no application submitted by a sponsor may benefit competitively by the withdrawal of another, higher-ranked application submitted by the same sponsor or related parties as described above.

## SCORING

### (1) General Partner/Management Company Characteristics.

No one general partner, party having any fiduciary responsibilities, or related parties will be awarded more than 15% of the Federal Credit Ceiling, calculated as of February first during any calendar year unless imposing this requirement would prevent allocation of all of the available Credit Ceiling.

#### (A) General partner experience. To receive points under this subsection for projects in existence for over 3 years, a proposed general partner, or a key person within the proposed general partner organization, must meet the following conditions:

- (i) For projects in operation for over three years, submit a certification from a third party certified public accountant that the projects for which it is requesting points have maintained a positive operating cash flow, from typical residential income alone (e.g. rents, rental subsidies, late fees, forfeited deposits, etc.) for the year in which each development's last financial statement has been prepared and have funded reserves in accordance with the partnership agreement and any applicable loan documents. To obtain points for projects previously owned by the proposed general partner, a similar certification must be submitted with respect to the last full year of ownership by the proposed general partner, along with verification of the number of years that the project was owned by that general partner. To obtain points for projects previously owned, the ending date of ownership or participation must be no more than 10 years from the application deadline. This certification must list the specific projects for which the points are being requested. The certification of the third party certified public accountant may be in the form of an agreed upon procedure report that includes funded reserves as of the report date, which shall be dated within 60 days of the application deadline, unless the general partner or key person has no current projects which are eligible for points in which case the report date shall be after the date from which the general partner or key person separated from the last eligible project. If the certification is prepared for a first round application utilizing prepared financial statements of the previous calendar year, the certification may be submitted in a second round application, exceeding the 60 day requirement above. Where there is more than 1 general partner, experience points may not be aggregated; rather, points will be awarded based on the highest points for which 1 general partner is eligible.

3-4 projects in service more than 3 years, of which 1 shall be in service more than 5 years and 2 shall be California Low Income Housing Tax Credit projects  
5 points

5 or more projects in service more than 3 years, of which 1 shall be in service more than 5 years and 2 shall be California Low Income Housing Tax Credit projects  
7 points

For special needs housing type projects only applying through the Nonprofit set-aside or Special Needs set-aside only, points are available as described above or as follows:

3 Special Needs projects in service more than 3 years and one California Low Income Housing Tax Credit project which may or may not be one of the 3 special needs projects 5 points

4 or more Special Needs projects in service more than 3 years and one California Low Income Housing Tax Credit project which may or may not be one of the 4 special needs projects 7 points

- (ii) General partners with fewer than two (2) active California Low Income Housing Tax Credit projects in service more than three years, and general partners for projects applying through the Nonprofit or Special Needs set-aside with no active California Low Income Housing Tax Credit projects in service more than three years, shall contract with a bona-fide management company currently managing two (2) California Low Income Housing Tax Credit projects in service more than three years and which itself earns a minimum total of two (2) points at the time of application.
- (iii) Tribal applicants may contract with a developer who will not be a general partner and receive points commensurate with the developer's experience pursuant to clauses (i) and (ii). The contract shall be in effect at least until the issuance of 8609 tax forms. Tribal applicants exercising this option, including the option in the next paragraph, shall also contract for asset management for at least the term of the 15-year federal compliance period with an entity that has asset managed at least two Low-Income Housing Tax Credit projects for at least three years.

For purposes of this clause only, a developer may include an entity pre-approved by CTCAC that has developed but not owned the requisite number of projects described in (i) and that provides the certification from a third party certified public accountant described above for the projects for which experience points are requested. If the projects for which the entity requests experience points do not include two (2) active California Low Income Housing Tax Credit projects in service more than three years, the applicant shall contract with a bona-fide management company pursuant to clause (ii). For this purpose only, "develop" shall mean developing the project scope and timeline, securing financing, hiring or performing the services of a general contractor, and overseeing completion of construction and placement in service as well as asset managing the project for at least three years after placed in service. When seeking pre-approval the entity shall provide copies of contracts demonstrating that the standards have been met.

In applying for and receiving points in this category, applicants assure that the property shall be operated by a general partner in conformance with Section 10320(b).

- (B) Management Company experience. To receive points under this subsection, the property management company must meet the following conditions. To obtain points for projects previously managed, the ending date of the property management role must be no more than 10 years from the application deadline. In addition, the property management experience with a project shall not pre-date the project's placed-in-service date.

(i) 6-10 projects managed over 3 years, of which 2 shall be California Low Income Housing Tax Credit projects 2 points

11 or more projects managed over 3 years, of which 2 shall be California Low Income Housing Tax Credit projects 3 points

For special needs housing type projects only applying through the Nonprofit set-aside or Special Needs set-aside only, points are available as described above or as follows:

2-3 Special Needs projects managed over 3 years and one California Low Income Housing Tax Credit project which may or may not be one of the special needs projects 2 points

4 or more Special Needs projects managed over 3 years and one California Low Income Housing Tax Credit project which may or may not be one of the special needs projects 3 points

- (ii) Management companies managing less than two (2) active California Low-Income Housing Tax Credit projects for more than three years, and management companies for projects requesting points under the special needs categories of subparagraph (i) above and managing no active California Low-Income Housing Tax Credit projects for more than three years, shall contract with a bona-fide management company currently managing two (2) California Low Income Housing Tax Credit projects for more than three years and which itself earns a minimum combined total of two (2) points at the time of application.

When contracting with a California-experienced property management company under the terms of paragraph (A)(ii) or (B)(ii) above, the general partner or property co-management entity must obtain training in: project operations, on-site certification training in federal fair housing law, and manager certification in IRS Section 42 program requirements from a CTCAC-approved, nationally recognized entity. Additionally, the experienced property management agent or an equally experienced substitute, must remain for a period of at least 3 years from the placed-in-service date (or, for ownership transfers, 3 years from the sale or transfer date) to allow for at least one (1) CTCAC monitoring visit to ensure the project is in compliance with IRC Section 42. Thereafter, the experienced property manager may transfer responsibilities to the remaining general partner or property management firm following formal written approval from CTCAC. In applying for and receiving points in these categories, applicants assure that the property shall be owned and managed by entities with equivalent experience scores for the entire 15-year federal compliance and extended use period, pursuant to Section 10320(b). The experience must include at least two (2) Low Income Housing Tax Credit projects in California in service more than 3 years.

Points in subsections (A) and (B) above will be awarded in the highest applicable category and are not cumulative. For points to be awarded in subsection (B), an enforceable management agreement executed by both parties for the subject application must be submitted at the time of application. "Projects" as used in subsections (A) and (B) means multifamily rental affordable developments of over 10 affordable units that are subject to a recorded regulatory agreement, or, in the case of housing on tribal lands, where federal HUD funds have been utilized in affordable rental developments. General Partner and Management Company experience points may be given based on the experience of the principals involved, or on the experience of municipalities or other nonprofit entities that have experience but have formed single-asset entities for each project in which they have participated, notwithstanding that the entity itself would not otherwise be eligible for such points. For qualifying experience, "principal" is defined as an individual overseeing the day-to-day operations of affordable rental projects as senior management personnel of the General Partner or property management company.

- (2) Negative points. Negative points, up to a total of 10 for each project and/or each violation, may be given at the Executive Director's discretion for general partners, co-developers, management agents, consultants, guarantors, or any member or agent of the Development Team as described in Section 10322(h)(5). Notwithstanding the foregoing and (B) below, failure to meet the requirements of Section 10325(c)(7) shall result in rescission of the Tax

Credit Reservation or negative points. Negative points may be assessed for items including, but not limited to:

- (A) failure to utilize committed public subsidies identified in an application, unless it can be demonstrated to the satisfaction of the Executive Director that the circumstances were entirely outside of the applicant's control;
- (B) failure to utilize Tax Credits within program time guidelines, including failure to provide a subsidy commitment within 180 days as required by Section 10322(h)(22), unless it can be demonstrated to the satisfaction of the Executive Director that the circumstances were entirely outside of the applicant's control;
- (C) failure to request Forms 8609 for new construction projects within one year from the date the last building in the project is placed-in-service, or for acquisition/rehabilitation projects, one year from the date on which the rehabilitation was completed;
- (D) removal or withdrawal under threat of removal as general partner from a housing tax credit partnership;
- (E) failure to provide physical amenities or services or any other item for which points were obtained (unless funding for a specific services program promised is no longer available);
- (F) failure to correct serious noncompliance after notice and cure period within an existing housing tax credit project in California;
- (G) serious, after a notice and cure period, or repeated failure to submit required compliance documentation for a housing Tax Credit project located anywhere;
- (H) failure to perform a tenant income recertification upon the first anniversary following the initial move-in certification for all one-hundred percent (100%) tax credit properties, or failure to conduct ongoing annual income certifications in properties with non-tax-credit units;
- (I) material misrepresentation of any fact or requirement in an application;
- (J) failure of a building to continuously meet the terms, conditions, and requirements received at its certification as being suitable for occupancy in compliance with state or local law, unless it is demonstrated to the satisfaction of the Executive Director that the circumstances were entirely outside the control of the owner;
- (K) failure to submit a copy of the owner's completed 8609 showing the first year filing;
- (L) failure to promptly notify CTCAC of a property management change or changing to a management company of lesser experience contrary to Section 10325(c)(1)(B);
- (M) failure to properly notify CTCAC and obtain prior approval of Transfer Events, general partner changes, transfer of a Tax Credit project, or allocation of the Federal or State Credit;
- (N) certification of site amenities, distances or service amenities that were, in the Executive Director's sole discretion, inaccurate or misleading;
- (O) falsifying documentation of household income or any other materials to fraudulently represent compliance with IRC Section 42; or

- (P) failure of American Recovery and Reinvestment Act (ARRA) funded projects to comply with Section 42, CTCAC regulations, or other applicable program requirements;
- (Q) failure to provide required documentation of third party verification of sustainable and energy efficient features.
- (R) failure to correct serious noncompliance, including incorrect rents or income qualification, incorrect utility allowance, or other overcharging of residents. In assigning negative points, CTCAC shall consider the most recent monitoring results for each of the parties' projects in the most recent three-year monitoring cycle. CTCAC shall allow affected parties a reasonable period to correct serious noncompliance before assigning negative points. Negative points may be warranted when more than ten percent (10%) of the party's total portfolio has Level 3 deficiencies under the Uniform Physical Conditions Standards established by HUD. In addition, negative points may be warranted when more than ten percent (10%) of the tenant files most recently monitored resulted in findings of either household income above regulated income limits upon initial occupancy, or findings of gross rent exceeding the tax credit maximum limits.
- (S) the project's total eligible basis at placed in service exceeding the revised total adjusted threshold basis limits for the year the project is placed in service by 40%.
- (T) where CDLAC has determined that a person or entity is subject to negative points under its regulations, CTCAC will deduct an equal amount of points for an equal period of time from tax credit applications involving that person or entity or a Related Party.
- (U) failure to comply with a requirement of the regulatory agreement or of a covenant entered into 10320(b)(2)(B) or Section 10337(a)(3)(B).
- (V) Submitting a check which CTCAC, after reasonable efforts to correct, cannot deposit.

Negative points given to general partners, co-developers, management agents, consultants, or any other member or agent of the Development Team may remain in effect for up to two calendar years, but in no event will they be in effect for less than one funding round. Furthermore, they may be assigned to one or more Development Team members, but do not necessarily apply to the entire Team. Negative points assigned by the Executive Director may be appealed to the Committee under appeal procedures enumerated in Section 10330.

- (3) Housing Needs. (Points will be awarded only in one category listed below except that acquisition and/or rehabilitation Scattered Site Projects may, at the applicant's election, be scored either in the aggregate or proportionately based upon (i) each site's score, and (ii) the percentage of units represented by each site.) The category selected hereunder (which shall be the category represented by the highest percentage of Low-Income Units in a proportionally scored project) shall also be the project category for purposes of the tie-breaker described in subsection 10325(c)(9) below.

Large Family Projects	10 points
Special Needs Projects	10 points
Seniors Projects	10 points
At-Risk Projects	10 points
SRO Projects	10 points

- (4) Amenities beyond those required as additional thresholds

- (A) Site Amenities: Site amenities must be appropriate to the tenant population served. To receive points the amenity must be in place at the time of application except as specified in paragraphs 1, 5, and 8 below. In addition, an amenity to be operated by a public entity that is (i) being constructed within the project as part of the tax credit development, (ii) is receiving development funding for the amenity from the public entity, and (iii) has a proposed operations budget from the operating public entity, would be considered "in place" at the time of application. Distances must be measured using a standardized radius from the development site to the target amenity, unless that line crosses a significant physical barrier or barriers. Such barriers include highways, railroad tracks, regional parks, golf courses, or any other feature that significantly disrupts the pedestrian walking pattern between the development site and the amenity. The radius line may be struck from the corner of development site nearest the target amenity, to the nearest corner of the target amenity site. However, a radius line shall not be struck from the end of an entry drive or on-site access road that extends from the central portion of the site itself by 250 feet or more. Rather, the line shall be struck from the nearest corner of the site's central portion. Where an amenity such as a grocery store resides within a larger shopping complex or commercial strip, the radius line must be measured to the amenity exterior wall, rather than the site boundary. The resulting distance shall be reduced in such instances by 250 feet to account for close-in parking.

No more than 15 points will be awarded in this category. For purposes of the Native American apportionment only, no points will be awarded in this category. However, projects that apply under the Native American apportionment that drop down to the rural set-aside will be scored in this category. Applicants must certify to the accuracy of their submissions and will be subject to negative points in the round in which an application is considered, as well as subsequent rounds, if the information submitted is found to be inaccurate. For each amenity, color photographs, a contact person and a contact telephone must be included in the application. The Committee may employ third parties to verify distances or may have staff verify them. Only one point award will be available in each of the subcategories (1-9) listed below, with exception of the transit pass option of subcategory 1. Amenities may include:

1. Transit Amenities

The project is located where there is a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop within 1/3 mile from the site with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station or ferry terminal) during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday, and the project's density will exceed 25 units per acre. 7 points

The site is within 1/3 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station or ferry terminal) during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday. 6 points

The site is within 1/2 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station or ferry terminal) during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday. 5 points

The site is located within 1/3 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop. (For Rural set-aside projects, full points may be awarded where van or dial-a-ride service is provided to tenants, if costs of obtaining and maintaining the van and its

service are included in the budget and the operating schedule is either on demand by tenants or a regular schedule is provided) 4 points

The site is located within 1/2 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop. 3 points

In addition to meeting one of the point categories described above, the applicant commits to provide to residents free transit passes or discounted passes priced at no more than half of retail cost. Passes shall be made available to each Low-Income Unit at the time a Low-Income Unit is leased to the tenant and shall be made available for at least 15 years. These points are not available for projects with van service. These points are only available to Rural set-aside projects with dial-a-ride service for free or discounted dial-a-ride passes.

At least one pass per Low-Income Unit 3 points  
At least one pass per each 2 Low-Income Units 2 points

“Light rail station” or “commuter rail station” or “ferry terminal” includes a planned rail station or ferry terminal whose construction is programmed into a Regional or State Transportation Improvement Program to be completed within one year of the scheduled completion and occupancy of the proposed residential development.

A private bus or transit system providing service to residents may be substituted for a public system if it (a) meets the relevant headway and distance criteria, and (b) if service is provided free to the residents. Such private systems must receive approval from the CTCAC Executive Director prior to the application deadline. Multiple bus lines may be aggregated for the above points, only if multiple lines from the designated stop travel to an employment center. Such aggregation must be demonstrated to, and receive prior approval from, the CTCAC Executive Director in order to receive competitive points.

2. The site is within 1/2 mile of a public park or a community center accessible to the general public (1 mile for Rural set-aside projects). A public park shall not include 1) school grounds unless there is a bona fide, formal joint use agreement between the jurisdiction responsible for the parks/recreational facilities and the school district or private school providing availability to the general public of the school grounds and/or facilities, 2) greenbelts or pocket parks, or 3) open space preserves or biking parkways unless there is a trailhead or designated access point within the specified distance. 3 points

or within 3/4 mile (1.5 miles for Rural set-aside projects) 2 points

3. The site is within 1/2 mile of a book-lending public library that also allows for inter-branch lending (when in a multi-branch system) (1 mile for Rural set-aside projects) 3 point

or within 1 mile (2 miles for Rural set-aside projects) 2 points

4. The site is within 1/2 mile of a full scale grocery store/supermarket of at least 25,000 gross interior square feet where staples, fresh meat, and fresh produce are sold (1 mile for Rural set-aside projects). A large multi-purpose store containing a grocery section may garner these points if the application contains the requisite interior measurements of the grocery section of that multipurpose store. The “grocery section” of a large multipurpose store is defined as the portion of the store that sells fresh meat, produce, dairy, baked goods, packaged food products, delicatessen, canned goods, baby foods, frozen foods, sundries, and beverages. 5 points

or within 1 mile (2 miles for Rural set-aside projects) 4 points  
 or within 1.5 miles (3 miles for Rural set-aside projects) 3 points

The site is within 1/4 mile of a neighborhood market of 5,000 gross interior square feet or more where staples, fresh meat, and fresh produce are sold (1/2 mile for Rural Set-aside projects). A large multi-purpose store containing a grocery portion may garner these points if the application contains interior measurements of the grocery section of that multi-purpose store. The “grocery section” of a large multipurpose store is defined as the portion of the store primarily devoted to food stuffs that sells fresh meat, produce, dairy, baked goods, packaged food products, delicatessen, canned goods, baby foods, frozen foods, sundries, and beverages. 4 points

or within 1/2 mile (1 mile for Rural Set-aside projects) 3 points

The site is within 1/2 mile of a weekly farmers’ market on the list of Certified Farmers’ Markets maintained by the California Department of Food and Agriculture and operating at least 5 months in a calendar year 2 points

or within 1 mile 1 point

5. For a development wherein at least 25 percent (25%) of the Low-Income Units (or, for Special Needs housing type, at least 25% of the Large Family Low-Income Units) shall be three-bedroom or larger units, the site is within 1/4 mile of a public elementary school; 1/2 mile of a public middle school; or one (1) mile of a public high school, (an additional 1/2 mile for each public school type for Rural set-aside projects) and that the site is within the attendance area of that school. Public schools demonstrated, at the time of application, to be under construction and to be completed and available to the residents prior to the housing development completion are considered in place at the time of application for purposes of this scoring factor. 3 points

or within an additional 1/2 mile for each public school type (an additional 1 mile for Rural set-aside projects) 2 points

6. For a Senior Development, the site is within 1/2 mile of a daily operated senior center or a facility offering daily services specifically designed for seniors (not on the development site) (1 mile for Rural set-aside projects) 3 points

or within 3/4 mile (1.5 miles for Rural set-aside projects) 2 points

7. For a Special Needs development, the site is located within 1/2 mile of a facility that operates to serve the population living in the development 3 points

or within 1 mile 2 points

8. The site is within 1/2 mile (for Rural set-aside projects, 1 mile) of a qualifying medical clinic with a physician, physician’s assistant, or nurse practitioner onsite for a minimum of 40 hours each week, or hospital (not merely a private doctor’s office). A qualifying medical clinic must accept Medi-Cal payments, or Medicare payments for Senior Projects, or Health Care for the Homeless for projects housing homeless populations, or have an equally comprehensive subsidy program for low-income patients. 3 points

The site is within 1 mile (for Rural set-aside projects, 1.5 miles) of a qualifying medical clinic with a physician, physician’s assistant, or nurse practitioner onsite for a minimum of 40 hours each week, or hospital 2 points

A hospital demonstrated at the time of application to be under construction and to be completed and available to the residents prior to the housing development completion is considered in place at the time of application for purposes of this scoring factor.

9. The site is within 1/2 mile of a pharmacy (for Rural projects, 1 mile) 2 points  
or within 1 mile (2 miles for Rural projects) 1 point
10. High speed internet service, with a minimum average download speed of 25 megabits/second must be made available to each Low-Income Unit for a minimum of 15 years, free of charge to the tenants, and available within 6 months of the project's placed-in-service date. Documentation of internet availability must be included in the application. If internet is selected as an option in the application it must be provided even if it is not needed for points.  
2 points (3 points for Rural projects)
11. The project is a new construction Large Family housing type project, except for an inclusionary project as defined in Section 10325(c)(9)(C), and the site is located in a census tract, or census block group as applicable, designated on the TCAC/HCD Opportunity Area Map as Highest or High Resource:  
8 points

An application for a large family new construction project located in a High or Highest Resource area shall disclose whether or not the project includes any Low-Income Units which satisfy the obligations of an inclusionary housing ordinance or development agreement and, if so, the number of such units and whether the inclusionary obligations derive solely from the Low-Income Units themselves.

An applicant may choose to utilize the census tract, or census block group as applicable, resource designation from the TCAC/HCD Opportunity Maps in effect when the initial site control was obtained up to seven calendar years prior to the application.

- (B) Projects that provide high-quality services designed to improve the quality of life for tenants are eligible to receive points for service amenities. Services must be appropriate to meet the needs of the tenant population served and designed to generate positive changes in the lives of tenants, such as by increasing tenant knowledge of and access to available services, helping tenants maintain stability and prevent eviction, building life skills, increasing household income and assets, increasing health and well-being, or improving the educational success of children and youth.

Except as provided below, in order to receive points in this category, physical space for service amenities must be available when the development is placed-in-service. Services space must be located inside the project and provide sufficient square footage, accessibility and privacy to accommodate the proposed services. Evidence that adequate physical space for services will be provided must be documented within the application.

The amenities must be available within 6 months of the project's placed-in-service date. Applicants must commit that services shall be provided for a period of 15 years.

All services must be of a regular and ongoing nature and provided to tenants free of charge (except for day care services or any charges required by law). Services must be provided on-site except that projects may use off-site services within 1/2 mile of the development (1½ miles for Rural set-aside projects) provided that they have a written agreement with the service provider enabling the development's tenants to use the services free of charge (except for day care and any charges required by law) and that demonstrate that provision of on-site services would be duplicative.

No more than 10 points will be awarded in this category. The number of hours per year for a full time-equivalent (FTE) will be calculated as follows: 1) the number of bedrooms X 0.0017 = FTE multiplier; 2) FTE Multiplier X 2,080 = number of hours per year (up to a maximum of 2,080 hours).

For Large Family, Senior, and At-Risk Projects or for the non-Special Needs units in a Special Needs Project with less than 75% Special Needs units, amenities may include, but are not limited to:

1. Service Coordinator. Responsibilities must include, but are not limited to: (a) providing tenants with information about available services in the community, (b) assisting tenants to access services through referral and advocacy, and (c) organizing community-building and/or other enrichment activities for tenants (such as holiday events, tenant council, etc.).

Minimum ratio of 1 Full Time Equivalent (FTE) Service Coordinator to 600 bedrooms. 5 points

2. Other Services Specialist. Must provide individualized assistance, counseling and/or advocacy to tenants, such as to assist them to access education, secure employment, secure benefits, gain skills or improve health and wellness. Includes, but is not limited to: Vocational/Employment Counselor, ADL or Supported Living Specialist, Substance Abuse or Mental Health Counselor, Peer Counselor, Domestic Violence Counselor.

Minimum ratio of 1 FTE Services Specialist to 600 bedrooms. 5 points

3. Instructor-led adult educational, health and wellness, or skill building classes. Includes, but is not limited to: Financial literacy, computer training, home-buyer education, GED classes, and resume building classes, ESL, nutrition class, exercise class, health information/awareness, art class, parenting class, on-site food cultivation and preparation classes, and smoking cessation classes. Drop-in computer labs, monitoring or technical assistance shall not qualify.

84 hours of instruction per year (42 for small developments) 7 points

60 hours of instruction per year (30 for small developments) 5 points

4. Health and wellness services and programs. Such services and programs shall provide individualized support to tenants (not group classes) and need not be provided by licensed individuals or organizations. Includes, but is not limited to visiting nurses programs, intergenerational visiting programs, or senior companion programs. The application must describe in detail the services to be provided.

100 hours of services per year for each 100 bedrooms 5 points

60 hours of services per year for each 100 bedrooms 3 points

5. Licensed child care. Shall be available 20 hours or more per week, Monday through Friday, to residents of the development. (Only for large family projects or other projects in which at least 25% of Low-Income Units are three bedrooms or larger). 5 points

6. After school program for school age children. Includes, but is not limited to tutoring, mentoring, homework club, art and recreational activities. (Only for large family projects or other projects in which at least 25% of Low-Income Units are three bedrooms or larger).

10 hours per week, offered weekdays throughout school year 5 points

6 hours per week, offered weekdays throughout school year 3 points

For Special Needs Projects with 75% or more Special Needs units or for the Special Needs units in a Special Needs Project with less than 75% Special Needs units, amenities may include, but are not limited to:

7. Case Manager. Responsibilities must include (but are not limited to) working with tenants to develop and implement an individualized service plan, goal plan or independent living plan.

Ratio of 1 FTE case manager to 100 bedrooms 5 points

8. Service Coordinator or Other Services Specialist. Service coordinator responsibilities shall include, but are not limited to: (a) providing tenants with information about available services in the community, (b) assisting tenants to access services through referral and advocacy, and (c) organizing community-building and/or other enrichment activities for tenants (such as holiday events, tenant council, etc.). Other services specialist must provide individualized assistance, counseling and/or advocacy to tenants, such as to assist them to access education, secure employment, secure benefits, gain skills or improve health and wellness. Includes, but is not limited to: Vocational/Employment Counselor, ADL or Supported Living Specialist, Substance Abuse or Mental Health Counselor, Peer Counselor, Domestic Violence Counselor.

Ratio of 1 FTE service coordinator or specialist to 360 bedrooms 5 points

9. Adult educational, health and wellness, or skill building classes. Includes, but is not limited to: Financial literacy, computer training, home-buyer education, GED classes, and resume building classes, ESL, nutrition class, exercise class, health information/awareness, art class, parenting class, on-site food cultivation and preparation classes, and smoking cessation classes.

84 hours of instruction per year (42 for small developments) 5 points

10. Health or behavioral health services provided by appropriately-licensed organization or individual. Includes but is not limited to: health clinic, adult day health center, medication management services, mental health services and treatment, substance abuse services and treatment. 5 points

11. Licensed child care. Shall be available 20 hours or more per week, Monday through Friday, to residents of the development. (Only for large family projects or other projects in which at least 25% of Low-Income Units are three bedrooms or larger). 5 points
12. After school program for school age children. Includes, but is not limited to tutoring, mentoring, homework club, art and recreational activities. (Only for large family projects or other projects in which at least 25% of Low-Income Units are three bedrooms or larger).  
10 hours per week, offered weekdays throughout school year 5 points

Special needs projects with less than 75% special needs units shall be scored proportionately in the service amenity category based upon (i) the services provided to special needs and non-special needs units, respectively; and (ii) the percentage of units represented by special needs and non-special needs units, respectively. Proportionate scoring means for a project to score the maximum 10 points, nonspecial needs units and special needs units must independently score 10 points for service amenities. For special needs projects with less than 75% special needs units that provide the same service amenity for the special needs and non-special needs tenants, the applicant must select the amenity from 1-6 and from 7-12 in the application form. Special needs projects with 75% or more but less than 100% special needs units shall demonstrate that all tenants will receive an appropriate level of services.

Items 1 through 12 are mutually exclusive: one proposed service may not receive points under two different categories, except in the case of proportionately-scored services pursuant to the previous paragraph.

Documentation must be provided for each category of services for which the applicant is claiming service amenities points and must state the name and address of the organization or entity that will provide the services; describe the services to be provided and the number of hours services will be provided; and name the project to which the services are being committed.

Documentation shall take the form of a contract for services, Memorandum of Understanding (MOU), or commitment letter on agency letterhead.

For projects claiming points for items 1, 2, 7, or 8, a position description must be provided. Services delivered by the on-site Property Manager or other property management staff will not be eligible for points under any category (items 1 through 12).

The application's Service Amenity Sources and Uses Budget page must clearly describe all anticipated income and expenses associated with the services program(s) and must align with the services commitments provided (i.e. contracts, MOUs, letters, etc.). Applications shall receive points for services only if the proposed services budget adequately accounts for the level of service. The budgeted amount must be reasonably expected to cover the costs of the proposed level of service. If project operating income will fund service amenities, the application's Service Amenities Sources and Uses Budget must be consistent with the application's fifteen year pro forma. Services costs contained in the project's pro forma operating budget do not count towards meeting CTCAC's minimum operating expenses required by Section 10327(g)(1).

All organizations providing services for which the project is claiming points must document that they have at least 24 months of experience providing services to the project's target population. Experience of individuals may not be substituted for organizational experience.

- (5) Reserved.
- (6) Lowest Income in accordance with the table below Maximum 52 points
  - (A) The "Percent of Area Median Income" category may be used only once. For instance, 50% of Low-Income Units at 50% of Area Median Income cannot be used twice for 100% at 50% and receive 50 points, nor can 50% of Low-Income Units at 50% of Area Median Income for 25 points and 40% of Low-Income Units at 50% of Area Median Income be used for an additional 20 points. However, the "Percent of Low-Income Units" may be used multiple times. For example, 50% of Low-Income Units at 50% of Area Median Income for 25 points may be combined with another 50% of Low-Income Units at 45% of Area Median Income to achieve the maximum points. All projects must score at least 45 points in this category to be eligible for 9% Tax Credits.

Only projects competing in the Rural set aside may use the 55% of Area Median Income column.

Projects electing the average income federal set-aside must choose targeting in 10% increments of Area Median Income (i.e. 20% AMI, 30% AMI, 40% AMI, etc.).

Lowest Income Points Table (maximum 50 points):

		Percent of Area Median Income						
		55%	50%	45%	40%	35%	30%	20%
	50%		25.0*	37.5				
	45%		22.5*	33.8				
<b>Percent of</b>	<b>40%</b>	10.0*	20.0	30.0				
<b>Low-Income</b>	<b>35%</b>	8.8*	17.5	26.3	35.0		50.0	
<b>Units</b>	<b>30%</b>	7.5*	15.0	22.5	30.0	37.5	45.0	
	<b>25%</b>	6.3*	12.5	18.8	25.0	31.3	37.5	50.0
	<b>20%</b>	5.0*	10.0	15.0	20.0	25.0	30.0	40.0
	<b>15%</b>	3.8*	7.5	11.3	15.0	18.8	22.5	30.0
	<b>10%</b>	2.5*	5.0	7.5	10.0	12.5	15.0	20.0

\*Available to Rural set-aside projects only

- (B) A project that agrees to have at least ten percent (10%) of its Low-Income Units available for tenants with incomes no greater than thirty percent (30%) of area median, and to restrict the rents on those units accordingly, will receive two points in addition to other points received under this subsection. The 30% units must be spread across the various bedroom-count units, starting with the largest bedroom-count units (e.g. four bedroom units), and working down to the smaller bedroom-count units, assuring that at least 10% of the larger units are proposed at 30% of area median income. So long as the applicant meets the 10% standard project-wide, the 10% standard need not be met among all of the smaller units. The CTCAC Executive director may correct applicant errors in carrying out this largest-to-smallest unit protocol. (These points may be obtained by using the 30% section of the matrix.)

All projects, except those applying under section 10326 of these regulations, will be subject to the minimum low income percentages chosen for a period of 55 years (50 years for

projects located on tribal trust land), unless they receive Federal Tax Credits only and are intended for eventual tenant homeownership, in which case they must submit, at application, evidence of a financially feasible program, incorporating, among other items, an exit strategy, home ownership counseling, funds to be set aside to assist tenants in the purchase of units, and a plan for conversion of the facility to home ownership at the end of the initial 15 year compliance period. In such a case, the regulatory agreement will contain provisions for the enforcement of such covenants.

- (7) Readiness to Proceed. 10 points will be available to projects that document enforceable financing commitment(s) as defined in Section 10325(f)(3) for all construction financing and commit to begin construction within 180 days of the Credit Reservation as documented by the requirements below (after preliminary reservation CTCAC will randomly assign a 180 day deadline for half of the projects receiving a Credit Reservation within each round and a 194 day deadline for remaining projects).

No later than the 180/194 day deadline, CTCAC must receive:

- (A) a completed updated application form along with a detailed explanation of any changes from the initial application,
- (B) an executed construction contract,
- (C) recorded deeds of trust for all construction financing (unless a project's location on tribal trust land precludes this), binding commitments for permanent financing, binding commitments for any other financing required to complete project construction,
- (D) a limited partnership agreement executed by the general partner and the investor providing the equity,
- (E) an updated CTCAC Attachment 16,
- (F) issuance of building permits (a grading permit does not suffice to meet this requirement except that in the event that the city or county as a rule does not issue building permits prior to the completion of grading, a grading permit shall suffice; if the project is a design-build project in which the city or county does not issue building permits until designs are fully complete, the city or county shall have approved construction to begin) or the applicable tribal documents, and
- (G) notice to proceed delivered to the contractor.

Failure to meet the 180-day or 194-day due date, if applicable, shall result in rescission of the Tax Credit Reservation or negative points.

If no construction lender is involved, evidence must be submitted within 180 or 194 days, as applicable, after the Reservation is made that the equity partner has been admitted to the ownership entity, and that an initial disbursement of funds has occurred. CTCAC shall conduct a financial feasibility and cost reasonableness analysis upon receiving submitted Readiness documentation.

- (8) Miscellaneous Federal and State Policies Maximum 2 points
- (A) Credit Substitution. For applicants who agree to both 1) exchange Federal Tax Credits for State Tax Credits pursuant to Section 10317(e) and 2) exchange State Tax Credits for Federal Tax Credits pursuant to Section 10317(c). 2 points

Applicants receiving these points agree to make the exchange in a manner that yields equal equity based solely on the tax credit factors stated in the application.

- (B) Enhanced Accessibility and Visitability. Project design incorporates California Building Code Chapter 11(B) and the principles of Universal Design in at least half of the project's Low-Income Units by including:
- Accessible routes of travel to the dwelling units with accessible 34" minimum clear-opening-width entry, and 34" clear width for all doors on an accessible path.
  - Interior doors with lever hardware and 42" minimum width hallways. Fully accessible bathrooms complying with California Building Code (CBC) Chapter 11(A) and 11(B). In addition, a 30"x48" clearance parallel to and centered on the bathroom vanity.
  - Accessible kitchens with 30"x48" clearance parallel to and centered on the front of all major appliances and fixtures (refrigerator, oven, dishwasher and sink)
  - Accessible master bedroom size shall be at least 120 square feet (excluding the closet), shall accommodate a queen size bed, shall provide 36" in clearance around three sides of the bed, and shall provide required accessible clearances, free of all furnishings, at bedroom and closet doors. The master bedroom closet shall be on an accessible path.
  - Wiring for audio and visual doorbells required by UFAS shall be installed.
  - Closets and balconies shall be located on an accessible route.
  - These units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the project consistent with 24 CFR Section 8.26.
  - Applicant must commit to obtaining confirmation from a Certified Accessibility Specialist that the above requirements have been met. 2 points
- (C) Smoke Free Residence. The proposed project commits to having at least one nonsmoking building and incorporating the prohibition into the lease agreement for the affected units. If the proposed project contains only one building, the proposed project shall commit to prohibiting smoking in designated contiguous units and incorporating the prohibition into the lease agreement for the affected units. 2 points
- (D) Historic Preservation. The project proposes to use Historic Tax Credits 1 point
- (E) Revitalization Area Project. The project is located within one of the following: a Qualified Census Tract (QCT), a census tract in which at least 50% of the households have an income of less than 60% of the area median income, or a federal Promise Zone. Additionally, the development must contribute to a concerted community revitalization plan as demonstrated by a letter from a local government official. The letter must delineate the various community revitalization efforts, funds committed or expended in the previous five years, and how the project would contribute to the community's revitalization. 2 points
- (F) Eventual Tenant Ownership. The project proposes to make Tax Credit Units available for eventual tenant ownership and provides the information described in Section 10325(c)(6) of these regulations. 1 point

(9) Tie Breakers

If multiple applications receive the same score, the following tie breakers shall be employed:

For applications for projects within single-jurisdiction regional competitions only (the City and County of San Francisco and the City of Los Angeles geographic apportionments), the first tiebreaker shall be the presence within the submitted application of a formal letter of support for the project from either the San Francisco Mayor's Office of Housing or the Los

Angeles Housing + Community Investment Department respectively. Within those cities, and for all other applications statewide, the subsequent tiebreakers shall be as follows:

First, if an application's housing type goal has been met in the current funding round in the percentages listed in section 10315, then the application will be skipped (unless the application to be skipped is the highest ranked in the set-aside or geographic region) if there is another application with the same score and with a housing type goal that has not been met in the current funding round in the percentages listed in section 10315; and

Second, the highest of the sum of the following:

- (A) Leveraged soft resources, as described below, defraying residential costs to total residential project development costs. Except where a third-party funding commitment is explicitly defraying non-residential costs only, leveraged soft resources shall be discounted by the proportion of the project that is non-residential. Leveraged soft resources shall be demonstrated through documentation including but not limited to funding award letters, committed land donations, or documented project-specific local fee waivers.

Leveraged soft resources shall include all of the following:

- (i) Public funds. "Public funds" include federal, tribal, state, or local government funds, including the outstanding principal balances of prior existing public debt or subsidized debt that has been or will be assumed in the course of an acquisition/rehabilitation transaction, except that outstanding principal balances for projects subject to an existing CTCAC regulatory agreement shall not be considered public funds if such loans were funded less than 30 years prior to the application deadline. Outstanding principal balances shall not include any accrued interest on assumed loans even where the original interest has been or is being recast as principal under a new loan agreement. Public funds shall include assumed principal balances only upon documented approval of the loan assumption or other required procedure by the public agency holding the promissory note.

In addition, public funds include funds already awarded under the Affordable Housing Program of the Federal Home Loan Bank (AHP), waivers resulting in quantifiable cost savings that are not required by federal or state law, local government fee reductions established in ordinance and not required by federal or state law that are available only to rental affordable housing for lower-income households and affordable ownership housing for moderate income households, or the value of land and improvements donated or leased by a public entity or donated as part of an inclusionary housing ordinance or other development agreement negotiated between a public entity and an unrelated private developer. The value of land leased by a public entity shall be discounted by the sum of up-front lease pre-payments and all mandatory lease payments in excess of \$100 per year over the term of the lease, exclusive of residual receipt payments. Private loans that are guaranteed by a public entity (for example, RHS Section 538 guaranteed financing) shall not be counted as public funds, unless the loans have a designated repayment commitment from a public source other than rental or operating subsidies, such as the HUD Title VI Loan Guarantee Program involving Native American Housing Assistance and Self Determination Act (NAHASDA) funds. Land and building values, including for land donated or leased by a public entity or donated as part of an inclusionary housing ordinance or other development agreement, must be supported by an independent, third party appraisal consistent with the guidelines in Section 10322(h)(9). The appraised

value is not to include off-site improvements. For Tribal apportionment applications, donated land value and land-purchase funding shall not be eligible. However, unsuccessful Tribal apportionment applicants subsequently competing within the rural set-aside or tribal applicants competing in a geographic region shall have such donated land value and land-purchase funding counted competitively as public funding if the land value is established in accordance with the requirements of this paragraph.

Loans must be “soft” loans, having terms (or remaining terms) of at least 15 years, and below market interest rates and interest accruals, and are either fully deferred or require only residual receipts payments for at least the first fifteen years of their terms. Qualified soft loans may have annual fees that reasonably defray compliance monitoring and asset management costs associated with the project. The maximum below-market interest rate allowed for tiebreaker purposes shall be the greater of four percent (4%) simple, or the Applicable Federal Rate if compounding. RHS Section 514 or 515 financing shall be considered soft debt in spite of a debt service requirement. Further, there shall be conclusive evidence presented that any new public funds have been firmly committed to the proposed project and require no further approvals, and that there has been no consideration other than the proposed housing given by anyone connected to the project, for the funds or the donated or leased land. Seller carryback financing and any portion of a loan from a public seller or related party that is less than or equal to sale proceeds due the seller, except for a public land loan to a new construction project that is not replacing affordable housing within the footprint of the original development, shall be excluded for purposes of the tiebreaker. Projects that include both new construction and rehabilitation or affordable housing replacement shall have the land loan value prorated based on units.

Public contributions of off-site costs shall not be counted competitively, unless (1) documented as a waived fee pursuant to a nexus study and relevant State Government Code provisions regulating such fees or (2) the off-sites must be developed by the sponsor as a condition of local approval and those off-sites consist solely of utility connections, and curbs, gutters, and sidewalks immediately bordering the property. Public funds shall be reduced for tie breaker scoring purposes by an amount equal to the off-sites not meeting the requirements noted in this paragraph.

The capitalized value of rent differentials attributable to public rent or public operating subsidies shall be considered public funds based upon CTCAC underwriting standards. Standards shall include a 15-year loan term; an interest rate established annually by CTCAC based upon a spread over 10-year Treasury Bill rates; a 1.15 to 1 debt service coverage ratio; and a five percent (5%) vacancy rate. In addition, the rental income differential for subsidized units shall be established by subtracting tax credit rental income at 40 percent (40%) AMI levels (30% AMI for units subject to the 40% average AMI requirement of Section 10325(g)(3)(A)) from the committed contract rent income documented by the subsidy source or, in the case of a USDA rental subsidy only, the higher of 60% AMI rents or the committed contract USDA Basic rents. The committed contract rent income for units with existing project-based Section 8 rental subsidy shall be documented by the current monthly contract rent in place at the time of the application or by contract rent committed to and approved by the subsidy source (HUD); rent from a rent comparable study or post-rehabilitation rent shall not be permitted. The rent differential for projects with public operating subsidies shall equal the annual subsidy amount in year 1, provided the subsidy will be of a similar amount in succeeding years, or the aggregate subsidy amount of the contract

divided by the number of years in the contract if the contract does not specify an annual subsidy amount.

- (ii) soft loans that meet the criteria described in subparagraph (i) (except that terms shall be of at least 55 years), or grants, from unrelated non-public parties that are not covered by subparagraph (i) and that do not represent financing available through the National Mortgage Settlement Affordable Rental Housing Consumer Relief programs. The party providing the soft loans or grants shall not be a partner or proposed partner in the limited partnership (unless the partner has no ownership interest and only the right to complete construction) and shall not receive any benefit or funds from a related party to the project. The application shall include (1) a certification from an independent Certified Public Accountant (CPA) or independent tax attorney that the leveraged soft resource(s) is from an unrelated non-public entity(ies), that the unrelated non-public entity(ies) shall not receive any benefit or funds from a related party to the project, and that the leveraged soft resource(s) is available and not committed to any other project or use; and (2) a narrative from the applicant regarding the nature and source of the leveraged soft resource(s) and the conditions under which it was given. Seller carryback financing and any portion of a loan from a non-public seller or related party that is less than or equal to sale proceeds due the seller shall be excluded for purposes of the tiebreaker.
- (iii) the value of donated land and improvements that are not covered by subparagraph (i), that meet the criteria described in subparagraph (i), and that are contributed by an unrelated entity (unless otherwise approved by the Executive Director), so long as the contributed asset has been held by the entity for at least 5 years prior to the application due date, except for the value of donated land and improvements in the case of a rehabilitation project subject to an existing regulatory agreement with CTCAC or a federal, state, or local public entity or with greater than 25% of the units receiving project-based rental assistance unless the land and improvements are wholly donated. For a case in which the donor is a non-profit organization acting solely as a pass-through entity, the Executive Director may in advance of the application date approve an exception to the 5-year hold rule provided that the donor to the non-profit organization held the contributed asset for at least 5 years and that both the original donor and non-profit donor meet the requirements of, and are included in the certifications required by, this paragraph. The party providing the donation shall not be a partner or proposed partner in the limited partnership (unless the partner has no ownership interest and only the right to complete construction) and shall not receive any benefit from a related party to the project. In addition, the land shall not have been owned previously by a related party or a partner or proposed partner (unless the partner has no ownership interest and only the right to complete construction). The application shall include a certification from an independent Certified Public Accountant (CPA) or independent tax attorney that the donation is from an unrelated entity and that the unrelated entity shall not receive any benefit from a related party to the project.
- (iv) For purposes of this section, a related party shall mean a member of the development team or a Related Party, as defined in Section 10302(gg), to a member of the development team.
- (v) For 4% credit applications, recycled private activity bonds (whether they be used for construction or permanent financing or both) shall be considered leveraged soft resources so long as the loan terms are consistent with market standards.

Permanent funding sources for this tiebreaker shall not include equity commitments related to the Low Income Housing Tax Credits.

Land donations include land leased for a de minimis annual lease payment. CTCAC may contract with an appraisal reviewer and, if it does so, shall commission an appraisal review for donated land and improvements if a reduction of 15% to the submitted appraisal value would change an award outcome. If the appraisal review finds the submitted appraisal to be inappropriate, misleading, or inconsistent with the data reported and with other generally known information, then the reviewer shall develop his or her own opinion of value and CTCAC shall use the opinion of value established by the appraisal reviewer for calculating the tiebreaker only.

The numerator of projects of 50 or more newly constructed or adaptive reuse Tax Credit Units shall be multiplied by a size factor equal to seventy five percent plus the total number of newly constructed or adaptively reused Tax Credit Units divided by 200 ( $75\% + (\text{total new construction/adaptive reuse units}/200)$ ). The size factor calculation shall be limited to no more than 150 Tax Credit Units.

In the case of a new construction hybrid 9% and 4% tax credit development which meets all of the following conditions, the calculation of the size factor for the 9% application shall include all of the Tax Credit Units in the 4% application up to the limit described above, the leveraged soft resources ratio calculated pursuant to this subparagraph (A) shall utilize the combined amount of leveraged soft resources defraying residential costs and the combined total residential project development costs from both the 9% and 4% applications, and the ratio calculated pursuant to subparagraph (B) shall also utilize the combined total residential project development costs from both the 9% and 4% applications:

- (i) the 4% application shall have been submitted to CTCAC and CDLAC by the 9% application deadline;
- (ii) the 4% and 9% projects are simultaneous phases, as defined in Section 10327(c)(2)(C);
- (iii) the 4% application is eligible for maximum points under Sections 10325(c)(3), (4)(B), (5), and (6), except that 1) the 4% application may be eligible for maximum points in the lowest income category in combination with the 9% project, and 2) the 4% application may be eligible for maximum housing type points in combination with the 9% project. Under each exception, the 9% project shall also be scored in the corresponding point category in combination with the 4% project; and
- (iv) developers shall defer or contribute as equity to the project any amount of combined 4% and 9% developer fees in cost that are in excess of the limit pursuant to Section 10327(c)(2)(A) plus \$20,000 per unit for each Tax Credit Unit in excess of 100, using (a) the combined Tax Credit Units of the 9% and 4% components, (b) the combined eligible basis of the 9% and 4% components, and (c) the high-cost test factor calculated using the eligible basis and threshold basis limits for the 9% component.

In the event that the 4% component of a hybrid project that receives an increase to its size factor pursuant to this paragraph is not placed in service within 6 months of the 9% component, both applicants shall be subject to negative points.

If the project's paid purchase price exceeds appraised value, the leveraged soft resources amount shall be discounted by the overage, unless the Executive Director has granted a waiver pursuant to Section 10327(c)(6).

- (B) One (1) minus the ratio of requested unadjusted eligible basis to total residential project development costs, with the resulting figure divided by two.
- (C) Except as provided below, a new construction Large Family housing type project (excluding a Special Needs project with non-special needs Low-Income Units meeting Large Family housing type requirements) shall receive a higher resource area bonus as follows based on the designation of the project's location on the TCAC/HCD Opportunity Area Map:

The project is non-rural and the project's census tract is a Highest Resource area  
20 percentage points

The project is non-rural and the project's census tract is a High Resource area  
10 percentage points

The project is rural and project's census tract or census block group as applicable is a Highest Resource area  
10 percentage points

The project is rural and the project's census tract or census block group as applicable is a High Resource area  
5 percentage points

This bonus shall not apply to projects competing in the Native American apportionment, unless such projects fall into the rural set-aside competition. In addition, this bonus shall not apply to an inclusionary project, which for purposes of this subparagraph shall mean a project in which any of the Low-Income Units satisfy the obligations of an inclusionary housing ordinance or other development agreement negotiated between a public entity and private developer, unless the obligations derive solely from the Low-Income Units themselves or unless the project includes at least 40 Low-Income Units that are not counted towards the obligations of the inclusionary housing ordinance or development agreement. An application for a large family new construction project located in a High or Highest Resource area shall disclose whether or not the project includes any Low-Income Units which satisfy the obligations of an inclusionary housing ordinance or development agreement and, if so, the number of such units and whether the inclusionary obligations derive solely from the Low-Income Units themselves.

An applicant may choose to utilize the census tract, or census block group as applicable, resource designation from the TCAC/HCD Opportunity Maps in effect when the initial site control was obtained up to seven calendar years prior to the application.

The resulting tiebreaker score must not have decreased following award or negative points may be awarded.

- (d) Application selection for evaluation. Except where CTCAC staff determines a project to be high cost, staff shall score and rank projects as described below. Staff shall identify high cost projects by comparing each scored project's total eligible basis against its total adjusted threshold basis limits. CTCAC shall calculate total eligible basis by using all project costs listed within the application unless those costs are not includable in basis under federal law as demonstrated by the shaded cells in the application sources and uses budget itself or by a letter from the development team's third party tax professional. A project will be designated "high cost" if a project's total eligible basis exceeds its total adjusted threshold basis limit by 30%. Staff shall not recommend such project for credits. Any project that receives a reservation on or after January 1, 2016 may be subject to negative points if the project's total eligible basis at placed in service exceeds the revised total adjusted threshold basis limit by 40%. For purposes of calculating the

high cost test at placed in service, CTCAC shall use the higher of the unadjusted threshold basis limit from application or the year the project places in services.

Following the scoring and ranking of project applications in accordance with the above criteria, subject to conditions described in these regulations, reservations of Tax Credits shall be made for those applications of highest rank in the following manner.

- (1) Set-aside application selection. Beginning with the top-ranked application from the Nonprofit set-aside, followed by the Rural set-aside (funding the RHS and HOME program apportionment first, and the Tribal pilot apportionment second), the At Risk set-aside, and the Special Needs set-aside, the highest scoring applications will have Tax Credits reserved. Credit amounts to be reserved in the set-asides will be established at the exact percentages set forth in section 10315, with the exception of the Federal Credit amount established by the Further Consolidated Appropriations Act, 2020 and the Consolidated Appropriations Act, 2021. If the last project funded in a set-aside requires more than the credits remaining in that set-aside, such overages in the first funding round will be subtracted from that set-aside in determining the amount available in the set-aside for the second funding round. If Credits are not reserved in the first round they will be added to second round amounts in the same Set Aside. If more Tax Credits are reserved to the last project in a set-aside than are available in that set-aside during the second funding round, the overage will be taken from the Supplemental Set-Aside if there are sufficient funds. If not, the award will be counted against the amounts available from the geographic area in which the project is located. Any unused credits from any Set-Asides will be transferred to the Supplemental Set-Aside and used for Waiting List projects after the second round. Tax Credits reserved in all set-asides shall be counted within the housing type goals.
  - (A) For an application to receive a reservation within a set-aside, or within a rural set-aside apportionment, there shall be at least one dollar of Credit not yet reserved in the set-aside or apportionment.
  - (B) Set-aside applications requesting State tax credits shall be funded, even when State credits for that year have been exhausted. The necessary State credits shall be reserved from the subsequent year's aggregate annual State credit allotment.
  - (C) Except for projects competing in the rural set-aside, which shall not be eligible to compete in geographic area, unless the projects are located within a Geographic Region and no other projects have been funded within the Project's region during the year in question, after a set-aside is reserved all remaining applications competing within the set-aside shall compete in the Geographic Region.

Federal Credit established by the FCAA application selection. Applications for projects located in the counties designated as qualified 2017 and 2018 California disaster areas by the FCAA, FCAA Federal Credit shall only be reserved for (1) new construction projects also including projects that involve the demolition or rehabilitation of existing residential units that increase the unit count by (i) 25 or (ii) 50% of the existing units, whichever is greater, and adaptive re-use of non-residential structures, or (2) reconstruction or rehabilitation of an existing project located within a FCAA disaster area fire perimeter, as designated by CAL FIRE and available on the CTCAC website <https://www.treasurer.ca.gov/ctcac/>, and directly damaged by the fire, and that apply for the FCAA Federal Credit. Applications shall meet all program eligibility requirements unless stated otherwise below, and located in the following counties: Butte, Lake, Los Angeles, Mendocino, Napa, Nevada, Orange, San Diego, Santa Barbara, Shasta, Sonoma, Ventura, and Yuba.

Applications for projects applying for FCAA Federal Credit shall be competitively scored within the county apportionment under the system delineated in Sections 10325(c)(1) through (3), (4)(B), and (6). In the cases where applications receive the same score, the

following tiebreakers shall be employed: First, a formal letter of support for the specific project from the Local Reviewing Agency (LRA) outlining how the project will contribute to the community’s recovery efforts submitted in the application or received by CTCAC no later than 14 days following the application filing deadline; Second, the application with the greatest number of proposed Tax Credit Units per annual Federal Tax Credit amount requested; and Third, the application with the greatest number of proposed bedrooms within the proposed Tax Credit Units.

For projects located within a FCAA disaster area fire perimeter, as designated by CAL FIRE and available on the CTCAC website <https://www.treasurer.ca.gov/ctcac/>, applying for FCAA Federal Credit in the 2020 funding round, local approvals and zoning requirements of Section 10325(f)(4) must be evidenced to CTCAC no later than June 1, 2021. Failure to do so shall result in rescission of the Tax Credit Reservation on June 2, 2021. The deadline in this paragraph may be extended if the Executive Director finds, in his or her sole discretion, a project merits additional time due to delays directly caused by fire, war, or act of God. In considering a request, the Executive Director may consider, among other things, the length of the delay and the circumstances relating to the delay.

The deferred-payment financing commitment requirements of Section 10325(f)(8) are modified for FCAA Federal Credit applications with 2017 and 2018 HCD Community Development Block Grant – Disaster Recovery (CDBG-DR) Multifamily financing as follows: a letter from an HCD identified jurisdiction stating the intent to commit a portion of that jurisdiction’s HCD allocation. The letter must provide the dollar amount and the estimated date which the jurisdiction will provide CTCAC a written commitment in compliance with the requirements of Section 10325(f)(8). Projects must receive these CDBG-DR funds prior to the CTCAC placed-in service application deadline.

FCAA Federal Credit shall be made available starting in the 2020 second funding round in the amounts shown below:

<b>ANNUAL FEDERAL TAX CREDIT BASE + LOST UNIT ALLOCATION</b>	<b>COUNTY</b>
\$40,087,453	Butte
\$16,365,940	Sonoma
\$5,630,499	Los Angeles
\$5,421,263	Shasta
\$4,975,965	Ventura
\$4,109,511	Napa
\$3,342,311	Mendocino
\$3,259,153	Lake
\$2,886,283	Yuba
\$2,816,537	San Diego
\$2,583,158	Santa Barbara
\$2,580,476	Nevada
\$2,561,698	Orange

\$2,000,000	Supplemental
<b>\$98,620,247</b>	<b>TOTAL</b>

The funding order shall be followed by funding the highest scoring application, if any, in each of the 13 counties. After each county has had the opportunity to fund one project, CTCAC shall award the second highest scoring project in each county, if any, and continue cycling through the counties, filling each county's apportionment.

For an application to receive a FCAA Federal Credit reservation, there shall be at least one dollar of Credit not yet reserved in the county allocation so long as the county's last award does not cause the county's aggregate award amount to exceed 105 percent (105%) of the amount originally available for that county. FCAA Federal Credit allocated in excess of the county's allocation by the application of the 105% rule described above will be deducted from the Supplemental allocation. If the last application requires credits in excess of 105% of the county's allocation, that application will not be funded. If all FCAA Federal Credit in a funding round has been awarded, all remaining FCAA applications shall compete in the applicable set-aside or geographic region, provided the application meets the requirements of the set-aside or geographic region, and the requirements of Section 10325.

At the conclusion of the funding round, if less than 10% of the total FCAA Federal Credit remains, all unallocated FCAA Federal Credit within the county allocations will be combined and available to remaining projects requesting FCAA Federal Credits and which meet the threshold and underwriting requirements through a waiting list. The award selection will be made from the waiting list to the counties in the order listed above. Within each county, the award selection will start with the highest ranking project located within a FCAA disaster area fire perimeter, as designated by CAL FIRE and available on the CTCAC website <https://www.treasurer.ca.gov/ctcac/> first and continue within that county in rank order until no eligible applications remain. Subsequent to the above selection ranking, any unused FCAA Federal Credit shall be designated for projects where at least fifty percent (50%) of the Low-Income Units within the project are designated for homeless households as described in Sections 10315(b)(1) through (4) starting with the highest ranking project pursuant to Section 10325(c) without regard to the set aside or geographic region for which the application applied.

All projects awarded FCAA Federal Credit in 2020 may return their allocation to the Committee without assessment of negative points if the formal written notification from the applicant of the return is received by the Committee no later than September 1, 2021. Any returned credits following September 1, 2021 will be made available to projects from the FCAA Federal Credit waiting list as previously stated. Any new application received for a project on the waiting list shall result in that project's removal from the waiting list.

The FCAA Federal Credit amount shall not be counted towards the set asides of Section 10315, the housing type goals of Section 10315(h), or the geographic apportionments of Section 10315(i). Applications for FCAA Federal Credit shall not be counted towards the four (4) awards limit of Section 10325(c). Notwithstanding Section 10325(f)(9)(C), the maximum annual Federal Tax Credits available for award to any one project in any funding round applying for FCAA Federal Credit shall not exceed Five Million Dollars (\$5,000,000). Applications for FCAA Federal Credit are not eligible for State Tax Credits.

Federal Credit established by the CAA application selection. Applications for projects located in the counties designated as qualified 2020 California disaster areas by the CAA, CAA Federal Credit shall only be reserved for (1) new construction projects also including projects that involve the demolition or rehabilitation of existing residential units that increase the unit count by (i) 25 or (ii) 50% of the existing units, whichever is greater, and adaptive re-use of nonresidential structures, or (2) reconstruction or rehabilitation of an existing project located within a CAA or FCAA disaster area fire perimeter, as designated by CAL FIRE and available on the CTCAC website <https://www.treasurer.ca.gov/ctcac/>, and directly

damaged by the fire, and that apply for the CAA Federal Credit. Applications shall meet all program eligibility requirements unless stated otherwise below, and located in the following counties: Butte, Fresno, Lake, Lassen, Los Angeles, Madera, Mendocino, Monterey, Napa, San Bernardino, San Diego, San Mateo, Santa Clara, Santa Cruz, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Trinity, Tulare, and Yolo.

Applications for projects applying for CAA Federal Credit shall be competitively scored within the county/regional apportionment under the system delineated in Sections 10325(c)(1) through (8). At the sole discretion of the Executive Director, an extension of up to 90 days may be granted to the 180/194 day readiness deadline. In the cases where applications receive the same score, the following tiebreakers shall be employed: First, projects located within a CAA or FCAA disaster area fire perimeter, as designated by CAL FIRE and available on the CTCAC website <https://www.treasurer.ca.gov/ctcac/>, and not opposed or strongly opposed by the Local Reviewing Agency (LRA); Second, the presence of an enforceable financing commitment to the specific project of at least \$1,000,000 from the State of California Department of Housing and Community Development (“HCD”) and assuming a 4% tax credit financing structure such that the Federal Tax Credit request divided by the total eligible basis does not exceed 7.5%; and Third, the application with the greatest number of proposed bedroom-adjusted Tax Credit Units per annual Federal Tax Credit amount requested. To calculate the bedroom-adjusted units, each Tax Credit Unit will be multiplied by the adjustment factor for units of that bedroom count. A project’s adjusted units shall be the sum of each of these products. The adjustment factors shall be:

- .9 for a studio unit.
- 1 for a one-bedroom unit.
- 1.25 for a two-bedroom unit.
- 1.5 for a three-bedroom unit up to no more than 30% of the total units, then such additional units shall be counted as 2-bedroom units.
- 1.75 for a four-bedroom or larger unit up to no more than 10% of the total units, then such additional units shall be counted as 2-bedroom units.

The deferred-payment financing commitment requirements of Section 10325(f)(8) are modified for CAA Federal Credit applications with HCD Community Development Block Grant – Disaster Recovery (CDBG-DR) Multifamily financing as follows: a letter from an HCD identified jurisdiction stating the intent to commit a portion of that jurisdiction’s HCD allocation. The letter must provide the dollar amount and the estimated date which the jurisdiction will provide CTCAC a written commitment in compliance with the requirements of Section 10325(f)(8). Projects must receive these CDBG-DR funds prior to the CTCAC placed-in service application deadline.

CAA Federal Credit shall be made available starting in the 2021 second funding round in the amounts shown below:

ANNUAL FEDERAL TAX CREDIT BASE + LOST UNIT ALLOCATION	COUNTY/ REGION
\$17,261,698	Butte County
\$12,058,293	Santa Cruz County
\$9,395,477	Napa County
\$8,714,494	North Region (San Mateo, Santa Clara, Shasta, Solano, Stanislaus, and Yolo Counties)
\$8,609,728	Fresno County

\$8,408,925	Sonoma County
\$7,553,332	South Region (Madera, Monterey, Los Angeles, San Bernardino, San Diego, and Tulare Counties)
\$6,741,391	Rural (Lake, Lassen, Mendocino, Siskiyou, and Trinity Counties)
\$2,000,000	Supplemental
<b>\$80,743,338</b>	<b>TOTAL</b>

The funding order shall start with applications selected in rank order within each county/region in the order above. For an application to receive a CAA Federal Credit reservation, there shall be at least one dollar of Credit not yet reserved in the county/region allocation so long as the county/region's last award does not cause the county/region aggregate award amount to exceed 105 percent (105%) of the amount originally available for that county/region. CAA Federal Credit allocated in excess of the county/region's allocation by the application of the 105% rule described above will be deducted from the Supplemental allocation. If the last application selected requires credits in excess of 105% of the county/region's allocation, that application will not be funded. Any CAA Federal Credit remaining in a county/region apportionment at the end of a funding round will be available in the subsequent round. For the final funding round of 2022 for CAA Federal Credits, if the aggregate amount of Federal Credit requested does not exceed the amount available, the 105% county limit above shall not apply. If all CAA Federal Credit in a funding round has been awarded, all remaining CAA applications shall compete in the applicable set-aside or geographic region, provided the application meets the requirements of the set-aside or geographic region, and the requirements of Section 10325.

At the conclusion of the funding round, if less than 10% of the total CAA Federal Credit remains, all unallocated CAA Federal Credit within the county/region allocations will be combined and available to remaining projects requesting CAA Federal Credits and which meet the threshold and underwriting requirements through a waiting list. The award selection will be made from the waiting list to the counties in order number of lost homes highest to lowest. Within each county, the award selection will start with the highest ranking project located within a CAA or FCAA disaster area fire perimeter, as designated by CAL FIRE and available on the CTCAC website <https://www.treasurer.ca.gov/ctcac/> first and continue within that county in rank order until no eligible applications remain.

The CAA Federal Credit amount shall not be counted towards the set asides of Section 10315, the housing type goals of Section 10315(h), or the geographic apportionments of Section 10315(i). Applications for CAA Federal Credit shall not be counted towards the four (4) awards limit of Section 10325(c). Notwithstanding Section 10325(f)(9)(C), the maximum annual Federal Tax Credits available for award to any one project in any funding round applying for CAA Federal Credit shall not exceed Four Million Dollars (\$4,000,000). Applications for CAA Federal Credit are not eligible for State Tax Credits.

- (2) Geographic Areas selection. Tax Credits remaining following reservations to all set-asides shall be reserved to projects within the geographic areas, beginning with the geographic area having the smallest apportionment, and proceeding upward according to size in the first funding round and in reverse order in the second funding round. The funding order shall be followed by funding the highest scoring application, if any, in each of the eleven regions. After each region has had the opportunity to fund one project, TCAC shall award the second highest scoring project in each region, if any, and continue cycling through the regions, filling each geographic area's apportionment. Projects will be funded in order of their rank so long as the region's last award does not cause the region's aggregate award amount to exceed 125 percent (125%) of the amount originally available for that region in that funding round. Credits allocated in excess of the Geographic Apportionments by the application of the 125% rule described above will be drawn from the second round apportionments during

the first round, and from the Supplemental Set Aside during the second round. However, all Credits drawn from the Supplemental Set Aside will be deducted from the Apportionment in the subsequent round.

When the next highest-ranking project does not meet the 125% rule then the Committee shall skip over the next highest-ranking project to fund a project requesting a smaller credit award that does meet the 125% requirement. However, no project may be funded by this skipping process unless it (a) has a point score equal to that of the first project skipped, and (b) has a final tiebreaker score equal to at least 75% of the first skipped project's final tiebreaker score.

To the extent that there is a positive balance remaining in a geographic area after a funding round, such amount will be added to the amount available in that geographic area in the subsequent funding round. Similarly, to the extent that there is a deficit in a geographic area after a funding round, such amount will be subtracted from the funds available for reservation in the next funding round. Any unused credit from the geographic areas in the second funding round will be added back into the Supplemental Set-Aside. Tax credits reserved in all geographic areas shall be counted within the housing type goals.

- (e) Application Evaluation. To receive a reservation of Tax Credits, applications selected pursuant to subsection (d) of this Section, shall be evaluated, pursuant to IRC Section 42, H & S Code Sections 50199.4 through 50199.22, R & T Code Sections 12206, 17058, and 23610.5, and these regulations to determine if; eligible, by meeting all program eligibility requirements; complete, which includes meeting all basic threshold and additional threshold requirements; and financially feasible. In scoring and evaluating project applications, the Executive Director shall have the discretion to interpret the intent of these regulations and to score and evaluate applications accordingly. Applicants understand that there is no "right" to receive Tax Credits under these regulations. The Committee shall make available to the general public a written explanation for any allocation of Tax Credits that is not made in accordance with the established priorities and selection criteria of these Regulations.
- (f) Basic Thresholds. An application shall be determined to be complete by demonstration of meeting the following basic threshold requirements, among other tests. All basic thresholds shall be met at the time the application is filed through a presentation of conclusive, documented evidence to the Executive Director's satisfaction.
  - (1) Housing need and demand. Applicants shall provide evidence that the type of housing proposed, including proposed rent levels, is needed and affordable to the targeted population within the community in which it is located, with evidence including a market study that meets the current market study guidelines distributed by the Committee. Market studies will be assessed thoroughly. Meeting the requirements of subsection (B) below is essential, but because other elements of the market study will also be considered, meeting those requirements in subsection (B) will not in itself show adequate need and demand for a proposed project or ensure approval of a given project. Evidence shall be conclusive, and include the most recent documentation available (prepared within one year of the application date and updated, if necessary). Evidence of housing need and demand shall include, but is not limited to:
    - (A) evidence of public housing waiting lists, by bedroom size and tenant type, if available, from the local housing authority; and
    - (B) except as provided in Section 10322(h)(10), a market study as described in Section 10322(h)(10) of these regulations, which provides evidence that:
      - (i) The proposed tenant paid rents for each affordable unit type in the proposed development will be at least ten percent (10%) below the weighted average rent for the same unit types in comparable market rate rental properties;

- (ii) Except for special needs rehabilitation projects in which at least 90% of the total units are SRO units, the proposed unit value ratio stated as dollars per square foot (\$/s.f.) will be no more than the weighted average unit value ratios for comparable market rate units;
  - (iii) In rural areas without sufficient three- and four-bedroom market rate rental comparables, the market study must show that in comparison to three- and four-bedroom market rate single family homes, the affordable rents will be at least 20% below the rents for single family homes and the \$/s.f. ratio will not exceed that of the single family homes; and
  - (iv) The demand for the proposed project's units must appear strong enough to reach stabilized occupancy – 90% occupancy for Special Needs projects and 95% for all other projects – within six months of being placed in service for projects of 150 units or less, and within 12 months for projects of more than 150 units and senior projects.
- (2) Demonstrated site control. Applicants shall provide evidence that the subject property is within the control of the applicant.
- (A) Site control may be evidenced by:
    - (i) a current title report (within 90 days of application except as provided in Section 10322(h)(35) (or preliminary title report, but not title insurance or commitment to insure) showing the applicant holds fee title or, for tribal trust land, a title status report or an attorney's opinion regarding chain of title and current title status;
    - (ii) an executed lease agreement or lease option for the length of time the project will be regulated under this program connecting the applicant and the owner of the subject property;
    - (iii) an executed disposition and development agreement connecting the applicant and a public agency; or,
    - (iv) a valid, current, enforceable contingent purchase and sale agreement or option agreement connecting the applicant and the owner of the subject property. Evidence must be provided at the time of the application that all extensions and other conditions necessary to keep the agreement current through the application filing deadline have been executed.
  - (B) A current title report (within 90 days of application except as provided in Section 10322(h)(35) (or preliminary title report, but not title insurance or commitment to insure) or for tribal trust land a title status report or an attorney's opinion regarding chain of title and current title status, shall be submitted with all applications for purposes of this threshold requirement.
  - (C) The Executive Director may determine, in her/his sole discretion, that site control has been demonstrated where a local agency has demonstrated its intention to acquire the site, or portion of the site, through eminent domain proceedings.
- (3) Enforceable financing commitment. Applicants shall provide evidence of enforceable financing commitments for at least fifty percent (50%) of the acquisition and construction financing, or at least fifty percent (50%) of the permanent financing, of the proposed project's estimated total acquisition and construction or total permanent financing requirements. An "enforceable financing commitment" must:

- (A) be in writing, stating rate and terms, and in the form of a loan, grant or an approval of the assignment/assumption of existing debt by the mortgagee;
- (B) be subject only to conditions within the control of the applicant, but for obtaining other financing sources including an award of Tax Credits;
- (C) have a term of at least fifteen (15) years if it is permanent financing;
- (D) demonstrate feasibility for fifteen (15) years at the underwriting interest rate, if it is a variable or adjustable interest rate permanent loan; and,
- (E) be executed by a lender other than a mortgage broker, the applicant, or an entity with an identity of interest with the applicant, unless the applicant is a lending institution actively and regularly engaged in residential lending; and
- (F) be accepted in writing by the proposed mortgagor or grantee, if private financing.

Substitution of such funds after a Reservation of Tax Credits may be permitted only when the source of funding is similar to that of the original funding, for example, use of a bank loan to substitute for another bank loan, or public funds for other public funds. General Partner loans or developer loans must be accompanied by documented proof of funds being available at the time of application. In addition, General Partner or developer loans to the project are unique, and may not be substituted for or foregone if committed to within the application. After a Reservation of Tax Credits an applicant may substitute Affordable Housing Program (AHP) funds provided pursuant to a program of the Federal Home Loan Bank for any other source.

Projects awarded under a Nonprofit set-aside homeless assistance priority or a Rural set-aside RHS or HOME apportionment pursuant to a funding commitment may not substitute other funds for this commitment after application to CTCAC. Failure to retain the funding may result in an award of negative points.

For projects using FHA-insured debt, the submission of a letter from a Multifamily Accelerated Processing (MAP) lender stating that they have underwritten the project and that it meets the requirements for submittal of a multifamily accelerated processing firm commitment application to HUD.

- (4) Local approvals and Zoning. Applicants shall provide evidence, at the time the application is filed, that the project as proposed is zoned for the intended use, and has obtained all applicable local land use approvals which allow the discretion of local elected officials to be applied, except that an appeal period may run 30 days beyond that application due date. Examples of such approvals include, but are not limited to, general plan amendments, rezonings, and conditional use permits. Notwithstanding the first sentence of this subsection, local land use approvals not required to be obtained at the time of application include, design review, initial environmental study assessments, variances, and development agreements. The evidence must describe the local approval process, the applicable approvals, and whether each required approval is "by right," ministerial, or discretionary. When the appeal period, if any, is concluded, the applicant must provide proof that either no appeals were filed, or that any appeals filed during that time period were resolved within that 30-day period and the project is ready to proceed.

The Committee may require, as evidence to meet this requirement, submission of a Committee-provided form letter to be signed by an appropriate local government planning official of the applicable local jurisdiction, including acknowledgment of any zoning or land use approvals pursuant to a state streamlined approval requirement.

- (5) Financial feasibility. Applicants shall provide the financing plan for the proposed project, and shall demonstrate the proposed project is financially feasible and viable as a qualified

low income housing project throughout the extended use period. A fifteen-year pro forma of all revenue and expense projections, starting as of the planned placed in service date for new construction projects, and as of the rehabilitation completion date for acquisition/rehabilitation projects, is required. The financial feasibility analysis shall use all underwriting criteria specified in Section 10327 of these regulations.

- (6) Sponsor characteristics. Applicants shall provide evidence that proposed project participants, as a Development Team, possess all of the knowledge, skills, experience and financial capacity to successfully develop, own and operate the proposed project. The Committee may conduct an investigation into an applicant's background that it deems necessary, in its sole discretion, and may determine if any of the evidence provided shall disqualify the applicant from participating in the Credit programs, or if additional Development Team members need be added to appropriately perform all program requirements.
- (7) Minimum construction standards. For preliminary reservation applications, applicants shall provide a statement that the following minimum specifications will be incorporated into the project design for all new construction and rehabilitation projects. In addition, a statement shall commit the property owner to at least maintaining the installed energy efficiency and sustainability features' quality when replacing each of the following listed systems or materials:
  - (A) Energy Efficiency. All rehabilitated buildings, both competitive and non-competitive, shall have improved energy efficiency above the modeled energy consumption of the building(s) based on existing conditions documented using the Sustainable Building Method Workbook's CTCAC Existing Multifamily Assessment Protocols and reported using the CTCAC Existing Multifamily Assessment Report template. Rehabilitated buildings shall document at least a 10% post-rehabilitation improvement over existing conditions energy efficiency achieved for the project as a whole, except that Scattered Site applications shall also document at least a 5% post-rehabilitation improvement over existing conditions energy efficiency achieved for each site. In the case of projects in which energy efficiency improvements have been completed within five years prior to the application date pursuant to a public or regulated utility program or other governmental program that established existing conditions of the systems being replaced using a HERS Rater, the applicant may include the existing conditions of those systems prior to the improvements. Furthermore, rehabilitation applicants must submit a completed Sustainable Building Method Workbook with their placed-in-service application unless they are developing a project in accordance with the minimum requirements of Leadership in Energy & Environmental Design (LEED), Passive House Institute US (PHIUS), Passive House, Living Building Challenge, National Green Building Standard ICC / ASRAE – 700 silver or higher rating or GreenPoint Rated Program.
  - (B) Landscaping. If landscaping is to be provided or replaced, a variety of plant and tree species that require low water use shall be provided in sufficient quantities based on landscaping practices in the general market area and low maintenance needs. Projects shall follow the requirements of the state Model Water Efficient Landscape Ordinance (<http://www.water.ca.gov/wateruseefficiency/landscapeordinance/>) unless a local landscape ordinance has been determined to be at least as stringent as the current model ordinance.
  - (C) Roofs. Newly installed roofing shall carry a three-year subcontractor guarantee and at least a 20-year manufacturer's warranty.
  - (D) Exterior doors. If exterior doors are to be provided or replaced, insulated or solid core, flush, paint or stain grade exterior doors shall be made of metal clad, hardwood

faces, or fiberglass faces, with a standard one-year guarantee and all six sides primed.

- (E) Appliances. All Low-Income Units shall provide a refrigerator. All non-SRO Low-Income Units shall provide a range (cooktop and oven), and all SRO Low-Income Units shall include a cooking facility (at least a cooktop or microwave). The Executive Director may waive the refrigerator and cooking facility requirement for SRO units if the project includes a common area kitchen facility for tenants. Refrigerators, dishwashers, clothes washers and dryers provided or replaced within Low-Income Units and/or in on-site community facilities shall be ENERGY STAR rated appliances, unless waived by the Executive Director.
- (F) Window coverings. Window coverings shall be provided and may include fire retardant drapes or blind.
- (G) Water heater. If water heaters are to be provided or replaced, for Low-Income Units with individual tank-type water heaters, minimum capacities are to be 28 gallons for one- and two-bedroom units and 38 gallons for three-bedroom units or larger.
- (H) Floor coverings. If floor coverings are to be provided or replaced, a hard, water resistant, cleanable surface shall be required for all kitchen and bath areas. Any carpet provided or replaced shall comply with U.S. Department of Housing and Urban Development/Federal Housing Administration UM44D.
- (I) All fiberglass-based insulation provided or replaced shall meet the Greenguard Gold Certification ([http://greenguard.org/en/CertificationPrograms/CertificationPrograms\\_childrenSchools.aspx](http://greenguard.org/en/CertificationPrograms/CertificationPrograms_childrenSchools.aspx)).
- (J) Consistent with California State law, projects with 16 or more Low-Income and Market-Rate Units must have an on-site manager's unit. Projects with at least 161 Low-Income and Market-Rate Units shall provide a second on-site manager's unit for either another on-site manager or other maintenance personnel, and there shall be one additional on-site manager's unit for either another on-site manager or other maintenance personnel for each 80 Low-Income and Market-Rate Units beyond 161 units, up to a maximum of four on-site manager's units.

Scattered site projects totaling 16 or more Low-Income and Market-Rate Units must have at least one on-site manager's unit for the entire project, and at least one manager's unit at each site where that site's building(s) consist of 16 or more Low-Income and Market-Rate Units. Scattered sites within 100 yards of each other shall be treated as a single site for purposes of the on-site manager rule only.

If an applicant or project owner proposes to utilize a low-income unit to meet California and CTCAC manager unit requirements, the following applies: (1) the unit is considered a low-income restricted unit and must comply with all requirements associated with low-income restricted units; (2) the unit is included in the applicable fraction; and (3) the tenant cannot be evicted upon employment termination. If employment is terminated, the project owner is responsible for continuing to meet California and CTCAC onsite manager unit requirements. Any application proposing to utilize a low-income unit to meet California and CTCAC manager unit requirements must include a description in the application of how the project will meet those requirements if employment is terminated.

In lieu of on-site manager units, a project may commit to employ an equivalent number of on-site full-time property management staff (at least one of whom is a property manager) and provide an equivalent number of desk or security staff who

are not tenants and are capable of responding to emergencies for the hours when property management staff is not working. All staff or contractors performing desk or security work shall be knowledgeable of how the property's fire system operates and be trained in, and have participated in, fire evacuation drills for tenants. CTCAC reserves the right to require that one or more on-site managers' units be provided and occupied by property management staff if, in its sole discretion, it determines as part of any on-site inspection that the project has not been adequately operated and/or maintained.

- (K) All new construction projects shall adhere to the provisions of California Building Code (CBC) Chapter 11(B) regarding accessibility to privately owned housing made available for public use in all respects except as follows: instead of the minimum requirements established in 11B 233.3.1.1 and 11B 233.3.1.3, all new construction projects must provide a minimum of fifteen percent (15%) of the Low-Income Units with mobility features, as defined in CBC 11B 809.2 through 11B 809.4, and a minimum of ten percent (10%) of the Low-Income Units with communications features, as defined in CBC 11B 809.5. These units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the project consistent with 24 CFR Section 8.26.

Rehabilitation projects shall provide a minimum of ten percent (10%) of the Low-Income Units with mobility features, as defined in CBC 11B 809.2 through 11B 809.4, and four percent (4%) with communications features, as defined in CBC 11B 809.5. To the maximum extent feasible and subject to reasonable health and safety requirements, these units shall be distributed throughout the project consistent with 24 CFR Section 8.26. At least one of each common area facility type and amenity, as well as paths of travel between accessible units and such facilities and amenities, the building entry and public right of way, and the leasing office or area shall also be made accessible utilizing CBC Chapter 11(B) as a design standard. In all other respects, applicable building code will apply. Projects with particular federal, state, or local funding sources may be required to meet additional accessibility requirements related to these other sources.

Except for paragraph (J) and (K), if a rehabilitation applicant does not propose to meet the requirements of this subsection, its Capital Needs Assessment must show that the standards not proposed to be met are either unnecessary or excessively expensive. The Executive Director may approve a waiver to paragraph (J) for a new construction or rehabilitation project, provided that tenants will have equivalent access to management services. The Executive Director may approve a waiver to paragraph (K) for a rehabilitation project, provided that the applicant and architect demonstrate that full compliance would be impractical or create an undue financial burden. All waivers must be approved in advance by the Executive Director.

**Compliance and Verification:** For placed-in-service applications, applicants with rehabilitation projects, with the exception of applicants developing a project in accordance with the minimum requirements of LEED, PHIUS, Passive House, Living Building Challenge, National Green Building Standard ICC / ASRAE – 700 silver or higher rating, or GreenPoint Rated Program must submit a completed Sustainable Building Method Workbook for subsection (A). For subsections (B) through (I) applicants shall submit LEED, PHIUS, Passive House, Living Building Challenge, National Green Building Standard ICC / ASRAE – 700 silver or higher rating, or GreenPoint Rated Program certification or third party certification confirming compliance from one of the following: a certified HERS Rater, a certified GreenPoint rater, a US Green Building Council certification, or the project architect. For Subsection (K), the project architect shall provide third party documentation confirming compliance. Failure to produce appropriate and acceptable third party documentation may result in negative points.

- (8) Deferred-payment financing, residual receipts payment financing, grants and subsidies. Applicants shall provide evidence that all deferred-payment financing, residual receipts payment financing, grants and subsidies shown in the application are “committed” at the time of application.
- (A) Evidence provided shall signify the form of the commitment, the loan, grant or subsidy amount, the length of the commitment, conditions of participation, and express authorization from the governing body, or an official expressly authorized to act on behalf of said governing body, committing the funds, as well as the applicant’s acceptance in the case of privately committed loans.
  - (B) Commitments shall be final and not preliminary, and only subject to conditions within the control of the applicant, with one exception, the attainment of other financing sources including an award of Tax Credits.
  - (C) Fund commitments shall be from funds within the control of the entity providing the commitment at the time of application.
  - (D) Substantiating evidence of the value of local fee waivers, exemptions or land write-downs is required.
  - (E) Substitution or an increase of such funds after a Reservation of Tax Credits may be permitted only when the source of funding is similar to the original funding, for example, private loan to substitute for private loan, public funds for public funds. AHP funds may be substituted for any funding source after a Reservation of Tax Credits if an AHP commitment is obtained after the TCAC application due date.
- (9) Project size and credit amount limitations. Project size limitations shall apply to all applications filed, pursuant to this Section.
- (A) Rural set-aside applications shall be limited to a maximum of eighty (80) Low-Income Units.  
  
Rehabilitation proposals are excepted from this limitation. The Executive Director may grant a waiver if she or he determines that the rural community is unusual in size or proximity to a nearby urban center, and that exceptional demand exists within the market area.
  - (B) The total “units” in one or more separate applications, filed by Related Parties, proposing projects within one-fourth (1/4) mile of one another, filed at any time within a twelve (12) month period, shall, for purposes of this subsection be subject to the above project size limitations, except when specifically waived by the Executive Director in unusual circumstances such as HOPE VI or large neighborhood redevelopment proposals pursuant to a specific neighborhood plan. HOPE VI and other large projects will generally be directed towards the tax-exempt bond program
  - (C) The maximum annual Federal Tax Credits available for award to any one project in any funding round shall not exceed Two Million Five Hundred Thousand (\$2,500,000) Dollars.
- (10) Projects applying for competitive Tax Credits and involving rehabilitation of existing buildings shall be required to complete, at a minimum, the higher of \$40,000 in hard construction costs per unit or 20% of the adjusted basis of the building pursuant to IRC Section 42(e)(3)(A)(ii)(I).
- (11) (A) Existing tax credit projects applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication) shall maintain the rents and income targeting levels in the existing regulatory contract for the duration of the new

regulatory contract. If the project has exhibited negative cash flow for at least each of the last three years or within the next five years will lose a rental or operating subsidy that was factored into the project's initial feasibility, the Executive Director may alter this requirement, provided that the new rents and income targeting levels shall be as low as possible to maintain project feasibility. In addition, the Executive Director may approve a reduction in the number of units for purposes of unrestricting a manager's unit, adding or increasing service or community space, or for adding bathrooms and kitchens to SRO units, provided that the existing rent and income targeting remain proportional.

- (B) If the regulatory agreement for an existing tax credit project applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication) contains a requirement to provide service amenities, even if that requirement has expired, the project shall provide a similar or greater level of services for a period of at least 15 years under the new regulatory agreement. A project obtaining maximum CTCAC points for services shall be deemed to have met this requirement. If the project has exhibited cash flow of less than \$20,000 for at least each of the last three years, will have no hard debt and fail to break even in year 15 with services, or within the next five years will lose a rental or operating subsidy that was factored into the project's initial feasibility, the Executive Director may alter this requirement, provided that the service expenditures shall be the maximum that project feasibility allows.
  - (C) For existing tax credit projects applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication), the pre-rehabilitation reserve study in the CNA shall demonstrate a rehabilitation need of at least \$5,000 per unit over the first three years. Projects for which the Executive Director has waived the requirements of Section 10320(b)(4) and projects with ten years or less remaining on the CTCAC regulatory agreement are exempt from this requirement.
  - (D) Existing tax credit projects applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication) shall not have any uncorrected compliance violations relating to over-income tenants or rent overcharges and shall not have any unpaid fines pursuant to Section 10337(f).
- (12) CTCAC shall not accept an application from any party that is debarred from applying to CDLAC.
- (13) A project that includes Low-Income Units targeted at greater than 60% AMI shall have average targeting that does not exceed 50% AMI.

A project with a tax credit reservation dated prior to, or a submitted application pending as of, March 26, 2018 may, with the discretionary approval of the Executive Director, revise its targeting prior to the recordation of the regulatory agreement to include Low-Income Units targeted at greater than 60% AMI only to accommodate existing over-income tenants, provided that the average targeting does not exceed 50% AMI.

A project including Low-Income Units targeted at greater than 60% AMI shall make the "Yes" election on line 8b of the IRS Form 8609.

- (g) Additional Threshold Requirements. To qualify for Tax Credits as a Housing Type as described in Section 10315(h), to receive points as a housing type, or to be considered a "complete" application, the application shall meet the following additional threshold requirements. A scattered site more than 1 mile from the nearest other site shall meet the requirements related to common areas, play/recreational facilities, and laundry facilities independently.
  - (1) Large Family projects. To be considered large family housing, the application shall meet the following additional threshold requirements.

- (A) At least twenty-five percent (25%) of the Low-Income Units in the project shall be three-bedroom or larger units, and for projects that receive land use entitlements on or after January 1, 2016 at least an additional twenty-five percent (25%) of the Low-Income Units in the project shall be two-bedroom or larger units, except that for projects qualifying for and applying under the At-risk set-aside, the Executive Director may grant a waiver from this requirement if the applicant shows that it would be cost prohibitive to comply;
- (B) One-bedroom Low-Income Units must include at least 450 square feet and two-bedroom Low-Income Units must include at least 700 square feet of living space. Three-bedroom Low-Income Units shall include at least 900 square feet of living space and four-bedroom Low-Income Units shall include at least 1,100 square feet of living space, unless these restrictions conflict with the requirements of another governmental agency to which the project is subject to approval. These limits may be waived for rehabilitation projects, at the discretion of the Executive Director prior to the application submission. Bedrooms shall be large enough to accommodate two persons each and living areas shall be adequately sized to accommodate families based on two persons per bedroom;
- (C) Four-bedroom and larger Low-Income Units shall have a minimum of two full bathrooms;
- (D) The project shall provide play/recreational facilities suitable and available to all tenants, including children of all ages, except for small developments of 20 units or fewer. Play/recreational area for children ages 2-12 years shall be outdoors, and the minimum square footage is 600 square feet and must include an accessible entrance point. For projects with more than 100 total units this square footage shall be increased by 5 square feet for each additional unit. Outdoor play/recreational space must be equipped with reasonable play equipment for the size of the project, and the surface must be natural or synthetic protective material. The outdoor play area of an onsite day care center may qualify as a play area for children 2-12 years for purposes of this section if it is available to children when the day care center is not open. The application must demonstrate the availability of play or recreational facilities suitable for children ages 13-17. Square footage of a community building cannot be included for the play/recreational area for children ages 13-17 unless that square footage is accessible to minors at all times between 6 a.m. and 10 p.m. except when the area is reserved for service amenities or special events.

Rehabilitation projects with existing outdoor play/recreational facilities may request a waiver of the minimum square footage requirement if outdoor play/recreational facilities of a reasonable size and type currently exist onsite. An existing project without outdoor play/recreational facilities may request a waiver from this requirement if the site is classified as a non-conforming use under its respective current zoning designation and the addition of the new facilities would trigger an entitlement process. The written waiver must be approved prior to the application submission.

The Executive Director, in her/his sole discretion may waive this requirement upon demonstration of nearby, readily accessible, recreational facilities;

- (E) The project shall provide an appropriately sized common areas. For purposes of this part, common areas shall include all interior amenity space, such as the rental office, community room, service space, computer labs, and gym, but shall not include laundry rooms or manager living units. Common areas shall meet the following size requirement: projects comprised of 30 or less total units, at least 600 square feet; projects from 31 to 60 total units, at least 1000 square feet; projects from 61 to 100 total units, at least 1400 square feet; projects over 100 total units, at least 1800 square feet. Small developments of 20 units or fewer are exempt from

this requirement. At the discretion of the Executive Director, these limits may be waived for rehabilitation projects with existing common area prior to the application submission. An existing project without common area may request a waiver from this requirement if the site is classified as a non-conforming use under its respective current zoning designation and the addition of the new facilities would trigger an entitlement process;

- (F) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development costs;
  - (G) Adequate laundry facilities shall be available on the project premises, with no fewer than one washer/dryer per 10 units. This requirement shall be reduced by 25% for projects where all units include hook-ups for washers and dryers. To the extent that tenants will be charged for the use of central laundry facilities, washers and dryers must be excluded from eligible basis. If no centralized laundry facilities are provided, washers and dryers shall be provided in each unit;
  - (H) Dishwashers shall be provided in all Low-Income Units except for studio and SRO units. A waiver for one and two bedroom units in rehabilitation projects may be granted at the sole discretion of the Executive Director due to planning or financial impracticality;
  - (I) Projects are subject to a minimum low-income use period of 55 years (50 years for projects located on tribal trust land).
- (2) Senior projects. To be considered senior housing, the application shall meet the following additional threshold requirements;
- (A) All units shall be restricted to households eligible under applicable provisions of California Civil Code Section 51.3 and the federal Fair Housing Act, and further be subject to state and federal fair housing laws with respect to senior housing;
  - (B) For new construction projects, one half of all Low-Income Units on an accessible path (ground floor and elevator-serviced) shall be mobility accessible under the provisions of California Building Code (CBC) Chapter 11(B). For rehabilitation projects, 25% of all Low-Income Units on an accessible path (ground floor and elevator-serviced) shall be mobility accessible under the provisions of CBC Chapter 11(B). All projects with elevators must comply with CBC Chapter 11(B) accessibility requirements for elevators. All project owners must provide adequate and visible notice to tenants of their ability to request conversion of their adaptable unit to an accessible unit. These units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the project consistent with 24 CFR Section 8.26. The Executive Director may approve a waiver in advance for a rehabilitation project, provided that the applicant and architect demonstrate that full compliance would be impractical or create an undue financial burden;
  - (C) Buildings over two stories shall have an elevator;
  - (D) No more than twenty percent (20%) of the Low-Income Units in the project shall be larger than one-bedroom units, unless waived by the Executive Director, when supported by a full market study;
  - (E) One-bedroom Low-Income Units must include at least 450 square feet and two-bedroom Low-Income Units must include at least 700 square feet of living space.

These limits may be waived for rehabilitation projects, at the discretion of the Executive Director, prior to application submission;

- (F) Emergency call systems shall only be required in units intended for occupancy by frail elderly populations requiring assistance with activities of daily living, and/or applying as special needs units. When required, they shall provide 24-hour monitoring, unless an alternative monitoring system is approved by the Executive Director;
  - (G) Common areas shall be provided on site, or within approximately one-half mile of the subject property. For purposes of this part, common areas shall include all interior amenity space, such as the rental office, community room, service space, computer labs, and gym, but shall not include laundry rooms or manager living units. Common areas shall meet the following size requirement: projects comprised of 30 or less total units, at least 600 square feet; projects from 31 to 60 total units, at least 1,000 square feet; projects from 61 to 100 total units, at least 1,400 square feet; projects over 100 total units, at least 1,800 square feet. Small developments of 20 units or fewer are exempt from this requirement. These limits may be waived, at the discretion of the Executive Director, for rehabilitation projects with existing common area;
  - (H) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development costs;
  - (I) Adequate laundry facilities shall be available on the project premises, with no fewer than one washer/dryer per 15 units. This requirement shall be reduced by 25% for projects where all units include hook-ups for washers and dryers. To the extent that tenants will be charged for the use of central laundry facilities, washers and dryers must be excluded from eligible basis. If no centralized laundry facilities are provided, washers and dryers shall be provided in each of the units;
  - (J) Projects are subject to a minimum low-income use period of 55 years (50 years for projects located on tribal trust land).
- (3) Special Needs projects. To be considered Special Needs housing, at least 45% of the Low-Income Units in the project shall serve populations that meet one of the following: are individuals living with physical or sensory disabilities and transitioning from hospitals, nursing homes, development centers, or other care facilities; individuals living with developmental or mental health disabilities; individuals who are survivors of physical abuse; individuals who are homeless as described in Section 10315(b); individuals with chronic illness, including HIV; homeless youth as defined in Government Code Section 12957(e)(2); families in the child welfare system for whom the absence of housing is a barrier to family reunification, as certified by a county; or another specific group determined by the Executive Director to meet the intent of this housing type. The Executive Director shall have sole discretion in determining whether or not an application meets these requirements. A development that is less than 75% special needs shall meet one of the following criteria: (i) the non-special needs Low-Income Units meet the large family or senior housing type requirements; (ii) the non-special needs Low-Income Units consist of at least 20% one-bedroom units and at least 10% larger than one-bedroom units; or (iii) at least 90% of all Low-Income Units (both special needs and non-special needs) are SRO units. The application shall meet the following additional threshold requirements:
- (A) Average targeted income for the special needs and non-special needs SRO units is no more than forty percent (40%) of the area median income;

- (B) The units/building configurations (including community space) shall meet the specific needs of the population, including kitchen needs for SRO units without full kitchens;
- (C) If the project does not have a public rental or operating subsidy committed for all special needs and non-special needs SRO units, the applicant shall demonstrate for these unsubsidized units that the target population(s) will not experience rent overburden, as supported by the market study. Rent overburden means the targeted rent is more than 30% of the target population(s) income;
- (D) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development costs;
- (E) Adequate laundry facilities shall be available on the project premises, with no fewer than one washer/dryer per 15 units. This requirement shall be reduced by 25% for projects where all units include hook-ups for washers and dryers;
- (F) Projects are subject to a minimum low-income use period of 55 years (50 years for projects located on tribal trust land);
- (G) One-bedroom Low-Income Units must include at least 450 square feet, and two-bedroom Low-Income Units must include at least 700 square feet of living space. Three-bedroom Low-Income Units shall include at least 900 square feet of living space. These bedroom and size requirements may be waived for rehabilitation projects or for projects that received entitlements prior to January 1, 2016 at the discretion of the Executive Director;
- (H) SRO units are efficiency units that may include a complete private bath and kitchen but generally do not have a separate bedroom, unless the configuration of an already existing building being proposed to be used for an SRO dictates otherwise. The minimum size for SRO Low-Income Units shall be 200 square feet, and the size shall not exceed 500 square feet. These bedroom and size requirements may be waived for rehabilitation projects or for projects that received entitlements prior to January 1, 2016 at the discretion of the Executive Director. A project that includes SRO units without complete private baths shall provide at least one bath for every eight SRO units;
- (I) A signed contract or memorandum of understanding between the developer and the service provider must accompany the Tax Credit application; and
- (J) A preliminary service plan that specifically identifies: the service needs of the projects special needs population; the organization(s) that would be providing the services to the residents; the services to be provided to the special needs population; how the services would support resident stability and any other service plan objectives; a preliminary budget displaying anticipated income and expenses associated with the services program. The Executive Director shall, in his/her sole discretion, determine whether the plan is adequate to qualify the project as a special needs project.
- (K) If the project will be operated as senior housing pursuant to fair housing laws, then the project shall have an elevator for any building over two stories and shall meet the accessibility requirements of Section 10325(g)(2)(B).
- (L) With respect to Special Needs units designated for individuals who are homeless, owners, property managers, and service providers shall comply with the core

components of Housing First, as defined in Welfare and Institutions Code Section 8255(b).

- (4) At-risk projects. To be considered At-risk housing, the application shall meet the requirements of R & T Code subsection 17058(c)(4), except as further defined in subsection (B)(i) below, as well as the following additional threshold requirements, and other requirements as outlined in this subsection:
- (A) Projects are subject to a minimum low-income use period of 55 years (50 years for projects located on tribal trust land); and
- (B) Project application eligibility criteria include:
- (i) before applying for Tax Credits, the project must meet the At-risk eligibility requirements under the terms of applicable federal and state law as verified by a third party legal opinion, except that a project that has been acquired by a qualified nonprofit organization within the past five years of the date of application with interim financing in order to preserve its affordability and that meets all other requirements of this section, shall be eligible to be considered an “at-risk” project under these regulations. A project application will not qualify in this category unless it is determined by the Committee that the project is at-risk of losing affordability on at least 50% of the restricted units due to market or other conditions. A project will not be deemed at-risk of losing affordability if the project is subject to a rent restriction with a remaining term of at least five years that restricts incomes and rents on the restricted units to an average no greater than 60% of area median income;
- (ii) the project, as verified by a third party legal opinion, must currently possess or have had within the past five years from the date of application, either:
- federal mortgage insurance, a federal loan guarantee, federal project-based rental assistance, or, have its mortgage held by a federal agency, or be owned by a federal agency; or
  - loans or grants program administered by the Department of Housing and Community Development (HCD); or
  - be currently subject to, or have been subject to, within five years preceding the application deadline, the later of Federal or State Housing Tax Credit restrictions whose compliance period is expiring or has expired within the last five years and at least 50% of whose units are not subject to any other rental restrictions beyond the term of the Tax Credit restrictions; or
  - be currently subject to, or have been subject to, within five years preceding the application deadline, California Debt Limit Allocation Committee (CDLAC) bond regulatory agreement restrictions whose compliance period is expiring or has expired within the last five years and at least 50% of whose units are not subject to any other rental restrictions beyond the term of the CDLAC restrictions;
- (iii) as of the date of application filing, the applicant shall have sought available federal incentives to continue the project as low-income housing, including, direct loans, loan forgiveness, grants, rental subsidies, renewal of existing rental subsidy contracts, etc.;
- (iv) subsidy contract expiration, mortgage prepayment eligibility, or the expiration of Housing Tax Credit restrictions, as verified by a third party legal opinion, shall occur no later than five calendar years after the year in which the application is filed, except in cases where a qualified nonprofit organization acquired the property within the terms of (i) above and would

otherwise meet this condition but for: 1) long-term use restrictions imposed by public agencies as a condition of their acquisition financing; or 2) HAP contract renewals secured by the qualified nonprofit organization for the maximum term available subsequent to acquisition;

- (v) the applicant agrees to renew all project based rental subsidies (such as Section 8 HAP or Section 521 rental assistance contracts) for the maximum term available and shall seek additional renewals throughout the project's useful life, if applicable;
  - (vi) at least seventy percent (70%) of project tenants shall, at the time of application, have incomes at or below sixty percent (60%) of area median income;
  - (vii) the gap between total development costs (excluding developer fee), and all loans and grants to the project (excluding Tax Credit proceeds) must be greater than fifteen percent (15%) of total development costs; and,
  - (viii) a public agency shall provide direct or indirect long-term financial support of at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development cost.
- (5) SRO projects. To be considered Single Room Occupancy (SRO) housing, the application shall meet the following additional threshold requirements:
- (A) Average targeted income is no more than forty percent (40%) of the area median income;
  - (B) At least 90% of all units shall be SRO units. SRO units are efficiency or studio units that may include a complete private bath and kitchen but generally do not have a separate bedroom, unless the configuration of an already existing building being proposed to be used for an SRO dictates otherwise. The minimum size for SRO units shall be 200 square feet, and the size shall not exceed 500 square feet. These bedroom size requirements may be waived for rehabilitation projects, at the discretion of the Executive Director;
  - (C) At least one bath shall be provided for every eight units;
  - (D) If the project does not have a rental subsidy committed, the application shall demonstrate that the target population can pay the proposed rents. For instance, if the target population will rely on General Assistance, the applicant shall show that for those receiving General Assistance are willing to pay rent at the level proposed;
  - (E) The project configuration, including community space and kitchen facilities, shall meet the needs of the population, and comply with Section 10325(f)(7)(E);
  - (F) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total development cost;
  - (G) Adequate laundry facilities shall be available on the project premises, with no fewer than one washer/dryer per 15 units. This requirement shall be reduced by 25% for projects where all units include hook-ups for washers and dryers;
  - (H) Projects are subject to a minimum low-income use period of 55 years (50 years for projects located on tribal trust land);

- (I) A ten percent (10%) vacancy rate shall be used unless otherwise approved by the Executive Director. Justification of a lower rate shall be included;
  - (J) New construction projects for seniors shall not qualify as SRO housing.
- (h) Waiting List. At the conclusion of the last reservation cycle of any calendar year, and at no other time, the Committee may establish a Waiting List of pending applications in anticipation of utilizing any Tax Credits that may be returned to the Committee, and/or that have not been allocated to projects with the Set-Asides or Geographic Regions for which they were intended. The Waiting List shall expire at midnight on December 31 of the year the list is established. During periods without a waiting list, complete credit awards returned by successful geographic apportionment competitors shall be returned to the apportionment of origin.

Staff shall score, rank and evaluate applications on the Waiting List and make selections from the Waiting List as follows:

- (1) If Credits are fully returned from projects originally funded under Set-Asides or Geographic Apportionments, applications qualifying under the same Set-Aside or Geographic Region will be selected in the order of their ranking. With respect to such a Set-Aside, one or more projects shall receive a reservation until all Credits in a Set-Aside are reserved. With respect to such Geographic Regions in which credits remain available, projects will be funded in order of their rank so long as the region's last award does not cause the region's aggregate award amount to exceed 125 percent (125%) of the amount originally available for that region in that funding round. When the next highest-ranking project does not meet the 125% rule, the Committee shall not fund a project requesting a smaller credit award.
  - (2) Next, Waiting List projects in Set Asides or Geographic Apportionments that are not yet fully subscribed will be selected from the Waiting List for reservations. These will be selected first from the Set Asides in order of their funding sequence, and then from the Geographic Apportionments in the order of the highest to the lowest percentage by which each Apportionment is undersubscribed. (This will be calculated by dividing the unreserved Tax Credits in the apportionment by the total Apportionment.)
  - (3) Finally, after all Set-Asides and Geographic Apportionments for the current year have been achieved, or if no further projects are available for such reservations, the unallocated Tax Credits will be used for projects selected from the Waiting List, in the order of their score and tie breaker performance ranking, without regard to Set-Aside or Geographic Region. All Waiting List project reservations, except for Rural projects, will be counted toward the projects' Geographic Apportionments.
  - (4) If there are not sufficient federal Tax Credits to fully fund the next ranked application on the Waiting List, a reservation of all remaining federal Tax Credits and a binding commitment of the following year federal Tax Credits may be made to that application.
- (i) Carry forward of Tax Credits. Pursuant to Federal and state statutes, the Committee may carry forward any unused Tax Credits or Tax Credits returned to the Committee for allocation in the next calendar year.

Note: Authority cited: Section 50199.17, Health and Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Section 10326. Application Selection Criteria - Tax-exempt bond applications

- (a) General. All applications requesting Federal Tax Credits under the requirements of IRC Section 42(h)(4) for buildings and land, the aggregate basis (including land) of which is financed at least fifty percent (50%) by tax-exempt bonds, shall be eligible to apply under this Section for a reservation and allocation of Federal Tax Credits. Those projects requesting State Tax Credits pursuant to subsection (g)(1)(A) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code will also be subject to the applicable requirements of Section 10317. All applicants requesting Tax Credits for projects financed with tax-exempt bonds shall apply simultaneously to the California Debt Limit Allocation Committee (CDLAC) and CTCAC and shall use the CDLAC-TCAC Joint Application. Applications will be eligible for a reservation of tax credits only if receiving a bond allocation pursuant to a joint application.
- (b) Applicable criteria. Selection criteria for applications reviewed under this Section shall include those required by IRC Section 42(m), this Section 10326, and Sections 10300, 10302, 10305, 10320, 10322, 10327, 10328(e), 10330, 10335, and 10337 of these regulations. Other sections of these regulations shall not apply. The first funding round shall be the first application review period of a calendar year for tax-exempt bond financed projects.
- (1) Subject to conditions described in these Regulations, reservations of Federal and State Tax Credits shall be made for those applications that receive a bond allocation from CDLAC until the established State Tax Credit allocation amount is exhausted. If the last application requires more State Tax Credits than remain for the calendar year, that application will not be funded and the remaining credits will be either funded through the Waiting List or carried forward into the next calendar year.
  - (2) For State Tax Credits pursuant to Section 10317(j) of these Regulations, an amount up to \$200,000,000 in a calendar year may be allocated for housing financed by CalHFA's Mixed-Income Program (MIP) that also receives a bond allocation from CDLAC. Applications with financing by CalHFA (MIP) will be accepted in any funding round. The amount allocated for CalHFA MIP may be reduced upon agreement of the Executive Directors of CalHFA and CTCAC.

At the conclusion of the final funding round of a calendar year, the Committee may establish a Waiting List of pending applications in anticipation of utilizing any State Tax Credits that may be returned to the Committee, and/or that have not been allocated to projects for which they were intended. The Waiting List shall expire on December 31 of the year the list is established.

- (c) Application review period. The Committee may require up to sixty (60) days to review an application, and an additional thirty (30) days to consider the application for a reservation of Tax Credits. Applicants must deliver applications no less than ninety (90) days prior to the CTCAC Committee meeting in which they wish to obtain a decision. Applications not expected to receive a bond allocation from CDLAC due to relatively low CDLAC scores may or may not be fully evaluated by the CTCAC.

Applications requesting State Tax Credits allocated pursuant to subsections (g)(1)(A) and (B) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code and not in compliance with the application completeness requirements of Sections 10322(d) and (e) of these Regulations shall be considered incomplete, and shall be disqualified from receiving a reservation of Tax Credits during the cycle in which the application was determined incomplete.

- (d) Issuer determination of Credit. The issuer of the bonds may determine the Federal Tax Credit amount, with said determination verified by the Committee and submitted with the application. The issuer may request the Committee determine the Credit amount by including such request in the application.
- (e) Additional application requirements. Applications submitted pursuant to this Section shall provide the following additional information:

- (1) the name, phone number and contact person of the bond issuer; and,
  - (2) verification provided by the bond issuer of the availability of the bond financing, the actual or estimated bond issuance date, and the actual or estimated percentage of aggregate basis (including land) financed or to be financed by the bonds, and a certification provided by a third party tax professional as to the expected or actual aggregate basis (including land) financed by the proceeds of tax exempt bonds;
  - (3) the name, phone number and contact person of any entity providing credit enhancement and the type of enhancement provided.
- (f) Application evaluation. To receive a reservation of Tax Credits, applications submitted under this Section shall be evaluated, pursuant to IRC Section 42, H & S Code Sections 50199.4 through 50199.22, R & T Code Sections 12206, 17058, and 23610.5, and these regulations to determine if: eligible, by meeting all program eligibility requirements; complete, which includes meeting all basic threshold requirements; and financially feasible.
- (g) Basic thresholds. An application shall be determined to be complete by demonstration of meeting the following basic threshold requirements. All basic thresholds shall be met at the time the application is filed through a presentation of conclusive, documented evidence to the Executive Director's satisfaction. Further, in order to be eligible to be considered for Tax Credits under these regulations, the general partner(s) and management companies must not have any significant outstanding noncompliance matters relating to the tenant files or physical conditions at any Tax Credit properties in California, and any application submitted by an applicant with significant outstanding compliance matters will not be considered until the Committee has received evidence satisfactory to it that those matters have been resolved.
- (1) Housing need and demand. Applicants shall provide evidence that the type of housing proposed, including proposed rent levels, is needed and affordable to the targeted population within the community in which it is located. Evidence shall be conclusive, and include the most recent documentation available (prepared within one year of the application date). Evidence of housing need and demand shall include:
    - (A) evidence of public housing waiting lists by bedroom size and tenant type, if available, from the local housing authority; and
    - (B) a market study as described in Section 10322(h)(10) of these regulations, which provides evidence that the items set forth in Section 10325(f)(1)(B) have been met for the proposed tax-exempt bond project.

Market studies will be assessed thoroughly. Meeting the requirements of Section 10325(f)(1)(B) is essential, but because other elements of the market study will also be considered, meeting those requirements in Section 10325(f)(1)(B) will not in itself show adequate need and demand for a proposed project or ensure approval of a given project.

- (2) Demonstrated site control. Applicants shall provide evidence that the subject property is, and will remain within the control of the applicant from the time of application submission as set forth in Section 10325(f)(2).
- (3) Local approvals and Zoning. Applicants shall provide evidence that the project, as proposed, is zoned for the intended use, and has obtained all applicable local land use approvals which allow the discretion of local elected officials to be applied. Applicants requesting competitive state credits shall provide this evidence at the time the application is filed, except that an appeal period may run 30 days beyond the application due date, in which case the applicant must provide proof that either no appeals were filed, or that any appeals filed during that time period were resolved within that 30-day period and the project is ready to proceed. Examples of such approvals include, but are not limited to, general plan amendments, rezonings, conditional use permits. Notwithstanding the first sentence of this subsection, applicants need not have obtained design review approval at the time of

application. The Committee may require, as evidence to meet this requirement, submission of a Committee-provided form letter to be signed by an appropriate local government planning official of the applicable local jurisdiction.

- (4) Financial feasibility. Applicants shall provide the financing plan for the proposed project consistent with Section 10325(f)(5).
- (5) Sponsor characteristics. Applicants shall provide evidence that as a Development Team, proposed project participants possess the knowledge, skills, experience and financial capacity to successfully develop, own and operate the proposed project. The Committee shall, in its sole discretion, determine if any of the evidence provided shall disqualify the applicant from participating in the Tax Credit Programs, or if additional Development Team members need be added to appropriately perform all program requirements. General partners and management companies lacking documented experience with Section 42 requirements using the minimum scoring standards at Section 10325(c)(1)(A) and (B) shall be required to complete training as prescribed by CTCAC prior to a project's placing in service. The minimum scoring standards referenced herein shall not be obtained through the two (2) point category of "a housing tax credit certification examination of a nationally recognized housing tax credit compliance entity on a list maintained by the Committee to satisfy minimum management company experience requirements for an incoming management agent" established at Section 10325(c)(1). Applicants need not submit the third party public accountant certification that the projects have maintained a positive operating cash flow.

The State Tax Credit allocation pursuant to subsection (g)(1)(B) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code received by individuals, entities, affiliates, and related entities is limited to no more than thirty-three percent (33%) of any amount established per application review period as described in Section 10326(c) of these Regulations. This limitation is applicable to a project applicant, developer, sponsor, owner, general partner, and to parent companies, principals of entities, and family members. For the purposes of this section, related or non-arm's length relationships are further defined as those having control or joint-control over an entity, having significant influence over an entity, or participating as key management of an entity. Related entity disclosure is required at the time of application. This 33% limit is not applicable for reservations of State Tax Credits made after the month of May in each calendar year.

- (6) Minimum construction standards. Applicants shall adhere to minimum construction standards as set forth in Section 10325(f)(7).
- (7) Minimum Rehabilitation Project Costs. Projects involving rehabilitation of existing buildings shall be required to complete, at a minimum, the higher of:
  - (A) \$15,000 in hard construction costs per unit; or
  - (B) 20% of the adjusted basis of the building pursuant to IRC Section 42(e)(3)(A)(ii)(I).
- (8) (A) Existing tax credit projects applying for additional tax credits for acquisition and/or rehabilitation (i.e., resyndication) shall maintain the rents and income targeting levels in the existing regulatory contract for the duration of the new regulatory contract. If the project has exhibited negative cash flow for at least each of the last three years or within the next five years will lose a rental or operating subsidy that was factored into the project's initial feasibility, the Executive Director may alter this requirement, provided that the new rents and income targeting levels shall be as low as possible to maintain project feasibility. In addition, the Executive Director may approve a reduction in the number of units for purposes of unrestricting a manager's unit, adding or increasing service or community space, or for adding bathrooms and kitchens to SRO units, provided that the existing rent and income targeting remain proportional.

- (B) If the regulatory agreement for an existing tax credit project applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication) contains a requirement to provide service amenities, even if that requirement has expired, the project shall provide a similar or greater level of services for a period of at least 15 years under the new regulatory agreement. A project obtaining maximum CDLAC points for services shall be deemed to have met this requirement. If the project has exhibited cash flow of less than \$20,000 for at least each of the last three years, has no hard debt and fails to break even in year 15 with services, or within the next five years will lose a rental or operation subsidy that was factored into the project's initial feasibility, the Executive Director may alter this requirement, provided that the service expenditures shall be the maximum that project feasibility allows.
  - (C) For existing tax credit projects applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication), the pre-rehabilitation reserve study in the CNA shall demonstrate a rehabilitation need of at least \$5,000 per unit over the first three years. Projects for which the Executive Director has waived the requirements of Section 10320(b)(4) and projects with ten years or less remaining on the CTCAC regulatory agreement are exempt from this requirement.
- (9) A non-competitive project that includes Low-Income Units targeted at greater than 60% AMI shall have average targeting that does not exceed 60% AMI. A competitive project that includes Low-Income Units targeted at greater than 60% AMI shall have average targeting that does not exceed 50% AMI. Projects electing the average income federal set-aside must choose targeting in 10% increments of Area Median Income (i.e. 20% AMI, 30% AMI, 40% AMI, etc.).

A project with a tax credit reservation dated prior to, or a submitted application pending as of, March 26, 2018 may, with the discretionary approval of the Executive Director, revise its targeting prior to the recordation of the regulatory agreement to include Low-Income Units targeted at greater than 60% AMI only to increase the number of Low-Income Units or to accommodate existing over-income tenants, provided that the average targeting does not exceed 60% AMI for non-competitive projects or 50% AMI for competitive projects.

A project including Low-Income Units targeted at greater than 60% AMI shall make the "Yes" election on line 8b of the IRS Form 8609.

- (h) Reserved.
- (i) Tax-exempt bond reservations. Reservations of Tax Credits shall be subject to conditions as described in this Section and applicable statutes. Reservations of Tax Credits shall be conditioned upon the Committee's receipt of the reservation fee described in Section 10335 and an executed reservation letter bearing the applicant's signature accepting the reservation within twenty (20) calendar days of the Committee's notice to the applicant of the reservation.
- (j) Additional conditions on reservations. The following additional conditions shall apply to reservations of Tax Credits pursuant to this Section:
  - (1) Bonds issued. Bonds shall be issued within the time limit specified by CDLAC, if applicable; and,
  - (2) Projects shall maintain at least 10% of the total Low-Income Units at rents affordable to tenants earning 50% or less of the Area Median Income, and shall maintain a minimum 30 year affordability period.
  - (3) Projects proposing the rehabilitation of existing structures shall provide CTCAC with an updated development timetable by December 31 of the year following the year the project received its reservation of Tax Credits.

- (i) The report shall include the actual placed-in-service date or the anticipated placed-in-service date for the last building in the project and the date the project achieved full occupancy. The report shall detail the causes for any change from the original date.
- (ii) Projects proposing new construction shall provide CTCAC with an updated development timetable by December 31 of the second year following the year the project received its reservation of Tax Credits. The update shall include the actual placed-in-service date for the last building in the project and the date that the project achieved full occupancy; or the date the project is anticipated to achieve full occupancy.

Other conditions, including cancellation, disqualification and other sanctions imposed by the Committee in furtherance of the purposes of the Credit programs.

- (4) Projects intended for eventual tenant homeownership must submit, at application, evidence of a financially feasible program, incorporating, among other items, an exit strategy, home ownership counseling, funds to be set aside to assist tenants in the purchase of units, and a plan for conversion of the facility to home ownership at the end of the initial 15 year compliance period. In such a case, the regulatory agreement will contain provisions for the enforcement of such covenants.
- (k) Placed-in-service. Upon completion of construction of the proposed project, the applicant shall submit documentation required by Section 10322(i).

Note: Authority cited: Section 50199.17, Health and Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

#### Section 10327. Financial Feasibility and Determination of Credit Amounts

- (a) General. Applicants shall demonstrate that the proposed project is financially feasible as a qualified low income housing project. Development and operational costs shall be reasonable and within limits established by the Committee, and the Committee may adjust these costs and any corresponding basis at any time prior to issuance of tax forms. Approved sources of funds shall be sufficient to cover approved uses of funds, except that initial application errors resulting in a shortage of sources up to the higher of \$100,000 or 50% of the contingency line item shall be deemed covered by the contingency line item. If it is determined that sources of funds are insufficient, an application shall be deemed not to have met basic threshold requirements and shall be considered incomplete. Following its initial and subsequent feasibility determinations, the Committee may determine a lesser amount of Tax Credits for which the proposed project is eligible, pursuant to the requirements herein, and may rescind a reservation or allocation of Tax Credits in the event that the maximum amount of Tax Credits achievable is insufficient for financial feasibility.
- (b) Limitation on determination. A Committee determination of financial feasibility in no way warrants to any applicant, investor, lender or others that the proposed project is, in fact, feasible.
- (c) Reasonable cost determination. IRC Section 42(m) requires that the housing Credit dollar amount allocated to a project not exceed the amount the housing Credit agency determines is necessary for the financial feasibility of the project. The following standards shall apply:
  - (1) Builder overhead, profit and general requirements. An overall cost limitation of fourteen percent (14%) of the cost of construction shall apply to builder overhead, profit, and general requirements, excluding builder's general liability insurance. For purposes of builder overhead and profit, the cost of construction includes offsite improvements, demolition and

site work, structures, prevailing wages, and general requirements. For purposes of general requirements, the cost of construction includes offsite improvements, demolition and site work, structures, and prevailing wages. Project developers shall not enter into fixed-price contracts that do not account for these restrictions, and shall disclose any payments for services from the builder to the developer.

(2) Developer fee.

- (A) The maximum developer fee that may be included in project costs and eligible basis for 9% competitive credit new construction, rehabilitation only, or adaptive reuse applications applying under Section 10325 of these regulations is the lesser of 15% of the project's unadjusted eligible basis and 15% of the basis for non-residential costs included in the project allocated on a pro rata basis or two million two hundred thousand (\$2,200,000) dollars. The maximum developer fee that may be included in project costs and eligible basis for a 9% competitive credit acquisition/rehabilitation application is the lesser of 15% of the project's unadjusted eligible construction related basis plus 5% of the project's unadjusted eligible acquisition basis and 15% for the basis for non-residential costs included in the project allocated on a pro rata basis or two million two hundred thousand (\$2,200,000) dollars.
- (B) For 4% credit applications applying under Section 10326 of these regulations, the maximum developer fee that may be included in project costs and eligible basis shall be as follows:
- (i) for new construction, rehabilitation only, or adaptive reuse projects, the maximum developer fee is the sum of 15% of the project's unadjusted eligible basis and 15% of the basis for non-residential costs included in the project allocated on a pro rata basis. All developer fees in excess of two million five hundred thousand (\$2,500,000) dollars plus \$20,000 per unit for each Tax Credit unit in excess of 100 shall be deferred or contributed as equity to the project.
- (ii) For acquisition/rehabilitation projects, the maximum developer fee is 15% of the unadjusted eligible construction related basis and 5% of the unadjusted eligible acquisition basis and 15% of the basis for non-residential costs included in the project allocated on a pro rata basis. All developer fees in excess of two million five hundred thousand (\$2,500,000) dollars plus \$20,000 per unit for each Tax Credit Unit in excess of 100 shall be deferred or contributed as equity to the project. A 15% developer fee on the acquisition portion will be permitted for at-risk developments meeting the requirements of section 10325(g)(4) or for other acquisition/rehabilitation projects, except for existing tax credit projects applying for a new reservation of tax credits for acquisition (i.e. resyndication), whose hard construction costs per unit in rehabilitation expenditures are at least \$50,000 or where the development will restrict at least 30% of its Low Income Units for those with incomes no greater than 50% of area median and restrict rents concomitantly.
- (C) For purposes of this subsection, the unadjusted eligible basis is determined without consideration of the developer fee. With exception of 4% projects with a 2016 or later reservation, the developer fee in cost and in basis shall not be increased once established by a reservation of Tax Credits but may be decreased in the event of a modification in basis. Once established by a reservation of Tax Credits, the developer fee in cost and in basis for a 4% project with a 2016 or later reservation may increase or decrease in the event of modification in basis, and in the cases it is increased, the entire increase shall be additionally deferred or contributed as equity to the project. The maximum developer fees above apply to projects developed as multiple simultaneous phases using the same credit type: (2)(A) applies to all

simultaneous phases using all 9% credits and (2)(B) above applies to all simultaneous phases using all 4% credits. Only when the immediately preceding phase of an all 9% credit phased project equals or exceeds 150 units or when any other phased project is using both credit types shall the provision of (2)(A) and (2)(B) apply to each phase independently. For purposes of this limitation, "simultaneous" refers to projects consisting of a single building, or projects on the same parcel or on parcels within ¼ mile of each other and with construction start dates within six months of each other, or completion dates that are within six months of each other.

- (D) Deferred fees and costs. Deferral of project development costs shall not exceed an amount equal to seven-and-one-half percent (7.5%) of the unadjusted eligible basis of the proposed project prior to addition of the developer fee. Unless expressly required by a State or local public funding source, in no case may the applicant propose deferring project development costs in excess of half (50%) of the proposed developer fee. Tax-exempt bond projects shall not be subject to this limitation.

Deferred developer fee notes and/or agreements must be included in the placed-in-service application and the interest rates of such notes shall not exceed eight percent (8%).

- (E) Black Indigenous People of Color (BIPOC) Projects. For projects which qualify for general partner experience pursuant to Section 5230(f)(1)(B) of the CDLAC Regulations, the 15% of project's unadjusted eligible construction related basis stated in Section 10327(c)(2)(B) shall be increased to 20% of the project's unadjusted eligible construction related basis and the two million five hundred thousand (\$2,500,000) dollars in subsection (c)(2)(B)(ii) above, is increased to three million (\$3,000,000) dollars.

- (3) Syndication expenses. A cost limitation on syndication expenses, excluding bridge loan costs, shall be twenty percent (20%) of the gross syndication proceeds, if the sale of Tax Credits is through a public offering or private Securities and Commission Regulation D offering, and ten percent (10%) of the gross syndication proceeds, if the sale is through a private offering. The Executive Director may allow exceptions to the above limitation, in amounts not to exceed twenty-four percent (24%) for public offerings and private Securities and Exchange Commission Regulation D offerings, and fifteen percent (15%) for private offerings, should the following circumstances be present: smaller than average project size; complex financing structure due to multiple sources; complex land lease or ownership structure; higher than average investor yield requirements, due to higher than average investor risk; and, little or no anticipated project cash allowing lower-than-market investor returns. Syndication costs cannot be included in eligible basis.
- (4) Net syndication proceeds. The Executive Director shall evaluate the net syndication proceeds to ensure that project sources do not exceed uses and that the sale of Tax Credits generates proceeds equivalent to amounts paid in comparable syndication raises. The Executive Director shall determine the minimum tax credit factor to be used in all applications prior to the beginning of a funding cycle for projects applying under Section 10325 for both Federal and State Tax Credits. The minimum tax credit factor for applications made under Section 10326 shall be adjusted annually based on current market conditions.
- (5) Threshold Basis Limits. At application, the Committee shall limit the unadjusted eligible basis amount, used for calculating the maximum amount of Tax Credits to amounts published on its website in effect at the time of application and in accordance with the definition in Section 10302(rr) of these regulations. At placed in service, the Committee shall limit the unadjusted eligible basis amount to the higher of the amount published on its website in effect at the time of application or in effect for the year the project places in service.

Exceptions to limits.

- (A) Increases in the threshold basis limits shall be permitted as follows for projects applying under Section 10325 or 10326 of these regulations.

A twenty percent (20%) increase to limits for a development that is paid for in whole or in part out of public funds and is subject to a legal requirement for the payment of state or federal prevailing wages or financed in part by a labor-affiliated organization that requires the employment of construction workers who are paid at least state or federal prevailing wages. An additional five percent (5%) increase to the unadjusted eligible basis shall be available for projects that certify that they are subject to a project labor agreement within the meaning of Section 2500(b)(1) of the Public Contract Code that requires the employment of construction workers who are paid at least state or federal prevailing wages or that they will use a skilled and trained workforce, as defined in Section 25536.7 of the Health and Safety Code, to perform all onsite work within an apprenticeable occupation in the building and construction trades. All applicants under this paragraph shall certify that contractors and subcontractors will comply with Section 1725.5 of the Labor Code, if applicable;

A ten percent (10%) increase to the limits for a new construction development where parking is required to be provided beneath the residential units (but not "tuck under" parking) or through construction of an on-site parking structure of two or more levels;

A two percent (2%) increase to the limits where a day care center is part of the development;

A two percent (2%) increase to the limits where 100% of the Low Income Units are for special needs populations;

A ten percent (10%) increase to the limits for a development wherein at least 95% of the project's upper floor units are serviced by an elevator.

A fifteen percent (15%) increase to the limits for a development wherein at least 95% of the building(s) is constructed as Type I as defined in the California Building Code, in which case, the Type III increase below (10%) shall not be allowed.

A ten percent (10%) increase to the limits for a development wherein at least 95% of the building(s) is constructed as (1) a Type III as defined in the California Building Code, or (2) a Type III/Type I combination, in which case, the Type I increase above (15%) shall not be allowed.

With the exception of the prevailing wage increase, the Local Impact Fee increase, and the special needs increase, in order to receive the basis limit increases by the corresponding percentage(s) listed above, a certification signed by the project architect shall be provided within the initial and placed-in-service application confirming that item(s) listed above will be or have been incorporated into the project design, respectively.

- (B) A further increase of up to ten percent (10%) in the Threshold Basis Limits will be permitted for projects applying under Section 10325 or Section 10326 of these regulations that include one or more of the following energy efficiency/resource conservation/indoor air quality items:

- (1) Project shall have onsite renewable generation estimated to produce 50 percent (50%) or more of annual tenant electricity use. If the combined available roof area of the project structures, including carports, is insufficient for provision of 50% of annual electricity use, then the project shall have onsite renewable generation based on at least 90 percent (90%) of the

available solar accessible roof area. Available solar accessible area is defined as roof area less north facing roof area for sloped roofs, equipment, solar thermal hot water and required local or state fire department set-backs and access routes. A project not availing itself of the 90% roof area exception may also receive an increase under paragraph (2) only if the renewable generation used to calculate each basis increase does not overlap. Five percent (5%)

- (2) Project shall have onsite renewable generation estimated to produce 75 percent (75%) or more of annual common area electricity use. If the combined available roof area of the project structures, including carports, is insufficient for provision of 75% of annual electricity use, then the project shall have onsite renewable generation based on at least 90 percent (90%) of the available solar accessible roof area. Available solar accessible area is defined as roof area less north facing roof area for sloped roofs, equipment, solar thermal hot water and required local or state fire department set-backs and access routes. A project not availing itself of the 90% roof area exception may also receive an increase under paragraph (1) only if the renewable generation used to calculate each basis increase does not overlap. Two percent (2%)
- (3) Newly constructed project buildings shall be more energy efficient than the 2019 Energy Efficiency Standards (California Code of Regulations, Part 6 of Title 24) by at least 5, EDR points for energy efficiency alone (not counting solar), except that if the local building department has determined that building permit applications submitted on or before December 31, 2019 are complete, then newly constructed project buildings shall be fifteen percent (15%) or more energy efficient than the 2016 Energy Efficiency Standards (California Code of Regulations, Part 6 of Title 24). Four percent (4%)
- (4) Rehabilitated project buildings shall have eighty percent (80%) decrease in estimated TDV energy use (or improvement in energy efficiency) post rehabilitation as demonstrated using the appropriate performance module of CEC approved software. Four percent (4%)
- (5) Irrigate only with reclaimed water, greywater, or rainwater (excepting water used for Community Gardens) or irrigate with reclaimed water, grey water, or rainwater in an amount that annually equals or exceeds 20,000 gallons or 300 gallons per unit, whichever is less. One percent (1%)
- (6) Community Gardens of at least 60 square feet per unit. Permanent site improvements that provide a viable growing space within the project including solar access, fencing, watering systems, secure storage space for tools, and pedestrian access. One percent (1%)
- (7) Install bamboo, stained concrete, cork, salvaged or FSC-Certified wood, natural linoleum, natural rubber, or ceramic tile in all kitchens, living rooms, and bathrooms (where no VOC adhesives or backing is also used). One percent (1%)
- (8) Install bamboo, stained concrete, cork, salvaged or FSC-Certified wood, natural linoleum, natural rubber, or ceramic tile in all interior floor space other than units (where no VOC adhesives or backing is also used). Two percent (2%)
- (9) For new construction projects, meet all requirements of the U.S. Environmental Protection Agency Indoor Air Plus Program. Two percent (2%)

Compliance and Verification: For placed-in-service applications, in order to receive the increase to the basis limit, the application shall contain a certification from a HERS, GreenPoint, NGBS Green Verifier, PHIUS, Passive House, or Living Building Challenge Rater, or from a LEED for Homes Green Rater verifying that item(s) listed above have been incorporated into the project, except that items (5) through (8) may be verified by the project architect. For item (1), the applicant must submit a Sustainable Building Method Workbook, a Multifamily Affordable Solar Home (MASH) Program field verification certification form signed by the project's solar contractor and a qualified HERS Rater, and a copy of the utility interconnection approval letter. The applicant shall use the Expected Performance Based Buydown (EPBB) calculator with monthly scalars to be determined by CTCAC, for purposes of determining the solar values to be input into the CUAC calculator. For item (2), the energy analyst shall provide documentation of the load serving the common area and the output calculations or the photovoltaic generation. For items (3) and (4), the applicant must submit a Sustainable Building Method Workbook with the original application and the placed-in-service application. For item (5), the Rater, architect, landscape architect, or water system engineer shall certify that reclaimed water, greywater, or rainwater systems have been installed and are functioning to supply sufficient irrigation to the property to meet the standards under normal conditions. Failure to incorporate the features, or to submit the appropriate documentation may result in a reduction in credits awarded and/or an award of negative points.

- (C) Additionally, for projects applying under Section 10326 of these regulations, an increase of one percent (1%) in the threshold basis limits shall be available for every 1% of the project's Low-Income and Market Rate Units that will be income and rent restricted at or below 50 percent (50%) but above thirty-five percent (35%) of Area Median Income (AMI). An increase of two percent (2%) shall be available for every 1% of the project's Low-Income and Market Rate Units that will be restricted at or below 35% of AMI. In addition, the applicant must agree to maintain the affordability period of the project for 55 years (50 years for projects located on tribal trust land).
- (D) Projects requiring seismic upgrading of existing structures, and/or projects requiring on-site toxic or other environmental mitigation may be permitted an increase in basis limit equal to the lesser of the amount of costs associated with the seismic upgrading or one-site environmental mitigation or 15% of the project's unadjusted eligible basis to the extent that the project architect or seismic engineer certifies in the application to the costs associated with such work.
- (E) An increase equal to any Local Development Impact Fees as defined in Section 10302 of these regulations if the fees are documented in the application submission by the entities charging such fees.
- (F) In a county that has an unadjusted 9% threshold basis limit for a 2-bedroom unit equal to or less than \$400,000, a ten percent (10%) increase to the project's threshold basis limit for a development located in a census tract, or census block group as applicable, designated on the TCAC/HCD Opportunity Area Map as Highest or High Resource.

An applicant may choose to utilize the census tract, or census block group as applicable, resource designation from the TCAC/HCD Opportunity Maps in effect when the initial site control was obtained up to seven calendar years prior to the application.

- (6) Acquisition costs. All applications must include the cost of land and improvements in the Sources and Uses budget, except that (i) competitive projects with donated land and/or improvements shall include the appraised value of the donated land and improvements that is not nominal, and (ii) projects on tribal trust land need only provide an improvement cost

or value. If the acquisition for a new construction project involves a Related Party, the applicant shall disclose the relationship at the time of initial application.

Once established in the initial application, the acquisition cost of a new construction site shall not increase except as provided below for land and improvements donated or leased. Except as allowed pursuant to Section 10322(h)(9)(A) or by a waiver pursuant to this section below for projects basing cost on assumed debt, neither the purchase price nor the basis associated with existing improvements, if any, shall increase during all subsequent reviews including the placed in service review, for the purpose of determining the final award of Tax Credits.

If land or land and improvements (real property) are donated to the general partner or member of the project owner and if approved by CTCAC in advance, the general partner or member may sell the real property to the project for an amount equal to the donated value established in the application provided that: there must be a seller carryback loan for the full amount of the sale, the loan must be "soft," having a term of at least 15 years, a below market interest rate and interest accrual, and be either fully deferred or require only residual receipts payments for the loan term. Alternatively, the value may be a capital contribution of a general partner or member. Once established in the initial application, the donated value of the real property shall not increase.

If land or land and improvements (real property) are donated or are leased for a mandatory lease payment of \$100 per year or less, and if approved by CTCAC in advance, the donation value established in the application may be a capital contribution of a general partner or member. Once established in the initial application, the donated value of the real property/lease shall not increase.

- (A) New Construction. The cost of land acquired through a third party transaction with an unrelated party shall be evidenced by a sales agreement, purchase contract, or escrow closing statement. The value of land acquired from a Related Party shall be underwritten using the lesser of the current purchase price or appraised value pursuant to Section 10322(h)(9). If the purchase price exceeds appraised value, the applicant shall, within the shortfall calculation section of the basis and credits page of the application only, reduce the project cost and the soft permanent financing by the overage. For all other purposes, the project cost shall include the overage.

The value of donated land, including land donated as part of an inclusionary housing ordinance, must be evidenced by an appraisal pursuant to Section 10322(h)(9).

- (B) Rehabilitation. Except as noted below, the applicant shall provide a sales agreement or purchase contract in addition to the appraisal. The value of land and improvements shall be underwritten using the lesser amount of the purchase price or the "as is" appraised value of the subject property (as defined in Section 10322(h)(9)) and its existing improvements without consideration of the future use of the property as rent restricted housing except if the property has existing long term rent restrictions that affect the as-is value of the property. The land value shall be based upon an "as if vacant" value as determined by the appraisal methodology described in Section 10322(h)(9) of these regulations. If the purchase price is less than the appraised value, the savings shall be prorated between the land and improvements based on the ratio in the appraisal. If the purchase price exceeds appraised value, the applicant shall (i) limit improvements acquisition basis to the amount supported by the appraisal and (ii) within the shortfall calculation section of the basis and credits page of the application only, reduce the project cost and the soft permanent financing, exclusive of any developer fee that must be deferred or contributed pursuant to Section 10327(c)(2)(B), by the overage. For all other purposes, the project cost shall include the overage.

The Executive Director may approve a waiver to underwrite the project with a purchase price in excess of the appraised value where (i) a local governmental entity is purchasing, or providing funds for the purchase of land for more than its appraised value in designated revitalization area when the local governmental entity has determined that the higher cost is justified, or (ii) the purchase price does not exceed the sum of third party debt encumbering the property that will be assumed or paid off.

For tax-exempt bond-funded properties receiving credits under Section 10326 only or in combination with State Tax Credits, and exercising the option to forgo an appraisal pursuant to Section 10322(h)(9)(A), no sales agreement or purchase contract is required, and TCAC shall approve a reasonable proration of land and improvement value consistent with similar projects in the market area.

- (7) Reserve accounts. All reserve accounts shall be used to maintain the property (which does not include repayment of loans) and/or benefit its residents, and shall remain with the project except as provided in subparagraph (B) below and except when a public lender funds rent subsidy and/or service reserves and requires repayment of unused rent subsidy and/or service reserves. If ownership of a project is transferred, the reserve accounts may be purchased by the purchaser(s) or transferee(s) for an amount equal to the reserve account(s) balance(s).
    - (A) The minimum replacement reserve deposit for projects shall be three hundred dollars (\$300) per unit per year, or for new construction or senior projects, two hundred fifty dollars (\$250) per unit per year. The on-going funding of the replacement reserve in this amount shall be a requirement of the regulatory agreement during the term of the agreement, and the owner shall maintain these reserves in a segregated account. Funds in the replacement reserve shall only be used for capital improvements or repairs.
    - (B) An operating reserve shall be funded in an amount equal to three months of estimated operating expenses and debt service under stabilized occupancy. Additional funding will be required only if withdrawals result in a reduction of the operating reserve account balance to 50% or less of the originally funded amount. An equal, verified operating reserve requirement of any other debt or equity source may be used as a substitute, and the reserve may be released following achievement of a minimum annual debt service ratio of 1.15 for three consecutive years following stabilized occupancy only to pay deferred developer fee. The Committee shall allow operating reserve amounts in excess of industry norms to be considered "reasonable costs," for purposes of this subsection, only for homeless assistance projects under the Non-Profit Set-Aside, as described in Section 10315(b), Special Needs projects, HOPE VI projects, or project based Section 8 projects. The original Sources and Uses budget and the final cost certification shall demonstrate the initial and subsequent funding of the operating reserves.
  - (8) Applicant resources. If the applicant intends to finance part or all of the project from its own resources (other than deferred fees), the applicant shall be required to prove, to the Executive Director's satisfaction, that such resources are available and committed solely for this purpose, including an audited certification from a third party certified public accountant that applicant has sufficient funds to successfully accomplish the financing.
  - (9) Self-syndication. If the applicant or a Related Party intends to be the sole or primary tax credit investor in a project, the project shall be underwritten using a tax credit factor (i.e., price) of \$1 for each dollar of federal tax credit and \$.79 dollars for each dollar of State Tax Credit, unless the applicant proposes a higher value.
- (d) Determination of eligible and qualified basis. The Committee shall provide forms to assist applicants in determining basis. The Committee shall rely on certification from an independent,

qualified Certified Public Accountant for determination of basis; however, the Committee retains the right to disallow any basis it determines ineligible or inappropriate.

- (1) High Cost Area adjustment to eligible basis. Proposed projects located in a qualified census tract or difficult development area, as defined in IRC Section 42(d)(5)(c)(iii), may qualify for a thirty percent (30%) increase to eligible basis, subject to Section 42, applicable California statutes and these regulations. Pursuant to Authority granted by IRC §42(d)(5)(B)(v), CTCAC designates credit ceiling applications relating to sites that have lost their difficult development area or qualified census tract status within the previous 12 months as a difficult development area (DDA).
  - (2) Pursuant to Authority granted by IRC §42(d)(5)(B)(v), CTCAC designates credit ceiling applications proposing a project meeting the Special Needs housing type threshold requirements at Section 10325(g)(3) as a difficult development area (DDA).
  - (3) Pursuant to authority granted by IRC §42(d)(5)(B)(v), CTCAC designates credit ceiling applications seeking state credits for which there are insufficient state credits as a difficult development area (DDA).
  - (4) Pursuant to authority granted by IRC §42(d)(5)(B)(v), CTCAC designates credit ceiling applications for Federal Credit established by the Further Consolidated Appropriations Act, 2020 or the Consolidated Appropriations Act, 2021 as a difficult development area (DDA).
- (e) Determination of Credit amounts. The applicant shall determine, and the Committee shall verify, the maximum allowable Tax Credits and the minimum Tax Credits necessary for financial feasibility, subject to all conditions of this Section. For purposes of determining the amount of Tax Credits, the project's qualified basis shall be multiplied by an applicable Credit percentage established by the Executive Director, prior to each funding cycle. The percentage shall be determined taking into account recently published monthly Credit percentages.
- (f) Determination of feasibility. To be considered feasible, a proposed project shall exhibit positive cash flow after debt service for a 15-year minimum term beginning at stabilized occupancy, or in the case of acquisition/rehabilitation projects, at the completion of rehabilitation. "Cash flow after debt service" is defined as gross income (including (1) all rental income generated by proposed initial rent levels contained within the project application and (2) committed federal, state, and local rental subsidies; excluding income generated by tenant-based rental subsidies) minus vacancy, operating expenses, property taxes, service and site amenity expenses, operating and replacement reserves and must pay debt service (not including residual receipts debt payments). Expenses that do not continue through all 15 years of the pro forma shall be excluded from the evaluation of feasibility as well as from the minimum debt service coverage ratio and cash flow parameters pursuant to Section 10327(g)(6). For applications that qualify for a reservation of Tax Credits: (1) from the Nonprofit set-aside homeless assistance apportionment, (2) with special needs units comprising at least 25% of the low-income units, or (3) with an average targeted affordability of 40% of Area Median Income or less, capitalized operating reserves in excess of the 3-month minimum amount may be added to gross income for purposes of determining "cash flow after debt service." In addition, applications with a committed capitalized operating subsidy reserve from HCD, CalHFA, or another public entity approved by the Executive Director may add withdrawals from this reserve to gross income for purposes of determining "cash flow after debt service."
- (g) Underwriting criteria. The following underwriting criteria shall be employed by the Committee in a pro forma analysis of proposed project cash flow to determine the minimum Tax Credits necessary for financial feasibility and the maximum allowable Tax Credits. The Committee shall allow initial applicants to correct cash flow shortages or overages up to the higher of \$25,000 or 0.5% of gross income at placed in service. In addition, if the operating expenses are below the published amount pursuant to subparagraph (1), the CTCAC Executive Director may correct the error by increasing the operating expenses to the published amount, provided the increase maintains compliance with all other feasibility and underwriting criteria.

- (1) The fifteen year pro forma revenue and expense projection calculations shall utilize a two-and-one-half percent (2.5%) increase in gross income, a three-and-one-half percent (3.5%) increase in operating expenses (excluding operating and replacement reserves set at prescribed amounts), and a two percent (2%) increase in property taxes.
  - (A) Where a private conventional lender and project equity partner use a 2% gross income and 3% operating expense increase underwriting assumption, CTCAC shall accept this methodology as well.
  - (B) For projects with a HUD rental subsidy that will receive a subsidy layering review from CTCAC, CTCAC shall accept 2% gross income, 3% operating expense increase, and 7% vacancy underwriting assumptions.

For purposes of the pro forma projections only, the application form Subsidy Contract Calculation may utilize post-rehabilitation rental subsidy contract rent assumptions when applicable.

Minimum operating expenses shall include expenses of all manager units and market rate units, and must be at least equal to the minimum operating expense standards published by the Committee staff annually. The published minimums shall be established based upon periodic calculations of operating expense averages annually reported to CTCAC by existing tax credit property operators. The minimums shall be displayed by region, and project type (including large family, senior, and Special Needs), and shall be calculated at the reported average or at some level discounted from the reported average. The Executive Director may, in his/her sole discretion, utilize operating expenses up to 15% less than required in this subsection for underwriting when the equity investor and the permanent lender are in place and provide evidence that they have agreed to such lesser operating expenses. These minimum operating expenses do not include property taxes, replacement reserves, depreciation or amortization expense, compliance monitoring or lender fees, or the costs of any site or service amenities.

Special needs projects that are less than 100% special needs shall prorate the operating expense minimums, using the special needs operating expenses for the special needs units, and the other applicable operating expense minimums for the remainder of the units.

- (2) Property tax expense minimums shall be one percent (1%) of total replacement cost, unless:
  - (A) the verified tax rate is higher or lower;
  - (B) the proposed sponsorship of the applicant includes an identified 501(c)(3) corporate general partner which will pursue a property tax exemption; or
  - (C) the proposed sponsorship of the applicant includes a Tribe or tribally-designated housing entity.
- (3) Vacancy and collection loss rates shall be ten percent (10%) for special needs units and non-special needs SRO units without a significant project-based public rental subsidy, unless waived by the Executive Director based on vacancy data in the market area for the population to be served. Vacancy and collection loss rates shall be between five and ten percent (5-10%) for special needs units and non-special needs SRO units with a significant project-based public rental subsidy. Vacancy and collection loss rates shall be five percent (5%) for all other units.
- (4) Loan terms, including interest rate, length of term, and debt service coverage, shall be evidenced as achievable and supported in the application, or applicant shall be subject to the prevailing loan terms of a lender selected by the Committee.

- (5) Variable interest rate permanent loans shall be considered at the underwriting interest rate, or, alternatively, at the permanent lender's underwriting rate upon submission of a letter from the lender indicating the rate used by it to underwrite the loan. All permanent loan commitments with variable interest rates must demonstrate that a "ceiling" rate is included in the loan commitment or loan documentation. If not, the permanent loan will not be accepted by CTCAC as a funding source.
- (6) Minimum and Maximum Debt Service Coverage. An initial debt service coverage ratio equal to at least 1.15 to 1 in at least one of the project's first three years is required, except for FHA/HUD projects, RHS projects or projects financed with hard debt by the California Housing Finance Agency. Debt service does not include residual receipts debt payments. Except for projects in which less than 50% of the units are Tax Credit Units or where a higher first year ratio is necessary to meet the requirements of subsection 10327(f) (under such an exception the year-15 cash flow shall be no more than the greater of 1) two percent (2%) of the year-15 gross income or 2) the lesser of \$500 per unit or \$25,000 total), "cash flow after debt service" shall be limited to the higher of twenty-five percent (25%) of the anticipated annual must pay debt service payment or eight percent (8%) of gross income, during each of the first three years of project operation. Gross income includes rental income generated by proposed initial rent levels contained with the project application.

9% credit applications without a HUD subsidy layering review: A pro forma statement utilizing CTCAC underwriting requirements and submitted to CTCAC at initial application; application at 180 days or 194 days pursuant to Section 10328(c); and placed in service application review must demonstrate that this limitation is not exceeded during the first three years of the project's operation.

All other applications: A pro forma statement utilizing CTCAC underwriting requirements and submitted to CTCAC at initial application; application at 180 days or 194 days pursuant to Section 10328(c); and if applicable, application at subsidy layering review must demonstrate that this limitation is not exceeded during the first three years of the project's operation. For these applications, effective November 1, 2019 CTCAC underwriting requirements for placed in service applications currently under review pursuant to Section 10322(i) are eliminated.

- (7) The income from the residential portion of a project shall not be used to support any negative cash flow of a commercial portion. Alternatively, the commercial income shall not support the residential portion. Applicants must provide an analysis of the anticipated commercial income and expenses. At placed in service, an applicant with commercial space shall provide a written communication from the hard lender specifying the portion of the loan that is underwritten with commercial income and, if greater than zero, the corresponding annual commercial debt service payments.
- (8) Existing tax credit projects applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication) that are subject to the hold harmless rent provisions of the federal Housing and Economic Recovery Act of 2008 (HERA) at application may, at the request of the applicant, be underwritten at the hold harmless rent limits to the extent that they do not exceed the elected federal set-aside current tax credit rent limits, except that the application of the rent adjuster shall be delayed for a number of years equal to the percentage difference between the hold harmless rent limits and the current tax credit rent limits, with the result divided by 2.5 and rounded to the nearest year. The new regulatory agreement shall reflect the current tax credit rent limits, but the project may continue to charge hold harmless HERA rents for units targeted below the elected federal set-aside (i.e., 40% of units at 60% AMI or 20% of units at 50% AMI) provided that the hold harmless rents do not exceed the rent level for the applicable elected federal set-aside and only until such time as the current tax credit rent limits equal or exceed the hold harmless rents.

Note: Authority cited: Section 50199.17, Health and Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

#### Section 10328. Conditions on Credit Reservations

- (a) General. All reservations of Tax Credits shall be conditioned upon:
- (1) timely project completion;
  - (2) receipt of amounts of Tax Credits no greater than necessary for financial feasibility and viability as a qualified low-income housing project throughout the extended use period;
  - (3) income targets as proposed in the application; and,
- (b) Preliminary reservations. Preliminary reservations of Tax Credits shall be subject to conditions as described in this subsection and applicable statutes. Reservations of Tax Credits shall be conditioned upon the Committee's receipt of the performance deposit described in Section 10335 and an executed reservation letter bearing the applicant's signature accepting the reservation within twenty (20) calendar days of the Committee's notice to the applicant of the preliminary reservation. However, should the 20-day period for returning the executed reservation letter continue past December 15 of any year, an applicant may be required to execute and return the reservation letter in less than twenty (20) days in order that the reservation be effective. Failure to comply with any shortened period would invalidate the reservation offer and permit the Committee to offer a reservation to the next eligible project.
- (c) Except for those applying under section 10326 of these regulations, applicants receiving a Credit reservation but who did not receive maximum points in the Readiness to Proceed point category shall provide the Committee with a completed updated application form no later than 180 days or 194 days, as applicable, following Credit reservation.

Upon receipt of the updated application form, the Committee shall conduct a financial feasibility and cost reasonableness analysis for the proposed project, and determine if all conditions of the preliminary reservation have been satisfied. Substantive changes to the approved application, in particular, changes to the financing plan or costs, need to be explained by the applicant in detail, and may cause the project to be reconsidered by the Committee.

- (d) Carryover Allocations. Except for those applying under section 10326 of these regulations, applicants receiving a Credit reservation shall satisfy either the Placed-in-service requirements pursuant to subsection 10322(i) or carryover allocation requirements in the year the reservation is made, pursuant to IRC Section 42(h)(1)(E) and these regulations, as detailed below. An application for a carryover allocation must be submitted by October 31 of the year of the reservation, together with the applicable allocation fee, and all required documentation, except that the time for meeting the "10% test" and submitting related documentation, and owning the land, will be no later than twelve (12) months after the date of the carryover allocation.
- (1) Additional documentation and analysis. The Executive Director may request, and the holder of a Credit reservation shall provide, additional documentation required for processing a carryover allocation.
  - (2) In addition to the requirements of the Internal Revenue Code, to receive a carryover allocation an applicant shall provide evidence that applicant has maintained site control from the time of the initial application and, if the land is not already owned, will continue to maintain site control until the time for submitting evidence of the land's purchase.

- (3) Certification. The Committee shall require a certification from an applicant that has received a reservation, that the facts in the application continue to be true before a carryover allocation is made.
- (e) Placed-in-service. Within one year following the project's completion of construction, the applicant shall submit documentation required by Section 10322(i).
- (f) Additional Conditions to Reservations and Allocations of Tax Credits. Additional conditions, including cancellation, disqualification and other sanctions may be imposed by the Committee in furtherance of the purposes of the Tax Credits programs.
- (g) Reservation Exchange. A project with a reservation of Federal Credit pursuant to Section 10325 and a carryover allocation pursuant to Section 10328(d) and IRC Code § 42(h)(1)(E) that meets either of the following criteria may elect to return all of the Federal Credit in exchange for a new reservation and allocation of Federal Credits. The reservation and carryover allocation of the Federal Credits returned pursuant to this subdivision shall be deemed cancelled by mutual consent pursuant to a written agreement executed by the Committee and the applicant specifying the returned credit amount and the effective date on which the credits are deemed returned. The Committee shall concurrently issue a new reservation of Federal Credits to the project in the amount of the Federal Credits returned by the project to the Committee.
  - (1) A High-Rise Project that returns all of the Federal Credit only during January of the year immediately following the year in which the initial reservation and carryover allocation were made.
  - (2) A project which prior to the placed in service deadline the Executive Director finds, in his or her sole discretion, merits additional time to place in service because development was significantly delayed due to damage directly cause by fire, war, or act of God. In considering a request the Executive Director may consider, among other things, the extent of the damage, the length of the delay, the time remaining until the project's placed in service deadline, and the circumstances causing the damage.
  - (3) A project reserved Federal credit established by the Further Consolidated Appropriations Act, 2020 or the Consolidated Appropriations Act, 2021 that returns all of the Federal Credit only during January of the year immediately following the year in which the initial reservation and carryover allocation were made.
- (h) CTCAC may contract with accountants and contractors or construction engineers to review the accuracy and reasonableness of a subset of final cost certifications submitted each year. The owner of a project selected for review and the accountant who prepared the final cost certification for such a project shall provide all requested information and generally facilitate the review.

Note: Authority cited: Section 50199.17, Health and Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

#### Section 10330. Appeals

- (a) Availability. No applicant may appeal the Committee staff evaluation of another applicant's application. An applicant may file an appeal of a Committee staff evaluation, limited to:
  - (1) determination of the application point score;
  - (2) disqualification from participation in the program pursuant to subsection 10325(c);

- (3) qualification for “additional threshold requirements,” pursuant to subsection 10325(g); and, determination of the Credit amount, pursuant to Section 10327.
- (b) (1) Procedure for application appeals. An appeal related to an application must be submitted in writing and received by the Committee no later than seven (7) calendar days following the transmittal date of the Committee staff’s point or disqualification letter. The appeal shall identify specifically, based upon previously submitted application materials, the applicant’s grounds for the appeal.

Staff will respond in writing to the appeal letter within seven (7) days after receipt of the appeal letter. If the applicant wishes to appeal the staff response, the applicant may appeal in writing to the Executive Director within five (5) days after receipt of the staff response letter. The Executive Director will respond in writing no more than five (5) days after receipt of the appeal. If the applicant wishes to appeal the Executive Director’s decision, a final appeal may be submitted to the Committee no more than five (5) days following the date of receipt of the Executive Director’s letter. An appeal to the Committee must be accompanied by a five hundred dollar (\$500) non-refundable fee payment payable to CTCAC. No Committee appeals will be addressed without this payment. The appeal review shall be based upon the existing documentation submitted by the applicant when the application was filed. Any appeal or response due on a weekend or holiday shall be deemed to be due on the following business day.

- (2) Procedure for negative point or fine appeals. An appeal related to negative points or a fine must be submitted in writing and received by the Committee or no later than fourteen (14) days following the transmittal of a negative point or fine letter, unless the Executive Director grants an extension which shall not exceed fourteen (14) additional days. The appeal shall identify specifically the appellant’s ground for the appeal.

The Executive Director will respond in writing no more than seven (7) days after receipt of the appeal, unless the appellant requests an extension to accommodate a meeting with the Executive Director. If the appellant wishes to appeal the Executive Director’s decision, a final appeal may be submitted to the Committee no more than seven (7) days following the date of receipt of the Executive Director’s letter. An appeal to the Committee must be accompanied by a five hundred dollar (\$500) non-refundable fee payment payable to CTCAC. No Committee appeals will be addressed without this payment.

Note: Authority cited: Section 50199.17, Health and Safety Code.  
Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

#### Section 10335. Fees and Performance Deposit

- (a) Application fee.
  - (1) Every applicant for non-competitive tax credits shall be required to pay an application filing fee of \$1,000. Scattered site applications and resyndication applications shall be required to pay an application filing fee of \$1,500. This fee shall be paid to the Committee and shall be submitted with the application. This fee is not refundable.
  - (2) Every applicant for competitive tax credits shall be required to pay an application filing fee of \$2,000, except for projects with sites within the jurisdictions of multiple Local Reviewing Agencies (LRA) for which applicants shall be required to pay an additional \$1,000 application fee for each additional LRA. This fee shall be paid to the Committee and shall be submitted with the application. This fee is not refundable. Applicants reapplying in the same calendar year for an essentially similar project on the same project site shall be required to pay an additional \$1,000 filing fee to be considered in a subsequent funding

round, regardless of whether any amendments are made to the re-filed application. At the request of the applicant and upon payment of the applicable fee by the application filing deadline, applications remaining on file will be considered as is, or as amended, as of the date of a reservation cycle deadline. It is the sole responsibility of the applicant to amend its application prior to the reservation cycle deadline to meet all application requirements of these regulations, and to submit a "complete" application in accordance with Section 10322. \$1,000 of the initial application filing fee shall be provided to each official LRA which completes a project evaluation for the Committee. A LRA may waive its portion of the application filing fee. Such waiver shall be evidenced by written confirmation from the LRA, included with the application.

- (b) Allocation fee. Every applicant who receives a reservation of Tax Credits, except tax-exempt bond project applicants, shall be required to pay an allocation fee equal to four percent (4%) of the dollar amount of the first year's Federal Credit amount reserved. Reservations of Tax Credits shall be conditioned upon the Committee's receipt of the required fee paid to the Committee prior to execution of a carryover allocation or issuance of tax forms, whichever comes first. This fee is not refundable.
- (c) Appeal fee. Any applicant submitting an appeal to the Committee shall pay a fee of five hundred dollars (\$500) to CTCAC. The fee must accompany the appeal letter to the Committee.
- (d) Reservation fee. Tax-exempt bond project applicants receiving Credit reservations shall be required to pay a reservation fee equal to one percent (1%) of the annual Federal Tax Credit reserved. Reservations of Tax Credits shall be conditioned upon the Committee's receipt of the required fee within twenty (20) days of issuance of a tax-exempt bond reservation or prior to the issuance of tax forms, whichever is first.
- (e) Performance deposit. Each applicant receiving a preliminary reservation of Federal, or Federal and State (including State Farmworker), Tax Credits shall submit a performance deposit equal to four percent (4%) of the first year's Federal Credit amount reserved, but not to exceed \$100,000, including applicants with a reservation of credit on or after October 14, 2020. Notwithstanding the other provisions of this subsection, an applicant requesting Federal Tax Credits not subject to the Federal housing Credit Ceiling and requesting State Tax Credits or State Farmworker Tax Credits, shall be required to submit a performance deposit in an amount equal to two percent (2%) of the first year's State Credit amount reserved for the project, but not to exceed \$100,000. Notwithstanding the other provisions of this Section, an applicant requesting only Federal Tax Credits not subject to the Federal Credit Ceiling, shall not be required to submit a performance deposit.
  - (1) Timing and form of payment. The performance deposit shall be paid to the Committee within twenty (20) calendar days of the Committee's notice to the applicant of a preliminary reservation.
  - (2) Returned Tax Credits. If Tax Credits are returned after a reservation has been accepted, the performance deposit is not refundable, with the following exceptions. Projects unable to proceed due to a natural disaster, a law suit, or similar extraordinary circumstance that prohibits project development may be eligible for a refund. Requests to refund a deposit shall be submitted in writing for Committee consideration. Amounts not refunded are forfeited to the Committee. All forfeited funds shall be deposited in the occupancy compliance monitoring account to be used to help cover the costs of performing the responsibilities described in Section 10337.
  - (3) Refund or forfeiture. To receive a full refund of the performance deposit, the applicant shall do all of the following: place the project in service under the time limits permitted bylaw; qualify the project as a low-income housing project as described in Section 42; meet all the conditions under which the reservation of Tax Credits was made; certify to the Committee that the Tax Credits allocated will be claimed; and, execute a regulatory agreement for the project.

If the Committee cancels a Credit because of misrepresentation by the applicant either before or after an allocation is made, the performance deposit is not refundable. If the project is completed, but does not become a qualified low-income housing project, the performance deposit is not refundable.

- (4) Appeals. An applicant may appeal the forfeiture of a performance deposit, by submitting in writing, a statement as to why the deposit should be refunded. The appeal shall be received by the Committee not later than seven (7) calendar days after the date of mailing by the Committee of the action from which the appeal is to be taken. The Executive Director shall review the appeal, make a recommendation to the Committee, and submit the appeal to the Committee for a decision.
- (f) Compliance monitoring fee. The Committee shall charge a \$410 per low-income unit fee to cover the costs associated with compliance monitoring throughout the extended-use period. Generally, payment of the fee shall be made prior to the issuance of Federal and/or State tax forms. Assessment of a lesser fee, and any alternative timing for payment of the fee, may be approved at the sole discretion of the Executive Director and shall only be considered where convincing proof of financial hardship to the owner is provided. Nothing in this subsection shall preclude the Committee from charging an additional fee to cover the costs of any compliance monitoring required, but an additional fee shall not be required prior to the end of the initial 15 year compliance period.
- (g) Tax form revision fee. An owner who requests an amendment to 8609 or 3521A tax forms, including a request that occurs after CTCAC completes the drafting of these forms, shall pay a fee of \$1000 unless the Executive Director determines that the amendment is necessary due to a CTCAC error.

Note: Authority cited: Section 50199.17, Health and Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

#### Section 10337. Compliance

- (a) Regulatory Agreement. All recipients of Tax Credits, whether Federal only, or both Federal and State, are required to execute a regulatory agreement, as a condition to the Committee's making an allocation, which will be recorded against the property for which the Tax Credits are allocated, and, if applicable, will reflect all scoring criteria proposed by the applicant in the competition for Federal and/or State housing Credit Ceiling.
  - (1) For all projects receiving a reservation of competitive 9% federal tax credits on or after January 1, 2016 for which all general partners will be Qualified Nonprofit Organizations, the partnership agreement shall include a Right of First Refusal ("ROFR") for one or more of the nonprofit general partners to purchase the project after the end of the 15-year federal compliance period. The price to purchase the project under this ROFR shall be the minimum price allowed under IRC Section 42(i) plus any amounts required to be paid to the tax credit investors that remain unpaid for approved Asset Management Fees and required payments under the limited partnership agreement for tax credit adjusters that remain outstanding at the time of the sale. The applicant shall demonstrate compliance with this requirement prior to the issuance of the 8609 forms.
  - (2) For all projects receiving a reservation of 4% and 9% federal tax credits on or after January 1, 2016, the regulatory agreement shall require written approval of the Executive Director for any Transfer Event.
  - (3) Where a Project is receiving renewable project-based rental assistance or operating subsidy:

- (A) the owner shall in good faith apply for and accept all renewals available;
  - (B) if the project-based rental assistance or operating subsidy is terminated through no fault of the owner, the property owner shall notify CTCAC in writing immediately and shall make every effort to find alternative subsidies or financing structures that would maintain the deeper income targeting contained in the recorded CTCAC regulatory agreement. Upon documenting to CTCAC's satisfaction unsuccessful efforts to identify and obtain alternative resources, the owner may increase rents and income targeting for Low-Income Units above the levels allowed by the recorded regulatory agreement up to the federally-permitted maximum. Rents shall be raised only to the extent required for Financial Feasibility, as determined by CTCAC. Where possible, remedies shall include skewing rents higher on portions of the project in order to preserve affordability for units regulated by TCAC at extremely low income targeting. Any necessary rent increases shall be phased in as gradually as possible, consistent with maintaining the project's Financial Feasibility. If housing Special Needs populations, the property owner shall attempt to minimize disruption to existing households, and transition to non-Special Needs households only as necessary and upon vacancy whenever possible.
- (4) All projects that receive a reservation of Tax Credits on or after January 1, 2017 and that involve a leasehold interest shall, in addition to the regulatory agreement, execute a lease rider which shall be recorded against the property.

(b) Responsibility of owner.

- (1) Compliance. All compliance requirements monitored by the Committee shall be the responsibility of the project owner. Project owners are required to annually certify tenant incomes in conformance with IRS regulation §1.42-5(c)(3) unless the project is a 100 percent (100%) tax credit property exempted under IRC Section 142(d)(3)(A). Owners of a 100% tax credit property must perform a first annual income recertification in addition to the required initial move-in certification. After initial move-in certification and first annual recertification, owners of 100% tax credit properties may discontinue obtaining income verifications. Owners of 100% tax credit properties must continue to check for full-time student status of all households during the entire tenancy of the households and throughout the initial compliance period, and continue recordkeeping in accordance with paragraph (1) of this subsection. These requirements continue if the tax credit property is sold, transferred, or under new management. Any failure by the owner to respond to compliance reports and certification requirements will be considered an act of noncompliance and shall be reported to the IRS if reasonable attempts by the Committee to obtain the information are unsuccessful.
- (2) Accessible Units: Reasonable Accommodations. All new and existing Tax Credit projects with fully accessible units for occupancy by persons with mobility impairments or hearing, vision or other sensory impairments shall provide a preference for those units as follows.
  - (A) First, to a current occupant of another unit of the same project having handicaps requiring the accessibility features of the vacant unit and occupying a unit not having such features, or if no such occupant exists, then
  - (B) Second, to an eligible qualified applicant on the waiting list having a handicap requiring the accessibility features of the vacant unit.

When offering an accessible unit to an applicant not having handicaps requiring the accessibility features of the unit, the owner or manager shall require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.

Owners and managers shall adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with handicaps, and shall take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of the particular unit.

- (3) Homeless youth and federal student rule. After the 15-year federal compliance period has lapsed, units in a special needs project designated at reservation for homeless youth may be occupied entirely by full-time students who are not dependents of another individual.
  - (4) Prohibition against requiring tenants to participate in services. All new and existing Tax Credit projects are prohibited from requiring tenants to participate in services, unless the tenant occupies a unit assisted with a federal source that requires tenant participation in services.
- (c) Compliance monitoring procedure. As required by Section 42(m), allocating agencies are to follow a compliance monitoring procedure to monitor all Credit projects for compliance with provisions of Section 42. Compliance with Section 42 is the sole responsibility of the owner of the building for which the Credit is allowable. The Committee's obligation to monitor projects for compliance with the requirements of Section 42 does not place liability on the Committee for any owner's noncompliance, nor does it relieve the owner of its responsibility to comply with Section 42.
- (1) Record keeping. The owner of a Credit project is required to keep records for each qualified low income building in the project for each year in the compliance period showing: the total number of residential rental units in the building (including the number of bedrooms, and unit size in square feet); the percentage of Low-Income and Market Rate Units in the building that are Low-Income Units; the rent charged for each Low-Income Unit; a current utility allowance as specified in 26 CFR Section 142.10(c) and Section 10322(h)(21) of these regulations (for buildings using an energy consumption model utility allowance, that allowance must be calculated using the most recent version of the CUAC); the number of household members in each Low-Income Unit; notation of any vacant Low-Income Units; move-in dates for all Low-Income Units; low-income tenants' (i.e., household) income; documentation to support each low-income household's income certification; the eligible basis and qualified basis of the building at the end of the first year of the Credit period; and, the character and use of any nonresidential portion of the building included in the building's eligible basis.

Upon request, scattered site projects shall make these records available for inspection by CTCAC staff at a single location.

- (2) Record Retention. For each qualified low-income building in the project, and for each year of the compliance period, owners and the Committee are required to retain records of the information described above in "record keeping requirements."
  - (A) Owners shall retain documents according to the following schedule:
    - (i) for at least six years following the due date (with extensions) for filing the Federal income tax return for that year (for each year except the first year of the Credit period); and,
    - (ii) for the first year of the Credit period, at least six years following the due date (with extensions) for filing the Federal income tax return for the last year of the compliance period of the building.
    - (iii) for local health, safety, or building code violation reports or notices issued by a state or local governmental entity, until the Committee has inspected the reports or notices and completes the tenant file and unit inspections and the violation has been corrected. This subsection shall take effect beginning January 1, 2001.

- (B) The Committee shall retain records of noncompliance, or failure to certify, for at least six years beyond the Committee's filing of the respective IRS noncompliance Form 8823. Should the Committee require submission of copies of tenant certifications and records, it shall retain them for three years from the end of the calendar year it receives them. Should it instead review tenant files at the management office of the subject project, it shall retain its review notes and any other pertinent information for the same three-year period. The Committee shall retain all other project documentation for the same three-year period.
- (3) Certification requirements. Under penalty of perjury, a Credit project owner is required to annually, during each year of the compliance period, meet the certification requirements of U.S. Treasury Regulations 26 CFR 1.42-5(c), (including certifications that no finding of discrimination under the Fair Housing Act, 42 USC 3601 occurred for the project), that the buildings and low income units in the project were suitable for occupancy taking into account local health, safety, and building codes, that no violation reports were issued for any building or low income unit in the property by the responsible state or local government unit, that the owner did not refuse to lease a unit to an applicant because the applicant had a section 8 voucher or certificate, and that except for transitional or single room occupancy housing, all low income units in the project were used on a nontransient basis. The following must also be certified to by the owner:
- (A) the project met all terms and conditions recorded in its Regulatory Agreement, if applicable;
  - (B) the applicable fraction (as defined in IRC Section 42(c)(1)(B)) met all requirements of the Credit allocation as specified on IRS Form(s) 8609 (Low-Income Housing Credit Allocation Certification.);
  - (C) no change in ownership of the project has occurred during the reporting period;
  - (D) the project has not been notified by the IRS that it is no longer a "qualified low-income housing project" within the meaning of Section 42 of the IRC;
  - (E) no additional tax-exempt bond funds or other Federal grants or loans with interest rates below the applicable Federal rate have been used in the Project since it was placed-in-service; and,
  - (F) report the number of units that were occupied by Credit eligible households during the reporting period.
  - (G) the services specified in the Regulatory Agreement were provided to the tenants during the reporting period.
  - (H) if the project is subject to a cash flow limitation in its Regulatory Agreement, that the limitation has been met.
- (4) Status report, file and on site physical inspection. The Committee or its agent will conduct file and on site physical inspections for all projects no later than the end of the second calendar year following the year the last building in the project is placed-in-service, and once every three years thereafter. These physical inspections will be conducted for all buildings and common areas in each project, and for at least 20% of the low-income units in each project. The tenant file reviews will also be for at least 20% of the low-income units in each project, but may be conducted on site or off site. Each year the Committee shall select projects for which site inspections will be conducted. The projects shall be selected using guidelines established by the Executive Director for such purpose, while the units and tenant records to be inspected shall be randomly selected. Advance notice shall not be given of the Committee's selection process, or of which tenant records will be inspected at

selected projects; however, an owner shall be given reasonable notice prior to a project inspection.

- (A) A Notice of Intent to Conduct Compliance Inspection and a Project Status Report (PSR) form will be delivered to the project owner within a reasonable period before an inspection is scheduled to occur. The completed PSR form shall be submitted to the Committee by the owner prior to the compliance inspection. The Committee will review the information submitted on the PSR for compliance with income, rent and other requirements prior to performing the tenant file inspection.
  - (B) Each project undergoing a file inspection will be subject to a physical inspection to assure compliance with local health, safety, and building codes or with HUD's uniform physical condition standards. Owners shall be notified of the inspection results.
  - (C) The Committee may perform its status report, file inspection procedures and physical inspection on Credit projects even if other governmental agencies also monitor those projects. The Committee's reliance on other review findings may alter the extent of the review, solely at the Committee's discretion and as allowed by IRS regulations. The Committee may rely on reports of site visits prepared by lenders or other governmental agencies, at its sole discretion. The Committee shall, whenever possible, coordinate its procedures with those of other agencies, lenders and investors.
- (5) Notification of noncompliance. The Committee shall notify owners in writing if the owner is required to submit documents/information related to either the physical or tenant file inspection. If the Committee does not receive the information requested, is not permitted or otherwise is unable to conduct the inspections or discovers noncompliance with Section 42 as a result of its review, the owner shall be notified in writing before any notice is sent to the IRS.
  - (6) Correction period. It is the intention of the Committee that owners be given every reasonable opportunity to correct any noncompliance. Owners shall be allowed an opportunity to supply missing tenant file documents or to correct other noncompliance within a correction period no longer than ninety (90) days from the date of written notice by the Committee to the owner, unless the violation constitutes an immediate health or safety issue, in which case, the correction should be made immediately. With good cause, the Committee may grant up to a six-month extension of the correction period upon receipt of a written justification from the owner.
  - (7) IRS and FTB notification. All instances of noncompliance, whether corrected or not, shall be reported by the Committee to the IRS. This shall be done within forty-five (45) days following the termination of a correction period allowed by the Committee, pertaining to IRS Form 8823.
- (d) Change in ownership and property management. It is the project owner's responsibility to comply with the requirements of Section 10320(b) and to inform the Committee of any change in the project owner's mailing address.
    - (1) Any property management change during the 15-year federal compliance and extended use period must be to a party earning equal capacity points pursuant to Section 10325(c)(1)(A) as the exiting property management company. At a minimum this must be six (6) projects in service more than three years, or the demonstrated training required under Section 10326(g)(5). Two of the six projects must be Low Income Housing Tax Credit projects in California. If the new property management company does not meet these experience requirements, then substitution of property management shall not be permitted.

- (e) First year's 8609. Project owners shall be required to submit a copy of the executed first year's filing of IRS Form 8609 (Low-Income Housing Credit Allocation Certification) for inclusion in the Committee's permanent project records.
  
- (f)
  - (1) CTCAC may establish a schedule of fines for violations of the terms and conditions, the regulatory agreement, other agreements, or program regulations. In developing the schedule of fines, CTCAC shall establish the fines for violations in an amount up to five hundred dollars (\$500) per violation or double the amount of the financial gain because of the violation, whichever is greater. Except for serious violations, a first-time property owner violator shall be given at least 30 days to correct the violation before a fine is imposed. A violation that has occurred for some time prior to discovery is one violation, but fines may be a recurring amount if the violation is not corrected within a reasonable period of time thereafter, as determined by the Committee.
  
  - (2) CTCAC shall adopt and may revise the schedule of fines by resolution at a public general Committee meeting.
  
  - (3) A person or entity subject to a fine may appeal the fine to the Executive Director and, thereafter, to the Committee pursuant to Section 10330(b)(2).
  
  - (4) The Executive Director may approve a payment plan for any fines.
  
  - (5) If a fine assessed against a property owner is not paid within six months from the date when the fine was initially assessed and after reasonable notice has been provided to the property owner, the Committee may record a lien against the property. If the violation(s) for which the fine(s) is assessed is not corrected within 90 days of the assessed fine, the Committee may record a lien against the property.

Note: Authority cited: Section 50199.17, Health and Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

2016

## Spaces for Sharing: Micro-Units amid the Shift from Ownership to Access

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# SPACES FOR SHARING: MICRO-UNITS AMID THE SHIFT FROM OWNERSHIP TO ACCESS

*John Infranca\**

Introduction .....	1
I. Micro-Unit Residents as Sharing Economy Consumers .....	7
II. The Sharing Economy and the Residential Development Process.....	13
A. The Relationship Between Car Share and Parking Demand.....	14
B. Considering Car and Bike Share in the Land Use Approval Process .....	17
III. Living Within the Sharing Economy .....	20
IV. Implications .....	24
Conclusion.....	30

## INTRODUCTION

The sharing economy is quickly changing how people live.<sup>1</sup> Rather than hail a cab on a street corner, one can summon an Uber via a phone. Instead of staying in a cookie-cutter hotel downtown, one can explore a hip neighborhood through Airbnb. Why waste limited room on a home office or fight for a table in a coffee shop when a co-working space can fill one’s needs? Yet as dramatic as such

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1. See, e.g., John Boitnott, *7 Sharing-Economy Tools That Are Changing People’s Lives*, INC. (Oct. 1, 2014), <http://www.inc.com/john-boitnott/7-sharing-economy-tools-that-are-changing-people-s-lives.html> (describing “seven of the best sharing-economy tools that are not only helpful but also change lives”); Jacob Morgan, *Why the Collaborative Economy Is Changing Everything*, FORBES: LEADERSHIP (Oct. 16, 2014, 12:09 AM), <http://www.forbes.com/sites/jacobmorgan/2014/10/16/why-the-collaborative-economy-is-changing-everything/> [<http://perma.cc/3VVF-3LGW>] (discussing the sharing economy’s effect on consumers and businesses).

changes—in how people move around town, where they stay when travelling, and where they get work done—may be, the sharing economy is also contributing to less discussed, but potentially more dramatic, changes in where we live and in the shape of the spaces we call home.

By blurring the line between commercial and private space, the sharing economy places into question the separation of residential, commercial, and other activities that define much of twentieth century urban planning.<sup>2</sup> This Article suggests that the sharing economy's rapid growth highlights the need for a reappraisal of urban housing policy and a reconsideration of the legal barriers to certain forms of housing—housing that either relies upon the sharing economy to alleviate neighborhood concerns regarding increased density or that directly incorporates what might be termed the culture of the sharing economy into the residential experience. In particular, the sharing economy, by enabling individuals who value access rather than ownership to live with fewer personal belongings, has the potential to intensify the already significant demand for smaller housing units—often termed “micro-units”—in popular urban areas.<sup>3</sup>

There is some debate regarding the contours of the sharing economy.<sup>4</sup> This Article does not articulate and defend a precise definition. Instead, it adopts an expansive view, one that includes a range of activities that rely on the use of technology to reduce

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2. See NICOLE STELLE GARNETT, ORDERING THE CITY: LAND USE, POLICING, AND THE RESTORATION OF URBAN AMERICA 28 (2010) (“The Progressive-era reformers who championed zoning were avowed ‘positive environmentalists,’ who firmly believed that the chaos of the industrial city was morally corrupting, and, moreover, that order-construction regulations—that is, zoning rules that segregated commercial and industrial establishments from residences, and, importantly, single-family homes from all other uses—would curb the social disorders plaguing those cities.”).

3. See generally John Infranca, *Housing Changing Households: Regulatory Challenges for Micro-Units and Accessory Dwelling Units*, 25 STAN. L. & POL’Y REV. 53 (2014). This Article focuses on micro-units, but will at times note the interaction between another form of what I collectively term “compact units,” accessory dwelling units (ADUs), and the sharing economy. ADUs, which are also referred to by terms including secondary units, in-law units, and granny flats, are separate self-contained units located on the property of a single-family home. *Id.* at 54. These units may be built within an existing structure, such as an attic or basement, or may be physically separate from the primary dwelling but on the same lot, such as a backyard cottage or a unit above a garage. *Id.* at 54 n.3.

4. See, e.g., Stephen R. Miller, *First Principles for Regulating the Sharing Economy*, 53 HARV. J. ON LEGIS. (forthcoming 2016) (listing a variety of terms used to describe the sharing economy); Sofia Ranchordás, *Does Sharing Mean Caring? Regulating Innovation in the Sharing Economy*, 16 MINN. J.L. SCI. & TECH. 413, 457 (2015) (noting the absence of a clear definition of sharing economy).

transaction costs.<sup>5</sup> This includes both firms that “own goods [and] services that [customers] rent . . . on a short-term basis” and those that facilitate a peer-to-peer platform that “connect[s] providers and users for short-term exchanges of goods or services.”<sup>6</sup> The sharing economy enables individuals, through technologies that dramatically reduce transaction costs, to access goods and services in smaller and smaller units: one can rent a tool for an hour, rather than purchase it, or pay someone to pick up groceries once, rather than hire a full-time personal assistant.<sup>7</sup> Consequently, it enables individuals who value access over ownership to live a lifestyle that demands substantially less space.<sup>8</sup>

In parallel with the rise of the sharing economy, over the past few years a separate but related trend has also begun to reshape the fabric of life in urban areas. Micro-units have grown in popularity due to a combination of factors, most notably changing demographics and lifestyle choices.<sup>9</sup> Although there is no established definition, for purposes of this Article, the term “micro-unit” refers to a newly constructed housing unit that contains a private bathroom and kitchen or kitchenette, but that is significantly smaller than a standard studio in a given city.<sup>10</sup> The demographic trends and changing

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5. See *infra* notes 61–63 and accompanying text (discussing sources that define sharing economy in similar terms).

6. Daniel E. Rauch & David Schleicher, *Like Uber, but for Local Governmental Policy: The Future of Local Regulation of the “Sharing Economy”* 2 (George Mason Univ. Law & Econ. Research Paper Series No. 15-01, 2015), [http://www.law.gmu.edu/assets/files/publications/working\\_papers/1501.pdf](http://www.law.gmu.edu/assets/files/publications/working_papers/1501.pdf) [<http://perma.cc/53LY-QEAL>].

7. See *id.* at 11.

8. See Kellen Zale, *Sharing Property*, 87 U. COLO. L. REV. 501 (2016) (discussing the role of the sharing economy in providing access to rather than ownership of property); Janelle Nanos, *The End of Ownership*, BOS. MAG. (May 2013), <http://www.bostonmagazine.com/news/article/2013/04/30/end-ownership-sharing-economy/> [<http://perma.cc/8SQY-842G>] (quoting Henry Mason, the global head of research at Trendwatching.com, a consumer-tracking organization). According to the founder of Tradesy.com, peer-to-peer commerce enables “lightweight living” and a “reimagined concept of ownership that’s focused on utility rather than possession.” Thomas L. Friedman, *How to Monetize Your Closet*, N.Y. TIMES (Dec. 21, 2013), [http://www.nytimes.com/2013/12/22/opinion/sunday/friedman-how-to-monetize-your-closet.html?\\_r=0](http://www.nytimes.com/2013/12/22/opinion/sunday/friedman-how-to-monetize-your-closet.html?_r=0).

9. See Infranca, *supra* note 3, at 56–61.

10. *Id.* at 54 n.4; see also URBAN LAND INST., THE MACRO VIEW ON MICRO UNITS 4 (2014) (noting the lack of a “standard definition” of micro-unit and offering, as a “working definition,” “a small studio apartment, typically less than 350 square feet, with a fully functioning and accessibility compliant kitchen and bathroom”). This Article focuses on these units within the context of a multi-family apartment building, which may be comprised solely of micro-units or may include micro-units in addition to larger unit types.

lifestyle choices that drive much of the demand for these housing units align closely with the forces behind the rise of the sharing economy.<sup>11</sup> In terms of demographics, there has been substantial growth in the number of single-person households in all cities and throughout the nation—from about seven percent of households in the United States in 1940 to twenty-eight percent in 2010.<sup>12</sup> As a result, in some cities, including Washington, D.C., Seattle, and Denver, over forty percent of households are comprised of single individuals.<sup>13</sup> Since the housing stock in most cities was built for very different household compositions, the growing demand for smaller housing units exceeds the limited supply in most cities.<sup>14</sup> As a result, many single individuals moving to cities find roommates through Craigslist, a prominent web-based precursor to the sharing economy.<sup>15</sup> Micro-units, which are typically less expensive than conventional studio or one-bedroom units,<sup>16</sup> prove attractive to many of these same individuals by enabling them to live alone without roommates, offering privacy at a lower price point than conventional studio and one-bedroom apartments.<sup>17</sup>

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11. Cf. KAREN CHAPPLE ET AL., CTR. FOR CMTY. INNOVATION, YES IN MY BACKYARD: MOBILIZING THE MARKET FOR SECONDARY UNITS 9 (2012) (discussing ADUs in California’s East Bay and reporting survey results “suggest[ing] that car sharing members likely have many commonalities with small-scale infill housing residents given their youth, typical renter status, and small household sizes”). Compare URBAN LAND INST., *supra* note 10, at 5 (“The target market profile for micro units is predominantly young professional singles, typically under 30 years of age . . .”), with NIELSEN CO., IS SHARING THE NEW BUYING? REPUTATION AND TRUST ARE EMERGING AS NEW CURRENCIES 8 (2014) (reporting survey finding that “greater percentages of the Millennial [age twenty-one to thirty-four] segment are likely to participate in share communities, compared with older respondents”).

12. See Infranca, *supra* note 3, at 57.

13. See *id.* at 58.

14. See *id.* at 58–59.

15. See Georgios Zervas, Davide Proserpio & John W. Byers, *The Rise of the Sharing Economy: Estimating the Impact of Airbnb on the Hotel Industry* 2 (Bos. Univ. Sch. of Mgmt. Research Paper Series No. 2013-16, 2014), [http://questromworld.bu.edu/platformstrategy/files/2014/07/platform2014\\_submission\\_2.pdf](http://questromworld.bu.edu/platformstrategy/files/2014/07/platform2014_submission_2.pdf) [<http://perma.cc/88EC-GR93>] (describing Craigslist as an example of the “first phase” of the sharing economy).

16. See URBAN LAND INST., *supra* note 10, at 24. Although units may cost more on a per square foot basis, they will often cost less in total monthly rent when compared to a conventional studio or one-bedroom apartment. See *id.*

17. See Infranca, *supra* note 3, at 59 (reporting results of survey that found “62% of respondents would prefer living alone, even at a higher cost, to living in a larger apartment with a roommate”); see also URBAN LAND INST., *supra* note 10, at 17 (reporting results of survey that found “ability to live alone” ranked as the fourth most popular reason that respondents would choose micro-units over conventional-size apartments). The Urban Land Institute report identified “the desire to live alone” as “the primary motivator that draws residents to the micro-unit concept.” *Id.*

Beyond price and the potential to live without roommates, the neighborhood in which a micro-unit is located often drives consumer demand.<sup>18</sup> Micro-units have found much of their success by providing individuals with the opportunity to live in particular neighborhoods—with access to certain desirable urban amenities, such as restaurants, bars, cafes, and green space—that they might be otherwise priced out of.<sup>19</sup> Individuals who seek to live in such neighborhoods and who treat the city as their “living room” are willing to compromise on the size of a space in which they are not likely to spend considerable time.<sup>20</sup> Younger city residents, a significant, but not the only market for micro-units, are particularly likely to move to amenity-rich and higher density urban neighborhoods.<sup>21</sup>

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at 24. A separate Urban Land Institute survey examining the housing choices of millennials or Generation Y (the cohort between ages twenty and twenty-seven) found that fifty-eight percent of respondents who live with roommates would prefer to live alone. M. LEANNE LACHMAN & DEBORAH L. BRETT, URBAN LAND INST., *GEN Y AND HOUSING: WHAT THEY WANT AND WHERE THEY WANT IT* 7 (2015).

18. See LACHMAN & BRETT, *supra* note 17, at 7; see also URBAN LAND INST., *supra* note 10, at 19 (discussing results of survey of current micro-unit renters, who ranked location as the most important factor in the initial lease decision and “proximity to neighborhood amenities” as the fourth most important).

19. See, e.g., URBAN LAND INST., *supra* note 10, at 24 (reporting results of survey of micro-unit residents, who identified the desire to live in “highly desirable urban locations” as a key factor driving interest in micro-units); Emily Compton, *Could Micro-Apartments Help Ease Austin’s Housing Crunch?*, REPORTING TEX. (May 9, 2014), <http://reportingtexas.com/could-micro-apartments-help-ease-austins-housing-crunch/> [<http://perma.cc/4K66-37TE>] (quoting a developer who discussed the appeal of micro-units to young individuals “willing to have less space in order to live in a cool neighborhood and have access to the amenities of the city”); Kerry Gold, *Good Things Come in Small Packages for Millennial Buyers*, GLOBE & MAIL (Mar. 27, 2015, 5:19 PM), <http://www.theglobeandmail.com/globe-investor/personal-finance/mortgages/good-things-come-in-small-packages-for-millennial-buyers/article23671953/> (quoting developer in Vancouver, Canada, who cites strong demand for micro units among millennials “willing to trade space for affordability and walkability”).

20. Darcy Wintonyk & Lynda Steele, *A 226 Sq. Ft. Solution to Living Large in Vancouver*, CTV B.C. (Aug. 17, 2012, 10:16 AM), <http://bc.ctvnews.ca/a-226-sq-ft-solution-to-living-large-in-vancouver-1.917039> (quoting Vancouver developer who declared that, for young micro-loft tenants, “[t]he city is your living room. The city is your dining room. You don’t need to use your own resources to recreate all that when you can just step out your door and enjoy a park, a beach, a restaurant, a café”); see also URBAN LAND INST., *supra* note 10, at 18 (“With reduced unit space, surrounding amenities are an especially important consideration for potential micro-unit renters.”).

21. See Richard Florida, *Is Your Neighborhood Changing? It Might Be Youthification, Not Gentrification*, CITYLAB (Feb. 5, 2015), <http://www.citylab.com/housing/2015/02/is-your-neighborhood-changing-it-might-be-youthification-not-gentrification/385193/> [<http://perma.cc/E3ZN-5KPM>] (discussing a study of the three largest metros in Canada, which found that the “connection between density and age of residents has increased substantially over time”).

In addition to supplementing a small personal space with communal and public spaces outside of their apartment, many micro-unit residents rely upon goods and services obtained through the sharing economy, which makes it easier to live with less space. A prominent San Francisco micro-unit developer identifies “[a] decrease in car ownership, particularly among millennials; and [y]ounger households with less accumulated stuff and a growing ‘sharing economy’” among the key factors driving demand for the micro-units he develops.<sup>22</sup> An architect who designs these units remarks that “[t]he micro-unit definitely lends itself to a specific population where sharing is actually a social and communal benefit.”<sup>23</sup> And a developer behind multiple micro-unit projects in Washington, D.C., frames the market for small units in prime, transit-rich neighborhoods in these terms: “urban and urbane professionals coming into town who don’t have and don’t want cars, don’t know how long they are going to be here, don’t need a big place and don’t have or want a lot of stuff.”<sup>24</sup>

Both micro-units and the sharing economy have the potential to benefit cities that embrace them in a number of ways. Collaborative consumption and denser living in walkable neighborhoods dependent upon public transportation can both serve sustainability goals.<sup>25</sup> Given the high profile of the sharing economy and, to a lesser extent, micro-units, both hold promise for cities that want to attract residents by appearing “hip” and “on the map.”<sup>26</sup> In light of these and other potential synergies, how should city governments and urban planners

22. URBAN LAND INST., *supra* note 10, at 23.

23. Konrad Putzier, *Does Size Matter?*, THE REAL DEAL: BLOG (Apr. 28, 2015, 1:35 PM), <http://therealdeal.com/blog/2015/04/28/does-size-matter/> [<http://perma.cc/V57R-QKQ3>] (quoting architect Miriam Peterson); *see also* Compton, *supra* note 19 (quoting developer who discussed the appeal of micro-units to young individuals with few belongings who “are part of the sharing economy”).

24. *Dupont Circle: 90 Luxury Apartments for Patterson House*, DIST. SOURCE (Feb. 6, 2014), <http://districtsource.com/2014/02/dupont-circle-90-luxury-apartments-for-patterson-house/> [<http://perma.cc/QV7J-WYCM>] (quoting Mike Balban of SB-Urban).

25. *See, e.g.*, Susan Shaheen et al., *Carsharing Parking Policy: Review of North American Practices and San Francisco, California, Bay Area Case Study*, 2187 TRANSP. RES. REC. 146, 146 (2010) (noting that car sharing results in lower greenhouse gas emissions); Rachel Botsman & Roo Rogers, *Beyond Zipcar: Collaborative Consumption*, HARV. BUS. REV. (Oct. 2010), <https://hbr.org/2010/10/beyond-zipcar-collaborative-consumption/> [<https://perma.cc/M5NZ-PRXE>] (stating that collaborative consumption advances environmental goals by decreasing the emphasis on ownership).

26. *See* Rauch & Schleicher, *supra* note 6, at 5 (stating that presence of the sharing economy in a city may signal that the city is “on the map”).

consider the interaction between these housing types and the sharing economy? This Article explores a few areas of existing convergence and sketches out some theoretical and practical implications of considering these two phenomena in conjunction.

Part I explores how micro-unit residents interact with the sharing economy and suggests that the sharing economy and micro-units, both individually and in conjunction, represent a cultural shift back towards more traditional forms of urbanism. Part II discusses specific examples of how local governments are beginning to consider the provision of sharing economy infrastructure—in particular car and bike share—in the land use approval process, particularly when evaluating micro-unit developments. Part III addresses new residential developments that more expressly incorporate a culture of sharing and that at times explicitly identify as a component of the sharing economy. Finally, Part IV sketches out some theoretical and practical implications of the dynamic interaction between micro-units and the sharing economy.

### I. MICRO-UNIT RESIDENTS AS SHARING ECONOMY CONSUMERS

Elements of the sharing economy can play a crucial role in the provision of amenities that makes smaller units more attractive to both potential residents and city planners.<sup>27</sup> Developers pitch smaller housing units to target tenants who spend most of their time outside of their homes, working in cafes and socializing in bars and restaurants.<sup>28</sup> The ability to access nearby spaces and use them for daily activities that would otherwise occur within the home allows individuals to place less priority on having personal control over a private residential space that can contain all of the same activities.<sup>29</sup>

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27. Some developers provide their own sharing-economy resources as part of their buildings. For example, Chicago's FLATS, a series of micro-unit developments, offers its own bike-share program at all buildings. See Marissa Conrad, *New Small-Space Apartments in Uptown*, TIMEOUT: CHICAGO (Sept. 4, 2012), <http://www.timeout.com/chicago/shopping/new-small-space-apartments-in-uptown> [<http://perma.cc/YW5U-MBCM>].

28. See *supra* notes 19–20; James A. Kushner, *Car-Free Housing Developments: Towards Sustainable Smart Growth and Urban Regeneration Through Car-Free Zoning, Car-Free Redevelopment, Pedestrian Improvement Districts, and New Urbanism*, 23 UCLA J. ENVTL. L. & POL'Y 1, 13–16 (2005) (discussing the potential of “car-free zoning”).

29. As Lee Fennell has noted, “[h]ow much space a given household finds necessary for its well-being depends on the cultural context and on which activities are contained within the household, as opposed to being socialized within a larger community or procured privately outside the home.” Lee Anne Fennell, *Property in*

This substitution of shared space for private space over which an individual asserts exclusive control mirrors how the sharing economy substitutes access for ownership of goods.<sup>30</sup> Car and bike sharing programs provide a particularly important example of the type of sharing economy infrastructure that can directly complement micro-unit living.<sup>31</sup> The demographic to which micro-units are often pitched is less likely to drive regularly and own a car,<sup>32</sup> and is more likely to use car share programs.<sup>33</sup> Access to car sharing might also factor into the location decisions of certain residents.<sup>34</sup>

The sharing economy can complement compact housing units in other specific ways. Rather than struggle to find space in a coffee shop to work (and attempt to commandeer a space for long periods of time in exchange for a single cup of coffee or the risk of over-caffeinating),<sup>35</sup> an individual instead can pay a monthly fee for access

*Housing*, 12 ACADEMIA SINICA L.J. 31, 56 (2013); see also Infranca, *supra* note 3, at 86–87 (discussing this point in relation to micro-units and ADUs).

30. See *supra* note 8 and accompanying text.

31. See *infra* Part II.

32. See FRONTIER GRP. & U.S. PIRG EDUC. FUND, TRANSPORTATION AND THE NEW GENERATION: WHY YOUNG PEOPLE ARE DRIVING LESS AND WHAT IT MEANS FOR TRANSPORTATION POLICY 1 (2012) (“From 2001 to 2009, the average annual number of vehicle-miles traveled by young people (16 to 34-year-olds) decreased from 10,300 miles to 7,900 miles per capita – a drop of 23 percent.”). In addition, the share of 14 to 34-year-olds without a driver’s license increased from 21% to 26% from 2000 to 2010. *Id.* at 2. Certain cities are taking decreased car ownership among younger residents into account when shaping parking and public transportation policies. See Casey Ross, *City Wants a Cutback on New Parking*, BOS. GLOBE (July 5, 2013), <https://www.bostonglobe.com/business/2013/07/04/boston-limiting-new-parking-number-residences-soars/kYMnkSr6l55wBMgH4d7VKP/story.html> (“Officials also say the city’s youthful population is becoming more accustomed to life without a car.”).

33. See LACHMAN & BRETT, *supra* note 17, at 8. The Urban Land Institute’s survey of millennials/Generation Y found that “Gen Y is attracted to a variety of shared auto services: 15 percent report using Zipcar or other car-sharing systems, and another 22 percent say they would avail themselves of such options if they existed in their communities.” *Id.*

34. See Jessica ter Schure et al., *Cumulative Impacts of Carsharing and Unbundled Parking on Vehicle Ownership and Mode Choice*, 2319 TRANSP. RES. REC. 96, 102 (2012) (reporting, based on a survey conducted in San Francisco, that “[s]eventeen percent of respondents that did not have a vehicle stated that the presence of carsharing had a large impact on their decision to move to their current location”).

35. Perhaps, in response to this tendency, Ziferblat, a “pay-per-minute café” or “coffice,” charges customers for the time they are in the space. Vicky Baker, *London’s First Pay-Per-Minute Café: Will the Idea Catch On?*, GUARDIAN (Jan. 8, 2014, 12:39 PM), <http://www.theguardian.com/travel/2014/jan/08/pay-per-minute-cafe-ziferblat-london-russia> [<http://perma.cc/S6XR-BQCC>] (noting that the owner of the Russian-based chain says that the company “think[s] of our guests as micro tenants, all sharing the same space”).

to a co-working space—which provides access to a shared workspace—near his or her home.<sup>36</sup> Rather than spend money each month on rent or a mortgage for a second bedroom, a micro-unit dweller can find close accommodations for a visitor, even if they do not live in a city’s hotel district, through Airbnb.<sup>37</sup> A concentration of micro-units and, to a lesser extent, accessory dwelling units<sup>38</sup> might create levels of urban density necessary for certain sharing economy infrastructure to thrive.<sup>39</sup> To the extent that providers of goods and services via peer-to-peer sharing networks trade in idle capacity, they benefit from having a sufficient number of potential users in close enough proximity to make such sharing convenient. Not only do micro-units increase density in a given locale, they bring in a demographic particularly likely to participate in the sharing economy<sup>40</sup> and residents who, given the limited space within their own residence, are likely to prefer access to particular goods over ownership (and the consequent need for storage).

In this way, micro-units resemble earlier forms of housing, particularly rooming houses and residential hotels. While the size of micro-units often draws easy comparison to rooming houses and

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36. See generally Alessandro Gandini, *The Rise of Coworking Spaces: A Literature Review*, 15 EPHEMERA 193, 193–94 (2015) (providing a critical assessment of the coworking phenomenon and its relationship to the knowledge economy). For examples of co-working space providers, see WEWORK, [www.wework.com](http://www.wework.com) [<http://perma.cc/S4K2-P48H>], offering the “Commons” membership with “[f]ull access to the benefits of membership with flexible access to space” and full-time desk and office memberships, and WORKBAR, [www.workbar.com/about/](http://www.workbar.com/about/) [<http://perma.cc/EQM8-458K>], providing a “network of coworking spaces where independent professionals, start-ups, small businesses, and remote employees of larger enterprises can enjoy a vibrant community and high quality office amenities at an affordable price.”

37. Cf. Lee Anne Fennell, *Co-Location, Co-Location, Co-Location: Land Use and Housing Priorities Reimagined*, 39 VT. L. REV. 925, 935 (2015) (discussing how, for the inhabitant of a smaller housing unit, a “nearby shared guesthouse could add extra capacity for household guests”).

38. See *supra* note 3.

39. For example, density, in addition to low rates of vehicle ownership and good public transportation access, plays a key role in the location decisions of car share operators. See Joshua Engel-Yan & Dylan Passmore, *Carsharing and Carownership at the Building Scale: Examining the Potential for Flexible Parking Requirements*, 79 J. AM. PLAN. ASS’N 82, 86 (2013) (citing CITY CARSHARE, GETTING MORE WITH LESS: MANAGING RESIDENTIAL PARKING IN URBAN DEVELOPMENTS WITH CARSHARING AND UNBUNDLING, BEST PRACTICES 14 (2011)) (noting decreased demand for car sharing in less dense neighborhoods); see also CHAPPLE ET AL., *supra* note 11, at 9 (discussing the residential density necessary for car sharing programs to be economically viable and asserting that in certain areas “infill secondary units would likely make new [car share] pods viable”).

40. See *supra* note 11 and accompanying text.

single room occupancy units (SROs),<sup>41</sup> these units are comparable in more interesting ways, which shed light on the relationship between micro-units and the sharing economy.<sup>42</sup> Rooming houses were located in districts that provided a host of amenities to residents.<sup>43</sup> As is often said of micro-units, for residents of rooming houses “their home was scattered up and down the street . . ., [and t]he surrounding sidewalks and stores functioned as parts of each resident’s home” as they sought meals and other services in the neighborhood.<sup>44</sup> Rooming houses provided housing for young men and women who came to the

41. See, e.g., Barbara Knecht, *Loeb Lab 10: From SROs to Micro-Units*, LOEBLOG (Mar. 9, 2015), <http://blogs.gsd.harvard.edu/loeb-fellows/loeb-lab-from-sros-to-micro-units/> [<http://perma.cc/BL7L-W5B2>] (arguing that micro-units are merely “rebranded” SROs). Although comparisons are often made, SROs differ from micro-units in their form and function. In general, SROs take the form of a “unit with one or two rooms . . . lacking complete bathroom and/or kitchen facilities for the exclusive use of the tenant.” Brian J. Sullivan & Jonathan Burke, *Single Room Occupancy Housing in New York City: The Origins and Dimensions of a Crisis*, 17 CUNY L. REV. 901, 903 (2013) (alteration in original) (quoting ANTHONY J. BLACKBURN, *SINGLE ROOM LIVING IN NEW YORK CITY* 15 (1996)); see also *id.* (“Most SRO tenants live in single rooms and share bathroom facilities located in the common areas of the building; lack of access to kitchen facilities of any sort is common.”). Although they may not have done so at construction, SROs, where they remain, also typically provide housing “for the poor and near-poor,” unlike the vast majority of newly constructed micro-units. *Id.* at 905.

42. Some micro-unit developers have discussed how boarding houses provide a historical precedent for their developments. See, e.g., Shilpi Malinowski, *D.C. Developer Bets Big on Apartments with Shared Eating Spaces*, WASH. POST: WHERE WE LIVE BLOG (Apr. 28, 2015), <http://www.washingtonpost.com/blogs/where-we-live/wp/2015/04/28/d-c-developer-bets-big-on-apartments-with-shared-eating-spaces/> [<http://perma.cc/J7XD-Q97X>] (interviewing developer who described boarding houses as “historical precedent” for his own development of small studios with shared amenities).

43. See Alan Durning, *Bring Back Flophouses, Rooming Houses, and Microapartments*, SLATE (July 17, 2013, 1:27 PM), [http://www.slate.com/articles/business/moneybox/2013/07/sros\\_flophouses\\_microapartments\\_smart\\_cities\\_are\\_finally\\_allowing\\_the\\_right.single.html](http://www.slate.com/articles/business/moneybox/2013/07/sros_flophouses_microapartments_smart_cities_are_finally_allowing_the_right.single.html) [<http://perma.cc/ZSB7-LL6V>] (“Concentrated near downtowns, rooming houses and other forms of residential hotels provided quintessentially urban living. The dense mixture of accommodations with affordable eateries, laundries, billiard halls, saloons, and other retail establishments made life convenient on foot and on slim budgets.”).

44. PAUL E. GROTH, *LIVING DOWNTOWN: THE HISTORY OF RESIDENTIAL HOTELS IN THE UNITED STATES* 126–27 (1994); cf. Casey Ross, *Developer Begins Building Micro Housing in Seaport*, BOS. GLOBE (July 26, 2012, 8:37 AM), <http://www.boston.com/realstate/news/2012/07/27/developer-begins-build-micro-housing-seaport/WAQkqZkbnlNNBSmG1MdHmO/story.html> (quoting developer who declared, “[w]e think of the common space in our buildings and the streetscape outside as the living room for our residents”). Groth traces the historical development of commercial rooming houses from earlier boarding houses, which provided meals on-site. See *id.* at 93. In the rooming house, a resident ate meals outside the residence, typically at a commercial establishment. *Id.*

city in search of work,<sup>45</sup> owned few possessions,<sup>46</sup> and relied upon a surrounding neighborhood with a rich mixture of stores, restaurants, bars, and places for recreation.<sup>47</sup> The provision of inexpensive food became a key component of the surrounding rooming house district, where residents could find food they liked at the price and time they wanted it, rather than at the set meal times in a boarding house.<sup>48</sup> A range of often informal eateries, including cheap offerings that sprung up in basements and storefronts, provided these meals.<sup>49</sup> This “on demand” access to goods and services resembles an important characteristic of the sharing economy, which is often referred to as the “on demand” economy.<sup>50</sup> Rooming houses also reflected a particular view of the city and urban space—what one commentator terms the “old city view”—rooted in the life of older European cities marked by an “urbane, densely congregated way of living with mixed income groups, adjacencies of housing, commerce, and workshops.”<sup>51</sup> This conception echoes how developers of micro-units depict their developments in relation to the surrounding community, which is invoked as a “living room” for micro-unit residents who rely on walking and public transportation to travel to work.<sup>52</sup>

Given these similarities, it should not be surprising that criticisms of rooming houses and residential hotels by reformers at the turn of the twentieth century sound quite similar to prevailing contemporary

45. See GROTH, *supra* note 44, at 90–92 (discussing the role of rooming houses in housing young men and women seeking new work opportunities in industrial cities).

46. *Id.* at 106.

47. *Id.* at 109, 114. This retail mixture, Groth asserts, raised questions for the dominant culture. *Id.* at 109.

48. See GROTH, *supra* note 44, at 115 (“While living in a rooming house, tenants could choose from a variety of places to eat, at varied prices, and over a much wider range of hours—provided payday was not too far away.”).

49. *Id.*

50. See Emma Bowman, *When the Sharing Economy Brings Unexpected Experiences*, NPR: ALL TECH CONSIDERED (Apr. 27, 2015, 6:47 PM), <http://www.npr.org/sections/alltechconsidered/2015/04/27/402563555/when-the-sharing-economy-brings-unexpected-experiences> (discussing how many companies prefer “the term ‘on demand’ economy” to sharing economy); Irving Wladawsky-Berger, *The Rise of the On-Demand Economy*, WALL ST. J.: CIO J. BLOG (Mar. 13, 2015, 12:04 PM), <http://blogs.wsj.com/cio/2015/03/13/the-rise-of-the-on-demand-economy/> (describing the “emerging on-demand economy” as “an evolution of what’s been called the sharing economy”).

51. GROTH, *supra* note 44, at 17; see also Tod Newcombe, *Is It Time to Revive Boarding Houses?*, GOVERNING (Feb. 14, 2013), <http://www.governing.com/columns/Is-It-Time-to-Revive-Boarding-Houses.html> [<http://perma.cc/MKJ4-ZJ7B>] (“In some way this trend [micro-units] is a return to the roots of city living.”).

52. See Ross, *supra* note 44 (discussing city as a living room).

critiques of micro-units. Progressive-era critiques of these forms of housing focused in part on the mobility of their residents, which some commentators associated with vagrancy and social disintegration.<sup>53</sup> Sociologists within the Chicago School depicted residents who frequently moved as a threat to community and neighborhoods.<sup>54</sup> Similarly, critics of micro-units voice concerns that they will negatively affect neighborhood character by flooding a locale with “itinerant” and “sketchy” people.<sup>55</sup> For these and other reasons, rooming houses fell victim to reformers who sought, among other goals, to achieve a greater separation and privatization of urban space.<sup>56</sup> Evincing the strong link between housing types and surrounding neighborhood amenities, these reformers enlisted zoning regulations to make rooming houses “impractical by forbidding the dense mixture of retail establishments necessary to support their residents.”<sup>57</sup> In subsequent decades, zoning prioritized single family homes in separate residential districts, as by the 1950s “community property, carpools, or sharing of almost any kind became anathema to the suburban aesthetic.”<sup>58</sup> These and similar regulatory restrictions, by creating obstacles to the types of goods and services urban residents demand, created a space that sharing economy firms have entered to fill the gap and to satisfy unmet consumer demand.<sup>59</sup>

As this history reveals, the relationship between micro-units and the sharing economy can be understood as indicative of a broader shift back towards a more traditional urban lifestyle marked by dense housing, mixed uses, and more collaborative forms of consumption. Micro-units and the sharing economy also pose tensions with traditional norms regarding housing, lifestyle, and property ownership and related regulations. Part II examines a few representative examples of how city governments are already considering sharing economy infrastructure—particularly car and bike sharing—in

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53. See, e.g., GROTH, *supra* note 44, at 226.

54. *Id.* at 227.

55. Infranca, *supra* note 3, at 62–63.

56. GROTH, *supra* note 44, at 17.

57. Durning, *supra* note 43.

58. Nanos, *supra* note 8 (quoting DOUGLAS RUSHKOFF, *LIFE, INC.: HOW THE WORLD BECAME A CORPORATION AND HOW TO TAKE IT BACK* 51 (2011)).

59. See Dave Rochlin, *When ‘Innovation’ Means Rule-Breaking*, L.A. TIMES (July 27, 2015, 5:00 AM), <http://www.latimes.com/opinion/op-ed/la-oe-0727-rochlin-gray-market-20150727-story.html> [<http://perma.cc/6MT8-EJ5V>] (offering Uber and Airbnb as examples of how “[s]ome of the highest profile recent start-ups were built to exploit unmet consumer demand created by regulatory restrictions”).

decisions that allow departures from zoning and land use regulations affecting new residential developments.

## II. THE SHARING ECONOMY AND THE RESIDENTIAL DEVELOPMENT PROCESS

This Part looks at how a number of jurisdictions have begun to consider the provision of car and bike share infrastructure in the residential land use approval process generally and in the review of micro-unit developments specifically. This Article acknowledges at the outset that there is some dispute regarding whether car share programs should be understood as part of the “sharing economy.” For some, Zipcar represents “the gateway to the sharing economy,” existing in a sort of vague liminal space.<sup>60</sup> As economist Arun Sundararajan notes, while Zipcar—in a vein similar to other platform companies—has used technology to open up new ways to obtain and use a given asset, “this is still a dedicated fleet, still inventory that the company has to acquire, manage and monetize. Under the hood, the business model is fundamentally not very different from that of a traditional rental car company.”<sup>61</sup> However, as Sundararajan also notes, Zipcar differs in that it lowers transaction costs through the leveraging of technology in a way that makes “flexible renting a viable alternative to asset acquisition.”<sup>62</sup> To the extent the sharing economy is defined broadly, in the form this Article embraces, to include uses of technology to reduce transactions costs and enable more intense use of idle resources,<sup>63</sup> it clearly includes car share programs.<sup>64</sup>

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60. See Nanos, *supra* note 8.

61. Arun Sundararajan, *From Zipcar to the Sharing Economy*, HARV. BUS. REV. (Jan. 3, 2013), <https://hbr.org/2013/01/from-zipcar-to-the-sharing-eco> [<https://perma.cc/DPY2-8KKF>].

62. *Id.* Rauch and Schleicher place Zipcar in the category of “asset-hub firms,” which own a large fleet of physical assets and rent them out on a short-term basis. Rauch & Schleicher, *supra* note 6, at 11. They note that, while the “asset-hub paradigm merely modernizes a traditional business model,” technology has enabled a more dramatic disaggregation of assets. *Id.* at 12. On this account, Zipcar shares attributes with municipal bike share programs that similarly allow “microrentals.” See *id.* at 11.

63. Andrew T. Bond, Note, *An App for That: Local Governments and the Rise of the Sharing Economy*, 90 NOTRE DAME L. REV. 77, 78 (2015) (“The sharing economy connects unused resources with consumers via technology.”).

64. See MIKE LYDON & ANTHONY GARCIA, TACTICAL URBANISM: SHORT-TERM ACTION FOR LONG-TERM CHANGE 77 (2015) (discussing car share businesses in relation to the role of technology in facilitating the sharing economy); see also Tom Keane, *How to Grow the ‘Sharing Economy’*, BOS. GLOBE (July 13, 2014), <https://www.bostonglobe.com/opinion/2014/07/13/how-grow-sharing->

### A. The Relationship Between Car Share and Parking Demand

The provision of sharing economy resources—particularly bike share<sup>65</sup> and car share<sup>66</sup>—can address opponents of micro-units’ concerns about the negative effects of increased density. The provision of dedicated parking at new developments is often a primary concern for neighbors, particularly when that development increases density in an area—as micro-units frequently do.<sup>67</sup> In some cities, including New York and Seattle, developers have built micro-units in downtown areas where the existing zoning does not require on-site parking.<sup>68</sup> However, such situations remain the exception, and micro-unit developers seeking relief from minimum parking requirements often respond to the concerns of neighbors and local

economy/O3gEPDImYYbO2BNujh93AK/story.html (discussing bike sharing and car sharing as components of the sharing economy).

65. “A local bike share scheme involves placing bikes in stations spread throughout a city and inviting individuals to rent a bike at any station and return it to another in exchange for a payment set in accordance with the length of time during which the bike was used.” Daniel B. Rodriguez & Nadav Shoked, *Comparative Local Government Law in Motion: How Different Local Government Law Regimes Affect Global Cities’ Bike Share Plan*, 42 FORDHAM URB. L.J. 123, 124–25 (2014).

66. Car sharing services typically take one of two forms. This Article focuses on the first type of car share service, through which a company, such as Zipcar, provides a fleet of cars which users can reserve through a website or smartphone app. Jordan M. Barry & Paul L. Caron, *Tax Regulation, Transportation Innovation, and the Sharing Economy*, 82 U. CHI. L. REV. DIALOGUE 69, 70–71 (2015); *see also* ZIPCAR, <http://www.zipcar.com/> [<http://perma.cc/8J5K-USTJ>]. A second type of car sharing uses a technology platform to match vehicle owners with individuals interested in using their privately-owned car for a short period for time. Barry & Caron, *supra* at 71; *see also* RELAYRIDES, <https://relayrides.com/> [<https://perma.cc/F7NP-RZQG>] (providing peer-to-peer car rental).

67. *See* Tim Iglesias, *The Promises and Pitfalls of Micro-Housing*, 37 ZONING & PLAN. L. REP. 1, 5 (2014) (identifying that effects on traffic and parking are among the chief concerns of neighbors of micro-unit developments); David Friedlander, *Luxury Micro-Apartments Come to DC, Transportation Included*, LIFE EDITED (July 16, 2014), <http://www.lifeedited.com/tiny-apartments-come-to-washingont-dc-transportation-included/> [<http://perma.cc/BP5N-BWJH>] (“As we’ve seen here before . . . , one of the primary sticking points for adding density to an area—something that micro-apartments tend to do—is parking.”). Parking concerns even figure prominently in neighborhood opposition to micro-units in less dense areas. *See, e.g.*, Victoria Mitchell, *New Micro Housing Project Receives Green Light*, C & G NEWSPAPERS: ROYAL OAK REV. (June 30, 2015), <http://www.candgnews.com/news/new-micro-housing-project-receives-green-light-84528> [<http://perma.cc/DDS5-EP7P>] (discussing neighborhood concerns regarding the provision of forty, rather than the standard of seventy-two, parking spaces for thirty-six micro-units at a development in Royal Oak, a community outside of Detroit).

68. *See* Infranca, *supra* note 3, at 77, 80 (discussing this trend in New York and Seattle).

zoning boards by emphasizing the car-less lifestyle of likely residents and, in some cases, by providing car and bike share on site.<sup>69</sup>

Beyond allaying such concerns, parking reductions may also be necessary to make a micro-unit development financially feasible.<sup>70</sup> Critics contend that mandatory parking minimums drive up development and housing costs and frequently result in the construction of more parking than the market would otherwise demand—creating idle capacity that remains idle.<sup>71</sup> The cost of parking is often passed on to residents who pay for it through their rent or the purchase price of their unit, regardless of whether they use the parking.<sup>72</sup> Accordingly, advocates of “smart growth”<sup>73</sup> policies encourage the unbundling of parking, meaning that on-site parking is rented or sold separately, enabling tenants to purchase only the parking that they need and use.<sup>74</sup> Unbundling also makes the costs of car ownership more salient, and thereby encourages greater participation in car sharing programs.<sup>75</sup>

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69. See Friedlander, *supra* note 67 (noting that a developer of luxury micro-units in Washington, D.C., received approval from Board of Zoning Adjustment after agreeing to provide two parking spaces for move in/move out and guests and two dedicated car share spaces); see also *Church Street*, BROOK ROSE DEV., <http://www.brookrose.com/church-street/> [<http://perma.cc/8JK5-8T83>] (describing the development’s location as the “ideal locale for the car-less urban dweller”). The developer also agreed to a stipulation, to be written into leases, prohibiting residents from applying for neighborhood parking permits. Friedlander, *supra* note 67.

70. See Infranca, *supra* note 3, at 71–72 n.101.

71. See Simon McDonnell, Josiah Madar & Vicki Been, *Minimum Parking Requirements and Housing Affordability in New York City*, 21 HOUSING POL’Y DEBATE 45, 45–49 (2011) (reviewing literature).

72. *Unbundled Parking*, METROPOLITAN AREA PLAN. COUNCIL, <http://www.mapc.org/resources/parking-toolkit/strategies-topic/unbundled-parking> [<http://perma.cc/8QTW-38UZ>] (advocating for the unbundling of parking from the rent or purchase price of occupied residential or commercial units).

73. According to Smart Growth America, “[s]mart growth means building urban, suburban and rural communities with housing and transportation choices near jobs, shops and schools. This approach supports local economies and protects the environment.” *What Is “Smart Growth?”*, SMART GROWTH AM., <http://www.smartgrowthamerica.org/what-is-smart-growth> [<http://perma.cc/2R9V-UM8G>].

74. *Unbundled Parking*, *supra* note 72; see also CITY CARSHARE, GETTING MORE WITH LESS: MANAGING RESIDENTIAL PARKING IN URBAN DEVELOPMENTS WITH CARSHARING AND UNBUNDLING, BEST PRACTICES 2 (2011) (“Unbundling separates parking costs from rents or housing sale prices, allowing residents to choose how much parking they want—and ensuring that non-car owners do not pay for parking they neither want nor need.”).

75. See METRO. TRANSP. COMM’N, REFORMING PARKING POLICIES TO SUPPORT SMART GROWTH 31 (2007); *Unbundled Parking*, *supra* note 72. One study of on-site car sharing in San Francisco concluded that “the unbundling of parking is critical to the success of on-site carsharing.” Charles Rivasplata et al., *Residential On-Site*

There is a natural fit between car sharing and micro-units as both generally thrive in similar neighborhoods marked by higher density and reliable access to public transportation.<sup>76</sup> Given these potential synergies, jurisdictions seeking to encourage either or both would benefit from considering their relationship more carefully. To the extent that concerns about parking play a significant role in objections to micro-units, those looking to blunt such objections can draw from substantial literature establishing the relationship between car sharing and reduced car ownership and parking demand.<sup>77</sup> Studies consistently conclude that car sharing membership reduces vehicle ownership, although the extent of this reduction varies.<sup>78</sup> Car sharing can be particularly effective at reducing car ownership within a development when provided directly on-site, which provides residents with more convenient access to a shared vehicle.<sup>79</sup> The authors of one

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*Carsharing and Off-Street Parking in the San Francisco Bay Area, California*, 2359 TRANSP. RES. REC. 68, 74 (2013); *see also* ter Schure et al., *supra* note 34, at 102 (finding, based on a survey in San Francisco, that neither the presence of car sharing in a building nor the unbundling of parking by itself led to an increase in car share membership, but that “presence of both carsharing and unbundled practices within a building affected residents’ decision to become carshare members”).

76. *See* Rivasplata et al., *supra* note 75, at 68 (“The traditional carsharing market normally encompasses areas with low car ownership, high density, and convenient transit services, where parking is often a scarce commodity.”). Professor Robert Cervero, who has studied car sharing extensively, suggests that placing car sharing at transit oriented developments—those built in close proximity to public transportations—would lead to a significant reduction in car ownership among residents. *See* Robert Cervero, *TOD and Carsharing: A Natural Marriage*, ACCESS MAG., Fall 2009, at 25, 28, <http://www.accessmagazine.org/articles/fall-2009/tod-carsharing-natural-marriage/> [<http://perma.cc/SFF6-ZV6Z>]. While such residents might rely upon public transportation for getting to work, they might still need a car for shopping and other excursions, a need that car sharing could sufficiently satisfy. *See id.*

77. *See* Engel-Yan & Passmore, *supra* note 39, at 82; *see also* MTC SMART GROWTH TECH. ASSISTANCE: PARKING REFORM CAMPAIGN, PARKING CODE GUIDANCE: CASE STUDIES AND MODEL PROVISIONS 29 (2012) [hereinafter MTC SMART GROWTH], [http://www.mtc.ca.gov/planning/smart\\_growth/parking/6-12/Parking\\_Code\\_Guidance\\_June\\_2012.pdf](http://www.mtc.ca.gov/planning/smart_growth/parking/6-12/Parking_Code_Guidance_June_2012.pdf) [<http://perma.cc/SD6W-GP45>] (encouraging, on behalf of a transportation planning agency in the San Francisco Bay Area, zoning that better supports car sharing to reduce overall parking demand).

78. *See* Engel-Yan & Passmore, *supra* note 39, at 85 (discussing two major studies of car sharing in North America, one finding that each car share vehicle reduced personal vehicle ownership by 3.9 vehicles and the other finding a reduction of almost thirteen privately-owned vehicles); *see also* Keane, *supra* note 64 (“Zipcar has persuasive data showing that every one of its cars reduces the number of privately owned vehicles by as many as 15.”).

79. Studying the effect of car share vehicle access on private vehicle ownership and parking on the building level in the City of Toronto, Engel-Yan and Passmore find that “the presence of carshare vehicles within residential developments is associated with reduced vehicle ownership and parking demand at the building

study found that the mere presence of car share vehicles nearby, rather than within the building, had no significant effect on private car ownership, suggesting “that there is a basis to allow for minimum parking reductions where dedicated carshare vehicles are provided, but not for developments that simply have carshare vehicles nearby.”<sup>80</sup>

### B. Considering Car and Bike Share in the Land Use Approval Process

To this end, a number of cities have allowed reductions in on-site parking requirements in exchange for the provision of car sharing. Some cities have general policies allowing for a specific reduction in parking spaces at any residential development providing car share on-site, while other cities evaluate and permit reductions on a case-by-case basis. Austin, Texas provides a particularly generous reduction.<sup>81</sup> Developers who provide car sharing on-site can reduce the amount of on-site parking by twenty spaces for each car-sharing space provided, up to a maximum reduction of forty percent of the required parking.<sup>82</sup> Seattle, Washington, allows each car share space to substitute for three parking spaces (but only at residential developments that require twenty or more spaces).<sup>83</sup> Vancouver, Canada, allows car sharing spaces to substitute for five traditional parking spaces.<sup>84</sup> Other localities, including Berkeley, California; Arlington County, Virginia; and Washington, D.C., allow reductions through negotiations between developers and the city.<sup>85</sup>

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level.” Engel-Yan & Passmore, *supra* note 39, at 89; *see also* MTC SMART GROWTH, *supra* note 77, at 29 (asserting that the appeal of car sharing “is diminished if residents do not have convenient access to the vehicles where they live, or close by”).

80. Engel-Yan & Passmore, *supra* note 39, at 89. The authors also note that it would be difficult to enforce a parking reduction that is conditioned upon the presence of car share vehicles parked nearby, rather than on-site (presumably because the developer could more easily ensure continuance of car share provided on a site it controls). *See id.*

81. *See* AUSTIN, TEX., CODE § 25-6-478(E)(3), (F) (2015).

82. *Id.*

83. SEATTLE, WASH., MUN. CODE, ch. 23, § 54.020(J)(2); *see also* MTC SMART GROWTH, *supra* note 77, at B-12 to B-13 (discussing policy). The city also limits the maximum reduction in parking spaces due to the provision of car share to no more than fifteen of the total parking spaces at a development. *See* MTC SMART GROWTH *supra* at 77.

84. VANCOUVER, B.C., PARKING BY-LAWS 6059 § 3.2.2 (2006). This reduction is subject to the Director of Planning and General Manager of Engineering Services’s discretion. *Id.*

85. Engel-Yan & Passmore, *supra* note 39, at 84. In Boston, the city’s redevelopment authority is exploring, on a case-by-case basis, a reduction in parking

Parking reductions in exchange for providing car and bike shares makes particular sense for micro-unit developments given the likelihood that a smaller share of residents will own cars.<sup>86</sup> A few recent micro-unit developments have successfully negotiated substantial reductions to the required on-site parking in exchange for providing car and bike sharing.<sup>87</sup> Washington, D.C., which has experienced a recent proliferation of micro-unit developments, appears particularly amenable to this approach.<sup>88</sup> The city's Board of Zoning Appeals has considered the presence of car share facilities when determining whether requested variances from off-street parking standards "would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zoning plan."<sup>89</sup> One developer received neighborhood support for a full exception from the parking requirements at a 123-unit micro-unit development.<sup>90</sup> Under the applicable zoning provision, the developer would typically be required to provide sixty-two parking spaces for a development with that number of units.<sup>91</sup> The developer addressed a neighborhood group's concerns by, among other things, committing "to funding the installation and first year of operation of a Capital Bikeshare station."<sup>92</sup> The Board of Zoning Adjustment ultimately approved the

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requirements for developments in proximity to car share and bike share stations. Ross, *supra* note 32.

86. See Infranca, *supra* note 3, at 88 nn.230–31 (discussing reduced car ownership among single-person households and micro-unit residents).

87. See GOV'T OF THE D.C., BD. OF ZONING ADJUSTMENT, APPLICATION NO. 18375 OF FLORIDA AVENUE RESIDENTIAL, LLC, DECISION AND ORDER 10 (2012), <http://www.dcoz.dc.gov/orders/18375.pdf> [<https://perma.cc/693T-TTNH>].

88. See *id.*

89. *Id.* This is the third of three conditions that the Board must find exist in order to grant an area variance. See *id.* (citing French v. D.C. Bd. of Zoning Adjustment, 658 A.2d 1023, 1035 (D.C. 1995)).

90. See Lark Turner, *ANC 2F Supports No Parking for Blagden Alley Micro-Units*, URBANTURF (Nov. 4, 2014), [http://dc.urbanturf.com/articles/blog/anc\\_2f\\_committee\\_approves\\_of\\_sb-urban\\_plan\\_for\\_blagden\\_alley\\_sans\\_parking/9182](http://dc.urbanturf.com/articles/blog/anc_2f_committee_approves_of_sb-urban_plan_for_blagden_alley_sans_parking/9182) [<http://perma.cc/8RQQ-ZHLT>].

91. See Cheryl Cort, *Car-Free Housing Could Come to Historic Blagden Alley*, GREATER GREATER WASH. (Jan. 27, 2015), <http://greatergreaterwashington.org/post/25143/car-free-housing-could-come-to-historic-blagden-alley/> [<http://perma.cc/N8AT-4KW9>]; see also Lark Turner, *Blagden Alley Micro-Units Get No-Parking Approval*, URBANTURF (Feb. 24, 2015), [http://dc.urbanturf.com/articles/blog/sb-urbans\\_no-parking\\_blagden\\_alley\\_project\\_gets\\_zoning\\_approval/9566](http://dc.urbanturf.com/articles/blog/sb-urbans_no-parking_blagden_alley_project_gets_zoning_approval/9566) [<http://perma.cc/HK45-KRTP>]. Parking space requirements are outlined in section 2101 of the District of Columbia's Municipal Regulations. D.C. MUN. REGS. tit. 11, § 2101 (2015).

92. Adam Beebe, *Summary of Oct 29, 2014 CDC Meeting*, GOV'T OF THE D.C., ADVISORY NEIGHBORHOOD COMM'N 2F, (Nov. 5, 2014),

grant of requested relief from the parking requirements in exchange for a number of transportation-related measures, including prohibiting residents from obtaining parking passes and providing all new residents with membership in both the Capital Bikeshare program and a car share program.<sup>93</sup> The same developer received a similar variance from parking requirements for a separate development in another part of the city.<sup>94</sup> In support of its request for a variance from the parking requirements, the developer emphasized market research indicating that residents will probably not own a car.<sup>95</sup> The District of Columbia has granted a variance providing parking relief, upon similar conditions, in at least one other case.<sup>96</sup> In that case, the variance was conditioned upon the implementation of

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<http://www.anc2f.org/blog/2014/11/05/summary-of-oct-29-2014-cdc-meeting/> [<http://perma.cc/NEL4-E28P>]. SB-Urban is investing \$70,000 into the city's Capital Bikeshare station to provide a new docking station and fourteen new bikes. Cort, *supra* note 91 (“The building will provide car share memberships, real-time transit screens, and a bike maintenance room. There will also be someone on site to advise residents on how to get around without a car.”).

93. GOV'T OF THE D.C., BD. OF ZONING ADJUSTMENT, APPLICATION NO. 18852 OF SB URBAN LLC, PUBLIC MEETING TRANSCRIPT 15, 19 (2015) [hereinafter APPLICATION NO. 18852 TRANSCRIPT], <http://www.dcoz.dc.gov/trans/150224bza1.pdf> [<https://perma.cc/P86F-7DFG>].

94. See Lark Turner, *Dupont Circle Microunit Proposal, Sans Parking, Sails Through ANC*, URBANTURF (Mar. 13, 2014), [http://dc.urbanturf.com/articles/blog/dupont\\_circle\\_microunit\\_proposal\\_sans\\_parking\\_sails\\_through\\_anc/8231](http://dc.urbanturf.com/articles/blog/dupont_circle_microunit_proposal_sans_parking_sails_through_anc/8231) [<http://perma.cc/WW5G-H43M>]. The reduction is subject to specific conditions related to transportation, including restricting tenants from eligibility for residential parking permits, offering Capital Bikeshare membership to new tenants, and offering car share program membership to new tenants for their initial lease term. See *id.* SB-Urban presented its case (Order No. 18744) to the Board of Zoning Adjustment (BZA) on May 6, 2014. See GOV'T OF THE D.C., BD. OF ZONING ADJUSTMENT, APPLICATION NO. 18744 OF SB URBAN LLC, PUBLIC MEETING TRANSCRIPT 16 (May 6, 2014) [hereinafter APPLICATION NO. 18744 TRANSCRIPT], <http://www.dcoz.dc.gov/trans/140506bza2.pdf> [<https://perma.cc/4GJP-LTUR>]. A decision was entered through a summary order that same date. See GOV'T OF THE D.C., BD. OF ZONING ADJUSTMENT, APPLICATION NO. 18744 OF SB URBAN LLC, SUMMARY ORDER (2014), <http://dcoz.dc.gov/orders/18744.pdf> [<https://perma.cc/HT8M-WXST>].

95. See APPLICATION NO. 18744 TRANSCRIPT, *supra* note 94, at 16 (statement of Mike Balaban, President of SB-Urban) (“Our research indicates that the customer to whom we will provide this product really doesn't have, doesn't want and doesn't use a car. And for that reason then as an indicator of our commitment to providing a product that in these locations contributes to the urban fabric and the community, we're prepared to commit to the bike share and the car sharing in perpetuity.”).

96. See GOV'T OF THE D.C., BD. OF ZONING ADJUSTMENT, APPLICATION NO. 18638 OF GREGG BUSCH AND ROSEBUSCH, LLC, DECISION AND ORDER 17-18 (2014) <http://www.dcoz.dc.gov/orders/18638.pdf> [<https://perma.cc/4XEN-3NP8>] (granting variance subject to conditions including lease provisions prohibiting tenants from obtaining residential parking permit and requirement that developer provide one-year car- or bike-share memberships to new residents).

transportation management strategies that included providing residents with information regarding ridesharing services, such as Uber and Lyft.<sup>97</sup>

As these examples reveal, car, bike, and ride share programs can play an important role in addressing public concerns regarding increased density from micro-unit developments.<sup>98</sup> The marriage of micro-unit developments with car and bike sharing might also lead towards broader acceptance of zoning that directly permits, without a variance, the development of housing without resident parking.<sup>99</sup> The relationship between residential development and the sharing economy can also, as Part III discusses, take more substantial forms than simply addressing specific neighborhood concerns.<sup>100</sup>

### III. LIVING WITHIN THE SHARING ECONOMY

Micro-units themselves might be understood as components of the sharing economy.<sup>101</sup> Certain micro-unit developments emphasize the

97. *Id.* at 18. Pursuant to the specific condition regarding transportation management, the developer must implement the following strategies: “(i) the development and distribution of information and promotional brochures to residents, visitors, patrons and employees regarding transit facilities and services, pedestrian and bicycle facilities and linkages, ridesharing (carpool and vanpool) and car sharing; and (ii) ensuring that loading activities are properly coordinated and do not impede the pedestrian, bicycle, or vehicular lanes adjacent to the development.” *Id.*

98. *See generally* APPLICATION NO. 18852 TRANSCRIPT, *supra* note 93. Car share programs have also been considered in relation to the development of accessory dwelling units. *See* S.F. PLANNING DEP’T, EXECUTIVE SUMMARY, PLANNING & ADMINISTRATIVE CODE TEXT CHANGE 8 (Mar. 6, 2014), <http://commissions.sfplanning.org/cpcpackets/2013.1674T.pdf> [<http://perma.cc/9RKB-YEMC>]. San Francisco’s Planning Department expressly considered the availability of car share facilities when amending the planning code to ease construction of ADUs in the Castro neighborhood. *See id.* (noting that the area includes “about ten car-share locations” and is a “transit and car-share rich area with a low rate of driving and car ownership”).

99. *See* Kushner, *supra* note 28, at 13–16 (discussing the potential of “car-free zoning”).

100. *See infra* Part III.

101. SHAREABLE & THE SUSTAINABLE ECONS. LAW CTR., POLICIES FOR SHAREABLE CITIES: A SHARING ECONOMY POLICY PRIMER FOR URBAN LEADERS 24–25 (2013) (recommending that cities promote development of “shareable housing,” including micro-units and ADUs). Accessory dwelling units can also be understood as a form of property sharing that predates the “sharing economy” but bears resemblances to it. *See id.* at 24. By building and renting out an ADU, a homeowner makes use of idle capacity either within their home or on their property. *See id.* at 33. To this point, changes to San Francisco’s zoning ordinance in 2014 streamlined construction of accessory dwelling in the Castro neighborhood when those units were built within the existing building envelope. *See* S.F. PLANNING DEP’T, *supra* note 98, at 8 (noting that “[e]fficient use of underutilized spaces within existing buildings would provide the opportunity for an additional household to live in an existing

on-site provision of shared amenities and common spaces to a more substantial extent than conventional residential developments.<sup>102</sup> Some developers are explicit regarding the intended role of such common space in fostering a sense of community. For example, SB-Urban's projects in Washington, D.C., emphasize shared spaces, including communal living and dining rooms, with the goal of creating a "socially active environment."<sup>103</sup> Other developers seek to foster a residential experience reflective of the sharing economy.<sup>104</sup> WeWork, a sharing economy company that provides co-working spaces, recently branched into housing through its WeLive brand.<sup>105</sup> WeLive purports to "challenge[] traditional apartment living through physical spaces that foster meaningful relationships."<sup>106</sup> The buildings have extensive common areas and prospective residents can rent either a private unit or an individual bed in a shared unit.<sup>107</sup> The WeLive

building"); *see also* Kristy Wang, *Getting to Know Your In-Laws*, THE URBANIST (Mar. 23, 2015), <http://www.spur.org/publications/article/2015-03-23/getting-know-your-laws/> [<http://perma.cc/A6ZS-M927>] (noting passage of the ordinance).

102. *See, e.g.*, Conrad, *supra* note 27 (discussing the provision of common spaces, including rooftop pools and libraries, in Chicago micro-units); Natalie Shutler, *Home Shrunk*, N.Y. TIMES (Feb. 20, 2015), <http://www.nytimes.com/2015/02/22/realestate/micro-apartments-tiny-homes-prefabricated-in-brooklyn.html> (discussing "common spaces scattered throughout" micro-unit development in New York City); Scott Van Voorhis, *Micro-Units Pop Up in Boston, Fetch High Prices*, BOSTON.COM: REAL ESTATE (Nov. 26, 2014, 10:19 AM), <http://www.boston.com/real-estate/news/2014/11/26/micro-units-pop-boston-fetch-high-prices/GfWdbVfQfFoHZ4DLQcBKSM/story.html> (discussing a micro-unit building with "common 'collaboration spaces' for budding entrepreneurs"); Cory Weinberg, *Next up for S.F. Luxury Condo Developer? Tiny Apartments in Mission, SoMa*, S.F. BUS. TIMES (Jun. 2, 2015, 2:45 AM), [http://www.bizjournals.com/sanfrancisco/morning\\_call/2015/06/artthaus-sf-mission-soma-group-housing-taplin.html](http://www.bizjournals.com/sanfrancisco/morning_call/2015/06/artthaus-sf-mission-soma-group-housing-taplin.html) (discussing shared kitchens in proposed San Francisco micro-unit development). It is not clear that such spaces receive much use. *See* Susan Kelleher, *Seattle's Micro-Housing Boom Offers an Affordable Alternative*, SEATTLE TIMES (Mar. 4, 2015, 12:02 PM), <http://www.seattletimes.com/pacific-nw-magazine/seattles-micro-housing-boom-offers-an-affordable-alternative/> [<http://perma.cc/8RJF-DXXB>] (quoting micro-unit resident who noted that few residents used the shared kitchen).

103. Malinowski, *supra* note 42.

104. *See* Katherine Clarke, *"Dorm" Is the New Norm: Communal Living Spaces Offer Short-Term Deals for Young Professionals*, N.Y. DAILY NEWS (Mar. 19, 2015, 4:33 PM), <http://www.nydailynews.com/life-style/real-estate/nyc-commune-style-micro-apartment-communities-article-1.2148150> ("Proponents of the so-called sharing economy are branching out into residential real estate by planning communal living hubs with micro-apartments for young professionals.").

105. Alex Fitzpatrick, *Inside the NYC Building That Offers Nirvana for Millennials*, TIME (Apr. 4, 2016) (discussing launch of WeLive in April 2016 with locations in New York City and in Arlington, Virginia).

<sup>106</sup> WELIVE, <http://www.welive.com>.

<sup>107</sup> *Id.*

facilities are also located in the same building as a WeWork shared workspace.<sup>108</sup>

In Syracuse, New York, a developer is combining co-working spaces with a co-living space that is more communal in orientation than most micro-unit developments.<sup>109</sup> The residences in this development, known as Commonsplace, will be approximately 300 square feet, including a small private bathroom, and they will be leased month-to-month.<sup>110</sup> These units go beyond typical micro-units in their provision of shared amenities as the units will have access to a common kitchen, living room, and outdoor space, and an on-site resident manager will foster community and “co-living” through group meals and events.<sup>111</sup> Residents will also have access to a Syracuse CoWorks space located in the building.<sup>112</sup>

Some new forms of housing are even more ambitious in their attempts to link housing with the culture of the sharing economy. The Embassy, also in San Francisco, has been described as “kind of like living inside the so-called ‘sharing economy’ 24/7.”<sup>113</sup> Beyond

<sup>108</sup> *Id.* A mix of micro-units and co-working spaces is also proposed as part of the mixed-use SPARK project in Boulder, Colorado. See Rebecca, *S\*PARK – A Modern Urban Village*, Sophie Sparr Architects LLC, (Jan. 16, 2015), <http://www.sophersparr.com/spark-modern-urban-village/> [<http://perma.cc/C3UY-B3ZT>]; Alicia Wallace, *Mixed-Use, Creative-Focused SPARK Development Proposed for Sutherlands Lumberyard in Boulder*, Boulder County Bus. (Jan. 9, 2014, 11:55:49 AM), [http://www.dailycamera.com/boulder-business/ci\\_24876632/mixed-use-creative-focused-spark-development-proposed-sutherlands](http://www.dailycamera.com/boulder-business/ci_24876632/mixed-use-creative-focused-spark-development-proposed-sutherlands) [<http://perma.cc/6XNS-HES2>].

<sup>109</sup> See Kevin Tampone, *Co-Living, Co-Working Coming to Downtown Syracuse Building*, SYRACUSE.COM (Dec. 9, 2014, 10:10 AM), [http://www.syracuse.com/news/index.ssf/2014/12/downtown\\_syracuse\\_co-working\\_co-living.html](http://www.syracuse.com/news/index.ssf/2014/12/downtown_syracuse_co-working_co-living.html) [<http://perma.cc/7Z7D-39DL>].

<sup>110</sup> *Id.* The development’s website includes this rather idealistic manifesto: “Commonspace is a new way of living, working and making human connections. It is no less than revolutionary in its simplicity, but perfectly aligned with the human spirit. We are all social creatures, and the best versions of ourselves are expressed when we do so in a group.” COMMONSPACE, <http://www.commonspace.io/#community-living> [<http://perma.cc/R629-P8F5>].

<sup>111</sup> Tampone, *supra* note 108. In Victoria, British Columbia, a micro-unit developer is similarly emphasizing the provision of a “communal living experience” for prospective residents, in which high-end, but small, private apartments are complemented by communal kitchens, dining, and living areas. Bill Cleverley, *Micro-Suites Supplemented by Shared Spaces, Chance to Engage*, TIMES COLONIST (Apr. 25, 2015, 6:00 AM), <http://www.timescolonist.com/news/local/micro-suites-supplemented-by-shared-spaces-chance-to-engage-1.1865033> [<http://perma.cc/4BF4-2956>].

<sup>112</sup> Tampone, *supra* note 108.

<sup>113</sup> Jenny Xie, *One Answer to San Francisco’s Overpriced Housing: ‘Co-Living’*, CITYLAB (Dec. 2, 2013), <http://www.citylab.com/housing/2013/12/one-answer-san>

simply providing shared amenities, the developer seeks to foster a particular community by evaluating applicants based upon a “core value of ‘a passion for high impact ideas.’”<sup>114</sup> Housing of this type, which emphasizes a more intense social and communal aspect than most micro-unit developments, bears resemblance to movements known as cohousing,<sup>115</sup> co-living,<sup>116</sup> and collaborative housing,<sup>117</sup> all of which emphasize to varying degrees shared living spaces and, in some cases, shared ownership.<sup>118</sup> As an article discussing one developer’s plans to build rental housing with small private spaces and a larger shared public space noted, such developments could be “the next wave of the sharing economy” as “big-ticket items” like housing are designed specifically to be shared.<sup>119</sup> Although these various forms of shared housing have not yet achieved the scale and popularity of other forms of the sharing economy, they have the potential to have an even more substantial impact on urban planning and development—and to raise even more questions for local

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franciscos-overpriced-housing-co-living/7654/ [http://perma.cc/6UAS-93FP]; see also *Embassy SF*, EMBASSY NETWORK, <https://embassynetwork.com/locations/embassysf/> [https://perma.cc/SF9S-4JAE].

114. Xie, *supra* note 113.

115. See generally Chris Bentley, *Can Boomers Make Cohousing Mainstream?*, CITYLAB (Jan. 20, 2015), <http://www.citylab.com/housing/2015/01/can-boomers-make-cohousing-mainstream/384624/> [http://perma.cc/4TKU-RT7P] (“About 130 cohousing communities exist in the U.S., according to the Cohousing Association, a nonprofit based in Durham, North Carolina.”).

116. See generally Ronda Kaysen, *The Millennial Commune*, N.Y. TIMES (July 31, 2015), <http://www.nytimes.com/2015/08/02/realestate/the-millennial-commune.html> [http://perma.cc/4XP3-LFR3] (discussing how co-living “has gained traction on the West Coast” and examining examples in New York City).

117. See generally Tomio Geron, *Collaborative Housing Aims to Build Housing for the Sharing Economy*, FORBES (Sept. 24, 2013, 4:55 AM), <http://www.forbes.com/sites/tomiogeron/2013/09/24/collaborative-housing-aims-to-build-housing-for-the-sharing-economy/> (“The startup plans to build rental housing that has smaller private spaces for residents than typical apartments but much larger shared public space that renters share. The company aims to make the housing cheaper than traditional market rate housing. These will not be what some call “micro-apartments” however, which have drawn some criticism, because the developments would have a community and social aspect that those do not, says Jay Standish cofounder of Collaborative Housing.”).

118. In some cases, these experiences do not come cheap—Purehouse in New York couples communal housing with a carefully curated collection of goods and services, including maid and laundry services, at a cost of \$1500 to \$2200 a month for the “House” membership. See *The “House” Membership*, PUREHOUSE, <http://purehouse.org/live/#living-membership> [http://perma.cc/P8TJ-UDKT].

119. Geron, *supra* note 117.

regulators—than more familiar elements of the sharing economy.<sup>120</sup> These new forms of shared housing, and the interaction between micro-units and the sharing economy, raise a range of potential implications.

#### IV. IMPLICATIONS

Considering the relationship between housing and the sharing economy yields a few interesting theoretical and practical implications. Both micro-units and the sharing economy represent new ways to slice property interests in response to consumer demand. The sharing economy enables the disaggregation of physical assets in a way that responds to the limits imposed by costs of acquisition and traditional conceptions of ownership.<sup>121</sup> Micro-units and the various forms of housing highlighted in Part III challenge the arguably artificial apportionment and permissible shared occupancy of property under existing regulations.<sup>122</sup>

Even as participation in the sharing economy pulls individuals into the public sphere to access goods and services that they might have previously owned and possessed in their own home, it also enables such individuals to live alone in a smaller space, rather than in a communal setting with roommates.<sup>123</sup> Avoiding ownership by accessing goods through the sharing economy reduces the need for storage, making possible a lifestyle that demands less private space (and lower monthly housing costs).<sup>124</sup> Accordingly, the sharing economy might make living without roommates in a micro-unit a more attractive and financially viable possibility, securing greater privacy and independence.<sup>125</sup> The personal property relationships

120. See Putzier, *supra* note 23 (discussing potential dangers of shared spaces, which—as Miriam Peterson said—raise questions of “[w]ho has ownership over them and what are the views within a population to actually share things?”).

121. See Sundararajan, *supra* note 61 (discussing the role of “peer economy” in enabling “disaggregation of physical assets in space and in time”).

122. See *generally* Infranca, *supra* note 3 (discussing regulatory challenges to the development of micro-units).

123. See *supra* notes 15–17 and accompanying text.

124. See *supra* note 40 and accompanying text.

125. See Tim Iglesias, *Does Fair Housing Law Apply to “Shared Living Situations”? Or the Trouble with Roommates*, 22 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 111, 115 (2014) (“[T]he very structural situation of sharing certain spaces may impose limits on privacy . . .”). In a similar vein, commentators have noted that rooming house life historically provided single people with autonomy and independence, in contrast with another significant housing option at the time—renting a room within a family home. See GROTH, *supra* note 44, at 127; see also Ruth Graham, *Boardinghouses: Where the City Was Born*, BOS. GLOBE (Jan. 13, 2013), <https://www.bostonglobe.com/ideas/2013/01/13/boardinghouses-where-city-was->

facilitated by the sharing economy, which allow on-demand access to goods, services, and community more generally in the public sphere, simultaneously enable the increased privatization of the individual's residence.<sup>126</sup> In this way, the sharing economy can lead many individuals to move away from a more traditional (and descriptively accurate) form of sharing—living with roommates. To the extent that the sharing economy provides an individual with access to resources that she may not be able to purchase on her own, the sharing economy substitutes for some of the incidental benefits of sharing a space, furnishings, and other goods with a roommate.<sup>127</sup> Whereas living with roommates might inevitably entail the informal sharing of property (kitchen items and food, living room furniture, music and book collections),<sup>128</sup> those living in micro-units might instead rely upon more formal sharing through the peer-to-peer economy. The consequence is that the same activities will likely be subject to greater regulatory oversight than the informal exchanges they supplant.

As the forms of housing discussed in Part III reveal, participation in the sharing economy may instead encourage some individuals to seek out more communal forms of housing. As such, the sharing economy might affect future housing development in two very different ways. It might, as noted, increase demand for micro-units that take the form of private residential spaces akin to a normal apartment, but simply smaller in size. Or, it might lead towards

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born/Hpstvjt0kj52ZMpjUOM5RJ/story.html (“For a population accustomed to living with extended family, boardinghouses represented a first step toward the radical autonomy that we now take for granted in modern urban life.”). At the same time, an individual's own room provided—through choices such as the furnishings—a means through which to reveal “their personal selves and their places in the world.” GROTH, *supra* note 44, at 128.

126. See Franklyn Cater, *Living Small in the City: With More Singles, Micro-Housing Gets Big*, NPR: CITIES PROJECT (Feb. 26, 2015, 5:58 PM), <http://www.npr.org/2015/02/26/389263274/living-small-in-the-city-with-more-singles-micro-housing-gets-big> (“A key idea behind buildings like this is that people spend less time in their own apartments. There's common space—think sharing economy, extra space when you need it. There's a roof deck, a dining area that can be reserved, lounge with TV and Wi-Fi.”). This mirrors how many early twentieth-century hotel residents understood the benefits of hotel life, which provided selective privacy that enabled a resident to “intersperse days or hours of seclusion with the conviviality of the dining room, lobby, bar, or downtown theater, gymnasium, or club.” GROTH, *supra* note 44, at 31.

127. See *The Rise of the Sharing Economy*, ECONOMIST (Mar. 9, 2013), <http://www.economist.com/news/leaders/21573104-internet-everything-hire-rise-sharing-economy> [<http://perma.cc/PP7U-LQCD>].

128. See generally Thomas W. Merrill, *Property as Modularity*, 125 HARV. L. REV. F. 151, 158 (2012) (noting “lots of unwritten rules and norms” governing roommates who share apartments).

greater demand for co-living arrangements, as individuals grown accustomed to participation in the sharing economy seek to live their entire lives within a culture and residential setting marked by collaborative consumption.<sup>129</sup> Such new forms of housing that expressly identify as part of the sharing economy blur the line between private and public space and, like much of the sharing economy, between residential and commercial uses.<sup>130</sup> These shared housing developments also raise unique concerns. To the extent that these developments expressly seek to foster a particular community by, in the words of one developer's stated mission, facilitating resource sharing, creative collaborations, and meaningful connections through curated social environments, questions can arise regarding whether the curating of prospective (and like-minded) tenants raises issues concerning exclusion and discrimination.<sup>131</sup> In addition, some co-living spaces only provide residents with short-term leases, perhaps in order to ensure the freedom to maintain a particular community composition by weeding out those deemed insufficiently collaborative.<sup>132</sup> While such short-term access and potential flexibility might reflect the broader ethos of the sharing economy, it leaves tenants with little sense of security and stability in their housing.

The burgeoning relationship between micro-units and the goods and services provided by the sharing economy might be compared to the role that common interest communities often play in providing residents with access to a broader range of amenities than they could afford on their own.<sup>133</sup> By providing individuals with access to a

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129. See *supra* Part III.

130. The developer of Commonsplace, a co-living development in Syracuse that shares a building with a co-working space, describes the development's "unique blend of living units and shared areas" as "offer[ing] a comfortable blend of public and private spaces." COMMONSPACE, *supra* note 109.

131. See OPENDOOR, <http://opendoor.io/> [<http://perma.cc/VJT5-K26H>]. But see Nellie Bowles, *Tech Entrepreneurs Revive Communal Living*, S.F. CHRONICLE (Nov. 18, 2013, 8:48 AM), <http://www.sfgate.com/bayarea/article/Tech-entrepreneurs-revive-communal-living-4988388.php> [<http://perma.cc/MDV4-W4C3>] (discussing the vision of Open Door founders to "fight market forces that make cities less diverse" by curating a community that includes economic diversity). The idea of "curating" a particular community or living experience seems to be a popular trope among providers of communal living developments. See *The "House" Membership*, *supra* note 118 (identifying: "The People" as a "[h]ighly curated community of like minded individuals" as "the key ingredient" of "Pure Lifestyle"); STAGE 3 PROPERTIES, <http://www.stage3properties.com/> [<http://perma.cc/LZR8-BLLZ>].

132. See Kaysen, *supra* note 116 (discussing co-living spaces in New York City and noting that many provide only thirty day leases, which offer residents little housing security).

133. See Andrea J. Boyack, *Common Interest Community Covenants and the Freedom of Contract Myth*, 22 J. L. & POL'Y 767, 779 (2014) ("[Common interest

preferred neighborhood that they might otherwise be priced out of—a neighborhood that offers access to desired amenities in the nearby community rather than within the residential development itself—micro-unit housing offers residents a greater customization of the package of amenities than one obtains in a common interest community.<sup>134</sup> There is reason for caution here. As commentators have noted, common interest communities increasingly perform functions and provide services that were traditionally within the scope of municipal government, which may diminish the support of those within such communities for the public provision of the same services.<sup>135</sup> Although supplanting public equivalents may not be a danger for most services provided through the sharing economy, it may become a concern for public transportation systems if sharing economy firms lure away commuters.<sup>136</sup>

Beyond simply depending on the sharing economy as a source of amenities, micro-unit developments might contribute to the growth and expansion of the sharing economy. The dense agglomeration of micro-units can help a particular neighborhood achieve sufficient

communities] allow buyers to obtain amenities that they could not otherwise afford individually.”).

134. Access to a customizable package of amenities will likely appeal to a generation frequently portrayed as desiring customization and rejecting preset bundles of consumable goods. Consider, for example, the growing rejection of bundled cable packages among a generation that has grown accustomed to on-demand entertainment. See Claire Atkinson, *Millennials Ditching Their TV Sets at a Record Rate*, N.Y. POST (Feb. 16, 2015, 9:59 PM), <http://nypost.com/2015/02/16/millennials-ditching-their-tv-sets-at-a-record-rate/> [<http://perma.cc/3RW2-A2LG>] (acknowledging the trend of millennials watching more video, but not through traditional cable mediums); Mark Hughes, *The Millennial Trends That Are Killing Cable*, FORBES (Mar. 21, 2015, 10:00 AM), <http://www.forbes.com/sites/markhughes/2015/03/21/the-millennial-trends-that-are-killing-cable/> [<http://perma.cc/Y79G-BUWE>] (describing millennials as more likely to use streaming or online methods than traditional cable).

135. See Paula A. Franzese & Steven Siegel, *Trust and Community: The Common Interest Community as Metaphor and Paradox*, 72 MO. L. REV. 1111, 1116, 1123–24 n.58 (2007) (“Gated communities . . . diminish[] the motivation of those behind the gates—with their privatized provisions and services—to want to contribute to the public equivalent of those services.”); see also Sheryll D. Cashin, *Privatized Communities and the “Secession of the Successful”: Democracy and Fairness Beyond the Gate*, 28 FORDHAM URB. L.J. 1675, 1677 (2001) (asserting that “the provision of formerly ‘public services’” through common interest communities has “put the nation on a course toward civic session”).

136. See Eric Jaffe, *The Company That’s Helping Mass Transit Stand Up to Uber and Leap*, CITYLAB (Apr. 10, 2015), <http://www.citylab.com/tech/2015/04/the-company-thats-helping-mass-transit-stand-up-to-uber-and-leap/390075/> [<http://perma.cc/BN5H-5HYJ>] (“[O]n-demand transportation services like Uber, Leap Transit, and Bridj have made mass transit agencies realize that their ridership could actually be threatened over time.”).

density to strengthen or sustain demand for sharing economy goods and services, including specialized peer-to-peer exchanges.<sup>137</sup> Some niche peer-to-peer sharing communities are only likely to exist and thrive in dense neighborhoods comprised of a demographic prone to participate in the sharing economy. Micro-units might serve to achieve such density in a neighborhood.

This potentially rich spatial relationship between micro-units and the sharing economy, through which dense micro-unit housing strengthens the demand for particular sharing economy firms, the presence of which then lures individuals to particular cities and neighborhoods, further increasing the demand for micro-unit housing, has the capacity to reshape urban neighborhoods. Going beyond the examples discussed in Part II.B, cities might designate “Sharing Districts” in which developers are encouraged or required to combine smaller housing units with sharing economy infrastructure, such as car sharing and co-working spaces.<sup>138</sup> Such districts could complement the “Innovation Districts”—amenity-rich urban neighborhoods marked by conditions of density and proximity that, proponents hope, will foster innovation and the development of new businesses by encouraging collaboration and the sharing of ideas and knowledge—that already exist in many cities.<sup>139</sup> Some cities already encourage the development of micro-units within innovation districts to provide housing for young workers and encourage collaboration and the

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137. See *supra* notes 38–39 and accompanying text. Along these same lines, New York University’s Rudin Center for Transportation Policy and Management, in a recent report exploring possible future urban development scenarios, explores the possible effect of “the boom in micro-apartments set[ting] in motion a virtuous cycle, increasing population density to levels where it could support a broad range of retail and local services.” ANTHONY TOWNSEND, RUDIN CTR. FOR TRANSP. POLICY & MGMT., RE-PROGRAMMING MOBILITY 46 (2014), <http://reprogrammingmobility.org/wp-content/uploads/2014/09/Re-Programming-Mobility-Report.pdf> [<http://perma.cc/7K96-FG8F>].

138. Along similar lines, a British government report on the sharing economy recommended the creation of a pilot “‘sharing city’—where transport, shared office space, accommodation and skills networks are joined together and residents are encouraged to share as part of their daily lives.” DEBBIE WOSSKOW, DEP’T FOR BUS., INNOVATION & SKILLS, UNLOCKING THE SHARING ECONOMY: AN INDEPENDENT REVIEW 11 (2014).

139. See BRUCE KATZ & JULIE WAGNER, BROOKINGS, INNOVATION DISTRICTS: A NEW GEOGRAPHY OF INNOVATION IN AMERICA 1 (2014) (“These districts, by our definition, are geographic areas where leading-edge anchor institutions and companies cluster and connect with start-ups, business incubators, and accelerators. They are also physically compact, transit-accessible, and technically-wired and offer mixed use housing, office, and retail.”).

sharing of ideas outside work hours.<sup>140</sup> By fostering the relationship between these housing units and the sharing economy more directly, cities can strengthen their efforts to develop neighborhoods that are attractive to these skilled workers.<sup>141</sup>

As discussed in Part II, a number of jurisdictions have already begun to consider, as part of the land use approval process, the provision of sharing economy infrastructure on the site of new residential development.<sup>142</sup> This role will likely become more prominent in the coming years as the sharing economy continues to grow and the types of goods and services it provides expand. More jurisdictions are likely to allow reductions in parking requirements in exchange for the provision of car share spaces. As the number of micro-unit developments increases and as more data regarding car ownership among residents becomes available, arguments for the wisdom of such reductions will likely strengthen. Eventually jurisdictions might consider the substantial presence of ride share services in a given locale as an adequate substitute or complement to public transportation when determining the proper amount of parking to require at a given development.<sup>143</sup> This might include

140. *See id.* at 12–13 (“Often marketed for migrating workers in innovation sectors, local residents, and younger single workers, micro-housing is now found in the districts of Boston, Barcelona, and Philadelphia (under construction). St. Louis is also planning micro-housing units in their district.”). Boston’s Innovation District strives to foster what it terms a “shared idea economy” through strategies that include clustering innovative people in a twenty-four-hour neighborhood marked by “amenities for flexible lifestyles” (including micro-units) on the theory that “[p]eople in close proximity innovate faster and share technologies and knowledge more easily.” *The Strategy*, BOSTON’S INNOVATION DISTRICT, <http://www.innovationdistrict.org/the-strategy/> [<http://perma.cc/995X-C4YR>]; *see also* Van Voorhis, *supra* note 102 (describing “collaboration space” of development where tenants can socialize).

141. Support for the development of a vibrant sharing economy may play a vital role in the attempt by many cities to provide a mix of cultural amenities and local services that attracts “the creative class”—well educated and highly skilled participants in the knowledge-based economy—with the goal of spurring economic growth. *See* Nestor M. Davidson & Sheila R. Foster, *The Mobility Case for Regionalism*, 47 U.C. DAVIS L. REV. 63, 94–96 (2013) (“[M]any cities and counties have embraced economic development policies that provide cultural amenities and high levels of local service to attract and retain [members of the creative class].”).

142. *See supra* Part II.

143. *See* Victoria Mitchell, *New Micro Housing Project Receives Green Light*, C & G NEWSPAPERS: ROYAL OAK REV. (June 30, 2015), <http://www.candnews.com/news/new-micro-housing-project-receives-green-light-84528> [<http://perma.cc/ELA5-GKAU>] (quoting attorney representing micro-unit developer outside Detroit, who defended request for parking reduction on grounds that target market of millennials do not own vehicles and rely on services like Uber); *see also* Eric Jaffe, *Uber and Public Transit Are Trying to Get Along*, CITYLAB (Aug. 3, 2015), <http://www.citylab.com/cityfixer/2015/08/uber-and-public-transit-are->

consideration of not only Uber and Lyft, but also services like Bridj, which provides ride sharing in small buses along routes that are determined using data regarding customer locations.<sup>144</sup> As such services expand and provide a more reliable and geographically dispersed alternative to existing transportation networks, they will open new neighborhoods to residential development. Beyond car, bike, and ride share, jurisdictions might demand that micro-unit developers provide other forms of sharing economy infrastructure, such as co-working spaces, in exchange for development approval. Such spaces, and the provision of goods and services through the sharing economy more generally, will enable even smaller cities to achieve denser forms of walkable, mixed-use urban development that is both reminiscent of earlier periods of urban development and of particular interest to younger residents.

### CONCLUSION

As the sharing economy reshapes cities generally, it is also changing the types of housing urban residents demand. For many residents, a housing unit's location and the access it affords to particular amenities, including the goods and services the sharing economy provides, are the most important factors guiding their housing and location decisions.<sup>145</sup> As cities revise existing regulations to respond to both the growing demand for micro-units and the expanding role of the sharing economy in urban areas, they should more carefully consider the potential synergies between these phenomena.

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trying-to-get-along/400283/?utm\_source=SFTwitter [http://perma.cc/BZB9-R9DK] (discussing possibility of a “network where Uber and other micro-transit providers enhance access to the existing public transit system”).

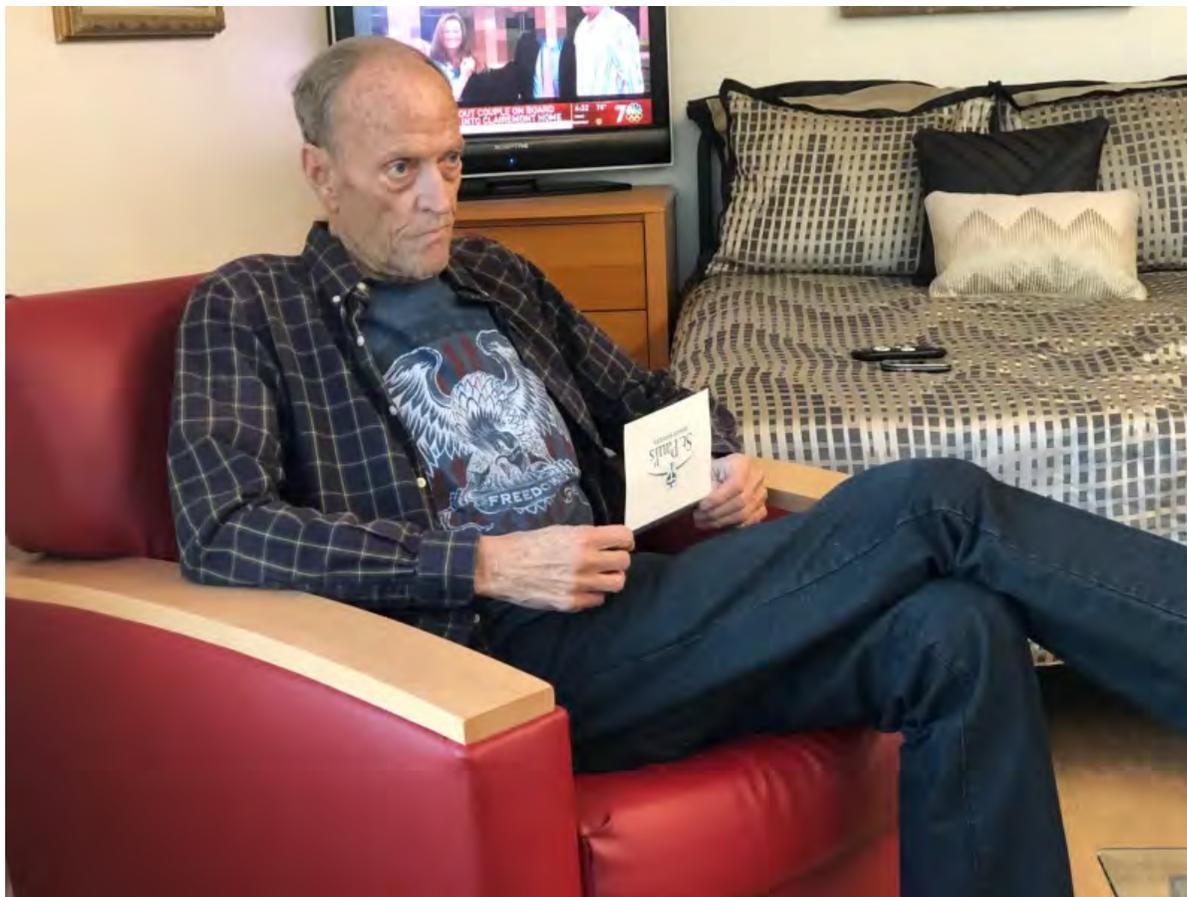
144. See Jess Zimbabwe, *First over the Bridj*, URBANLAND (July 6, 2015), <http://urbanland.uli.org/economy-markets-trends/first-bridj/> [http://perma.cc/DP5Y-K93P] (noting that, rather than following a traditional scheduled route, “Bridj—much like the car-sharing services Uber and Lyft—uses real-time data to take the transit to where the people are”); see also Katharine Q. Seelye, *To Lure Bostonians, New “Pop-Up” Bus Service Learns Riders’ Rhythms*, N.Y. TIMES (June 4, 2014), <http://www.nytimes.com/2014/06/05/us/to-lure-bostonians-new-pop-up-bus-service-learns-riders-rhythms.html> [http://perma.cc/HR5N-TQ5E] (discussing how Bridj collects data from a range of sources to “determine how a city moves”).

145. Cf. Edward Glaeser, Jed Kolko & Albert Saiz, *Consumers and Cities*, in THE CITY AS AN ENTERTAINMENT MACHINE 178 (Terry Nichols Clark ed., 2011) (identifying “rich variety of services and consumer goods” as one of four critical urban amenities that draw individuals to cities).

LAND USE

# City's Long List of Regulations Prevents Smaller, Cheaper Apartments

by [Kinsee Morlan](#)  
December 19, 2017



Bruce Carron lives in a micro unit at the new Talmadge Gateway affordable housing project.  
/ Photo by Kinsee Morlan

Jonathan Segal is fuming.

The architect and developer tried to build the city's first [low-rent micro-unit project](#) – a building in Little Italy in which the apartments would be less than 400 square feet and rent for notably less than nearby apartments.

Segal is still building the project, but city regulations and fees have made it more expensive, and he says he'll now have to charge more than he wanted.

He and his son Matthew Segal designed the project that will include Matthew Segal's single-family home, plus 40 micro-units.

Micro-units are an attempt to create a hip cousin of [SROs](#), or single-room-occupancy buildings, which have historically served as [the last rung on the housing ladder](#) for people who might otherwise be homeless. The rent is cheap because the units are small and amenity-free. Most SROs fit barely more than a bed, and bathrooms or kitchens are shared by multiple tenants.

Most new micro-units, by comparison, are smaller than standard studio apartments, but a little bigger than an SRO room – anywhere from 200 to 400 square feet – and most include bathrooms and kitchens.

Faced with housing crunches, cities like Seattle, New York, Denver and Los Angeles have seen an [uptick in new micro apartments](#). San Diego, though, has been slow to catch the trend. Developers like Segal and others say that's mostly because of outdated city policies and regulations.

Segal originally submitted a plan to the city that [didn't include any parking](#), even though city code requires it.

Building below-ground parking in a project is expensive, increasing project costs significantly – costs that are then passed off to future tenants as steeper rents. Segal hoped his no-parking project could have served as a proof-of-concept for micro-units in San Diego. He wanted to prove there are people who don't own cars and are interested in renting smaller, cheaper apartments in walkable neighborhoods.

"I wanted to do this in Little Italy because I wanted to prove that we could do this efficiently and people could live in these cool units at a price point they could afford," Jonathan Segal said.

But the property owner who sold the Segals the land didn't like the no-parking plan. He appealed the project several times, eventually forcing Segal to add 11 parking spots. That's less parking than is normally required because the project includes five units reserved for low-income residents. That allowed the Segals to use the [state density bonus law](#), which lets developers sidestep certain building requirements in exchange for low-income units.

"And now we're staring down a project that will be very expensive, specifically because of the stupid parking," Jonathan Segal said.

Developers are building other micro apartments in San Diego, but they're 100 percent affordable housing projects available only to renters who meet certain income requirements.

[Talmadge Gateway](#), for example, is a micro-unit project for formerly homeless seniors with ongoing medical needs. Opened this summer, the micro-units there average just a few hundred square feet, but tenants like Bruce Carron say it's more than enough.

"When I got this place, I sat in that chair and I cried for about an hour," Carron said. "Because I was homeless for two years before I got here."

Carron pays \$322 a month for the apartment. San Diego architecture firm Studio E Architects, which has [found a niche](#) creating affordable micro-units in San Diego and the Bay Area, designed the project.

Studio E architect Maxine Ward said for affordable housing projects like Gateway, it makes sense to build small units to increase density.

“Most of this type of permanent supportive housing should be studios of this size,” she said, referring to a type of housing preferred by homelessness advocates in which people are offered a permanent place to live, as opposed to a transitional space. “People are coming off the street or off awful situations. They really just need a roof over their heads.”

She said large windows and other design tricks can make small spaces feel much bigger.

[The Nook](#), at the corner of 15th and K streets in the East Village, is a 35,000 square foot micro-unit project currently under construction. It includes eight units set aside for homeless veterans, and the rest of the units are only available to people who make 80 percent of the city's median income –about \$50,000 a year.

Because The Nook is affordable and located near transit, its developers were required to include just seven parking spots for its 91 units, which average about 250 square feet each.

David Allen, president of the San Diego-based Trestle development company behind The Nook and other micro apartments in Oakland and Seattle, said San Diego needs to follow other cities' lead and [do away with parking requirements](#) if it wants more micro-units.

“San Diego is a [hard place to do micro-units](#),” he said. “There are many hoops that you have to jump through from a zoning and parking

standpoint that don't exist in some of the more progressive urban markets."

Parking requirements are just one of the things keeping developers from building micro-units.

The city also charges developers fees intended to mitigate their projects' impact by funding things like parks, fire stations and street repairs. Most of those fees are currently based on the number of units in a project, not the overall square footage. That means a developer would be charged more to build lots of cheap, little units than to build fewer large luxury units.

In other words, the city's fee structure currently encourages developers to build expensive housing.

"If the city got wise on this stuff, they'd open the flood gates to micro-units," Allen said.

The city is aware of some of the issues standing in the way of micro-units. Mayor Kevin Faulconer has made [increasing housing a priority](#). Councilwoman [Georgette Gomez's proposed a housing plan](#) that would make micro-units more workable, and there is some movement to include changes in the next iteration of the city's land development code that will make it cheaper to build smaller units. The changes are expected to be proposed early next year.

Andrew Malick, a developer and urban designer who has micro-units planned as part of a project in National City, said the changes in the city code are necessary, not because developers want to jam as many people into a building as they can, but because smaller units are more affordable and offer one solution to the region's housing crunch.

"Micro-housing is a component of the total solution, but it's an important enough component that we should be paying attention to it," he said.

But Malick said city regulations aren't the only thing holding micro-units back in San Diego. He said finding investors and companies willing to fund micro-unit projects is also difficult.

It's a chicken and egg issue: Many investors won't fund a micro-apartment project in San Diego until there are successful examples to point to.

"The reason we're not building them is that we just haven't built them yet," he said. "It takes a long time to steer this cruise ship around. People are living in much, much smaller units in other parts of the world – it's possible here. But it's about getting the industry and other people on board."

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Michael Luca

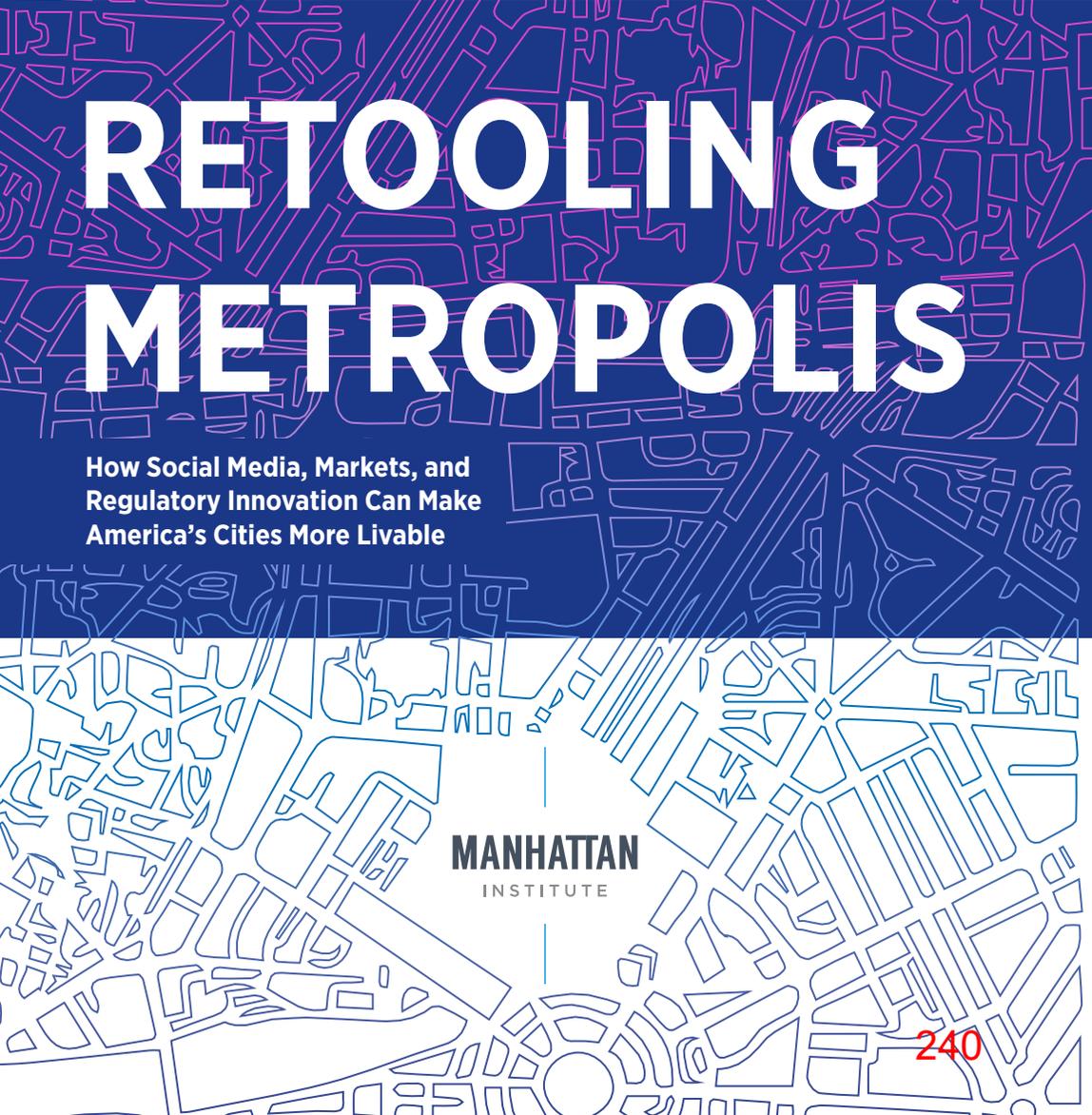
Donald Shoup

Aaron Renn &  
Alex Armlovich

Jeffrey Liebman &  
Hanna Azemati

# RETOOLING METROPOLIS

How Social Media, Markets, and  
Regulatory Innovation Can Make  
America's Cities More Livable



**MANHATTAN**  
INSTITUTE

240



# CONTENTS

<b>About the Manhattan Institute</b> .....	iv
<b>Contributors</b> .....	v
<b>Foreword</b> .....	ix
<b>Chapter 1. Restaurant Hygiene and Social Media: How to Improve Regulatory Disclosures in the Digital Age</b> <b>Michael Luca</b> .....	1
<b>Chapter 2. The Right Price for Curb Parking</b> <b>Donald Shoup</b> .....	9
<b>Chapter 3. Microunits: A Tool to Promote Affordable Housing</b> <b>Aaron Renn and Alex Armlovich</b> .....	23
<b>Chapter 4. How Cities Can Improve Their Procurement of Goods and Services</b> <b>Jeffrey Liebman and Hanna Azemati</b> .....	37

# ABOUT THE MANHATTAN INSTITUTE

**T**he Manhattan Institute for Policy Research develops and disseminates new ideas that foster greater economic choice and individual responsibility. Since 1977, the institute has helped change the United States and its cities for the better: welfare reform, tort reform, proactive policing, and supply-side tax policies are at the heart of MI's legacy.

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Armlovich’s work has appeared in a variety of publications, including the New York Daily News, New York Post, U.S. News & World Report, Washington Examiner, and City Journal (co-authored with Judith Miller). He previously worked as an intern in the offices of Senator Charles Schumer (D-NY) and the U.K. Parliament’s Labour Party deputy leader. Armlovich holds a B.A. in economics and political science from the University of Rochester.



**Hanna Azemati** is an assistant director with the Government Performance Lab at Harvard’s Kennedy School. She is leading the Government Performance Lab’s work on the Bloomberg Philanthropies’ What Works Cities initiative. Azemati has also been supporting New York State’s Social Impact Bond initiatives, first as a Government Innovation Fellow and then as the

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**Jeffrey Liebman** is the Malcolm Wiener Professor of Public Policy at the Harvard Kennedy School where he teaches courses in social policy, public sector economics, and American economic policy. In his research, he studies tax and budget policy, social insurance, poverty, and income inequality. During the first two years of the Obama Administration, Liebman served at OMB, first as Executive Associate Director and Chief Economist and then as Acting Deputy Director. From 1998 to 1999, Liebman served as Special Assistant to the President for economic policy and coordinated the Clinton Administration's Social Security reform technical working group. For the past five years, his Harvard Kennedy School Government Performance Lab has been providing pro bono technical assistance to state and local governments interested in improving the results they achieve for their citizens.



**Michael Luca** is a faculty member at the Harvard Business School. Professor Luca works closely with companies and cities to help them become more data-driven, and has ongoing collaborations with Yelp, Facebook, the UK government, and the city of Boston, in addition to other partners.

Professor Luca teaches *The Online Economy*, an elective course about the strategic and operational decisions faced when designing and launching an online platform. He also teaches an elective course in which student teams develop behavioral interventions and experimental designs for government and company clients, called *IFC: Behavioral Insights*.

Professor Luca's current work focuses on digital data and platforms, analyzing a variety of companies including Yelp, Amazon, and Airbnb. He also works on issues related to the design of information disclosure. Focusing on the behavioral foundations of how people make decisions, Luca has done work on rankings, expert reviews, online consumer reviews, and quality disclosure laws, among other types of information provision.

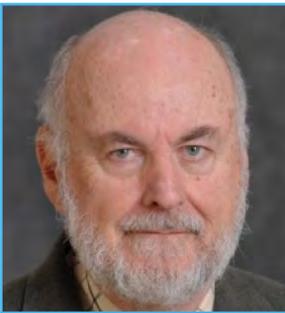
His work has been written about in a variety of media outlets including *The Wall Street Journal*, *New York Times*, *Washington Post*, *Boston Globe*, *Guardian*, *Telegraph*, *Huffington Post*, *Harvard Business Review*, *Atlantic*, *Quartz*, *Vox*, and *Forbes*.



**Aaron Renn** is a senior fellow at the Manhattan Institute, a contributing editor of *City Journal*, and an economic development columnist for *Governing* magazine. His work focuses on ways to help America's cities thrive. During Renn's 15-year career in management and technology consulting, he was a partner at Accenture and held several technology strategy roles and directed multimillion-dollar global technology

implementations. Renn has contributed to *The Guardian*, *Forbes.com*, and numerous other publications. His perspectives on urban issues are regularly cited in the *New York Times*, *Washington Post*, *Time*, *The Economist*, *Daily Telegraph*, and other international media.

Renn holds a B.S. from Indiana University, where he coauthored an early social-networking platform in 1991. He has created several widely used open-source software packages, including the only program for recovering data from corrupted gzip backups. In 1998, Renn launched one of the nation's first blogs, the *Weekly Breakdown*, to cover the Chicago Transit Authority.



**Donald Shoup** is Distinguished Research Professor in the Department of Urban Planning at UCLA. His research has focused on how parking policies affect cities, the economy, and the environment. His research on employer-paid parking led to the passage of California's parking cash-out law, and to changes in the Internal Revenue Code to encourage parking cash out. In his book, *The High Cost of Free Parking*, Shoup

recommends that cities should charge fair market prices for on-street parking, use the meter revenue to finance public services in the metered neighborhoods, and remove off-street parking requirements.

Shoup is a Fellow of the American Institute of Certified Planners, an Honorary Professor at the Beijing Transportation Research Center, and the Editor of *ACCESS*. In 2015, the American Planning Association gave Shoup its highest honor, the National Excellence Award for a Planning Pioneer.



# FOREWORD

Aaron Renn

In the 1970s and 1980s, the questions of urban policy were existential—could America’s major urban centers survive at all?

Today, this question has been answered with a resounding yes in many U.S. cities, from New York to San Francisco, and Denver to Houston. Yet that very success poses new challenges to a new generation of urban leaders.

Today’s urban citizens demand effective, efficient government services. They are less tolerant of bureaucratic dysfunction. Technology is transforming the world; government is no exception. And the experiences that today’s urbanites have with technology, from the iPhone to Uber, set a high service-delivery bar that citizens expect government to meet. Meanwhile, problems of success, such as uneven economic advancement and soaring rents in many cities, pose challenges to future urban growth.

The Manhattan Institute has long been committed to staying at the forefront of urban-policy innovation. To that end, we have partnered with leading academics to commission the series of urban-innovation essays found in this volume—essays that speak directly to some of the big challenges that U.S. cities now face.

In the **first essay**, Harvard Business School’s Michael Luca discusses the innovative work that he and his team did in partnership with Yelp, a customer-review website, and the cities of San Francisco and Boston. Traditional urban-data applications have involved either making better internal use of government data or posting government data to an online portal to allow private users to take advantage of it. In Luca’s work, there is a bidirectional flow of data and more collaboration between private firms, such as Yelp, and cities.

Luca examined public-health inspection scores in San Francisco and helped get that information onto Yelp—a useful thing for the many diners who peruse it before selecting a restaurant to visit. He also discovered that reviews posted on Yelp can be used to predict which restaurants will subsequently fail health inspections. Luca worked with the city of Bos-

ton to run a contest to create an algorithm to apply that insight to Boston, which could potentially allow health inspectors to more efficiently target restaurants that are likely to have violations.

In the **second essay**, UCLA's Donald Shoup outlines better ways for cities to manage their on-street real estate. Demand for parking is growing with cities, and new technology offers new ways of managing parking. He suggests that cities should use market-based pricing for parking meters, varying the price by time of day to reflect the variation in demand for parking spaces. He outlines the concept, and then reviews the results achieved when San Francisco implemented his policy for its new *SFpark* system.

Shoup also describes how market-based pricing could be extended to residential street parking. His plan: allow neighbors to petition for a uniform price auction to allocate spaces to homeowners. The money raised would then be spent in the neighborhood itself. Rich and poor neighborhoods would both benefit through a “power-equalization system” of financial allocation.

In the **third essay**, Alex Armlovich and I address the problem of soaring housing prices in many U.S. cities. To help ease this burden, we suggest more aggressive permitting of so-called microunits—apartments that are smaller than conventional studios.

We highlight a number of the barriers to microunit construction, including minimum unit-size regulations, a lack of multiunit zoning generally, and other de facto restrictions, such as density caps. We then review the experience of microunits in Seattle and other cities, as well as the political barriers to them, including legacy opinions shaped by the history of single-room-occupancy hotels.

In the **final essay**, Jeffrey Liebman and Hanna Azemati, both at Harvard's Kennedy School, discuss ways to help cities improve their contracting. Virtually everything that cities do involves some type of contracted purchase from the private sector. In Boston alone, contract purchasing totals \$1.2 billion per year. But the contracts themselves often have not been changed in many years. Instead, they are simply rolled over as they expire. There is little high-level focus on pursuing strategic contracts, either.

Liebman and Azemati recommend that cities assign a senior member of the mayor's inner circle to be responsible for strategic management of the city's contract portfolio; and that cities explicitly define

their goals for major procurement efforts, structure the contracts correctly (such as by bundling or unbundling items) to achieve those goals, and investigate innovative types of contracting, such as problem-based procurement.

These essays address diverse topics. But they all cover themes that directly speak to the problems, as well as the opportunities, that today's city leaders face.



# RESTAURANT HYGIENE AND SOCIAL MEDIA: HOW TO IMPROVE REGULATORY DISCLOSURES IN THE DIGITAL AGE

**Michael Luca, *Harvard Business School***

## Introduction

Online review platforms have dramatically changed the way people learn about the quality of products and services. Yelp and TripAdvisor, for example, are now dominant information sources that exert considerable influence over consumer behavior. But social media has broad implications for the improvement of government regulatory policy as well. Consider that health officials now regularly assign hygiene scores to restaurants and increasingly require that the scores be publicly displayed. What role might social media play in making the results of these restaurant inspections—and other inspections—more widely known and useful? Drawing on my academic research and fieldwork, I argue that: (1) online review platforms can be useful vehicles for government regulatory disclosures; (2) the regulatory regimes that generate these disclosures can themselves be made more efficient by the user-generated content on these social media; and (3) government disclosure policies should take into consideration the information that is already readily available to customers on social media.

## I. Restaurant Hygiene: Scores on Doors

Health departments in nearly every developed country inspect restaurants to identify and reduce practices and conditions, such as storage of food at unsafe temperatures, that can lead to illness. While the worst offenders are forced to close, restaurants can fall into the “pass” category with a range of health-code violations. A central question faced by regulators is whether—and how—to inform the public about the results of their health inspections. The disclosure of such scores can help people decide where they might, and might not, eat; and it can also create incentives for restaurants to improve their food-safety practices. This mirrors the policy challenges faced in a variety of settings, ranging from food labeling to gas mileage.<sup>1</sup>

Since the late 1990s, there has been a vocal movement to require restaurants to prominently post their hygiene scores. Research by Ginger Jin and Phillip Leslie show that Los Angeles’s mandatory posting policy, passed in December 1997, led to improved hygiene scores and a 20% reduction in rates of food-borne illnesses. Based largely on their research, hygiene-score posting is frequently cited as a success, and other cities, including New York, have implemented similar requirements.<sup>2</sup>

When “scores on doors” began, there was no Facebook, Twitter, or Yelp. Today Yelp has amassed about 100 million reviews, while TripAdvisor, Chowhound, and other websites have amassed similar figures. Reviewers on these platforms don’t typically (if at all) carry clipboards or charts to eateries, but they do comment on issues that interest health inspectors. And my research indicates that consumers increasingly turn to these types of social-media platforms for guidance.<sup>3</sup>

Public reporting and inspections should draw on and interact with social media, not ignore it. Moving toward digital disclosure can potentially reduce costs and produce reports that are more in line with the way millions of people learn about products and services. Moreover, regulators and other public officials should leverage the data that already exist on social media to improve the efficiency of government operations. While this essay focuses on restaurant hygiene, the principles and methods described can be applied in a variety of settings.

## II. Regulatory Disclosure and Social Media

Although restaurant inspections differ by city, the main elements are similar. San Francisco's Retail Food Safety Program, for example, is overseen by the city's Department of Public Health (SFDPH), which administers inspections of "restaurants, markets, and all other retail food operations,"<sup>4</sup> such as bars, pushcarts, and bakeries. Unannounced inspections are used to calculate food-safety scores based on an establishment's compliance with health and safety regulations.

Each inspection results in a score from 0 to 100. Deductions from the perfect score of 100 are made for each violation, with more serious infractions receiving larger deductions. SFDPH classifies violations as high-, moderate-, or low-risk.

Major safety violations that endanger public health can result in a restaurant's closure, and restaurants are supposed to be inspected two or three times per year, depending on their scores. In many cities, however, lack of resources means that inspections are not as frequent. Cities could improve their inspection and disclosure policies by working with social media in three ways: as a disclosure outlet; as a means for leveraging online information; and as a tool for determining optimal disclosure practices.

### *Social media as an outlet for disclosure*

I recently collaborated on a project to incorporate the SFDPH's hygiene scores onto Yelp's website and analyze the results. For the initial posting, public-inspection results for roughly 4,000 San Francisco restaurants were matched with Yelp's records. (The results became publicly visible on March 25, 2013.) Since then, my collaborators and I have monitored and analyzed the relationship between hygiene scores and Yelp reviews. Records are now updated after each inspection and automatically posted to Yelp; after our initial matching, new restaurants are matched upon the first inspection.

When Yelp users now research a restaurant, they see reviews, ratings, and hygiene scores ("health scores"). If a user clicks on the last, she is brought to a screen, as in **Figure 1**, displaying the violations that led to the score, as well as results from previous inspections.

**Figure 1. San Francisco Department of Public Health–Provided Hygiene Scores, as Displayed on Yelp**



The initial consumer reaction was limited, in part because scores were given little space on the main page, and a click of a button was required to see the full history. In response, we focused on San Francisco restaurants most in need of improvement (specifically, those that scored in the bottom 5%) by creating a “consumer alert” that popped up when visitors arrived at these restaurants’ Yelp pages. (For all other restaurants, no alert would appear, though the original, less prominent, hygiene-score display remained.) This modification produced roughly a 20% drop in reservations and deliveries for restaurants with the lowest scores. This suggests the importance of design for digital disclosures of government regulatory information.<sup>5</sup> Disclosure, in other words, requires more than just data dumps. Collaborations with review platforms would allow governments to make data-driven design changes to better inform the public. This can help to shift the mind-set from “Does disclosure work?” to “How should disclosure be designed?” And online platforms provide an important tool in understanding what works.

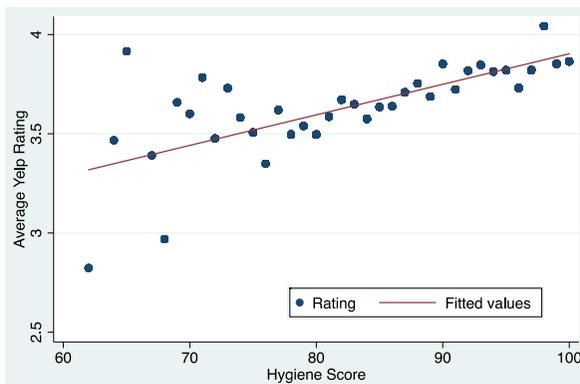
*Leveraging online information to improve regulatory regimes*

Apart from basic guidelines—such as conducting more frequent inspections at sushi restaurants (because of their raw menu offerings) than, say, burger joints—health officials typically assign inspectors in a fairly random manner. But social media can help health inspections become more efficient.

Suppose you were looking for restaurants that were causing food poisoning. What if you were to search Yelp for terms like “sick” or “dirty”? You would probably find a few culprits. But the entire history of Yelp reviews and ratings can be merged with the history of hygiene violations to create an algorithm that identifies the likelihood of finding a hygiene violation. The algorithm would “learn” from the history of past reviews and predict the likelihood of finding violations on the basis of recent reviews. Inspectors could then be reallocated to the restaurants most likely to have violations. Similar methods could be applied to inspections of other kinds of facilities, such as parks, hospitals, dentists, and so on.

A 2013 research study (which I coauthored) explored the feasibility of using natural language processing to predict hygiene violations using Yelp reviews.<sup>6</sup> **Figure 2** makes clear that Yelp scores can help predict hygiene scores. Indeed, after applying our algorithm, we were able to accurately predict—using only Yelp reviews and ratings—more than 80% of hygiene scores for San Francisco restaurants that scored in the bottom half. A 2014 study implemented a similar analysis for New York City, based on searches for terms such as “sick” and “vomit.”<sup>7</sup> These findings suggest that cities can use private, user-generated data to develop algorithms to better target inspections, reduce administrative costs, predict potential problems, and provide immediate quality-improvement efforts.

**Figure 2. Yelp Ratings Predict Hygiene Scores**



Source: Edward Glaeser et al., “Big Data and Big Cities: The Promises and Limitations of Improved Measures of Urban Life,” *Economic Inquiry* (forthcoming).

Cities have been slow to incorporate algorithms and predictive analytics into their operations, and one problem may be that their staffs lack the technical skills to do so. One solution might be to turn to consulting companies. Another might be to have cities run prediction tournaments on platforms such as Kaggle, Topcoder, or DrivenData that host data-science contests. These tournaments might allow cities to acquire the technical skills necessary to create city-specific algorithms; they might also increase the diffusion of new methods and insights.<sup>8</sup>

Last year, I and my collaborators Ed Glaeser, Andrew Hillis, and Scott Kominers partnered with Yelp, Boston (which does employ data scientists), and DrivenData to run a contest to create a city-specific algorithm. The tournament attracted more than 500 contestants, with 55 submitting at least one set of predictions. The winning algorithm positioned Boston to cut the number of restaurant inspections by 40% while identifying the same number of hygiene violations by switching to a targeted inspection process. We worked with Boston on an experiment to explore the value of using this type of algorithm for targeting health inspections. Our research found that an algorithm outperformed not only random inspections but also a list of restaurant targets created by inspectors, who have some degree of discretion about which restaurants to prioritize. Boston is now implementing an algorithm using Yelp reviews to figure out which restaurants to prioritize.

The assignment of restaurant inspections includes predicting, on the basis of past history and other factors, where health problems might occur. Effective policing involves predicting—and preventing—crime. Successful forecasting and planning involve predicting economic conditions. Fostering a thriving school district involves predicting which teachers will add the most value to a classroom. All of these are *prediction* problems. And all of these can be improved through better predictive analytics in conjunction with a more deliberate approach to data collection.

### *Using online information to determine optimal disclosure policies*

Policymakers should consider whether to increase, decrease, or maintain overall investment in public reporting. The answer relates to classic research on designing incentives in settings with multiple quality dimensions, and depends on whether the quality dimensions are substitutes or complements.<sup>9</sup>

To understand the difference, consider a public-health department that is focusing on two problems: rodents in the dining room and in the kitchen. Yelp creates an incentive for restaurants to remove rodents from the former. A restaurant might, hypothetically, respond by laying traps in the dining room, which would encourage rodents to live in the kitchen instead. In this case, the two problems are substitutes, and the increased social reporting on dining-room rodents might lead to more problems in the kitchen.

But if the rodents leave the restaurant because of dining-room traps, Yelp reporting that led to more dining-room traps would help with both problems; it would be a complement. When quality dimensions are substitutes—and there are numerous dimensions that customers cannot see or report on social media—policymakers should increase disclosure and enforcement efforts. Where quality dimensions are complements, and most areas of interest are readily observable to customers, policymakers could reduce disclosure and enforcement efforts.

## Conclusion

The principles that inform how social media may improve government regulatory regimes are not limited to restaurant inspections. They may be applicable to hospital and physician ratings, plumber and electrician licensing, landlord audits, and elsewhere. Overall, government disclosures, certifications, and inspection processes need to be updated to better reflect—and leverage—the complicated, information-rich, social media ecosystem.

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# THE RIGHT PRICE FOR CURB PARKING

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## Introduction

Everybody wants to park free, including me, but the only thing worse than paying for parking is having no parking at all. If curb parking is free, it is often crowded, and new arrivals have no place to park. Cities can install parking meters to avoid overcrowding, but what is the right price to charge? I will argue that the right price for curb parking is the lowest price that can produce one or two vacant parking spaces on each block. If many spaces are vacant, the price is too high. If no spaces are vacant, the price is too low. But if one or two spaces are vacant, the price is just right, and everybody will have great parking karma. Call it the Goldilocks principle.

Prices that produce one or two open curb spaces on every block will improve the city in three ways. First, and most obviously, curb parking will improve because the spaces will be well used yet readily available. Second, drivers won't have to cruise to find an open space, which means less congestion, wasted fuel, and air pollution. Third, the economy will improve because customers will park, buy something, and leave promptly—freeing up spaces for other customers.

Cruising is an especially big problem. In 2006, researchers who interviewed drivers stopped at traffic lights on Prince Street in Manhattan found that 28% were hunting for curb parking.<sup>1</sup> In a study in 2007, researchers found that cruising for underpriced parking on 15 blocks on the Upper West Side of Manhattan created about 366,000 excess vehicle miles traveled per year.<sup>2</sup>

Although the demand for curb parking can vary throughout the day, parking meters in most cities charge the same price all day. Primitive technology once made it difficult to charge prices that vary throughout the day in response to changes in demand. Parking was, for decades, the most stagnant industry outside North Korea, but it is now taking advantage of everything that Silicon Valley has to offer. The new parking technology makes better parking policies possible, and the new parking policies increase the demand for the new technology.

The real barrier to implementing the Goldilocks principle for parking is not technology but politics. I will explain how cities have all the technology necessary to charge market prices for curb parking, using San Francisco as an example. Then I will explore how cities can make market prices for curb parking politically popular.

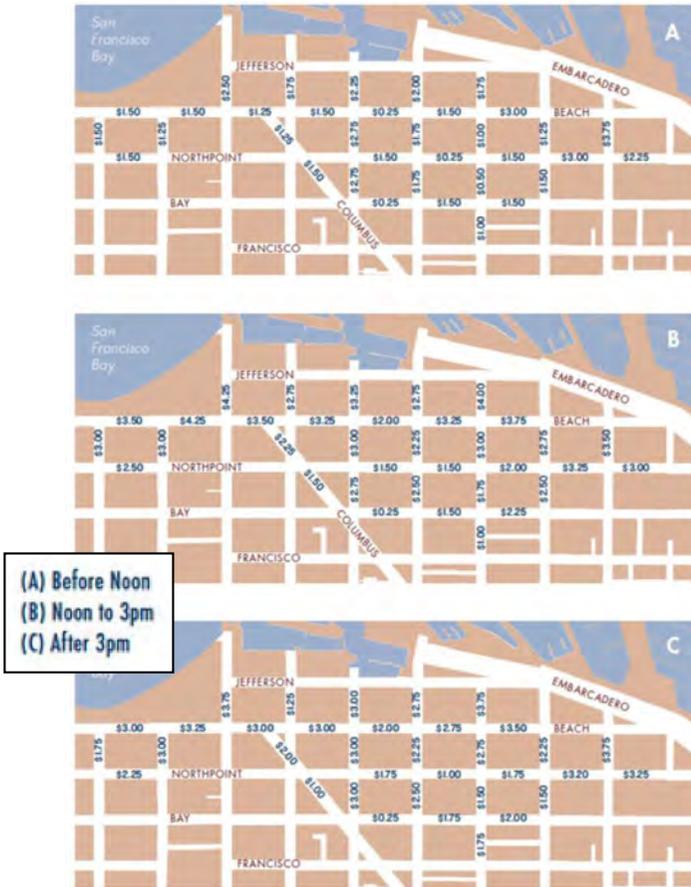
## I. The Right Prices for Curb Parking in San Francisco

In 2011, San Francisco adopted the biggest price reform for on-street parking since the invention of the parking meter in 1935: it varied the price of curb parking by both location and time of day. *SFpark* aims to solve the problems created by charging too much or too little. If the price is too high and many curb spaces remain vacant, nearby stores lose customers, employees lose jobs, and governments lose tax revenue. If the price is too low and no spaces are vacant, drivers who cruise to find an open space waste time and fuel, congest traffic, and pollute the air.

In seven pilot zones across the city—with a total of 7,000 curb parking spaces—San Francisco installed sensors that report the occupancy of each curb space on every block and parking meters that charge variable prices according to location and time of day. The city adjusts prices every two months or so in response to occupancy rates, increasing prices if occupancy is too high and reducing prices if occupancy is too low.

Consider the resulting prices of curb parking on a weekday at Fisherman's Wharf, a popular tourist and retail destination (**Figure 1**):

**Figure 1. Weekday Parking Prices at Fisherman's Wharf, May 2012**



Source: Gregory Pierce and Donald Shoup, "SFpark: Pricing Parking by Demand," *ACCESS* 43 (Fall 2013): 20–28.

Before SFpark began in August 2011, the price for a space was \$3 an hour at all times. Now each block has different prices during three periods of the day—before noon, from noon to 3 p.m., and after 3 p.m. By May 2012, most prices had decreased in the morning hours. While some prices increased between noon and 3 p.m.—the busiest time of the day—most prices after 3 p.m. were lower than in midday though higher

than in the morning. Prices changed every six weeks, never by more than 25 cents per hour. *SFpark* based these price adjustments purely on observed occupancy. City planners cannot reliably predict the right price for parking on every block at every time of day, but they *can* use a simple trial-and-error process to adjust prices in response to past occupancy rates. San Francisco charges the lowest prices possible without creating a parking shortage. This process of adjusting prices based on occupancy is sometimes called “performance pricing.” **Figure 2** illustrates how nudging prices up on Block A, a crowded block, and down on under-occupied Block B can shift a single car to improve the performance of both blocks.

**Figure 2. Performance Prices Balance Occupancy on Every Block**

**Before *SFpark***

  
Block A – Central Business District Location      No Open Spots

  
Block B – Nearby Location      3 Open Spots

**After *SFpark***

  
Block A – Central Business District Location      1 Open Spot

  
Block B – Nearby Location      2 Open Spots

Source: Pierce and Shoup, “*SFpark*.”

Beyond managing the on-street supply, *SFpark* helps to depoliticize parking. Transparent, data-based pricing rules can bypass the usual politics of parking. Because demand dictates the prices, politicians cannot simply raise them to gain more revenue.

While it is clear that demand-based parking prices are efficient, are they fair? In San Francisco, 30% of households do not own a car,

so they don't pay anything for curb parking. San Francisco uses all its parking-meter revenue to subsidize public transit, so automobile owners subsidize transit riders. *SFpark* furthers aids bus riders, cyclists, and pedestrians by reducing the traffic caused by cruising for underpriced and overcrowded curb parking.

*SFpark's* goal is to optimize occupancy, not to maximize revenue, and prices go down as well as up. Because the prices at most meters had been too high in the mornings, the average price of curb parking fell by 4% during *SFpark's* first two years.

Varying the prices for curb parking by location and time of day aroused almost no political opposition, especially because the prices changed slowly and more prices went down than up. Most drivers didn't even seem to notice that prices were changing. Opposition did erupt, however, whenever the city proposed new parking meters on blocks that had previously been free. So I will turn next to policies that cities can adopt to make parking meters politically popular.

## II. Parking Benefit Districts

If all the parking-meter revenue disappears into a city's general fund—as it now does in most cities—few businesses or residents will want to support charging for on-street parking. But if meter revenue is dedicated to specific, additional public services in the metered neighborhood, residents will be much more inclined to support performance pricing.

As a way to appeal to local stakeholders, some cities have created Parking Benefit Districts that spend the meter revenue only in the metered areas. Everyone who lives, works, visits, or owns property in the district can readily see the benefits paid for by the parking meters.

Old Pasadena, a historic business district in Pasadena, California, illustrates the potential of Parking Benefit Districts. Old Pasadena began to improve dramatically when the city installed parking meters in 1992 and began spending revenue of more than \$1 million a year to rebuild the sidewalks, plant street trees, add historic street furniture, and increase police patrols. Parking revenue helped to convert what had been a commercial skid row into a popular destination.<sup>3</sup> Following the example of Pasadena, several other cities, including Austin, Houston, Mexico City, San Diego, and Washington, D.C., have com-

mitted parking revenue to finance public services on the metered streets.<sup>4</sup> Thus far, Parking Benefit Districts have been adopted almost entirely in commercial areas. A key question is whether they can also work in residential neighborhoods where everyone is accustomed to free parking on the street.

Currently, most cities issue residential parking permits either free (as in Boston) or at a low price (such as \$34 a year in Los Angeles) for all the cars registered at each address. Although cities create permit districts only in neighborhoods where parking is scarce, they can be freewheeling about the number of permits they issue. For example, a political storm erupted in San Francisco in 2002 when journalists discovered that romance novelist Danielle Steel had 26 residential parking permits for her house in Pacific Heights.

What would it look like to institute a Parking Benefit District in a residential zone? First, drivers pay market prices for the permits. Second, the number of permits is limited to the number of curb spaces. Third, the permit revenue pays for neighborhood public services on the permit blocks.

Conventional residential permits are usually priced far below the market price because car owners resist paying to park in front of their own homes. The political incentives change drastically, however, when the majority of residents park off-street or don't own a car and the parking revenue pays for neighborhood public services. The residents' desire for public services can outweigh the motorists' desire to park free on the streets.

Can charging market prices for on-street parking permits produce enough revenue to pay for public services in residential neighborhoods? I believe that they can. In the next section, I will outline the best way to price parking permits.

### *Uniform-price auctions*

If a residential neighborhood wants to implement a Parking Benefit District, the simplest way to discover the market price is through a uniform-price auction. Here is an example of how it would work: each resident on a block with 20 parking spaces is allowed to submit a bid for one permit. The bids are ranked in descending order, and the highest 20 bidders receive permits. All the winning bidders then pay the same price: the lowest accepted bid. All but the lowest winning bidder thus pay less than what they actually bid. (Some universities use uniform-price auctions to sell campus parking permits.)

The auction price for street parking is the lowest price that will not create a shortage of parking and the price that will presumably compete with the market price of nearby off-street parking. For example, if residents can rent parking in a nearby garage, that price should put a ceiling on what residents are willing to bid for a permit to park on the street. If the monthly rent in the nearest garage is \$100 a month, for example, this seems a reasonable estimate for the auction value of a permitted parking space on the street.

Although \$100 a month (\$3.30 a day) may seem a lot to pay for a permit to park on the street, drivers receive guaranteed parking spaces—a valuable asset in a neighborhood where street parking had previously been a gamble. Furthermore, because the revenue from parking permits pays for public services, the combination of guaranteed parking *and* the new public services may persuade even car owners to support a Parking Benefit District. A few spaces on each block could have conventional parking meters to accommodate visitors.

If the auction price is \$100 a month, 20 permits will yield total annual revenue of about \$24,000 to pay for public services on the block. Each block will require a separate auction because the demand for and supply of on-street parking varies by location. The auctions can be repeated every year, and the permits can be transferrable. Cities that are not equipped to manage the permit auctions can contract with e-commerce companies such as eBay that specialize in online auctions.

### *An alternative to alternate-side-of-the-street parking regulations*

In addition to providing guaranteed curb spaces, a Parking Benefit District can eliminate the frustrating requirement that residents move their cars from one side of the street to the other on street-cleaning days. As Calvin Trillin showed in his brilliant novel *Tepper Isn't Going Out*, alternate-side parking creates a nightmare for residents who park on the street. If cities use parking revenue to pay for vacuum equipment to clean around and under parked cars, streets can be swept without requiring drivers to move their cars.

To be sure, vacuum cleaning will require hiring more personnel and replacing conventional street-sweeping vehicles with new equipment. But ending the requirement to move cars back and forth may increase the auction value of parking permits by more than the cost of the vacuuming. If so, there will be revenue to pay for additional public services.

### *Discounts for shorter and cleaner cars*

How many cars can park on a block in a Parking Benefit District? That depends on the length of the block and the size of the cars. To encourage drivers to economize on curb space, the city can give discounts on the permit prices for smaller cars. In addition to taking up less space, smaller cars tend to be more fuel-efficient, so discounts for smaller cars will reduce fuel consumption and CO<sub>2</sub> emissions.

**Figure 3** illustrates parking discounts based on car lengths. Column 1 shows a selection of cars, and Column 2 shows their lengths, ranging from 20 feet for a Rolls Royce down to 8.8 feet for a Smart car. Column 3 illustrates the discount for each car based on its length. Because the Rolls Royce is 20 feet long, it pays the full price, while the 10-foot Scion receives a 50% discount. Two Scions pay the same as one Rolls Royce, so the payment per foot of curb space is the same for both cars.

Column 4 shows each car's fuel efficiency, ranging from 14 miles per gallon for the Rolls Royce up to 37 miles per gallon for the Scion. Finally, Column 5 shows each car's CO<sub>2</sub> emissions. For example, the Ford emits less than half as much CO<sub>2</sub> as the Rolls Royce.

**Figure 3. Permit Price Discounts Based on Car Length**

Make and Model (in 2014)	Length (feet)	Discount (percent)	Fuel Efficiency (miles/gallon)	Co <sub>2</sub> Emissions (grams/mile)
1	2	3	4	5
Rolls Royce Phantom	20.0	0%	14	637
Lincoln MKS	17.2	14%	22	400
Buick Regal	15.8	21%	24	371
Ford Fiesta	14.5	28%	29	301
Chevrolet Spark	12.1	40%	34	258
Scion iQ	10.0	50%	37	238
Smart	8.8	56%	36	243

Source: Donald Shoup, "Making Parking Meters Popular," *ACCESS 45* (Fall 2014): 35-37.

Cities with serious air pollution can also consider giving parking discounts for cars with low hydrocarbon or nitrogen oxide emissions. Parking meters in Madrid, Spain, for example, charge 20% less for clean cars and 20% more for dirty cars. Prices are the most reliable way for cities to send signals about the behavior that they want to encourage. If cities give discounts on permit prices for smaller and cleaner cars, more people will drive them.

### *Political prospects of Parking Benefit Districts*

To examine the political prospects of charging for street parking to finance public services, we need to look at the demographics in a city that would benefit from this policy. Consider Manhattan, where 78% of households do not own a car (**Figure 4**). The carless majority will receive better public services without paying anything, and they outnumber car owners by more than three to one. In some especially dense neighborhoods, such as Chinatown, carless residents outnumber car owners by more than 10 to one. And even among car owners, many park in expensive lots and garages rather than on the street. Where a large majority prefers better public services to free curb parking, a Parking Benefit District may be politically feasible.

**Figure 4. Automobile Ownership in New York City**

	New York City	Manhattan
Households	3,063,393	738,131
Households with cars	1,363,417	160,164
Households without cars	1,699,976	577,967
Share of households with cars	45%	22%
Share of households without cars	55%	78%

Source: U.S. Bureau of the Census, American Community Survey, Public Use Microdata Sample, 2008-12.

The motoring minority are also wealthier than the carless majority (**Figure 5**). Because car-owning households have much higher incomes than carless households, charging for parking to pay for public services seems fair.

**Figure 5. Average Annual Income per Household in New York City**

	New York City	Manhattan
All households	\$77,060	\$120,091
Households with a car	\$96,472	\$191,389
Households without a car	\$61,836	\$101,554
Income ratio of owners/nonowners	156%	188%

Source: American Community Survey, Public Use Microdata Sample, 2008–12.

Charging fair market prices for on-street parking can raise money to repair broken sidewalks, plant street trees, install security cameras, or remove the grime from subway stations. In dense neighborhoods, few will pay for on-street parking, but everyone will benefit from the public services.

Most existing parking-meter revenue has already been spoken for, often in complex ways. Because most cities now receive no revenue from on-street parking in residential neighborhoods, Parking Benefit Districts have the advantage of providing an entirely new source of public revenue.

### *Power equalization*

Parking Benefit Districts allow each neighborhood to decide whether to charge for curb parking and how to spend the resulting revenue. Such a pointillist style of public finance can lead to more rational decisions about parking policies as well as public services.

Still, if more affluent neighborhoods have a higher demand for curb parking, they will earn more revenue than poorer neighborhoods, which seems unfair. Suppose, for example, rich neighborhoods earn an average revenue per curb space of \$5,000 a year (\$14 a day) while poor neighborhoods earn only \$500 a year (\$1.40 a day). In this case, rich neighborhoods would receive 10 times more than poor neighborhoods. How can a city avoid this inequality and still provide local incentives to charge for curb parking?

One option is to employ what in public finance is called “power equalization.” Suppose the average revenue per curb space is \$2,000 a year. In this case, the city can spend \$1,000 a year per space for added public services in each Parking Benefit District and spend the other \$1,000 for citywide public services. All neighborhoods that charge mar-

ket prices for their curb parking thus receive the same revenue per space; equal effort will produce equal results everywhere. Even neighborhoods that do not charge for curb parking can benefit from the citywide public expenditures.

Power equalization can transfer money from more affluent to less affluent neighborhoods and yet maintain the incentive for every neighborhood to charge for curb parking. To further increase the political appeal of the policy, the city can dedicate the citywide share of parking revenue to pay for highly visible public services, such as cleaning subway stations or installing bus shelters.

Giving money to Parking Benefit Districts according to the number of parking spaces might lead residents to oppose using the curb lanes for anything *except* parking, such as to make room for a bus lane or bike lane. To avoid this problem: where the city prohibits curb parking, it can give the districts an equivalent amount of money per foot of curb space.

## Conclusion: Turning Problems into Opportunities

Decisions about parking are political, and the prospects for parking reform depend on what the political context allows. Parking Benefit Districts can appeal to people across the political spectrum. Liberals will see that a Parking Benefit District increases public spending. Conservatives will see that it relies on markets to allocate scarce land. Libertarians will see that it relies on individual choices rather than regulations. Drivers of all political stripes will see that it ensures guaranteed curb parking and removes the requirement to move their cars for street cleaning. Residents will see that it pays for public services. Environmentalists will appreciate that it reduces energy consumption, air pollution, and carbon emissions. Neighborhood activists will celebrate the fact that it allows key public decisions to be made at the local level. Local elected officials will see that it depoliticizes parking, reduces traffic congestion, and pays for public services without raising taxes.

Yet people also want to park free. They may not have an ideological or a professional interest in free parking, but they do have a personal interest in it. Nevertheless, strategic use of the parking revenue can create a countervailing personal interest in charging for curb parking. Cities can

create the necessary political support for priced parking by dedicating the resulting revenue to pay for public services on the metered streets.

Any city can offer a pilot program to charge for on-street parking and use the revenue to finance public services. If residents don't like the results, the city can cancel the program and little will be lost. If residents do like the results, however, the city can offer this self-financing program in other neighborhoods. Because neighborhoods will have money to spend and decisions to make, residents will gain a new voice in governing their communities.

This simple parking reform may be the cheapest, fastest, and simplest way to improve cities and create a more just society, one parking space at a time.

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# MICROUNITS: A TOOL TO PROMOTE AFFORDABLE HOUSING

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## Introduction

“Tiny living”—living in very small spaces by late-20th-century U.S. standards—is a hot topic in American urban policy, as the revival of demand for urban living has collided with mid-20th-century rules and regulations on urban growth, sending rents soaring in many U.S. cities.

Tiny-living arrangements include “microunits” (apartments smaller than traditional studios), “microsuites” (individually rented and lockable bedrooms that share kitchens and common areas), modernized boardinghouses, and tiny houses (detached cottages much smaller than traditional homes). Tiny-living accommodations are often illegal or so heavily regulated that there is little (legal) supply of them.

Today, the highest-productivity U.S. cities face a housing-supply crunch. Tight land-use regulations have weakened the traditional link between high metropolitan-area incomes and new housing permits.<sup>1</sup> Before 1980, metro areas with higher incomes generally saw faster population growth, as people moved to such places for better opportunities.<sup>2</sup>

This is no longer true—largely because restrictions on building in some markets make it harder to build more housing to keep up with demand.

Instead of more population growth, higher incomes in regions with restrictive building rules are increasingly capitalized into higher rents and property prices. This reduces the incentive for all but the highest-skilled workers to relocate to such areas.<sup>3</sup> As a result, regional convergence in median household income has begun to reverse after a long period of convergence up to 1980.<sup>4</sup>

Additionally, in some cities there is a mismatch between household sizes and apartment sizes. The growth in demand for single-person urban households—especially among seniors and young people—in recent decades has not been matched by the growth in the supply of small, single-housing units.<sup>5</sup>

There are 1.9 million one- and two-person households in New York City, for example—but only 1.25 million studio and one-bedroom apartments. Seniors often find themselves unable to downsize and still remain in their home city at a reasonable price, while young singles find themselves sharing space (sometimes illegally) with unrelated roommates in apartments intended for families.

House prices have risen far above the marginal cost of construction in many cities,<sup>6</sup> creating unearned windfall gains, formally known as “economic rents,” for landowners<sup>7</sup>—at the expense of productivity and income growth for the economy as a whole. As Harvard’s Edward Glaeser notes in *City Journal*, “When Americans move from New York to Houston [because of high house prices in the former], the national economy simply becomes less productive.”<sup>8</sup>

Across America, there is a huge need to increase the supply of housing to ameliorate rising rents. There are two basic ways to legalize more housing supply: allow bigger buildings; or allow people to live in smaller units within buildings of a given size. Various strategies can be used to boost housing supply, including “upzoning” (such as allowing multiunit buildings where currently only single-family homes are allowed), relaxing caps on height and floor area ratio, and legalizing “accessory-dwelling” units (such as basement apartments).

Broader permitting of microunits and microsuites would be one useful strategy. Both allow more housing units to be created inside the physical floor area of what is currently allowed. Both also work in con-

junction with other strategies, such as increasing maximum floor area ratios (which would allow more building on a given amount of land).

Microunits are not a panacea for high housing costs. Nor should they be seen as an effort to compel people to live in smaller units. Rather, the microunit is one tool among many that can add supply to a segment of the housing market that is underserved.

## I. Why Microunits Are Good for High-Rent Cities

Microunits can help stabilize per-capita housing costs in high-rent cities. In neighborhoods where microunits are economically viable, they will not only provide relief for adult roommates who would prefer privacy at the right price; they will also help release three- and four-bedroom apartments currently occupied by unrelated millennials for use by actual families.

New construction in NYC is typically unaffordable for middle-income singles. The rent affordable<sup>9</sup> for an individual earning 100% of area median income (AMI) is roughly \$1,500 per month in 2015, while a prime 400-square-foot Manhattan studio built in the last 10 years is difficult to find for under \$2,600 per month.

New York University's Furman Center estimated in 2015 that rental buildings constructed in Manhattan south of 96th Street over the last 10 years require average annual residential rents of \$80/sq. ft. Rental listings for recently built luxury studios are consistent with this estimate. For example, Avalon's Clinton building on 52nd Street, built in 2007, currently offers studios for about \$84/sq. ft. and one-bedrooms for about \$62/sq. ft.

At these rents, brand-new 300-sq.-ft. microunits would likely be viable for \$1,900–\$2,200/month. As microunits age, they would become relatively cheaper, too—just as studios with kitchens and finishes from the 1980s today can be found for less than \$2,600/month in core Manhattan.

In the outer boroughs (i.e., outside Manhattan), where land prices and construction costs are lower, microunits would be economically viable at much lower rents. According to Furman Center figures,<sup>10</sup> microunits would be viable at \$1,100–\$1,500/month in Astoria (Queens) and Williamsburg (Brooklyn), for example.

This shows the potential for microunits to create housing supply at more affordable prices. (Across the U.S., microunits tend to rent for, on average, 20%–30% less than comparably located conventional units, according to the Urban Land Institute.)<sup>11</sup>

Despite lower total rents, microunits typically command higher rents *per square foot* than larger apartments. Why? This is simply an extension of the same premium per square foot that normal studios command over one-bedrooms, that one-bedrooms command over two-bedrooms, and so on.

This is not true everywhere, however. In parts of Manhattan, for example, buyers will pay more per square foot the larger an apartment is, reflecting the space desires of high-end buyers.<sup>12</sup> In these areas, microunits would likely not be built even if they were allowed. But outside these super-affluent districts, developers would have an incentive to construct microunits if permitted because microunits would command premium rents on a per-square-foot basis, even while being cheaper on a per-apartment basis.

“Ground-up” (i.e., new) construction of microunits and microsuites would provide the opportunity to raise construction quality to mitigate any quality-of-life sacrifice traditionally required by tiny living. Chris Bledsoe, cofounder of Ollie, a microunit and microsuite start-up, says that his design specifications for a development partner on one ground-up project in the NY/NJ/CT area initially evoked surprise:<sup>13</sup> Bledsoe requested sound-dampening double-insulated walls between bedrooms—not just between apartments, as usual—in addition to better elevator performance.

Thicker walls, Bledsoe points out, help mitigate the privacy loss associated with moving to small apartments. This makes the microsuite format more desirable—both for co-living adults and for families in need of affordable shared space—by reducing the likelihood of “audible indignities.”

In short, microunits could provide a valuable source of new affordable housing supply for singles (or even couples) in cities that badly need it, while providing better construction quality than current impromptu apartment subdivisions (which are frequently illegal and sometimes unsafe)<sup>14</sup> provide.

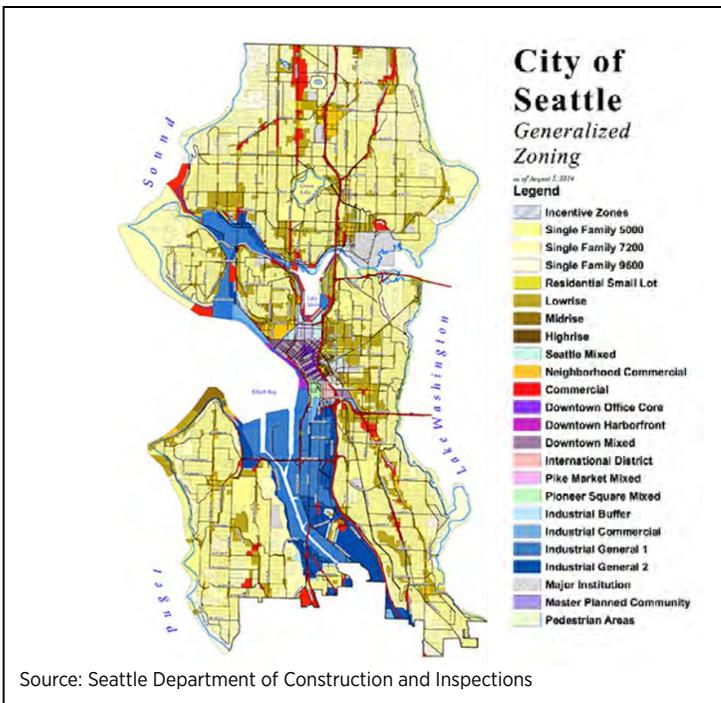
## II. Legal Barriers to Microunit Development

Microunits are either illegal or heavily restricted in many U.S. cities. Barriers come in three principal forms: direct bans on microunits, such as by minimum-unit sizes; zoning maps that geographically restrict where microunits can be built; and other de facto restrictions, such as overall-density limits or bans on shared facilities, such as kitchens.

Several cities, including Boston, Chicago, New York, San Francisco, and Seattle, have taken steps toward permitting microunit housing (see **Appendix**). San Francisco and Seattle now permit apartments as small as 220 square feet. New York now allows apartments as small as 300 square feet.

In practice, various rules continue to limit the quantity of microunits that can be built in these cities. For example, New York has an overall density cap that restricts the number of microunits that can be put into a building. The vast majority of Seattle is zoned exclusively for single-family homes (**Figure 1**) with traditional apartments banned.

**Figure 1. Seattle Zoning Map, 2014**



The experiences of NYC and Seattle suggest that even technically legalizing microunits may produce only a limited impact on housing supply if a city's zoning map heavily restricts where microunits can be built. Consider Seattle, which had a boom in microunit construction following the subprime-mortgage crisis.

The late entrepreneur Jim Potter discovered that Seattle's zoning code counted dwelling units by the kitchen, without a limit on the number of bedrooms attached to said kitchen. The code allowed these "as-of-right," without the design and environmental reviews usually required for big multifamily projects. This meant that a Seattle townhouse that "on first sight appears to have eight apartments might actually contain 64 units."<sup>15</sup>

Says one prominent anti-density activist in Seattle cited by POLITICO, "I just don't think [boardinghouses] belong in a low-rise zone where someone has invested half a million in a townhouse and then 56 people move in next door."<sup>16</sup> This particular 56-person dwelling was built in a low-rise zone in Seattle's Central District, within walking distance of downtown.

In Seattle, the resulting blowback from such developments resulted in tight restrictions on so-called congregate housing (housing like Potter's 64-unit development, in which people live in private rooms but share facilities), including a ban on shared kitchens, although 220-square-foot microunit studios are still allowed in (somewhat) broader zones. Similarly, NYC discourages tiny living by requiring all microsuite residents to share a single lease, which reduces much of the flexibility and, thus, the attraction of such accommodation.

This is not to say that there are no valid public-policy purposes for these restrictions. But it means that even where tiny-living development is permitted in theory, other restrictions often make it infeasible in practice.

### III. Common Objections to Microunits

The current debate over legalizing small apartments may appear surprising. After all, historically, the boardinghouse, a type of microunit building, has been an iconic American model of economical living for artists, intellectuals, immigrants, and others of modest means seeking the opportunities of urban life—from Ben Franklin's first independent dwelling as a Boston teenager in 1720, to the home of the eponymous protag-

onist from the popular 1990s cartoon “Hey Arnold!”<sup>17</sup>

Best practice in regulatory theory also restricts intervention only to areas where there is a measurable market failure that outweighs the risk of government failure from intervention. As an economic matter, there are no obvious market failures particular to small units.

Multifamily buildings typically generate varying positive and negative externalities, depending, among others, on whether the residents of such buildings are transit- or car-oriented (if the latter, negative externalities could include more air pollution and greater street and parking congestion). In general, though, there is no additional increment of external benefit or cost for allowing smaller units beyond what exists for multifamily buildings in general.

### *Will Microunits Attract the Mentally Ill?*

America’s experience with deinstitutionalization of the mentally ill helped poison the well of public sentiment against tiny living. During the peak of deinstitutionalization (1960s–1970s), single-room-occupancy (SRO) hotel housing (a type of tiny living) was the first stop for those who were well enough to stay off the streets.

The loss of mental institutions as the bottom rung of the housing ladder turned SROs into the new bottom rung: 7,000 mentally ill men were moved into Chicago’s Uptown neighborhood SROs in one year alone.<sup>18</sup> During 1955–85, 125,000 mentally ill people were released into NYC, even as the city lost some 100,000 SRO units during the same period after a ban on new SROs and regulatory pressure to remove existing ones.<sup>19</sup>

In theory, most people would like to help the homeless. But few homeowners want the homeless—and the threat of disruptive behavior that such people often bring—living next to their own homes (typically a person’s largest financial asset). Unfortunately, America’s political backlash against this influx of mentally ill people went further: the new restrictions on tiny living wiped out housing for working-class singles.

Today, most discussion of microunits revolves around housing for educated young adults; but this background stigma still affects how many people think about microunits. Indeed, subsidized SRO-style tiny living may encourage the present-day homeless and mentally ill, among others, to pursue such housing. The similarity between subsidized SRO-style

supportive housing and microunits/microsuites that target middle-class residents thus creates political and policy challenges to the broad legalization of tiny living.

Yet careful analysis of land prices and construction costs can circumnavigate these hurdles by permitting studio-style microunits only in neighborhoods where projected market-rate rents exceed what's affordable to individuals earning, say, 30% of AMI or more.<sup>20</sup> This kind of targeted geographic legalization of working- and middle-class tiny living should be coupled with sufficient supportive-housing tiny living for the mentally ill in politically acceptable areas.

### *Will Microunits Attract College Students, Vagrants, and Other Sketchy People?*

In community meetings where new microunits are under review, residents often express concern. Consider the testimony in Manhattan's Community Board 6, regarding the approval of New York's experimental all-microunit building, as reported in the *Wall Street Journal*:

“No matter what anyone says, we’re worried that these are going to be SROs that are run as hotels,” said Toni Carlina, the community board’s district manager. According to Ms. Carlina, the community board is also concerned about an eating-and-drinking establishment being allowed in the building, since she said the public plaza that it will be facing has had a problem with vagrancy in the past, and residents worry that if there is a bar or restaurant open late into the night, vagrancy will once again be an issue.<sup>21</sup>

There was more at DNAinfo.com:

“You’re putting people into places where they’re not going to take ownership of their homes. We’re going to be stuck with the fallout from this [said a neighborhood resident]. . . . I know that’s not what you’re [*sic*] intentions are going to be, but that’s how it’s going to be,” Thompson [a real-estate agent] said. “Management is not going to be able to keep up with who’s coming and going, and it’s going to be a free-for-all.”<sup>22</sup>

Such comments reflect a distaste for college students, who have an often deserved reputation for rowdy, drunken behavior at late hours. The comments also reveal a fear of vagrancy. Because the building in question was built on city-owned land, 40% of the microunits were required to rent below market rate, starting at \$914/month (although \$914/month would likely outprice real “vagrants”).

Similar concerns were shared in Seattle regarding microunit townhouses, where totally unsubsidized market-rate microunits were proposed to start at \$500/month in Seattle’s prime Capitol Hill neighborhood:

“I think this is going to be a magnet for very sketchy people.” ... [A neighbor] was bracing for 46 low-income renters in the space where he’d been expecting six new homeowners instead.... “Anyone who can scrape up enough money to live month-to-month can live there,” he said, worried that low-income interlopers would jeopardize his chances to sell his own house. “I don’t think most people want to live next to a boarding house with itinerant people living in it.”<sup>23</sup>

A challenge posed by naturally affordable housing emerging in expensive, underbuilt neighborhoods is that many existing wealthy residents bought into their properties expecting poor people, or transients, to be unable to live nearby. From the perspective of incumbent homeowners, affordable unsubsidized housing is not a solution; it is a problem.

Even progressive-minded Seattle, with its socialist city councilors and its \$15 minimum wage, passed new minimum-unit-size rules in 2014, as well as tight restrictions on congregate housing near single-family-home neighborhoods. This puts much of the land near the city’s high-priced core off-limits to microunits.<sup>24</sup>

Not all areas are so unfriendly to microunits. Many commercial/industrial areas in low-density “inner suburbs” would permit low-income, affordable, high-density construction without affecting existing residential areas.<sup>25</sup> Meanwhile, high-density, cosmopolitan inner-city areas<sup>26</sup>—where socioeconomic diversity isn’t a perceived social or political threat—provide ripe opportunities for legalizing microunits, too.

## IV. Targeted Rezoning: A Reasonable Compromise

America's late-20th-century implicit housing bargain holds that we either restrict new market-rate construction in the best neighborhoods to push out (or keep out) the disorderly poor and generate land rents for homeowners, while allowing the poor to live elsewhere, in a predictable, politically controlled fashion; or, in jurisdictions that subsidize mixed-income "inclusionary" developments, we limit the number of low-income people to a certain population share while still leaving the new-supply restrictions (and high prices) in place.

In suburban communities, this is achieved through minimum lot-size restrictions for detached houses instead of minimum-unit-size restrictions for multifamily buildings. And to the extent that microunits reduce this class stratification, they will tend to generate political opposition.

Public concerns about microunits could be addressed in various ways. As noted, residents' concerns about the income of future neighbors could be allayed by targeting specific areas for rezoning. This could be done implicitly, by extending microunit legalization only to the highest-rent neighborhoods; or explicitly, with designated AMI thresholds.

Feasible legislation will depend on local context. Plausible reform proposals must acknowledge that the political dynamics that produced today's rules cannot be expected to simply disappear. We do not necessarily endorse the sort of social engineering inherent in targeted rezoning; we merely note that existing land-use rules are already a form of community-driven social engineering.

In short, targeted rezoning is not ideal; but it is a reasonable strategy for obtaining political acceptance of incremental improvements. In cities and neighborhoods skeptical of affordable market-rate microunits, targeted rezoning could help rehabilitate the latter's image, thereby making microunits gradually acceptable to a broader spectrum of neighborhoods.

## Conclusion

Legalizing microunits presents an opportunity to add affordable, safe density to expensive urban cores and inner-ring suburbs. Combined with looser restrictions on height and floor area near underutilized tran-

sit corridors, microunits could help stabilize per-capita housing costs in expensive urban areas (with the side benefit of boosting ridership on public transportation, raising public-transit revenue, and cutting carbon emissions).

Even in Sun Belt cities with plenty of available land, downtown amenity-rich microunit buildings could represent an attractive lifestyle choice for young singles looking to replicate the social and urban benefits of their former college-town shared apartments. As the enthusiasm for new microunit buildings, such as Carmel Place in NYC,<sup>27</sup> demonstrates, many young people would eagerly trade square footage for in-building cleaning services, a game room, a gym, and a dynamic, centrally located neighborhood with an easy commute.

For the elderly, the ability to stretch their retirement incomes further by downsizing to stay in the cities in which they worked is a compelling value proposition. For the middle-aged, microunits offer an intriguing alternative to newly free empty-nesters curious to live in trendy, youth-oriented neighborhoods, such as Williamsburg, Brooklyn,<sup>28</sup> or to the recently divorced (perhaps with alimony-slimmed pocketbooks) looking to reenter urban areas, where dating markets are thicker. In other words, the potential market for microunits is vast.

In addition, purpose-built microunits with specialized “supportive housing” services for the homeless or other marginalized individuals would potentially reduce the burden on taxpayers without sacrificing—and indeed, likely improving—living conditions for such people.

In the absence of legal microunits—which would be required to meet fire codes and local building rules, such as mandating that every apartment has a window—the market demand for smaller, more affordable living spaces in high-cost areas means that landlords and tenants will continue to subdivide their apartments anyway, often in illegal and unsafe ways. Instead, developers should be allowed to provide safe, legal, and attractively priced alternatives.

In transit-oriented neighborhoods, for instance, we need to legalize denser living in ways that allow incredibly expensive and valuable public-infrastructure investments to be put to their fullest use. The alternative: stuff the land rents created by said infrastructure into the pockets of the lucky few low-rise building owners, as trains and buses rumble past underbuilt transit corridors.

Microunit residents, like everyone else, should be socially and legally expected to respect their neighbors' right to live in peaceful conditions. Yet in a country that still values individual autonomy and self-determination, Americans should also be able to economize and live in as little space as they desire, so long as requirements for minimum-unit quality and safety are followed. Microunits that satisfy these basic requirements should be allowed to flourish.

## Appendix. What's Lawful in Select Cities

### Chicago<sup>29</sup>

- Units are designated as “dwelling units” (one or more bedrooms), “efficiency units” (studios), and SROs
- No formal minimum-unit size
- 500 sq. ft. average-unit size
- Restrictions on the number of efficiency units in a building, varying by zone
- Minimum lot area per unit, varying by zone
- 0.5 to 1 parking space per unit, varying by zone
- New SROs technically legal; but they must be licensed and face significant restrictions in most zones

### Seattle<sup>30</sup>

- Small Efficiency Dwelling Units:
  - 220 sq. ft. minimum-unit size
  - 150 sq. ft. sleeping area
  - Unit must include kitchen
  - Design review required
- Congregate Units:
  - 70 sq. ft. minimum-unit size
  - Common kitchens allowed
  - Only lawful in high-density neighborhoods
  - Design review required

### Boston

- 450 sq. ft., varying by zone; 350 sq. ft. possible in Seaport Innovation District
- “Lodging House”/SRO rooming units must be licensed and are increasingly rare<sup>31</sup>
- Varying minimum-unit sizes and restrictions on multifamily building in general

### San Francisco

- 220 sq. ft. minimum-unit size

### New York City

- As of April 2016: 300–325 sq. ft. minimum-unit size
- Unit quantity maximum varying by zone
- No parking requirement for affordable or senior housing near rail transit
  - Market-rate parking requirements vary by zone

## Endnotes

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26. Manhattan is a famous example of rich and poor living in close proximity—for instance, the old housing projects in Chelsea bisect the trendy High Line park and ultra-luxury condos. Nonetheless, neighborhoods where living with roommates and/or (illegal) apartment subdivisions are the norm should be able to politically accommodate microunit legalization.
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# HOW CITIES CAN IMPROVE THEIR PROCUREMENT OF GOODS AND SERVICES

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## Introduction

Nearly everything important that city governments do combines the efforts of city government employees with goods and services acquired from the private sector. This is true of building and maintaining roads. It's true of transporting children to school. It's true of collecting and recycling trash. It's true of sheltering the homeless and providing job training to the unemployed. Even inherently governmental activities, such as licensing and inspections, require information technology systems purchased from the private sector.

Yet most cities treat procurement and contract management as back-office functions rather than as key strategic activities. Even simple procurements get tied up in red tape and can take months to accomplish. Many contracts are renewed at the last minute, without consideration of past performance. Contract management consists largely of processing invoices and change orders, with little attention paid to monitoring quality. Vendors are rarely challenged to improve outcomes.

Since 2011, the Harvard Kennedy School Government Performance Lab has been providing pro bono technical assistance to state and

local governments in an effort to understand how governments can improve their contracting and procurement. As part of Bloomberg Philanthropies' What Works Cities initiative, we are helping 20 cities across the country implement "results-driven contracting" strategies.

While our research is ongoing, we are now starting to identify common patterns across many cities in the most significant procurement challenges they are facing and in the solutions that are enabling them to improve results for their residents.

In the following pages, we describe the significant progress that can be made when cities treat procurement as a strategic priority, take advantage of information technology to track performance and manage vendor relationships in real time, and pursue a flexible approach to acquisition.

## I. What a City Buys

There are two approaches we have taken to identify the most important and challenging procurements that cities manage.

Our first approach has been to analyze comprehensive data on everything that cities buy. Thanks to the open data movement, several cities now make procurement data on individual contracts available on the web. This follows the lead of the federal government, which makes information on every federal contract available at [usaspending.gov](http://usaspending.gov). Analyzing these data allows us to identify the largest contracts in dollar value and to generate hypotheses about which other contracts appear to be the most mission-critical for city agencies.

Since our work as part of What Works Cities has focused on mid-size cities (those with populations between 100,000 and 1 million), our analysis to date has focused on the publicly available procurement data from Baltimore, Boston, and Fort Worth. Because the Boston data are the most complete, we present some findings from our Boston analysis below.

Our second approach has been to interview officials from dozens of cities about the procurement challenges they are facing and the solutions they have developed. Essentially, we ask them two questions: Which procurements are you losing sleep over?<sup>1</sup> And what are some innovative strategies you have developed to address specific procurement challenges?

At a given point in time, the City of Boston has approximately 1,500 active contracts, with a total annual value of \$1.2 billion. This represents just under 50% of annual city expenditures.

**Table 1** shows that Boston's largest categories of purchases include school transportation, trash disposal, health insurance for city employees, construction materials and services, and special-education services.<sup>2</sup>

**Table 1. Boston's Top Purchases of Goods and Services, 2012**

Goods and Services	No. of Contracts	Contract Value (in millions)
School-Related Transportation	2	\$616
Trash Disposal	11	\$344
Health Insurance	5	\$286
Construction Materials and Services	36	\$134
Special Education	26	\$110
Lease Purchases	7	\$93
Energy and Utilities	5	\$82
Software and Applications	10	\$62
Hardware and Infrastructure	10	\$52
Building Repair and Maintenance	11	\$44

Source: Authors' analysis of City of Boston Currently Active Contracts database

**Table 2** further disaggregates these data by city department for the five city departments that purchase the most goods and services. The business services unit of the Boston Public Schools purchases school transportation, special education, and school meals. The public works department purchases trash disposal, road and bridge maintenance, and vehicle parts and maintenance. The neighborhood development department purchases construction materials and services and loan-provision services and pays policy consultants. The property and construction management department purchases construction-management and property-management services; professional services from architecture, engineering, and land-management firms; and construction materials and services.

**Table 2. Top Goods and Services Purchased by Boston Departments That Spend the Most on Contracts**

Department	Top Goods/ Services Purchased (in millions)			Total Contract Value (in millions)	Annual Contract Value (in millions)
Boston Public Schools Business Services	School-Related Transportation (\$616)	Special Education (\$110)	School Meals (\$32)	<b>\$943</b>	<b>\$269</b>
Public Works	Trash Disposal (\$344)	Repair of Roads, Bridges, etc. (\$31)	Vehicle Parts and Maintenance (\$21)	<b>\$488</b>	<b>\$107</b>
Health & Benefits Administration	Health Insurance (\$286)	N/A	N/A	<b>\$288</b>	<b>\$288</b>
Neighborhood Development	Construction Materials and Services (\$81)	Loan Provision (\$22)	Policy Consultants (\$22)	<b>\$208</b>	<b>\$74</b>
Property & Construction Management	Construction/ Property Man- agement (\$20)	Architecture/ Engineering/ Land Consultants (\$10)	Construction Materials and Services (\$8)	<b>\$197</b>	<b>\$68</b>

Source: See Table 1.

Two important categories of city purchases—technology spending and human-services spending—are largely absent from Table 2 because they are spread across multiple agencies. As of the end of 2012, Boston held 118 technology contracts, with a total (in some cases, multi-year) value of \$167 million. Forty-three percent of this spending was for hardware and infrastructure, 35% was for software and applications, and 19% was for IT support and maintenance. In 2012, Boston held 261 human-services contracts, totaling more than \$226 million. These included special-education services, homelessness services, and services for seniors and at-risk youth.

While these data are from a single city, we have found similar patterns in spending when we have looked at data from other cities. For example, Boston’s annual contract spending is 48% of total city expenditures. In Fort Worth, contract spending is 49% of total expenditures.

And Boston, Philadelphia, and New York City all spend approximately one-third of contracted dollars on social services.

## II. The Most Critical Procurement Challenges That Cities Face

Based on our data analysis, but even more so on our interviews with city officials, we have identified a Top 10 list of procurement challenges that most cities are currently facing:

1. *Strategic management of the overall portfolio of key procurements.* We have not identified a single city that develops a list of the most important procurements that are coming up for renewal over the next couple of years and uses that list to prioritize which procurements should receive the most attention to improve the value that they deliver. In fact, most policy and program staff perceive the procurement process not as an opportunity to take advantage of but as an obstacle that needs to be overcome.
2. *Optimizing basic procurement processes.* Many cities have requested our assistance with basic systems reengineering, including the development of common procurement templates across departments and guidance on optimal procurement processes. These efforts are aimed at ensuring the integrity of the vendor selection process; streamlining the procurement process to reduce transaction cost for potential vendors, thereby attracting more bids and boosting competition; and speeding up the procurement review process. Cities are also eager to institute report cards at the end of each contract so that they can use data on past performance to inform future contracting decisions across the city. Finally, city officials are interested in learning about model procurements and adopting best practices from other jurisdictions.
3. *Improving vendor diversity.* Many of the cities we work with have expressed interest in improving the racial and gender diversity of vendors to ensure that contracted dollars also support their equity goals. For example, Boston mayor Marty Walsh signed an executive order in February 2016 setting spending targets for minority- and women-owned businesses (MWBES) competing for construction, architecture, engineering, and professional-services contracts. These diversity efforts heavily overlap with the goal of having city residents win a greater fraction of the city's procurements. To improve vendor diversity, cities can begin by in-

creasing outreach, starting with direct, one-on-one engagement with vendors through e-mails, text messages, and phone calls.

Cities should also hold events in communities where MWBEs are based, to ensure that MWBEs are aware of new contracting opportunities and are able to easily request additional information and technical assistance as they develop their bid responses. Facilitating connections between potential prime and subcontractors so that they can respond to bids as joint ventures can also help. Finally, cities should find ways to streamline their procurement processes and reduce unnecessary requirements, which will decrease costs for vendors and encourage a great number to submit bids.

Still, such efforts may only marginally improve outcomes if there are few qualified, diverse vendors to begin with. To expand the pool of MWBE vendors, cities also need to build vendor capacity and implement strategies to help such vendors overcome structural barriers, including lack of access to assets and capital and limited networks and connections. These are deeply rooted problems that can be addressed only by procurement staff who have the time and resources to focus on such efforts.

4. *Achieving better outcomes from human-services contracts.* Cities have a difficult time seeing the connection between spending on social services and progress in addressing major social problems. Take homelessness. Cities often find that they are spending more and more on services, yet there seems to be an increasing number of people sleeping on the streets. One problem is that there are often multiple funding sources tackling a given social problem, with little coordination to ensure that overall funds are efficiently allocated and that no needy person falls through the cracks. A second problem is that cities often fail to track the results of the services with meaningful metrics. At best, cities monitor processes, such as how many beds were occupied at an emergency homeless shelter. It is rare for cities to track outcomes, such as how many individuals were placed in stable housing. As a result, cities are unable to determine if their services are ultimately mitigating social problems. Furthermore—partly because of the lack of real-time data on program performance—cities are not monitoring whether service providers are delivering effective services, or collaborating with them to improve performance during the course of their contracts.

5. *Managing routine construction and maintenance contracts.* Cities are frustrated that these crucial contracts, particularly those for road construction, repeatedly run over budget and behind schedule. These contracts can require close coordination with other entities to ensure, for instance, that a utility company doesn't dig up a road to repair a pipe the day after that very road was repaved. Unpredictable environmental conditions, such as soil and weather, can further complicate managing the performance of these types of contracts. Finally, there is little attention paid to minimizing the burden on citizens, who have to deal with noise and rerouted traffic.
6. *Contract negotiation for large construction projects.* Cities also report frustrations with procuring and managing large multiyear construction projects, such as building new bridges or expanding subway systems. While independent authorities or other levels of government are often in charge of these projects, cities usually have a seat at the table. The problem is that stakeholders often lack information about the cost and scope of work necessary to complete a project at the time when they are procuring the vendor and negotiating the contract. The tendency during contract negotiations is to transfer as much risk as possible to the other party without considering which party is actually best positioned to detect and manage the particular risk. The result is budget overruns and missed deadlines.
7. *Lack of competition in very large contracts.* For big contracts, such as for school transportation and trash disposal, cities struggle with both performance and pricing. They find it challenging to write contracts that incorporate good performance incentives, and they find that they have little leverage over vendors because there are often only one or two local vendors qualified to provide the service.
8. *Contracts for new technology products and services.* Cities are rapidly developing new websites, new web-based service platforms, and new smartphone apps. But choosing the right procurement strategies and the right vendors for these innovative services is often a challenge. For new technologies, cities cannot simply conduct market research on existing solutions, since the solution may not yet exist. Standard procurement processes require specificity in the procurement and contract and don't permit flexibility. This is a particular challenge in a rapidly changing industry where technical specifications can quickly become outdated. Standard procure-

## Case study: Boston's problem-focused, agile website-redesign procurement

**B**oston's redesign of the Boston.gov website is an example of how restructuring the procurement process to focus on the ultimate goal of the procurement—in this case, building an ever-evolving product that prioritizes user-friendliness—can yield improved results. A review of the more than 20,000 pages of the existing website demonstrated that the city's website was difficult to navigate and that key information was hard to find. The city wanted a new site that would be “beautifully designed, delightful to use, and thoroughly useful.”

To find the most qualified vendor for each aspect of the project, the city decoupled the responsibilities for the back-end content management from the user-facing design and issued a separate request for proposal (RFP) for each. Bidders for both aspects of the project were asked to propose strategies for working with the city's staff to understand user needs and to conduct user tests. The city partnered with winning bidders to review website analytics and get input from end users during the initial discovery phase. Furthermore, in order to appeal to designers who might have balked at responding to a typical, uninspiring government procurement, the city deviated from its regular approach and issued the RFP as a slide deck with pictures and jargon-free language.

The city received 22 initial responses, which is much higher than the norm and included responses from firms that do not typically bid on government procurements. From these initial proposals, the city identified eight potential partners, who were then invited to organize design workshops. These workshops allowed the city to work alongside potential partners to ensure that they would put users at the center of their process. Ultimately, in September 2015, IDEO, a global design firm, and Acquia, a local technology provider, were selected to redesign the website. In January 2016, the city released a pilot version of its new website, which can adapt to all screen sizes and organizes content through “guides” (such as moving and starting a business) rather than by departments. The city then requested feedback from the public on the pilot version of the website to inform the development of the fully updated Boston.gov site, which launched in July 2016 but will continue to be improved. The RFP, as well as updates on the procurement process, is available on the blog [next.boston.gov](http://next.boston.gov).

ment processes also do not allow customers and developers to collaborate closely in creating the specifications for the product, even though this is often crucial for ensuring that the product addresses the needs of the end users.

9. *Managing procurements for large IT systems, such as Enterprise Resource Planning (ERP) systems and human-resource management systems.* When it comes to large IT systems, cities are, by and large, purchasing these products from big national companies. They frequently run into challenges, such as being locked into ongoing customization, implementation, and maintenance contracts. Because of the technical barriers and high costs associated with shifting to a new vendor, cities feel locked in, and the vendors thus enjoy the advantages of a monopoly. Finally, when negotiating with national companies, governments are hindered by an asymmetry in available information: while the contractors can point to concessions made by other governments to build their case for favorable contract terms, cities do not have effective ways to share information with one another.
10. *Lack of competition for professional-services contracts.* Procurements for professional services—financial, accounting, advertising, legal, personnel, and research services—can be challenging. Procurements for such services are often structured in a way that limits the number of bidders and takes a highly specialized approach. As a result, vendors often assume that they are not qualified to bid on procurements issued by departments other than the ones they typically work with—and that leads cities to miss opportunities to achieve volume-pricing discounts by combining common professional-service purchases across departments.

### III. The Results-Driven Contracting Solution

What can be done to address the 10 key challenges listed above? Through our work with the 10 cities (**Table 3**), as well as our work with states and counties, we have developed a framework for improving acquisition practices that we call “results-driven contracting.” Some of the components are standard and can be found in any procurement curriculum. Others are more novel:

*Appoint someone in city hall who would be in charge of managing the city’s overall portfolio of critical procurements.* An official in the mayor’s

inner circle needs to be responsible for identifying the 15–20 most important procurements that will be issued or renewed over the next two to three years and putting in place a results-driven contracting process for each of them.

**Table 3. List of Government Performance Lab’s Engagements With Cities**

City	Focus of Engagement
Baltimore	Feasibility analysis of social services for potential pay-for-success projects
Boston	Applying results-driven contracting strategies to transportation and public-works contracts; improving vendor diversity
Chicago	Pay-for-success project expanding pre-K to 2,620 additional children
Denver	Pay-for-success project providing supportive housing to 250 chronically homeless individuals
D.C. (Water Authority)	Green infrastructure project to reduce stormwater runoff
Little Rock	Improving citywide procurement templates and processes as well as instituting a vendor-evaluation system
Louisville	Pay-for-success project to treat substance abuse among individuals being released from jail
San Francisco	Improving alignment of workforce-development contracts across three departments
Seattle	Applying results-driven contracting strategies for homelessness services
St. Paul	Applying results-driven contracting strategies to road-construction procurements

Source: See Table 1.

While most cities have a chief procurement officer (CPO), that individual is rarely in the mayor’s inner circle and is often more focused on compliance than on performance. In some cases, the existing CPO can take on this new strategic function. In other cases, it will make

more sense to maintain the current CPO in the existing role and assign a different staff person in the mayor's office with the responsibility for strategic management of the procurement portfolio and for convening working groups made up of both programmatic and procurement staff for each key procurement.

*Develop a mission statement for each key procurement.* Cities need to carefully consider what they seek to accomplish with the good or service they are procuring. Program and procurement staff should collaborate to define these goals. Together, they should review past performance to identify shortcomings and areas for improvement. If applicable, end users should be consulted as well.

*Conduct market research.* Cities need to understand the landscape of possible vendors, the goods and services they offer, and their cost structures. It's also crucial that a city learns from outside experience: How have other jurisdictions achieved similar objectives? At this stage, the city should confirm that contracting is preferable to building internal capacity to provide the good or service directly. Key factors in this decision are whether the good or service is inherently governmental, whether the city can maintain sufficient oversight over the contractor, and whether purchasing is more likely to produce the desired outcomes in a cost-effective manner. Before the procurement process has officially kicked off, the city should discuss its goals with potential vendors and ask for their input. It can also be helpful to survey potential vendors about barriers that could prevent them from participating in the procurement. This research can be done through informal interviews or through an RFI (request for information). This can be an informal process—Boston, for example, encourages the use of Google forms to get input from potential vendors prior to issuing an RFP (request for proposal).

*Structure the procurement process and select the contract type.* In accordance with the market research findings, the city should structure the procurement process and select the contract type in order to establish the appropriate incentives for the contractor. The following options and decision points should be considered at this stage:

**Separating or bundling contracts:** Is the good or service that a city needs best procured separately or jointly? When components are deeply intertwined, it is useful to hold one vendor accountable for the

overall deliverable through a single contract. For example, with large and complex construction contracts, such as building bridges, many cities couple the architectural/engineering design and construction services into a single “design build” contract. The contractor is selected based on qualifications, experience, and price. This reduces the need for change orders, which saves time and money.

For example, Minnesota replaced a portion of the I-35W Saint Anthony Falls Bridge that had collapsed in 2007 using this approach. The project was completed within 14 months—a full three months ahead of schedule—and at a cost of \$251 million, which was significantly below the initial estimates of \$300–\$350 million. Early completion resulted in an estimated \$400,000 per day of economic benefits, thanks to the avoided costs of detouring traffic.<sup>3</sup>

But bundling limits a city to working with large firms that can offer the full range of services. Sometimes separating out each component of a project means that the city gets more competitively priced bids and higher-quality outcomes because the city is able to select the most qualified vendor for each job and structure each contract to best align incentives.

Building internal capacity for managing the vendors and ensuring that the combined product achieves the procurement’s goals are critical to this approach. For example, in re-procuring its new Child Welfare System technology, California decided to break down what would have been a monolithic, thousand-page RFP into a series of smaller RFPs, with support from Code for America and the General Services Administration’s 18F digital services office. Instead of having to rely on a single large firm that can take the entire project, the state plans to select the best vendor for each specific aspect of the project and build management capacity at the state to ensure that the various modules sum up to a product that meets the users’ needs.

**Avoiding “cost type” contracts:** Cost-reimbursement contracts, time-and-materials contracts, and labor-hour contracts allow governments to purchase goods and services in situations in which it is hard to determine how much work or material will be necessary. While these types of contracts can be appropriate in certain scenarios, including emergencies and R&D efforts, they pose a significant risk that government will overspend resources. They should be transitioned to fixed-

price or performance-based contracts as soon as there is greater clarity about the resources needed to accomplish the task.

**Problem-based procurement:** One relatively new approach that governments are using when they are unclear about the optimal solution to a problem is to provide a description of the problem and to seek ideas for solving that problem through what's called a problem-based procurement. This approach is in stark contrast to the traditional practice of specifying requirements in as much detail as is possible, which can trap governments into old ways of doing things. This problem-based approach is particularly appropriate when the key challenge is to discover the right idea—as is often the case with technology or design. San Francisco, for example, created the Startup in Residence (STIR) program, in which government agencies identified challenges related to housing, transportation, the environment, and public safety. Competitively selected start-ups were then embedded in agencies for 16 weeks to create a new product or service, usually involving a software solution or a mobile app that solved a particular challenge posed by the agency. Start-ups then have the possibility of entering into a paid contract with the agency. Since its initial launch in 2014, STIR has been expanded to include Oakland, San Leandro, and West Sacramento. Current projects include improving the process of recruiting foster parents using a mobile app with the San Francisco Human Services Agency; enabling city engineers and inspectors to record building-safety assessments after an earthquake with the San Francisco Public Works Department; and helping West Sacramento police officers connect homeless individuals to resources and social services, including vouchers for transportation, food, or shelter, using a mobile app.

**Pay for success (PFS):** PFS contracts make a portion of payment contingent on outcomes. Governments like PFS contracts for three primary reasons: they can help reorient their budgets toward preventive services and away from remedial costs; they diminish the chance that ineffective programs will continue to receive funding; and they can provide a framework for multiyear collaboration with service providers to reengineer systems to improve results. In the most rigorous PFS contracts, there is often a multiyear delay between when services are delivered and when outcomes can be assessed and payments made. In these cases, private investors provide the operating capital for the service

provider in exchange for the rights to the future success payments—a structure known as a “social impact bond.” To date, two of the cities we have helped have launched PFS contracts backed by social impact bonds. In Denver, this approach is being employed to provide supportive housing to 250 chronically homeless individuals (see case study). In Chicago, a PFS contract is being used to expand high-quality preschool education. We are currently working on PFS projects with four additional cities in policy areas ranging from addiction treatment to green

### Case study: Denver’s homelessness pay-for-success contract

Governments often find it challenging to invest in preventive services even when they know that doing so will save money down the road. Several cities around the country are experimenting with PFS contracts that allow them to reorient their spending toward prevention while also gathering rigorous evidence about the effectiveness of these preventive investments. In Denver, for example, chronically homeless individuals are costing taxpayers more than \$29,000 per person on average in jail days, police encounters, court costs, and in detox, ER, and other medical expenses. The city launched an initiative in February 2016 to provide 250 new housing units for chronically homeless individuals, plus supportive services, including intensive case management, crisis intervention, substance-use counseling, and mental-health treatment. These services would be paid for with the savings that result from stabilizing the individuals’ lives.

The housing and services are being financed using a combination of \$15 million of federal dollars and \$8.7 million from private investors. The private investors will be repaid by the city to the extent the program is successful. If the program reaches its targets—a 35% reduction in jail days and 83% housing stability (that is, participants spend at least one year in housing), the investors would be repaid approximately \$9.5 million. Payments would be reduced if these outcome targets are not achieved.

Across the country, the PFS approach is being applied to a wide range of policy areas, including prisoner reentry, prenatal care, workforce development, early education, and child welfare. By bringing together government agencies, service providers, and other community groups in a multiyear outcomes-focused effort to improve results, the PFS model creates a framework for sustained collaboration that is hard to achieve with more typical approaches to contracting for social services.

infrastructure. While some cities have successfully made use of the PFS/social-impact bond approach, others have found it challenging. In particular, some projects that cities have explored would have primarily generated budgetary savings for the state or county government, and it has been hard to persuade other levels of government to collaborate with cities in these PFS efforts. For this reason, we mostly focus our PFS work on projects initiated by state governments. Our state government partners have launched five PFS projects to date, with another five likely to launch this year.

**Agile procurement:** For technology procurements, in particular, deliverables often need to be developed through an iterative product-development phase with input from various stakeholders, including the end users. Agile procurement allows for close collaboration and provides the vendor with the opportunity to test prototypes on users throughout the development process in order to get critical, ongoing feedback. While the agile approach is especially useful for software development, key parts of this model—specifically, iteration and user testing—can improve outcomes of other types of procurements as well.

**Use past performance to help select future vendors and to inform the decision to renew or extend contracts:** Connecting past performance to future contracting decisions, including contract renewals and opportunities for multiyear contracts, is essential to incentivize vendors and will help cities allocate limited resources to the most effective contractors.

**Piloting:** When appropriate and feasible, a pilot phase can be built in to the procurement to test the good or service for viability and cost and to provide the contractor the opportunity to refine the product or service in collaboration with the relevant city officials and end users before scaling. The pilot phase can even include multiple vendors, with the best to be selected at the end of the pilot for a full contract.

*Track progress of contractors in achieving goals.* Cities need to measure their progress in achieving their goals during the course of contracts. Ideally, these measurements would use objective administrative data, though cities will sometimes need to rely on data provided by the contractors as well. The city may also establish a current performance baseline to focus attention on achieving improvements relative to the baseline. Where multiple contractors are working toward similar goals,

the government can develop an evaluation system that facilitates comparison of outcomes across contractors to determine which contractors are most effective. (Such a system, of course, would need to account for differences in the populations served and other factors that can influence the observed outcomes.)

*Employing active contract management.* Once the city has established a system for tracking performance, it needs to use the data as a management tool. The program or procurement staff should regularly monitor key outcomes and implementation data sourced from the city and the contractor to detect in real time if there are problems, as well as opportunities for improved performance. In social service contracting, we recommend an active contract-management approach that involves four steps:

1. Identify the entire target population and measure and track outcomes for the population on a regular basis. For example, the target population might be all chronically homeless individuals in the city, or all youth who failed to complete high school. The outcome might be defined as the fraction of the target population that is stably housed within six months or the percentage who are employed.
2. Make strategic decisions about which individuals to match to which services, and set up a system to make the connections happen. Rather than simply funding service providers to provide slots in their programs, assign them specific individuals to recruit to their program and serve.
3. Hold high-frequency (typically, weekly or monthly) meetings between the city official responsible for managing the contract and the service provider to review data on whether the referral process is working and on how individuals are progressing through the program. Use these meetings to troubleshoot, to reengineer processes to improve results, and to ensure that individuals are not falling through the cracks.
4. On an annual basis, assess whether the program models are working by examining whether population outcomes are improving and whether individuals referred to services are experiencing better results than equivalent individuals who were not referred to services, and by comparing results across service providers.

We have been working with several cities, including Seattle (see case study), to set up this approach to managing social services. To date,

## Case study: Managing Seattle's homeless-services contracts to drive down homelessness

In November 2015, Seattle mayor Ed Murray declared a state of emergency because of the homelessness crisis facing his city. Even though Seattle had increased its spending on homeless services from \$38 million in 2011 (in 2016 dollars) to \$50 million in 2016, the number of unsheltered individuals has continued to rise in Seattle, growing by an estimated 13% per year during the same period, as measured by the Seattle/ King County Coalition on Homelessness One-Night Count.

The city's current spending is allocated across more than 60 service providers, many of which have multiple contracts with the city (the total number of contracts is 180). Due to the large volume of contracts, contract managers with the city and the providers are occupied full-time with perfunctory transactions, such as invoicing, modifications, renewals, and preparing for audits. This leaves little time for tracking performance and intervening to improve results. Moreover, lack of reliable data on the homeless population and the performance of programs limits the city's ability to develop policies that are effective in tackling the problem. While these may appear to be low-level, administrative issues, they can result in real problems on the ground as service providers are focused on conforming to requirements rather than being responsive to the needs of the homeless population.

As part of a pilot project to reform its contracts with five homeless-services providers, Seattle is consolidating contracts to free up staff time to focus on improving outcomes and to increase flexibility for service providers to shift funding between programs based on need without requiring amendments. The city will also make these contracts more performance-focused. In collaboration with providers, the city is implementing a new set of key outcomes and process metrics. For example, instead of measuring how many showers are provided at a day center or how many beds are filled at an emergency shelter, the city and providers will track the number of individuals who are placed into stable housing. To help interpret the performance of programs and capture homelessness trends, characteristics of individuals served by each program are recorded as well. The city has also designed strategies to improve the quality of data. By streamlining reporting requirements, the city is reducing the burden on providers and allowing them to focus on providing high-quality data for the most critical metrics.

Finally, the city's contract managers will be using data to collaborate more effectively with providers. During monthly check-ins with providers, they will review key outcome and process metrics and then come up with plans to improve outcomes. In addition, quarterly meetings between the city and service providers focused on a given target population (e.g., single adults in need of emergency shelter) will provide a forum for discussing the systemwide progress in improving outcomes for specific target populations.

the best example of this approach is from a PFS project we helped New York State launch in 2013. This program connected individuals being released from state prison with job readiness and placement services delivered by the Center for Employment Opportunities (CEO). The state is using predictive analytics to identify the individuals with the highest probability of reoffending and then referring those individuals to CEO. The percentage of referred individuals who show up for job training is tracked at a high frequency, and weekly meetings between the state agency and CEO are used to figure out how to improve enrollment rates. On the back end, the city is assessing the effectiveness of services using a randomized controlled trial.

## IV. Elevating the Status of Procurement Work

Successful acquisition of goods and services from the private sector is essential to almost everything that a city government does. As a result, procurement and contract management are among the most important roles performed in city agencies—and governments need to treat these tasks as the high-value activities that they are.<sup>4</sup>

We have already emphasized our view that there should be a high-level official in city hall with the responsibility for identifying and managing the most critical procurements. But other steps need to be taken as well. Technology can greatly reduce the administrative burden of paying invoices and processing change orders, freeing up time for contract managers to do active performance-based contract management. As expectations increase for what procurement staff members should be doing, the skill set of employees in these positions needs to be

upgraded through training and recruitment. Most importantly, when procurement-related responsibilities are viewed as high-status, the most talented individuals entering city government want to work in this area.

There are some initial signs that this is starting to happen. Last year, a top graduating student from the Harvard Kennedy School accepted a job offer from us to work at the Government Performance Lab. A few days later, she came back and asked if she could back out to take a job in charge of IT procurement in a city government. We were thrilled. If we all start losing talented individuals to city hall procurement teams, we will know that we have achieved our mission.

## Endnotes

1. We learned how effective the “Which procurements are you losing sleep over” question can be from shadowing Beth Blauer (who leads the Center for Government Excellence at Johns Hopkins University) on What Work Cities initial site visits.
2. The categories of purchases described in Tables 1 and 2 are based on analysis of Boston’s 200 largest contracts, which constitute 76% of total contracts awarded. For technology and human-services contracts, however, all of the city’s contracts were analyzed, even those outside the 200 largest.
3. “The Role of Design-Build Procurement,” NYU Rudin Center for Transportation Policy and Management, June 2015.
4. Our thinking on this has been heavily influenced by Steven Kelman, “Strategic Contracting Management,” in *Market-Based Governance: Supply Side, Demand Side, Upside, and Downside*, eds. John D. Donahue and Joseph S. Nye, Jr. (Washington, D.C.: Brookings Institution, 2002).



“Today’s urban citizens demand effective, efficient government services. They are less tolerant of bureaucratic dysfunction. Technology is transforming the world; government is no exception. And the experiences that today’s urbanites have with technology, from the iPhone to Uber, set a high service-delivery bar that citizens expect government to meet. Meanwhile, problems of success, such as uneven economic advancement and soaring rents in many cities, pose challenges to future urban growth.”

*Aaron Renn*



## Prefab micro-units as a strategy for affordable housing

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## Prefab micro-units as a strategy for affordable housing

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### ABSTRACT

Increasingly large cities find themselves with a scarcity of affordable housing stock and cannot increase inventory quickly enough to meet urban growth trends. Some limitations include, lot size, regulatory barriers as well as environmental concerns. We focus on these barriers, first providing a background on these trends in the United States and then offering cases of how these opportunities might be applied as supply-side solutions to housing market demands, specifically using prefab technology for the micro-unit typology. We then use a proforma-based approach to model the impacts of this combination. We find that combining prefabricated or modular technology with small unit design can be effective in increasing affordable housing production across markets, and that addressing limitations with zoning and providing additional financial tools can accelerate this trend.

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## Introduction

In 2008 Jay Leno started his show with a comedic monologue on living in a 200 square foot housing unit which he humorously called a ‘storage pod.’ He was referring at the time to designer-developer George Hauser’s groundbreaking design of 96 ‘micro-units’ on a 1-acre parcel, a venture that was at the time featured prominently in the local media (Dineen, 2008; Wang, 2010). Hauser’s design encouraged developers to see *small as the new big* with more real estate reports documenting that thousands of such homes would house individuals across the income and age spectrum in high-cost housing markets, like Seattle, San Francisco, New York, Washington, D.C. and Seattle (Drummer, 2015; Ross, 2013).

Since that time, the concept of the micro-unit has been advanced through intersection with prefab technology, which is also sometimes referenced as factory-built housing or modular housing.<sup>1</sup> To start, smaller footprint homes offer the opportunity to increase housing affordability by allowing compact construction on smaller lots in urban areas in the US and abroad. Intersecting prefab construction methods with the micro-unit typology offers advantages in term of construction duration and loan

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carrying costs. It also has the potential to increase access to construction jobs and training for low-skilled workers. As a result there has been a rise in a number of creative prefab housing companies; FactoryOS, Mighty Buildings, BluHomes, Sage Modern, Clever Homes, prefabADU, Weehouse and Studio Shed being examples. This increase in the availability of modular technology presents a unique opportunity to consider prefabricated housing alongside the micro-unit typology as an option to create more affordable housing—something highly relevant places like California, which averages 21 affordable units for every 100, ranking near the bottom in terms of production when compared to other US states (National Low Income Housing Coalition, 2018).

This paper discusses how prefab construction methods and compact (micro-unit) housing design work in concert to produce housing that is more affordable. Small unit housing has the potential to be a solution for affordable housing for the elderly, college students, young professional singles. Moreover, with the rise of the number of single person households, especially in the United States, micro-units can be a potential affordable housing solution for this segment of the population (Infranca, 2014). Additional benefits can be associated with the location of these units, including increased density and walkability. Yet despite the benefits, three prominent barriers exist: (1) restrictive zoning and planning, (2) limited housing typologies, and (3) restricted financial tools for buyers and developers (Riggs, 2011, 2016). Our exploration of this topic is situated around a primary question related to these barriers; specifically: What are the local economic and regulatory barriers to prefab micro-units becoming a significant part of the solution to affordable housing supply problems?

This paper is organized as follows. First a background is provided on the planning and design principles behind small unit, prefabricated housing. In order to understand the potential of prefabricated, small unit developments, we survey six case studies of prefabricated, micro-unit development projects in the United States. We examine prefab, micro-unit projects from varying housing markets, large, medium and small, to assess how these units perform in different market conditions. This examination is followed by a cost-comparison analysis of various proforma models of prefab, micro-units vs. traditionally constructed units and larger units. The intention of this analysis is to understand the costs and potential benefits to a small unit developer when considering the differences between traditional on-site construction vs. modular technology. Our research indicates that small units fit a market ‘niche’ as cities trend towards smaller households, and that combining micro-unit policy with prefab technology might worth considering on a broader policy scale—particularly as many cities struggle to produce housing units quickly enough (Sisson, 2019a). Finally, we discuss three prominent barriers that prevent cities from exploring this housing combination and offer lessons and takeaways for practice.

## Background

In evaluating the literature on the production of small unit housing there are two predominant lines of inquiry: construction prefabrication and affordability by design. The literature on the prefabrication of homes discusses early attempts at

prefabrication. It also provides the benefits and tradeoffs of prefab units—be they environmental or social. The second line of literature relates to affordable-by-design principles. This body of literature discusses how affordability can be achieved through design efficiencies, or in other words, how strategic design decisions can reduce the cost of the unit, as well as other associated costs.

### **Prefabrication**

A large body of planning and design literature has discussed the concept of unit size and affordability (Aurand, 2010; Davis, 1997; Hayden, 2002; Infranca, 2014; Kimmelman, 2014; Landis, 1982; Pinto, 2010), however much of this work with regard to the fusion of prefabrication and affordability harkens back to the pre and post-WWII dialogue on design and production of housing for GIs returning from war. In Europe early 20th century efforts of modernist architects Le Corbusier (*Maison Citrohan*) and Walter Gropius (the Packaged House) in Europe formed the first attempts at large scale production of factory-made housing. For example, at the 1922 Salon D'Automne, a small model of Corbusier's *Maison Citrohan* appeared next to the project for a City for Three Million Inhabitants. Its trade name 'Citrohan' programmatically referred to that of 'Citroën', thus suggesting the idea of a house designed, 'produced, and marketed like ... a car (Moos, 2009, p. 80)'. Likewise in the case of Gropius,

Rather than representing a revolution in prefabrication, Konrad Wachsmann and Walter Gropius's Packaged House represents the zenith of the wood-frame, panelized houses that were, by 1942, fairly common on both sides of the Atlantic ... Despite the cachet of its authors, the house, like so many before and after it, would ultimately fail as a commodity, remaining influential today by virtue of its conceptual underpinnings, rather than for its commercial success. (Bergdoll & Christensen, 2008, p. 80).

In the United States the federal government and private industry funded affordable, prefab housing units for farm workers during the Great Depression and for World War II workers and returning GI's (Fetters, 2002). For example, in the case of the prefab Dolger Homes and Lustron Houses,

American veterans returning from WW II battlefields were faced with a critical shortage of affordable housing. Carl G. Strandlund, an executive with Chicago Vitreous Enamel Products, saw an opportunity to use the porcelain-enameled steel panels popular for filling stations to create mass-produced steel houses. He hoped to apply the continuous production lines of the automobile industry to 'Fordize' the housing industry (Ohio History, 2013).

Despite these efforts, prefab housing was unable to become part of the mainstream housing market. This is mainly due to the sporadic funding related to the market for the products, as many individuals did not like the design of these metal homes.

That said, due to recent improvements in technology combined the dramatic need for affordable housing, prefab home construction is resurfacing as a viable housing option with apparent success in single- and multi-family form, and spanning markets from affordable to luxury and micro to large.

Prefab homes present many advantages. One in particular is the reduction in construction time. Reduced construction time is a result of the ability to construct homes in the factory while site work is completed in the field. This allows for a more efficient use of time, which leads to faster completion dates (Blismas *et al.*, 2006). The average start-to-finish construction period for a prefab home may range from 6 to 9 months, while the construction period for a traditional site-built home can range from 12 to 18 months. Furthermore, while the unit design may be less flexible than with traditional construction, but this characteristic allows for the unit to be completed more quickly (Tam *et al.*, 2007). This increase in efficiency allows for a reduction in cost. Labour and material costs can be greatly reduced with factory construction due to efficiencies of economies of scale through production volumes and factory location selection (Lawson *et al.*, 2012). Overall project finance costs are also reduced because the construction period and related term holding a construction loan is shortened (the total amount of interest paid on a construction or other project-related loan is dependent on time among other variables) (Nahmens & Ikuma, 2012). There are further savings when transportation is considered with fewer average trips needed per job. Furthermore, there tend to be fewer minor repairs needed post construction for modular buildings (Lawson *et al.*, 2012). The cost reductions flow through to the buyer/home occupant either directly or indirectly in owner-builder or developer-builder scenarios.

Another benefit is the increase in the quality and decrease in the environmental impact of construction. In-factory, modular construction allows a level of precision that cannot be matched by site-built methods. Material damage is reduced, and overall quality control measures are increased in the factory-built process. There is also increased environmental stewardship with less waste and fewer emissions. In-factory construction can reduce waste by up to 70% and reduces pollution and other construction-related impacts. The National Association of Homebuilders' (NAHB) green buildings guidelines include a metric for prefabricated components as an approach to reduce the quantity of materials needed and reduction in waste. Additionally, noise and disruption are reduced on-site, due to the increased efficiency of construction times (Lawson *et al.*, 2012). The use of lighter weighted materials and the reduced waste translates into a reduction in the total consumed energy for construction. Furthermore, modular units have a higher degree of air tightness, which leads to greater thermal performance of the housing unit. Reduced construction time and construction related travel translate to less damage to the surrounding environment and fewer emissions.

While there are a number of benefits to prefabrication, there are also tradeoffs when considering this mode of construction. We have identified three major barriers from the literature. First, prefabricated construction requires an increase in the pre-project planning stage and demands an increased engineering effort up-front, which differs from traditional construction. This increase in pre-project planning is to ensure the precision of the construction (particularly site work) and the coordination of the various elements, such as: design, transportation, foundation and utility prep, and onsite installation/inspections (Nadim & Goulding, 2011). This process shifts traditional roles in the construction process and thus has not been widely accepted by the industry, most notably by union labour (Lovell & Smith, 2010).

Second, transportation requirements impact the design and size of the units. Road right-of-way limitations can limit the size and weight of moved from the construction facility to the site. Further, the emissions from this transportation activity may increase the carbon footprint of the structure. (Although they would likely be offset by the improved the environmental sustainability of the building over its' lifecycle.) At the same time emerging technical innovations in prefab construction demonstrate promise in addressing some of these transportation requirements. In this regard, a number of manufacturers are deploying 3D printers as a means to simplify supply chains (whether the printers are onsite or in the factory setting). For example, the construction firm Apis Cor and the Housing Trust Fund of Santa Barbara jointly developed a pilot project for affordable housing in Santa Barbara County, California. This project builds on Apis Cor's construction of a residential home using a mobile printer wholly onsite at its testing facility in Moscow. The company reported that the process took 24 h and cost \$10,134 (Corbley, 2019).<sup>2</sup>

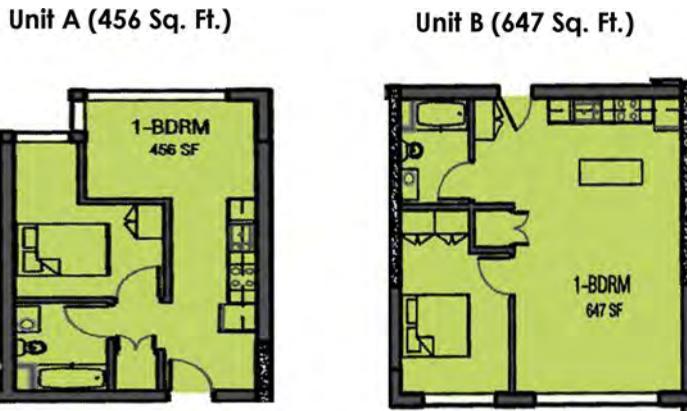
The use of 3D printing could increase efficiency in the supply chain, mitigate the carbon contribution of transportation, reduce waste, and provide more variability in design. Architectural magazine FRAME has suggested that the utility of 3D technology for affordable housing 'will take 3D-printed structures mainstream' (Maxwell, 2020). Likewise, Mighty Buildings in Oakland California is a VC backed Bay Area company with a model to print 3D units. They have constructed 2 units as of 2020 with a handful of other units being manufactured.

Finally, one of the possible tradeoffs with this prefabricated housing is that the lightweight material makes it more difficult to achieve and maintain an inhabitable thermal mass (Adekunle & Nikolopoulou, 2016) which can sometimes lead to an increase in energy consumption, resulting in increased environmental impacts and post-occupancy operational costs. Aside from this outlier, most of the literature outlines how the materials in small, prefabricated houses improve thermal performance, and reduce life cycle building costs (Samani *et al.*, 2015, 2018).

Given this background, the opportunities and benefits created by prefabrication still make it a worthy consideration alongside micro-unit housing in building affordable housing. With appropriate regulatory and land use environment, prefabricated micro-unit housing has the potential to satisfy a large portion of market demand in a rapid manner—producing units in locations with supply restrictions that exasperate demand and cause upward pressure on price. And, when combined with design efforts aimed at reducing unit size (e.g. affordability by design) they can further increase the affordability of these prefab housing units.

### **Affordability by design**

The term 'affordable by design' refers to the concept that strategic design can reduce the cost of housing. For example, consider two one-bedroom units located across the corridor from each other in a given residential building, see [Figure 1](#). The two units feature similar finishes, quality of construction and kitchen/bathroom design layouts. Unit A is comprised of 456 square feet. Unit B is comprised of 647 square feet.<sup>3</sup> Unit A was marketed with a sale price of \$239,700, and Unit B was marketed with a sale



**Figure 1.** Comparison of one bedroom apartments

price of \$326,400. Reducing the size and configuration of the bedroom and living room results in a \$86,700 sale price reduction.

Other ways to make housing more affordable-by-design include reducing parking requirements where appropriate and making use of cost-efficient construction methods, such as prefab and modular technologies. Additional techniques might involve the conversion of warehouses into housing, or the conversion of basements, garages and attic, infilling historic neighbourhoods, mixed-use homes and a denser population of individuals living closer to downtown business centres.

Recent developments in San Francisco, CA have relied on efficiency units and single-room occupancy (SRO) zoning in order to attempt to provide affordable homeownership units for a variety of incomes (Riggs, 2011, 2016). While these SRO developments are popular in Europe, they have yet to become a significant feature in the U.S. urban landscape mainly due to the rigidity of the U.S. planning codes. These developments have proved profitable and can increase the availability of walkable units (Gilderbloom *et al.*, 2015). Developers can be incentivized to create these types of units on smaller vacant or underutilized parcels.

In addition to these benefits there have been a number of concerns raised about units that are affordable by design. While both affordability by design and prefabrication alone offer potential solutions, the combination of the two could be more effective at creating affordable housing aimed at target demographic segments such as: homeless populations; the elderly; college students; and young professional singles. While this may represent only a portion of the housing demand in cities, single member households are a significant growing portion of the market with needs that have become escalated (particularly for the homeless) during the COVID-19 pandemic (Infranca, 2013; Tsai & Wilson, 2020). Furthermore, in high costs areas small unit housing can be a solution for young couples and middle-and-lower-income families.

As previously mentioned, most of the discussion of combining these two principles—prefab and affordable by design—originated during the post-WWII era. Yet with the advances in technology and transportation, and with the mounting pressure to produce more affordable housing, the dialogue has become more pronounced. For



*Images Courtesy of Zeta Communities.*

**Figure 2.** Prefab modules stacked in construction of the Harriet

example in California, there has been a turn to using micro-unit housing with prefabricated technology, to provide housing for the elderly, college students, single young professionals, and workforce housing for small households (ULI, 2014). In general, companies pre-construct the buildings and transports them to the project site, with many of the resulting cost reductions due to the fixed/modular nature of the design. This allows for saved time, as well as increased and consistent quality. Despite increased pre-project planning, engineering and site work, the technology reduces construction duration and loan carrying costs, resulting in reduced costs per unit. And given these experiments, we posit that prefabricated, micro-unit housing may offer a potential solution to produce more housing that meets target demographics and housing demand across markets.

## Methodology

In order to explore prefabricated micro-units as a solution for affordability, we examine existing prefabricated and micro-unit developments in the United States. We evaluate projects across the US, in cities ranging in size, type and housing markets. As shown in [Table 1](#), we look at San Francisco and Boston as large cities with very tight housing markets. Cleveland and Baltimore are explored as midsized cities that have markets that are more moderate. Finally, we consider two smaller markets with less competition than the larger cities near them—Palm Springs, California (near Los Angeles) and Kalamazoo, Michigan (proximate to both Chicago and Detroit). Both have housing prices that are lower the larger cities around them, yet still have emerging trends in prefab, micro-unit production.

Selecting such variety offers the potential to demonstrate how these units have efficacy in different market environments and conditions. Following this, we conduct a proforma analysis illustrating the feasibility of these developments by experimenting with the following parameters: lot size; density and permitting requirements; and

**Table 1.** Case studies characteristics.

Case study	Market type	Characteristics of the development
The Harriet: San Francisco	Tight	Multi-Unit/Multifamily Development (23 units: 3750 sq. ft. lot) Prefabricated Affordable by Design (each unit 295 sq. ft.)
LivingHomes' C6: Long Beach/ Palm Springs	Smaller	Detached Single Family Housing Prefabricated Affordable by Design (ranging from 950 (2 bedrooms, 1 bath)-1288 sq. ft. (3 bedrooms, 2 baths)).
Pier 4, Seaport Innovation District: Boston	Tight	Multi-Unit/Multifamily Development (50 micro units) Affordable Design (450 sq. ft.)
University Circle: Cleveland	Moderate	Multi-Unit/Multifamily Development Prefabricated Affordable by Design (ranging from 400 to 950 sq. ft.)
Civic Works: Baltimore	Moderate	Detached Single Family Housing Prefabricated Affordable by Design (500 sq. ft.)
The NoMi Project: Kalamazoo	Smaller	Multi-Unit/Multifamily Development (47 units- 16 micro units) Prefabricated Affordable by Design (300 sq. ft.)

developer margin based on projected revenues. We then discuss these and how pre-fabrication and affordable-by-design principles can be harnessed to help address acute housing issues in cities.

## Case studies

### **Case study #1: The Harriet (San Francisco)**

Developer Patrick Kennedy picked up where San Francisco architect/developer George Hauser<sup>4</sup> left off and married the idea of prefab construction methods with ultra-compact housing. Where Hauser sought to permanently house San Francisco working professionals, Kennedy built 38 Harriet Street to house students, see [Figures 3 and 4](#). The end-user profile targeted by both developers could not have differed more greatly, but the conceptual form of their micro-units was similar. 38 Harriet was selected as a case study to showcase the extreme in the spectrum of compact, prefab units. While micro-units may not be the housing need focus in City of Vallejo, the case study illustrates nearby, recent success in efficient, affordable, small-lot residential development that may be applied to a range of housing types.

The Harriet is comprised of 23 prefab micro apartments built in part by ZETA Communities<sup>5</sup> upon a 3750 square foot lot (267 units to the acre) in the SoMa neighborhood of San Francisco. The project was constructed in a rapid six-month time-frame. The 23 residential units were fabricated in a factory and took just one week to install on site. The building achieved a LEED Platinum rating. The 295 sq. ft. units are marketing as 'affordable by design' and each house up to two students for a

**Table 2.** Test proforma.

	Existing standard	Test policy	Difference and issues?
<b>Site Area and Zoning</b>			
A. Lot Size in Square Feet (a)	20,000	10,000	Smaller Lots Identified & Developed
B. Lot Acreage	0.46	0.23	.23 Acres
C. Average Lot Coverage (Above Ground and At-Grade)	80%	100%	Density Increase & neighbouring units
<b>Development Program</b>			
D. Building Platform	Low Rise Podium	Low Rise Podium	
E. Maximum Height in Feet (a)	48	60	15 Feet
F. Maximum Total Floors	4	5	1 Floor
G. Building Efficiency	80%	780%	More Efficient Design
H. Total Built Potential in Square Feet [ (A*C)*F*G ]	51,200	40,000	(11,200)
I. Average Unit Size in Square Feet (b)	1,000	500	(500)
J. Maximum Units (H/I)	51	80	29
K. Units per Floor (J/F)	13	16	3
L. BMR Percentage Onsite	15%	15%	0
M. Number of BMR Units e (K*L)	8	12	4
N. Number of Market Rate Units (J-M)	44	68	24
<b>Revenue</b>			
O. Market Rate Sales Price Per Unit (c)	\$500,000	\$300,000	(\$200,000)
P. Market Rate Sales Price Per Net Square Foot	\$500	\$600	\$100
Q. Base Price of BMR Units (d)	\$150,000	\$90,000	(\$60,000)
R. Total Sales Revenue	\$22,912,000	\$21,480,000	(\$1,432,000)
S. Sales Expense @ 4%	4%	4%	\$0
T. Net Revenue	\$21,995,520	\$20,620,800	(\$1,374,720)
T.1. Per Unit	\$429,600	\$257,760	(\$171,840)
T.2. Per NSF	\$430	\$516	\$86
<b>Land and Building Costs</b>			
U. Unimproved Land Cost Value (e)	\$2,291,200	\$2,148,000	(\$143,200)
V. Hard Construction Costs (e)	\$16,000,000	\$12,500,000	(\$3,500,000)
W. Permits and Fees	\$6,000	\$3,000	Reduced
X. BMR/Inclusionary In-Lieu Fee (f)	\$0	\$0	\$0
Y. Construction Financing @ \$30/SF	\$1,536,000	\$1,200,000	(\$336,000)
Z. Total Building Costs	\$19,833,200	\$15,851,000	(\$3,982,200)
Z.1. Per Unit	\$387,367	\$198,138	(\$189,230)
Z.2. Per NSF	\$387	\$396	\$9
<b>Residual Land Value</b>			
AA. Developer Margin	10%	23%	13%
BB. Return on Net Sales	\$2,162,320	\$4,769,800	\$2,607,480
BB.1. Per Unit	\$42,233	\$59,623	\$17,390
BB.2. Per NSF	\$42	\$119	\$77
CC. Land Value Per Lot SF	\$1,100	\$2,062	\$962
DD. Per Acre of Land	\$47,906,243	\$89,824,205	\$41,917,962

<sup>a</sup>Uses 1/4 for test; assumes LIR allows for smaller lot development; assumes some form of parking inclusion and a minimum of 12 ft needed per floor.

<sup>b</sup>Standard average unit size is 1000 SF (925 sf rounded) per recent development proposals in San Francisco; micro unit size based on development platform by Hauser Architects.

<sup>c</sup>Market rate sales prices based on Market Assessment by Marcus Millichap; price viewed as conservative to be applied across jurisdiction and provide the most reserved assessment of profitability.

<sup>d</sup>BMR prices based assumed to be roughly 30% of market price per SPUR documentation.

<sup>e</sup>Land value estimated at 10% of project by SPUR ([http://www.spur.org/publications/library/article/cost\\_build\\_and\\_buy\\_housing\\_san\\_francisco](http://www.spur.org/publications/library/article/cost_build_and_buy_housing_san_francisco)); construction cost estimated at \$200/GSF and contingent on type of construction.

<sup>f</sup>In-Lieu fee \$0, as development is meeting housing requirements with onsite production.



*Images and plans Courtesy of Panoramic Interests.*

**Figure 3.** Images of 38 Harriet street images and unit plans.

combined rent of \$1600 per month.<sup>6</sup> Kennedy uses the term ‘SMARTSPACE’ to describe his ‘stylish and efficient’ housing units.<sup>7</sup>

### **Case study #2: C6 (Long Beach/Palm Springs)**

The C6 home is selected as a case study to illustrate how single-family detached housing on a compact lot can be made more affordable through use of fast prefab construction methods and affordable-by-design architecture principles. The C6 single-family detached home by LivingHomes features 3 bedrooms, approximately 1232 square feet of space spread across one story, an open floor plan that allows for a light and airy interior, and a starting price of \$179,000 (not including land, specialty permits, or site preparation costs). The C6 unit model is prefabricated in a factory and can be installed on site in 8 h. Two other C6 versions exist and range from 950 square feet (2 bedrooms/1 bath) to 1288 square feet (3 bedrooms/2 baths) in size. The smaller home footprint used makes it appropriate for compact in-fill lots among other diverse site locations.



*Images and plans Courtesy of LivingHomes*

**Figure 4.** C6 long beach photos and floor plans.

The Eichler<sup>8</sup>-inspired home was designed by LivingHomes in collaboration with Make It Right, a non-profit started by architect William McDonough and actor Brad Pitt to redevelop New Orleans neighbourhoods after Hurricane Katrina (Carpenter, 2012). LivingHomes is based out of Santa Monica and focuses on single and multi-family prefab homes that emphasize environmental sustainability (at least nine LivingHomes units have achieved the LEED Platinum rating) and world-class architecture. The C6 unit has been installed in Palm Springs and Long Beach but has not yet been implemented on a larger scale.

### **Case study #3: Seaport Innovation District (Boston)**

Under the jurisdiction of the Boston Redevelopment Authority (BRA), Boston's Seaport Innovation District allows for the creation of micro apartments or 'innovation units' under 450 square feet (Ross, 2013). The overall goal of these 'innovation units' is to be constructed, leased, and rented at a lower price and alleviate Boston's low housing inventory—in a market where demand dramatically outpaces supply.

The Pier 4 project by the Waterfront is an example. It is a 21-story building, with 50 innovation units and 373,000 square feet (Acitelli, 2011). It offers the appeal of a premium location, connected to public transit (the T's Gray Line) alongside affordable living spaces for young professionals as commercial properties begin to gain momentum. The units rent for \$1500 to \$2000 per month (Acitelli, 2015). Yet at same time demand has continued to climb, and city officials speculate prices may go up to match that of existing studios and even one-bedroom homes unless production continues.

### **Case study #4: University Circle (Cleveland)**

The goal of the University Circle development in Cleveland is to meet the housing needs spurred from job creation from hospitals, institutions and other non-profit groups fuelling construction in the centre of town (Jarboe, 2012). Peter Rubin, developer behind University Circle Proposal, explained in an interview with Jarboe (2012), he believes younger renters prioritize convenience over space and with the University Circle, 'having a smaller home is possible when your neighborhood becomes your living room'. As the streets become lined with businesses, restaurants and stores, tiny apartments become more attractive since they are located within reach of good public transportation.

With the target demographic focussed on efficiency, the micro-units intend to attract young professionals and recent college graduates to help revitalize the city centre (Suttell, 2013). While the usual rent for the area is \$800 to \$1500 for a one-bedroom unit the 300 square foot the units rents for \$600 a month—a range of 25 to over 100 percent in savings in the cost to consumers. According to Jeffery I. Friedman CEO of Richmond Heights-based Associated Estates Realty Corp., as stated in an interview with Suttell (2013), 'in smaller markets, the rent differential is such that if you have a good job, you can typically afford the rent... of a full-size apartment'.

### **Case study #5: Civic Works (Baltimore)**

With Baltimore's growing number of low-income households, there has been an increase in empty homes which reflects Baltimore's struggle with segregation and corruption (Cantori, 2017). The average Baltimore resident spends \$11,000 to \$20,000 on rent, but with the option of tiny homes the cost of housing would lower substantially. Civic Works is a local non-profit hoping to build units for low-wage workers (Rae, 2017). The non-profit looks to micro-housing units as a viable affordable housing solution. These homes feature a living area, sleeping loft, kitchen and bathroom in

less than 500 square feet. The homes are built on trailers and are easy to transport, even offering a customizable option to its consumers. One of the difficulties faced is finding suitable areas to set up residence or finding enough support from housing authority to create these new spaces. Any firm or person can work with Civic Works to ensure the units stays affordable and meets code. David Hong, designer for Civic Works and architect at the Living Design Lab in Baltimore prices the units at \$50,000–\$60,000, which is within reach of many lower-income households. The units have the ability to be equipped with propane tanks to provide heat for the home.

### **Case study #6: The NoMi Project (Kalamazoo)**

Co-owners Mac Waldorf, Jon Durham and Herb Ayres of NoMi Developers are focussed on creating unique living space in Kalamazoo's River's Edge District called Walbridge Common (Jones, 2016). The river district is located within blocks of public transportation and walking distance to Downtown Kalamazoo. It features apartments and commercial spaces. Walbridge Common is the only development in the district to offer micro-units (River's Edge District, 2015). Walbridge Common, a \$4.4 million project, is a renovated 1924 warehouse constructed with concrete and brick. The development offers 47 apartments with 16 micro-units, and is 100 yards from the entry to the KVRT biking trail, 5 blocks from Amtrak, and 12 min from Downtown Kalamazoo.

Affordable housing is in short supply in the Kalamazoo's River's Edge District area with rent two to three times more expensive than other places in Kalamazoo. In an effort to fight the steep housing prices the NoMi developers have used micro housing. The company offers units around 300 square feet starting at \$530 a month (Feinberg, 2015). The units are designed as apartments as a place to sleep, while utilizing the city as their place to live. The units are marketed to recent graduates looking to save money and to other adults saving for retirement. The micro apartments are equipped with a microwave, a sink, and a refrigerator, a complete bathroom and a convertible living space. Located on the first floor these units share a common area kitchen and living space with a shared laundry unit; similar to dorm-style living or co-living platforms. The goal is to attract a wide variety of people, promoting social interaction within the units as well as outside.

### **Development proforma analysis**

While the design elements of the provided case studies may harken back to egalitarian or utopian designs of the mid-20th Century (Alexander *et al.*, 1977; Corbusier, 1929; Lynch, 1960), investigating their financing provides a more in-depth evaluation of their potential performance in hyper-urban markets. To do this we conduct proforma analysis on a micro-unit building typology that can increase the number of affordable units in an urban setting. While there are different techniques to accommodate smaller building footprints, including relaxation of rules for setbacks and open space requirements in order to increase lot coverage, we focus on examples of



**Figure 5.** Cubix San Francisco exterior

efficiency and single-room occupancy (SRO) zoning since there have been various successful cases of these kind of projects in recent years.

For example, in 2008 a San Francisco design and development firm put 98 condominiums onto a 6600 SF site in the City's South of Market area, as seen in [Figure 5](#). The intent was to provide affordable buying opportunities to many different populations, including the elderly (Dineen, 2008). Popular in Europe, these 'micro-units' rely on a reduction in the rigidity of planning codes and have yet to become a significant feature in the U.S. urban landscape. However, given that other comparable, small unit projects in the Bay Area have sold out, some think they could be important tools in addressing housing shortages, affordability, and improving neighborhood access.

As Gabriel Metcalf, the former executive director of the San Francisco Planning and Urban Research Association (SPUR), was quoted as saying:

Micro-units should be part of the broader housing strategy for the city ... They are not for everyone, but they have a role for some people. If you look at the housing stock of San Francisco, there are tens of thousands of multi-family flats and Victorians occupied by unrelated adults in roommate situations. Many of those people would love the

chance to own a small place of their own where they do not have to live with roommates (Riggs, 2011).

Testing this in a development proforma in Table 2 reveals that the policy could not only be used to incentivize development through identification and prioritization of smaller and underutilized parcels, but it could also increase density and profitability for developers. For example, if a 1/8-acre size is developed compared to a 1/4 site, smaller unit sizes are needed to keep the number of units high enough to be profitable, given the land costs.

With relaxed density and permitting requirements the smaller unit sizes could conceivably increase developer margins from likely unviable developer margin of 10% to 23% based on projected revenues. Given this increased profitability, more private developers may be willing to assume the risk of developing smaller parcels and more money can be spent on public realm improvements and design factors that can enhance the suitability of the environment for walking.<sup>9</sup>

Policies that ease development controls on these kinds of units could increase the type and amount of affordable housing to encourage more inclusive areas that are walkable; non-profits and development corporations could facilitate their implementation. Many communities around the world use below market rate (BMR) policies to ensure that urban locations remain affordable, as shown in Table 3, but these require that for-profit developers set aside a percentage of units in for-profit endeavors as affordable. Many times, the units that are least desirable and not as well-thought out end up as the affordable ones and are not the right size to meet the need—the ultimate result is inferior housing units.

## Discussion

As the proformas indicate, smaller and more well-designed, prefab housing could impact housing supply in many cities. Further, the concept of micro-unit housing has been advanced by prefab technology—which can provide advantages in construction duration, loan carrying costs, and increasing housing affordability. The case studies herein provide additional evidence to support the notion that affordable-by-design housing can be successful in different markets across the U.S. That said, there are policy and practical limitations that may prevent the application of such strategies and the opportunity they present. In general, the barriers for this type of housing can be categorized as either planning and design or financial issues.

In terms of planning and design, the most prominent impediments are (1) restrictive zoning and planning codes and (2) limited housing typologies (Riggs, 2011, 2016). These processes usually occur in the pre-construction periods of a project and require more planning and engineering aspects up front to deal with restrictive lot sizes and density restrictions. With regard to financial issues, there are restricted financial tools for buyers and developers that occur through the project development process. Funding for micro-unit prefab technology is often hard to acquire on both the development as well as the consumer side of the market. These planning, design and financial considerations are discussed in the sections that follow.

**Table 3.** Test proforma, increased BMR.

	Existing standard	Test policy	Difference
<b>Site Area and Zoning</b>			
A. Lot Size in Square Feet (a)	20,000	10,000	
B. Lot Acreage	0.46	0.23	
C. Average Lot Coverage (Above Ground and At-Grade)	80%	100%	
<b>Development Program</b>			
D. Building Platform	Low Rise Podium	Low Rise Podium	
E. Maximum Height in Feet (a)	48	60	
F. Maximum Total Floors	4	5	
G. Building Efficiency	80%	80%	
H. Total Built Potential in Square Feet [ (A*C)*F*G ]	51,200	40,000	
I. Average Unit Size in Square Feet (b)	1,000	500	
J. Maximum Units (H/I)	51	80	
K. Units per Floor (J/F)	13	16	
L. BMR Percentage Onsite	15%	20%	Increased BMR
M. Number of BMR Units e (K*L)	8	16	
N. Number of Market Rate Units (J-M)	44	64	
<b>Revenue</b>			
O. Market Rate Sales Price Per Unit (c)	\$500,000	\$300,000	(\$200,000)
P. Market Rate Sales Price Per Net Square Foot	\$500	\$600	\$100
Q. Base Price of BMR Units (d)	\$150,000	\$90,000	(\$60,000)
R. Total Sales Revenue	\$22,912,000	\$20,640,000	(\$2,272,000)
S. Sales Expense @ 4%	4%	4%	\$0
T. Net Revenue	\$21,995,520	\$19,814,400	(\$2,181,120)
T.1. Per Unit	\$429,600	\$247,680	(\$181,920)
T.2. Per NSF	\$430	\$495	\$66
<b>Land and Building Costs</b>			
U. Unimproved Land Cost Value (e)	\$2,291,200	\$2,064,000	(\$227,200)
V. Hard Construction Costs (e)	\$16,000,000	\$12,500,000	(\$3,500,000)
W. Permits and Fees	\$6,000	\$3,000	Reduced
X. BMR/Inclusionary In-Lieu Fee (f)	\$0	\$0	\$0
Y. Construction Financing @ \$30/SF	\$1,536,000	\$1,200,000	(\$336,000)
Z. Total Building Costs	\$19,833,200	\$15,767,000	(\$4,066,200)
Z.1. Per Unit	\$387,367	\$197,088	(\$190,280)
Z.2. Per NSF	\$387	\$394	\$7
<b>Residual Land Value</b>			
AA. Developer Margin	10%	20%	11%
BB. Return on Net Sales	\$2,162,320	\$4,047,400	\$1,885,080
BB.1. Per Unit	\$42,233	\$50,593	\$8,360
BB.2. Per NSF	\$42	\$101	\$59
CC. Land Value Per Lot SF	\$1,100	\$1,981	\$882
DD. Per Acre of Land	\$47,906,243	\$86,311,526	\$38,405,284

<sup>a</sup>Uses 1/4 for test; assumes LIR allows for smaller lot development; assumes some form of parking inclusion and a minimum of 12 ft needed per floor.

<sup>b</sup>Standard average unit size is 1000 SF (925 sf rounded) per recent development proposals in San Francisco; micro unit size based on development platform by Hauser Architects.

<sup>c</sup>Market rate sales prices based on Market Assessment by Marcus Millichap; price viewed as conservative to be applied across jurisdiction and provide the most reserved assessment of profitability.

<sup>d</sup>BMR prices based assumed to be roughly 30% of market price per SPUR documentation.

<sup>e</sup>Land value estimated at 10% of project by SPUR ([http://www.spur.org/publications/library/article/cost\\_build\\_and\\_buy\\_housing\\_san\\_francisco](http://www.spur.org/publications/library/article/cost_build_and_buy_housing_san_francisco)); construction cost estimated at \$200/GSF and contingent on type of construction.

<sup>f</sup>In-Lieu fee \$0, as development is meeting housing requirements with onsite production.

## Planning and zoning

When talking about zoning, many individuals focus on restrictive building codes as the single most onerous factor in the affordability of housing units in cities—and this is despite any up-zoning-capitalization dynamics from additional densification or unit creation. Issues with zoning and regulation have been noted in the case of Civic Works in Baltimore. While the design and delivery of the units are feasible and

affordable, Civic Works often faces zoning and regulatory barriers to locate these affordable units in neighbourhoods throughout the city (Eatough, 2019). In interviews conducted in 2010–2011 we found that many in real estate and land use professions felt that the number of units allowed on parcels in cities was too low and that zoning codes far too restrictive to encourage more units and therefore impact the housing market.

One example cited was the limitations of use on Single-Room Occupancy (SRO) zoned units in many cities. A developer noted that while SROs posed a challenge to unit creation, some creative developers in San Francisco and New York were using the concept of the ‘micro-unit’ condominiums to overcome this and work around zoning restrictions. This can be seen in the cases of The Harriet and Cubix in San Francisco, Walbridge Common in Kalamzoo, and Pier 4 in Boston.

Another planner related the issue of codes to the topic of density, saying:

The single biggest difference (around the world) that you see everywhere is density. Even in small towns out in green fields the housing is all five stories high and all in apartment blocks with mixed-use below ... (Even in) the absolute cookie cutter standard of good housing ... is this basic density assumption—which means there’s almost always some transit and always something to walk to. And so you get the bars on the street with the cafes, but you also get the grocery stores and smaller retail. There are big grocery stores, but there are just a lot more small stores because they serve the (dense) apartment building that they’re located in.

Developing affordable housing on its own may offer a better method to deliver the type and amount of product the market demands. Boston is developing affordable housing itself, with the ‘innovation units’ which are smaller and rely on affordable-by-design principles. And, while affordable units only target a small segment of housing need (e.g. not housing for middle-and-upper-income individuals) use of SRO zoning to build small, prefab units could assist in this delivery. For example, development of projects like The Harriet and Cubix, which were prefabricated and instituted affordability through design, in San Francisco and Pier 4 in Boston allows students and young professionals the ability to access affordable housing in their respective city. In another example, San Francisco Bay Area Bridge Housing, a San Francisco Bay Area non-profit, has produced over 13,000 affordable units for more than 35,000 individuals in California—units that may have otherwise not been financially viable if attempted by a private developer. Yet Bridge faces the same challenges in bringing the product to market that limit private developers trying to build workforce housing.

Just because someone takes a parcel or block and gives it to a non-profit housing developer, does not translate into a viable project. Non-profits face similar obstacles to private developers, including project financing, environmental review and planning approvals. As one individual interviewed in 2011 put it:

Everybody thinks the way we’re going to provide more housing is to make it cheaper to build, and that’s impossible. If you go ... and buy a 2x4 to put in the wall, it costs the same whether I plan to put it in a luxury condo or in (affordable) housing ... The construction costs are a relatively minor component of a project’s total, not nearly as important as the cost of financing, the cost of land, the soft costs and the political costs.

A member of the Bridge's board said that this complication is changing the role of the affordable corporation to the role of housing developer, citing the forthcoming McArthur Transit Village project. In the past, Bridge had 'sold off' affordable projects to companies and had them develop a project there on the property with dead restrictions. Now, Bridge is operating as both developer and holding corporation—allowing them to control finances, project assembly, delivery, and building sustainment over time.

This practice makes the costs an easier burden, but if some of the processes were streamlined and only limited environmental reviews were required, use of new smaller SRO-like footprints on more dense lots could facilitate the creation more affordable units. As shown by the proforma, by the use of the SRO zoning technique developers could support 20% BMR housing and still achieve an appropriate profit margin, and as mentioned in the footnote on the previous page, non-profit developers may only need a margin of 3%.

One item that might facilitate this streamlining could be to codify staff or counter-level (non-commission, council or other approving body level) approvals for all projects that meet baseline environmental standards and use an independent design standard/rating framework that supports features that improve neighborhood walkability such as LEED-ND [Leadership in Energy and Environmental Design—Neighborhood Design] (Ewing *et al.*, 2006). By expediting the environmental approvals for projects that use this tool, developers might have be able to save carrying costs and invest in design elements that would improve units.

Furthermore, although profit margins might be tight, such a policy could help in meeting sustainability goals while at the same time increasing the number of walkable neighbourhoods available to those minorities and others who might desire them in the urban core—so they can have an affordable option and the choice of whether or not to stay in central cities (Mearns & Riggs, 2016). The viability of such a project might improve if tax credits, soft loans, and grants were used in a non-profit scenario.

Use of a system such as LEED might help to reinforce better standards of design that would make developments more walkable moving beyond the idea of multi-family, high-rise 'housing' to that of 'homes' along a walkable streetscape (Davis, 1997) to the:

... aggregation of a single element into a larger pattern ... (in) 'group form' ... (like) Italian Hill towns, Greek fishing villages, or pueblos ...

Developments such as Napa Pipe in Napa, CA, which had planned not only to provide affordable housing but to design it alongside streets built to encourage walking, biking, including a large walking trail within a 1/4 mile of all residences to encourage walking, offers an example of how the LEED system might improve walkability. If cities could begin to shape development in this way through local planning codes it could help bring more affordable, liveable homes to the market and offer consumers more options in the housing market. Yet at the same time, they must abide by the fast-tracking rules they set up.

Interviews with two San Francisco Bay Area prefab Accessory Dwelling Unit (ADU) companies (prefabADU and Mighty Buildings) illustrates that even when

companies have approved plans for certain cities planners regularly scrutinize design anyway. Representatives from the companies indicated that a typical approval process still involves multiple (and sometimes redundant) steps; for example: (1) online compliance search/report to explore building restrictions (easements, etc.); (2) consumer deposit; (3) site inspection, site visit and a feasibility study regarding potential room for size, connections, etc.; (4) feasibility study and review of model options followed by signed contract and pre-payment; (5) plan submittal to city (pre-approved or not) with 60 day review clock for both planning and building departments and potential for additional fees; (6) once approved, site work begins (foundation, etc.) and onsite or offsite construction/manufacturing begins which takes 4–8 weeks; (7) site inspection of foundation, unit or both; (8) issuance of Certificate of Occupancy. Facilitating this process with digital technology that automates, standardizes and uses interactive mapping to identify suitable sites could hold significant promise in removing some of these continued policy and process related bottlenecks.

### ***Limited housing typologies***

In-addition-and-related-to zoning, there are limitations in the exploration of new typologies in many locations, where single family homes have become the default development platform. For example Guerra (2015) explores how many real estate developments in Mexico City replicate US single-family urbanism, yet a growing group of designers have attempted to shift this trend. New affordable housing developments in Mexico City include small units (400–560 square feet) are being designed to make sure that the informal exchanges—pickup soccer, food stands, friendly gatherings—can still take place (Moodie, 2015; Navarro, 2018; UrbanNext, 2015). The design of the units is close to transportation—a factor that is important because other peripheral housing developments have been abandoned because they are too inconvenient to access.

This focus on new and different typologies and the reliance on existing infrastructure is most evident in the case study of Walbridge Common in Kalamazoo. Walbridge Common took a different approach compared to the existing housing stock. Walbridge Common had the advantage of existing public transportation, proximity to downtown, nearby greenspace and previously developed walking/bike trails along the river. By repurposing the warehouse into a mixed-use development, Walbridge Common helped to bolster the walkability of the area and increase the possibility of social interactions/exchanges. It also deconstructed the idea of a unit, allowing for some shared-living or co-living spaces, something that has been hard to achieve within existing zoning codes in other locations.

Likewise, in similar fashion to Civic Works other organizations around the world are looking to smaller modular units to provide affordable housing. Architecture for Change constructs small, temporary transitional housing in Mamelodi that are extremely eco-friendly with solar panels and a rainwater catching reservoir in South Africa. In Mexico the company PFNC creates small unit housing by recycling old shipping containers (PFNC, 2018). The containers are installed in Juarez, Mexico where there is a 25,000-housing unit shortage. The shipping containers are less than

\$10,000. Still in planning phase. The company ShelterBox utilizes prefabricated temporary housing units that can last 10–15 years (ShelterBox, 2018). The small housing units have been used to aid refugees in Syrian camps and support hurricane refugees in Haiti (Davidson, 2010). Furthermore, based on Japanese models some researchers are exploring 72 m<sup>2</sup> low-income housing units (Campbell-Dollaghan, 2013; Gelil Mohamed, 2014; Lin, 2010; Sejima, 2012).

Some developers are seeing demographic trends in the US as a reason to reinvent the definition of the housing unit, turning to the lessons of past co-living projects in places but doing so in a multi-family context. For example, The City of Boston is encouraging developers to find creative strategies and to implement the idea of ‘innovation units’, which are seen as a possible affordable housing option for the elderly, college students, and young professional in Boston. In another example, Bay Area developer Starcity plans to break ground on an 800-unit, co-living development in San Jose California, aimed at both young professionals as well as families (Holder, 2019). Much of the savings from the development are gained from the lessons of micro-unit developments, including small unit sizes and the reduced cost of kitchens obtained by having shared kitchens (similar to what happened in Kalamazoo). The typical bedroom unit size is around 230 SF, inclusive of an en-suite private bath. This allows for a lower entry price point to the building.

Furthermore, to address the severe shortage of affordable housing for its expanding resident base, California is continuing to look closely at legal changes that will enable ‘accessory dwelling units’ (ADUs), which are typically under 1000-square feet and constructed by homeowners on their existing properties. ADUs, while not a panacea for a dearth of available residential housing, can offer needed relief for young adults, elderly, and other demographics that currently encounter difficulty getting a foothold in the real estate market. Other US states likewise see the contribution that ADUs can make to multiplex residential options. Oregon, for instance, passed a state housing bill in 2019 that permits a broader definition for ‘duplexes’ and removes the requirement for owners to reside on ADU properties. As California state senator Bob Wieckowski, who has written several bills to loosen restrictions on ADU construction, argues:

I’ve always said they are a critical part of what needs to be a multi-faceted solution to our housing shortage ... There is no single solution. But I do believe ADUs can make a dent in our housing shortage. If 10 percent of homeowners built an ADU, that would be roughly 900,000 new units. In the San Francisco Bay Area, that would amount to 150,000 new homes, mixed in throughout existing neighborhoods, at no cost to taxpayers. (Sisson, 2019b)

### **Restricted financial tools**

Finally, while design for affordability is important, it presupposes that the finance of such facilities is feasible, and many of these programs either do not match needs or are insufficient. For example, in our interviews, a project manager for the U.S. Department of Housing and Urban Development said:

True federal public housing has not and is not being built... you have people using various tax credits but this provides a housing type that doesn’t meet the true need.

He went on to explain that many ‘grants’ are used more as ‘loans’ to secure more financing so that affordability is only a small component of the project. This exasperates the housing balance being provided, for example creating unit types/mixes that do not match the market (imbalances in rental vs. owned) in urban environments.

Outside of government grants, traditionally the housing industry has not been capital intensive, meaning the investment from the commissioning of the house/building is used to finance the work. A shift towards prefabricated housing could change this reliance. However, the unfamiliarity of insurers, and lenders with prefabrication technology creates a pressure to stay with the current individual demand model and shy away from the factory-based supply model (Lovell & Smith, 2010). The most recent financial crisis and climate adaptation considerations have created a greater scrutiny of risks, which in turn has produced project that are simple, known to work and are low risk (Shearer *et al.*, 2013).

Additionally, Steinhart *et al.* (2014, p. 14) point out that there are also issues with the variance in the way the finance sector will release payments for construction.

SIPs [structural insulated panels] are viewed as construction materials, and payments are made when these materials are constructed to particular levels of completion (e.g. at lockup stage). However the payments for a house or housing pod that is constructed in a factory are generally not released until the building is connected to services on the building site or it is difficult to secure finance at all ...

This is further compounded by limitations on new vehicles for personal finance. For example location-efficient or transportation credit mortgages held promise in the early 2000s, not only to reduce the embedded cost of housing, but to reduce the amount of driving and incentivize less car ownership (Krizek, 2005). Retrospective looks at the program show that they have only had limited use and faced limitations with underwriting and clarity of messaging to consumers (Chatman & Voorhoeve, 2010). This is despite the fact that data continues to reveal that they could have strong implications for increasing affordability at the individual level (Riggs, 2016).

In 2004, the Australian Housing and Urban Research Institute sponsored a study on ‘financing affordable housing’, evaluating the divergent policies of financial tools deployed in the United Kingdom and Australia, respectively, over a 30-year period (Berry *et al.*, 2004). The findings concluded that the United Kingdom was much more proactive in reforming market requirements for consumer mortgage eligibility, shared equity arrangements, and creative urban planning policies. As a result, the ownership and availability of affordable housing in the United Kingdom accelerated dramatically. Meanwhile, Australia maintained conventional policy levers and financial market instruments, and saw very little change in its affordable marketing stock. Recognizing the inadequacy of its national housing strategy, Australia has in the last 15 years has aggressively pursued new policies and market tools to boost affordable housing to great success.

Above all, the market failure of broad access to the mortgage market must be addressed. Banks make an easy target, but in reality, the regulations that govern lending constraints in the banking industry make the problem of affordable housing loans much more systemic. It is unlikely that a holistic solution would emanate from conventional banks, therefore, but more quickly through innovative financial debt models

that emerge from financial technology enterprises. Innovative examples include those coming from companies like United Dwelling, which funds backyard housing units in exchange for long-term lease agreements, and from Atmos Financial which has been experimenting with solar-loan-style, point-and-click ADU finance using the Synapse financial banking platform. If cities can accelerate the delivery of accessory dwelling through fintech banking strategies that provide creative loan terms, this could open up opportunities to fund prefab, micro-unit housing at even lower cost per unit.

## Conclusion

The case studies and proforma modelling herein showcase use of affordable-by-design, micro-unit housing to increase housing production and affordability. Use of prefab technology in parallel with small unit platforms can address principle challenges with land use and limitations on housing typologies at the same time as providing sustainable and lower-cost units. These smaller units also meet growing demands from smaller households and harness new prefab construction and affordable-by-design architectural concepts. Yet the case studies that have been assessed do not work within the regulatory context in many cities—the growth parameters that have been adopted by many jurisdictions. As a result, many cities globally have an opportunity to ensure their regulatory parameters allow for creative solutions to making housing more affordable and easier to access. For example, in Chennai, India the low availability for housing is driving the development of compact, small-scale housing that is more affordable for buyers (Tiwari & Hingorani, 2014). Cities can choose to define with the housing unit is. Other key take-away lessons for cities include:

*Lot Size:* Permit compact lot (2500 square feet and below) single-family home construction and flexibility on how a ‘housing unit’ is defined.

*Density:* Do not limit residential development density by unit per acre regulations. Instead, regulate residential development using form-based concepts of height, bulk, and setbacks.

*Local Design Expertise:* Harness local design talent. Many prefab design/build companies are clustered around pockets of demand in locations such as the San Francisco Bay Area. For a variety of reasons, the area also draws a considerable pool of design and development talent with proven success in affordable-by-design residential projects—yet this is not exclusive to the Bay Region. As the cases show, there are many other examples of designers experimenting with affordable-by-design solutions. Policy makers should promote design innovation and collaboration with these nearby companies to arrive at housing solutions that increase affordability and that are appropriate for respective cities.

*Bedroom Count:* Do not regulate bedroom count and/or bedroom size. (For example: mandating three-bedroom housing units may not achieve a goal of producing family-housing. Such a mandate may instead result in more expensive housing.)

*Parking:* Do not create parking requirements for new residential buildings. Parking increases the cost of residential construction, and this cost is passed on to the end-occupant. Cities should consider parking maximums as opposed minimums

*Open Space:* Maximize flexibility in open space regulations.

While these lessons are consistent with other planning literature, this study has limitations. As with all proforma analyses, this work is based upon the market assumptions that were entered into the model and temporal in nature. While we were conservative and used the best available data, these estimates are still operating within the parameters set forth in the model. Furthermore, the use of the case studies limits the broad generalizability of the findings, but to help address this we have diversified our case studies by geography and market type. Despite these limitations, the findings and policy considerations presented are an important start to a much-needed conversation on affordable housing. And in the context of these takeaways many communities face unparalleled opportunities to *push-the-envelope* of housing affordability by carefully considering code updates, promoting creative design strategies and incentivizing the financial tools that allow for the creation of prefabricated micro-units.

## Notes

1. We use the terms prefab, factory-built and modular interchangeably in this paper as a general reference to units that are fabricated or constructed off-site.
2. Also see Apis Cor website, '3D Printing a Home for Under \$10,000', <https://www.apis-cor.com/gallery>
3. Unit A and Unit B floor plans courtesy of Hauser Architects.
4. The 'Cubix' project at 766 Harrison Street in San Francisco, constructed in 2006, presents the City's first foray into mass-produced (98 units), architecturally beautiful, micro-homes (225 sq. ft. +) the size of a single room occupancy unit but containing full bathrooms, kitchens, and private outdoor space. The building deconstructed the traditional model of a house that includes a yard and living rooms and spread the single-family home elements across an entire building (ground floor commercial space as the living room, rooftop as the garden, patio, yard). The units were designed to permanently house San Francisco working professionals that live and work in the city.
5. San Francisco-based Zeta Communities focuses on using prefab, modular construction to design and develop cost-efficient, high-quality residential communities (<http://www.zetacommunities.com>).
6. <http://www.bizjournals.com/sanfrancisco/blog/real-estate/2013/06/patrick-kennedy-to-sell-micro-units.html?page=all>
7. <http://www.panoramic.com/about/>
8. Joseph Eichler was a real estate developer in the mid-1900s who built over 11,000 modern homes for the middle class in Northern and Southern California. The homes remain popular for their clean lines, open interiors, and abundant natural daylighting.
9. Note that while this policy may also be beneficial to non-profit developers, assuming that State and Federal grants remain available, the policy may not be as critical. According to non-profit developers interviewed as a part of this study, only a 2–3% margin is needed to break even on a project and sustain the viability of the organization. This usefulness of the policy could increase if the tradition grant and tax credit structure of many affordable housing projects is compromised due to Federal and State budget cuts being discussed in 2011. This could increase the importance of using a market-based approach to provide affordable housing units in walkable locations.

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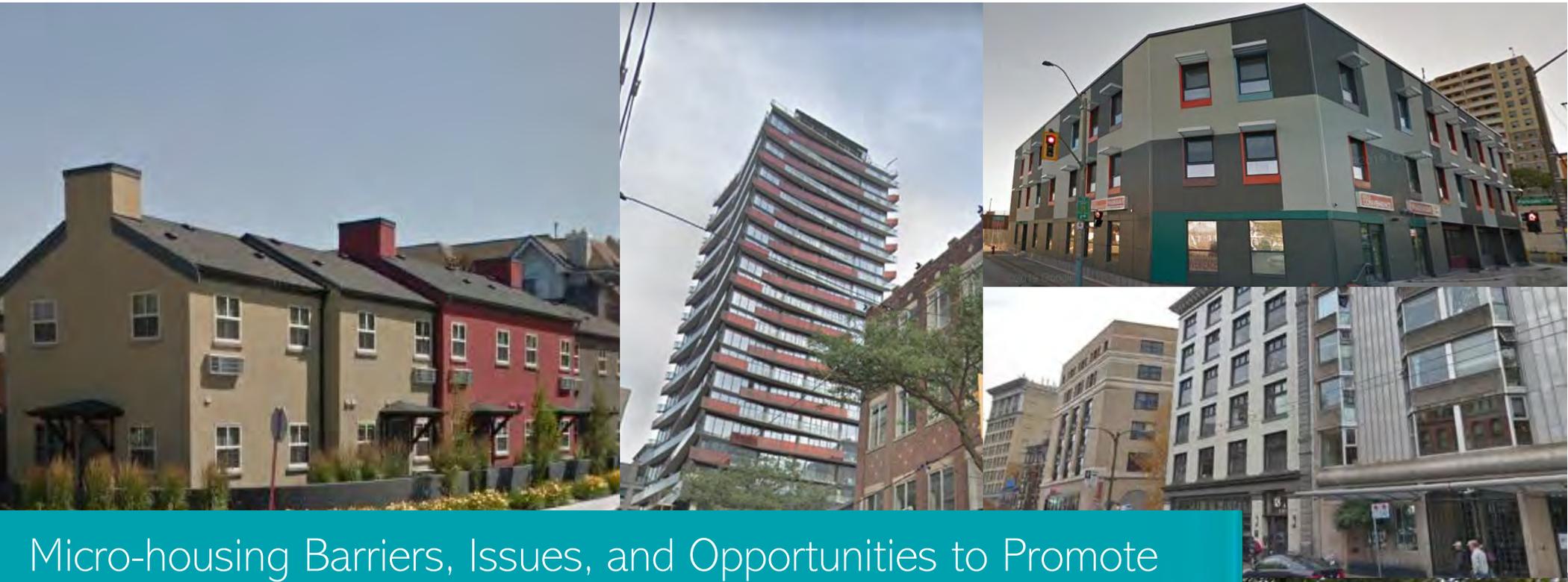
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# Micro-housing Barriers, Issues, and Opportunities to Promote Housing Affordability in Toronto and Other Canadian Cities

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## The Sustainable Technologies Evaluation Program

The Sustainable Technologies Evaluation Program (STEP) is a multi-agency initiative developed to support broader implementation of sustainable technologies and practices within a Canadian context. STEP works to achieve this overarching objective by:

- Carrying out research, monitoring and evaluation of clean water and low carbon technologies;
- Assessing technology implementation barriers and opportunities;
- Developing supporting tools, guidelines and policies;
- Delivering education and training programs;
- Advocating for effective sustainable technologies; and
- Collaborating with academic and industry partners through our Living Labs and other initiatives.

Technologies evaluated under STEP are not limited to physical devices or products; they may also include preventative measures, implementation protocols, alternative urban site designs, and other innovative practices that help create more sustainable and livable communities.

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## Cover Images

Images from Google Maps. **Top Left:** Stacked-town micro-suites used as infill in a low-density Kelowna neighbourhood, featuring 320 ft<sup>2</sup> units. **Top Middle:** Smart House Condos in Queen West Toronto featuring units as small as 289 ft<sup>2</sup>. **Top Right:** Parkdale Landing from InDwell, a non-profit private community housing provider in Hamilton, ON, featuring micro-sized studio apartments. **Middle Right:** Burns Block building, formerly a single-room occupancy hotel and now renovated into 30 micro-suites as small as 220 ft<sup>2</sup>, located in Vancouver's Downtown Eastside. **Bottom:** Temporary modular housing units as small as 250 ft<sup>2</sup> used by the Vancouver Affordable Housing Association (VAHA) to provide immediate housing relief for vulnerable individuals.

## Executive Summary

### Overview

A micro-suite is a "... a newly constructed housing unit that contains a private bathroom and kitchen or kitchenette, but that is significantly smaller than a standard studio in a given city."<sup>1</sup> In most jurisdictions, that means units that are on the scale of 300 ft<sup>2</sup> and smaller. They are designed to house single people and couples without children. From affordability, to environmental sustainability, to intensification, the concept has potential to address many of the challenges facing the housing sector. Over the past decade, different jurisdictions across Canada and the U.S. have been exploring micro-suites in multi-unit buildings using pilots at different scales. This study reviewed that experience through a literature search and jurisdictional scan, and then harmonized that experience into a set of transferrable lessons and next steps for Toronto and other Canadian cities.

### Key Findings

- There are positive examples of micro-suites used as non-market community housing (Figure A), supportive housing for vulnerable demographics,<sup>2</sup> secured market rentals, and market ownership units. Micro-suites have housed seniors, students, and working professionals across a range of ages and incomes.
- Interest is high. Micro-suite tenants see size as an acceptable compromise to achieve affordability, location, and the ability to live without roommates.
- The well-being of tenants is a key concern of decision-makers and a barrier for deployment. However, the studies evaluated in this work showed overall high levels of satisfaction amongst tenants of micro-suites.
- There is no data on the well-being of tenants in micro-suites post-COVID-19. This knowledge gap should be filled with research that should then inform future decision-making. Extended periods of self-isolation in a smaller space would be difficult, but it is also important to consider micro-suites against the options they are displacing given the high cost of housing (for example, living in an illegal rooming house, or with strangers), which could be worse.



**Figure A:** Hamilton-based Indwell provides an excellent case study of micro-suites being used in a cold-climate to provide shelter for individuals in housing need. They are also a model of sustainability with buildings constructed to meet the Passive House standard for relatively small cost premiums. Shown here is their Parkdale Landing building. (Credit: George Qua-Enoo)

- Commonly identified regulatory barriers are related to zoning and requirements around minimum area, parking, open- and common-space, as well as unit mix within a building. These regulations are not intrinsically "bad." Rather, they are barriers insofar as they outright prevent micro-suite developments, increase costs past the point of financial feasibility, or push development to occur only in certain types of buildings. A key issue relates to how regulations are applied "per unit" – such that a building with smaller units will require proportionally more space for building amenities like parking, open-space, and common-space, than a conventional building of the same physical size. This decreases affordability.

<sup>1</sup> Urban Land Institute. The Macro View on Micro Units. 2014.

<sup>2</sup> The Government of British Columbia and the Vancouver Affordable Housing Agency (VAHA) provide an excellent example of modular manufactured micro-suites deployed on vacant or under-utilized government land to provide immediate housing relief for homeless

individuals. The City of Toronto is emulating this approach with 110 modular housing units across two sites planned for completion by September 2020, and 250 planned in total. CMHC's Affordable Housing Innovation Fund will cover 40% of the capital costs of Phase 1 in this development.

### Fast Facts

- Research from the U.S. showed that 47% of conventional renters that are under the age of 34, making less than 40k, and living with roommates would consider renting a micro-suite.<sup>3</sup>
  - Post-occupancy surveys in one Vancouver market micro-suite development (with 192 units that were 281 to 320 ft<sup>2</sup>) showed that 84% of tenants were either very satisfied, satisfied, or neither satisfied nor unsatisfied, with their micro-suite.<sup>4</sup>
  - Even higher levels of tenant satisfaction have been seen when modular manufactured micro-suites have been used to provide immediate housing relief for homeless individuals – with no tenants reporting that they were unsatisfied with their housing.<sup>5</sup>
- Micro-suites can incorporate thoughtful design features and building amenities that support livability and the well-being of tenants. Micro-suites can also achieve deep levels of affordability. However, these two factors are somewhat at odds and the challenge for cities is in defining and encouraging buildings with the optimal balance.
  - In Toronto, most of the micro-suites are in market-ownership condominiums with units often being purchased as investment properties and rented on the secondary market. In this context, rental rates are often no more affordable than an average conventional studio. These units are also not affordable to the large majority of full-time workers in Toronto.<sup>6</sup> Opportunities for affordability from micro-suites rentals are therefore mostly unrealized in the City.
  - There are also good examples that *demonstrate* the opportunity to promote affordability. In 2019, micro-suites in a new building (construction completed in 2017) sold for as low as \$267k while an average studio in the City was selling for \$384k.<sup>7</sup> This building was in a lower-demand area that still has

good walk, bike, and transit scores, and this particular unit did not have a bundled parking space – two key factors promoting affordability. The monthly ownership costs for this micro-suite would be *affordable to the majority of full-time workers in the City*.<sup>8</sup> A 1-bedroom unit with a parking space in the same building sold for approximately 70% higher (\$450k) around the same time.<sup>9</sup>

- The housing market in Toronto is already very good at producing studio and 1-bedroom units. A primary opportunity for micro-suites is in moving forward, for affordable market micro-suites to occupy some share of the conventional studio and 1-bedroom mix as the population grows, and more individuals opt to live alone. However, realizing that opportunity likely requires active interest from the City.

### Implications for Housing Industry

The opportunity for micro-suites to provide a cost-effective housing option is most apparent for non-market community housing and immediate housing relief for vulnerable individuals. Toronto is already planning to deploy micro-suites for the latter application, emulating a similar initiative in British Columbia. In terms of affordable micro-suite *market* rentals, the opportunity is there but remains mostly unrealized. The recommended next step for Toronto and other cities is to follow the example of other jurisdictions and conduct a pilot. It may be a single building, a limited number of units, or an area of a city. Purpose-built rentals in a lower-demand area with good walk, bike and transit scores, likely hold more promise for affordability than market-ownership condominiums rented on the secondary rental market. The pilot should be in an area where opposition from residents would be low. It would consider relaxing regulatory barriers (like parking requirements) conditionally based on design and affordability criteria set by the City. As part of a pilot, cities should find allies within the community, and incorporate different measures to build community interest and involvement. Lastly, the impacts of micro-suites on tenants and the community should be studied and shared to fill the existing knowledge gaps.

<sup>3</sup> Urban Land Institute. The Macro View on Micro Units. 2014.

<sup>4</sup> Craig Thomas Sidjak. Residents' Satisfaction with Mini - Suite Housing: A Case Study of 600 Drake. University of British Columbia Master's Thesis in School of Community and Regional Planning. 1995.

<sup>5</sup> Morrison Herschfield. CMHC Research Report: Evaluation of a Movable, Modular Affordable Housing Project. 2019.

<sup>6</sup> The CMHC defines housing as "affordable" when housing costs are less than 30% of pre-tax income. The most recent census data showed that the median income for full-year full-time workers in Toronto was \$47,420. For housing to be affordable to a single individual it must therefore cost less than \$1,186 per month. Real estate data shows that micro-suites in sought-after locations like Queen St. W. (Smart House) or the Bay St. Corridor (Karma Condos) are achieving rents beyond \$1,700 per month. In lower demand areas (like The

2800 Condos in Downsview), rents are still beyond \$1,500 per month. This is discussed in Table 7. These rents do not significantly deviate from the average of new studio leases across the City – which was \$1,720 in Q2 2018 according to Urbanation.

<sup>7</sup> This is a 310 ft<sup>2</sup> unit in The 2800 Condos in Downsview that sold in January 2019 (MLS # W4344140). The estimate for the average sale price of studios across the City is from Zolo.

<sup>8</sup> Assuming 20% down, 2.75% interest, 25 year amortization and 135 \$/month condo fee (from the listing), the monthly cost of ownership is \$1,120 – below the median income for full-time full-year workers in Toronto.

<sup>9</sup> In February 2019, a larger studio (371 ft<sup>2</sup>) in the building, with no parking, sold for \$312k (MLS # W4326907). In March 2019, a 1-bedroom unit with a parking space sold for \$450k (MLS # W4328760).

## Contents

1 Introduction.....	1
1.1 Housing Issues in Toronto .....	1
1.2 Introduction to Micro-housing .....	2
1.3 Current Micro-housing Examples in Toronto.....	3
1.4 Types of Micro-housing .....	4
1.5 Micro-housing Options for Toronto .....	5
1.6 Who is it For and Why Would Someone Choose it? .....	6
1.7 Overview of Study.....	7
2 Federal Policy Context .....	8
2.1 National Housing Strategy .....	8
3 Provincial Policy Context.....	9
3.1 Community Housing Renewal Strategy .....	9
3.2 Ontario's Housing Supply Action Plan .....	9
3.3 Growth Plan for the Greater Golden Horseshoe .....	10
3.4 Ontario Building Code .....	10
4 Municipal Policy Context .....	11
4.1 Official Plan .....	11
4.2 Housing Opportunities Toronto (HOT) .....	11
4.3 Toronto Housing Charter.....	12
4.4 Housing Now .....	12
4.5 Housing 2020-2030 Action Plan.....	12
4.6 Open Door Affordable Housing Program .....	12
4.7 Expanding Housing Options in Neighbourhoods.....	12
4.8 Toronto Municipal Code .....	12
4.9 Zoning Bylaw .....	13

4.10 Growing Up Guidelines.....	13
5 Summary of Policy Context.....	14
5.1 Overview .....	14
5.2 Opportunities .....	14
6 Jurisdictional Scan.....	15
6.1 Overview .....	15
6.2 Type of Micro-suite Allowed.....	15
6.3 Ensuring Livability, Health and Well-being .....	18
6.4 Roll-out of Micro-suite Developments.....	23
6.5 Mix of Housing and Ensuring Long-term Viability .....	23
6.6 Incentivization for Developers .....	26
6.7 Process for Engagement with the Community.....	26
6.8 Ensuring Affordability .....	27
6.9 Study of Impacts .....	27
6.10 Minimum Area Requirements.....	34
6.11 Minimum Parking Requirements.....	34
6.12 Integration with Community Housing .....	37
6.13 Summary.....	37
7 Literature Review .....	38
7.1 Overview .....	38
7.2 Renter Experience and Needs.....	38
7.3 Micro-suite Barriers in the Academic Literature .....	43
8 Potential Micro-suite Barriers and Actions .....	46
8.1 Overview .....	46
8.2 Caution.....	46
8.3 Opposition.....	48
8.4 Regulatory .....	49

8.5 Summary of Barriers and Potential Actions .....	52
9 Micro-suite Barriers and Toronto Context.....	54
9.1 Literature Search and Jurisdictional Scan Considerations .....	54
9.2 Micro-suites Currently in Toronto .....	54
9.3 Toronto Demographics and Rental Market Supply .....	58
9.4 Towards Affordable Market Micro-suites in Toronto.....	59
9.5 Other Opportunities Within the City .....	59
10 Summary and Conclusion.....	60
10.1 Overview .....	60
10.2 Policy Context .....	60
10.3 Literature Search and Jurisdictional Scan .....	61
10.4 Specific Policy Measures and Initiatives .....	61
10.5 Micro-suites in the Toronto Context.....	62
10.6 Other Opportunities Within the City.....	62
10.7 Next Steps.....	63
10.8 Final Thoughts .....	63

# 1 Introduction

## 1.1 Housing Issues in Toronto

The Toronto housing market is facing a number of challenges:

- **Affordability.** In Q1 2019, median price for condo apartments was \$498k, and for a detached home, \$842k.<sup>10</sup> Housing ownership costs divided by median income (a key affordability metric) was near a record high in 2018 – at 66.1%.<sup>11</sup> Community housing wait times are long.<sup>12</sup>
- **Changing demographics.** The average number of people per household is declining.<sup>13</sup> In Canada, one-person households make up the largest household demographic group, followed by couples without children.<sup>14</sup>
- **Population growth and the need for intensification.** Toronto is projected to be the fastest growing region in Ontario, with a total growth of 44.5% by 2041.<sup>15</sup> Intensification is key part to the Toronto Official Plan.<sup>16</sup>
- **Environmental sustainability.** Toronto is seeking to reduce emissions within their TransformTO strategy.<sup>17</sup> In Toronto, the largest emitters of carbon emissions are buildings followed by transportation.<sup>18</sup> Affordability has driven longer commuting distances, increasing emissions. Home energy consumption, and therefore, emissions, also directly correlate with household area<sup>19</sup> which has increased historically (although that trend is now changing in many condo markets).<sup>20</sup>

- **Housing supply gap.** The Toronto real estate supply has responded very weakly to rapidly increasing demand.<sup>21</sup>
- **Missing middle housing.** Toronto, and many other jurisdictions, have become increasingly polarized between high-rises and single-family detached homes, with few options in between.<sup>22</sup>
- **Constrained rental market.** A low supply of purpose-built rental housing has constrained the rental market.<sup>23</sup>

This list was not exhaustive but it's enough to characterize Toronto as a changing city, where it is difficult both to find and afford suitable housing. This, in turn, causes a host of other negative implications - for example, leaving some to resort to unsafe illegal rooming houses.<sup>24</sup> Population growth projections show that these problems will only persist in the future and this suggests that policy and planning interventions are required.

One important factor is the physical size of housing itself. Smaller "micro-sized" housing has grown in popularity across North America and may help to address many of these issues as part of a broader suite of measures. Micro-housing was evaluated in greater detail within this study.

<sup>10</sup> Canadian Real Estate Association. Toronto Real Estate Board Housing Market Stats. Accessed online May 2019: [www.creastats.crea.ca/treb/mls05\\_median.htm](http://www.creastats.crea.ca/treb/mls05_median.htm)

<sup>11</sup> Royal Bank of Canada Economic Research. Housing Trends and Affordability. March 2019. Accessed online May 2019: [www.rbc.com/newsroom/assets-custom/pdf/house-mar2019.pdf](http://www.rbc.com/newsroom/assets-custom/pdf/house-mar2019.pdf)

<sup>12</sup> Wait time are discussed in a recent report from the Toronto Auditor General. Currently, more than 100,000 individuals on the wait list and placement can take more than 10 years. See: Toronto Auditor General Beverly Romeo-Beehler. An Effective Waiting List and Reduced Vacancy Rates Will Help More People Access Housing. June 21, 2019. Accessed online Oct 2019: [www.toronto.ca/legdocs/mmis/2019/au/bgrd/backgroundfile-135339.pdf](http://www.toronto.ca/legdocs/mmis/2019/au/bgrd/backgroundfile-135339.pdf)

<sup>13</sup> Statistics Canada. The Shift to Smaller Households over the Past Century. Accessed online May 2019: [www150.statcan.gc.ca/n1/pub/11-630-x/11-630-x2015008-eng.htm](http://www150.statcan.gc.ca/n1/pub/11-630-x/11-630-x2015008-eng.htm)

<sup>14</sup> Statistics Canada. Survey of Household Spending, 2016: Appendix G Estimated Number of Households and Average Household Size by Domain, Canada. Accessed online May 2019: [www150.statcan.gc.ca/n1/pub/62f0026m/2017002/app-ann-g-eng.htm](http://www150.statcan.gc.ca/n1/pub/62f0026m/2017002/app-ann-g-eng.htm)

<sup>15</sup> Government of Ontario Ministry of Finance. Ontario Population Projections Update, 2017 – 2041. Accessed online May 2019: [www.fin.gov.on.ca/en/economy/demographics/projections/](http://www.fin.gov.on.ca/en/economy/demographics/projections/)

<sup>16</sup> City of Toronto. Toronto Official Plan (2015 Consolidated). Accessed Online May 2019: [www.toronto.ca/wp-content/uploads/2017/11/99b3-cp-official-plan-volume-1-consolidation.pdf](http://www.toronto.ca/wp-content/uploads/2017/11/99b3-cp-official-plan-volume-1-consolidation.pdf)

<sup>17</sup> Carbon targets are discussed on The City of Toronto's TransformTO webpage. Accessed online Oct 2019: <https://www.toronto.ca/services-payments/water-environment/environmentally-friendly-city-initiatives/transformto/>

<sup>18</sup> The Atmospheric Fund. Keeping Track: 2015 Carbon Emissions in the Greater Toronto and Hamilton Area. July 2018. Accessed online Oct 2019: [www.taf.ca/wp-content/uploads/2018/09/TAF\\_GTHA\\_Emissions\\_Inventory\\_Report\\_2018-Final.pdf](http://www.taf.ca/wp-content/uploads/2018/09/TAF_GTHA_Emissions_Inventory_Report_2018-Final.pdf)

<sup>19</sup> Statistics Canada. Households and The Environment: Energy Use, 2011. Table 4-2 Average household energy use, by household and dwelling characteristics, 2007 — Size of heated area. Accessed online May 2019: [www150.statcan.gc.ca/n1/pub/11-526-s/2010001/t006-eng.htm](http://www150.statcan.gc.ca/n1/pub/11-526-s/2010001/t006-eng.htm)

<sup>20</sup> Marc Vachon. The ever-shrinking condo. Canadian Journal of Urban Research Vol. 27, No. 2. Winter 2018, pp. 37-50.

<sup>21</sup> CMHC. Examining Escalating House Prices in Large Canadian Metropolitan Centres. 2018. Accessed online May 2019: [www.cmhc-schl.gc.ca/en/data-and-research/publications-and-reports/examining-escalating-house-prices-in-large-canadian-metropolitan-centres](http://www.cmhc-schl.gc.ca/en/data-and-research/publications-and-reports/examining-escalating-house-prices-in-large-canadian-metropolitan-centres)

<sup>22</sup> Evergreen. What is the Missing Middle? A Toronto housing challenge demystified. Accessed online May 2019: [www.evergreen.ca/downloads/pdfs/2018/What\\_is\\_the\\_Missing\\_Middle\\_Evergreen\\_CUI\\_s2.pdf](http://www.evergreen.ca/downloads/pdfs/2018/What_is_the_Missing_Middle_Evergreen_CUI_s2.pdf)

<sup>23</sup> Note that this beginning change, 2018 had the greatest increase in purpose-built rental unit supply in 30 years. See: Urbanation. GTA Condo Rents Grew 9% in 2018. Jan 11th, 2019. Accessed online May 2019: [www.urbanation.ca/news/251-gta-condo-rents-grew-9-2018](http://www.urbanation.ca/news/251-gta-condo-rents-grew-9-2018)

<sup>24</sup> For a recent article on this topic see: Jason Miller. Toronto's housing crisis sparks conversation about illegal rooming houses. Toronto Star. Feb 12th 2019. Accessed online Oct 2019: [www.thestar.com/news/gta/2019/02/12/torontos-housing-crisis-sparks-conversation-about-illegal-rooming-houses.html](http://www.thestar.com/news/gta/2019/02/12/torontos-housing-crisis-sparks-conversation-about-illegal-rooming-houses.html)

## 1.2 Introduction to Micro-housing

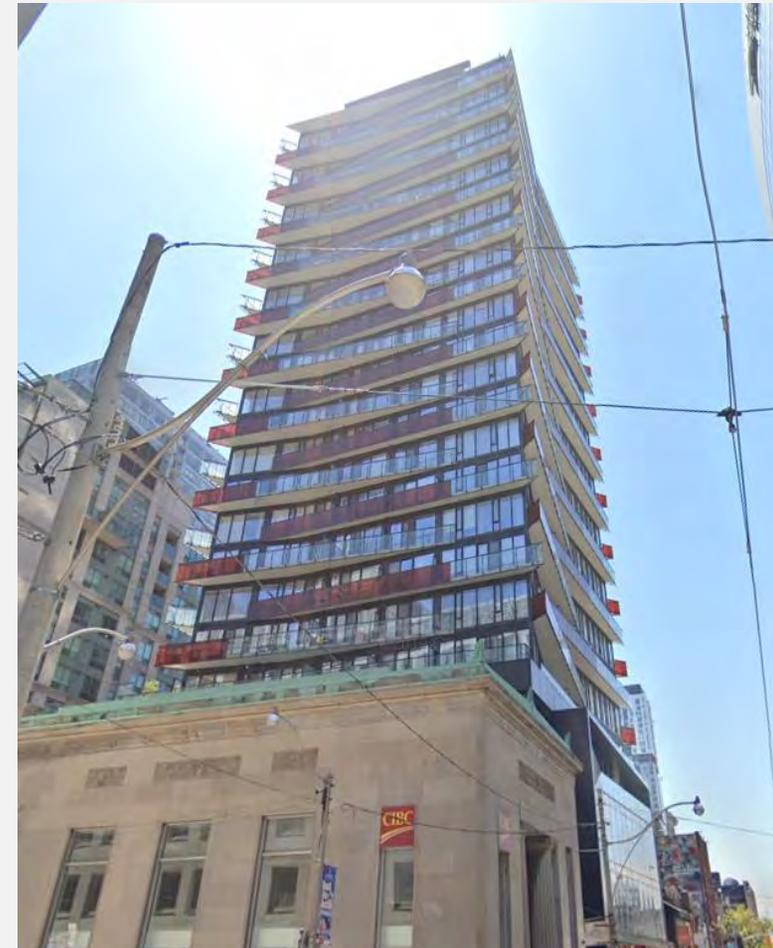
This study evaluated potential micro-housing applications in the context of Toronto. The term “micro-housing” broadly refers to dwellings that are unconventionally small. The key attributes of micro-housing units are that they may better **utilize existing space**, allow for a **greater density** of dwellings, and also may be **more affordable**. They also promote **environmental sustainability** by their inherent energy efficiency, resulting in decreased carbon emissions.

It’s not a new concept from a historical<sup>25</sup> or international<sup>26</sup> perspective, but only seems so according to modern Canadian standards which have seen the average home size balloon from less than 1,000 ft<sup>2</sup> in the 50s-60s to 2,300 ft<sup>2</sup> in the late 1990s (although now it has reduced slightly in size to 1,900 ft<sup>2</sup>)<sup>27</sup> while the average number of occupants has decreased.<sup>28</sup>

Over the past 10 to 15 years, micro-housing has had a resurgence in North America as housing has become less affordable. It offers a solution at the confluence of the interests and needs of different stakeholders.

**Governments** need to provide affordable housing, increase the density of cities, and address the climate emergency. **Individuals** need affordable housing and easy access to city amenities. **Developers** want to satisfy an unfulfilled market need and increase profitability by building housing at a denser scale.

While it is not for everyone, or even every stage of life, micro-housing can be a pragmatic addition to a broader suite of measures aimed at providing independent, clean, safe, and affordable housing options with easy access to city amenities.



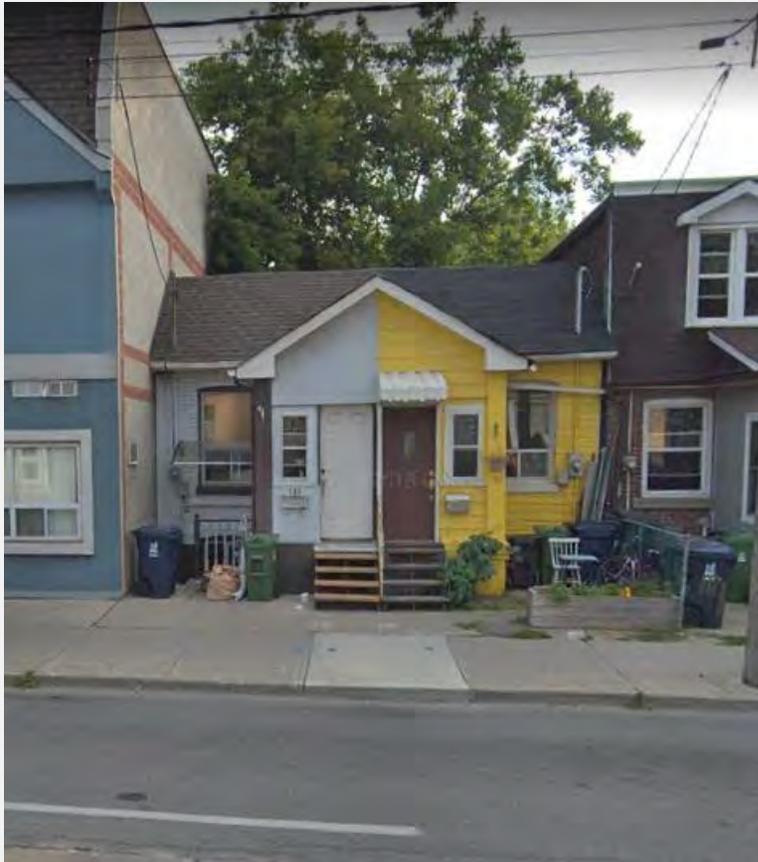
**Figure 1.** Smart House Condos in Queen W, Toronto, was completed in 2018. It offers micro-suites as small as 289 ft<sup>2</sup> (Credit: Google Maps).

<sup>25</sup> For a short history of home size see: Dawn Withers, Looking for a Home: How micro-housing Can Help California. Golden Gate University Environmental Law Journal. Volume 6, Issue 1; Symposium Issue: The City as Habitat: A Place for Urban Wildlands. Article 8. November 2012. Accessed online Oct 2019: [digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1094&context=gguelj](http://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1094&context=gguelj)

<sup>26</sup> The website [shrinkthatfootprint.com](http://shrinkthatfootprint.com) provides a comparison of average floorspace per person across the globe. Canada comes in at third for most floor space, behind Australia and the United States. Accessed Oct 2019: [www.shrinkthatfootprint.com/how-big-is-a-house](http://www.shrinkthatfootprint.com/how-big-is-a-house)

<sup>27</sup> Marc Vachon. The ever-shrinking condo. Canadian Journal of Urban Research Vol. 27, No. 2, Winter 2018, pp. 37-50.

<sup>28</sup> Statistics Canada. The Shift to Smaller Households over the Past Century. Accessed online May 2019: [www150.statcan.gc.ca/n1/pub/11-630-x/11-630-x2015008-eng.htm](http://www150.statcan.gc.ca/n1/pub/11-630-x/11-630-x2015008-eng.htm)



**Figure 2.** This micro-sized semi-detached home is an example of one many similar homes in the area around Craven Rd., Toronto, where some of the smallest semi-detached and detached homes in the city can be found (Credit: Google Maps).

### 1.3 Current Micro-housing Examples in Toronto

There are examples of micro-housing in Toronto – both old and new. The area around Craven Rd. in the East End of Toronto is home to the largest collection of homes under 500 ft<sup>2</sup> in the city.<sup>29</sup> Many homes in the area are over a century old, but they are slowly being replaced with new construction.

A May 2019 listing for a micro-sized semi-detached home in the area (Fig. 2) on a 12.5'-wide lot had sold for \$481k<sup>30</sup> – approximately 40% lower than Toronto's median detached home price of \$842k. Other examples of legacy micro detached homes are dispersed throughout the city, including one that may be the smallest in the city at 189 ft<sup>2</sup>.<sup>31</sup>

Like many other larger cities, Toronto also has a limited number of older micro-sized rental studio apartments,<sup>32,33,34,35</sup> but more recently there are examples of new market-ownership condominiums incorporating these units.

In 2019, micro-sized studio apartment rentals for Karma Condos near Yonge and College, with units as small as 277 ft<sup>2</sup>, were between \$1,785 and \$2,100 per month.<sup>36</sup> This is 9 to 23% below the median rental rate in the city for all leases signed in 2018 (at \$2,310 with an average unit size of 709 ft<sup>2</sup>)<sup>37</sup> but it is likely not as significant a reduction in cost as one might expect given the small size.

Karma Condos is an example of micro-housing providing lower-cost access to an in-demand location, and premium design, but it doesn't meet the criterion of affordability to a broader component of the population, especially lower-income individuals.<sup>38</sup>

If micro-housing is to help address the housing issues facing the city in a substantial way, then conscious effort from the City is required.

<sup>29</sup> Amber Daugherty. Tiny House Society of Craven Rd. Spacing Toronto. Feb 13<sup>th</sup>, 2013. Accessed online May 2019: [spacing.ca/toronto/2013/02/13/the-tiny-house-society-of-craven-road/](http://spacing.ca/toronto/2013/02/13/the-tiny-house-society-of-craven-road/)

<sup>30</sup> Sale price from HouseSigma.

<sup>31</sup> Ahren Langschmidt. Small House Movement Part 1: Toronto's Tiniest Homes. Condos.ca Blog. Aug 24<sup>th</sup>, 2015. Accessed online May 2019: [www.condos.ca/blog/small-house-movement-hits-toronto](http://www.condos.ca/blog/small-house-movement-hits-toronto)

<sup>32</sup> Lauren Kolyn. A Teeny-Tiny Cozy & Clever 190-Square-Foot Toronto Studio. Apartment Therapy. May 15<sup>th</sup>, 2017. Accessed online Jul 2019: [www.apartmenttherapy.com/house-tour-a-tiny-190-square-foot-studio-in-toronto-242887](http://www.apartmenttherapy.com/house-tour-a-tiny-190-square-foot-studio-in-toronto-242887)

<sup>33</sup> Toronto Storeys. This 236-Square-Foot Condo In Toronto Costs \$1000-A-Month. Toronto Storeys. June 5<sup>th</sup>, 2018. Accessed online Jul 2019: [www.torontostoreys.com/2018/06/micro-condo-toronto-minimalist-rent/](http://www.torontostoreys.com/2018/06/micro-condo-toronto-minimalist-rent/)

<sup>34</sup> Daniel Tencer. Toronto Rental Rates Are Soaring. As This Tiny \$1,400 Apartment Proves. Huffington Post. October 11<sup>th</sup>, 2018. Accessed online Jul 2019: [www.huffingtonpost.ca/2018/10/11/toronto-rental-rates-soaring\\_a\\_23558162/](http://www.huffingtonpost.ca/2018/10/11/toronto-rental-rates-soaring_a_23558162/)

<sup>35</sup> Alina Bykova. Why are Young Torontonians Moving into Tiny Micro Condos? Torontoist. 07/27/2016. Accessed online Jul 2019: [www.torontoist.com/2016/07/why-are-young-torontonians-moving-into-microcondos/](http://www.torontoist.com/2016/07/why-are-young-torontonians-moving-into-microcondos/)

<sup>36</sup> This is discussed in greater detail in Table 7.

<sup>37</sup> Urbanation. GTA Condo Rents Grew 9% in 2018. Jan 11<sup>th</sup>, 2019. Accessed online May 2019: [www.urbanation.ca/news/251-gta-condo-rents-grew-9-2018](http://www.urbanation.ca/news/251-gta-condo-rents-grew-9-2018)

<sup>38</sup> Other new micro-housing developments include Smart House Condos in Queen West with units as small as 289 ft<sup>2</sup>, Art Shoppe Lofts + Condos on Yonge and Eglinton with units as small as 321 ft<sup>2</sup>, and the 2800 Condos near Downsview with units as small as 310 ft<sup>2</sup>.

## 1.4 Types of Micro-housing

There are many types of micro-housing, including:

- micro detached homes, either with a single structure on a single lot<sup>39</sup>, in clusters of multiple structures<sup>40</sup>, or with multiple structures forming a dedicated community;<sup>41</sup>
- semi-permanent micro-housing villages<sup>42</sup> or insulated sleeping structures for the homeless<sup>43</sup>;
- so-called “Tiny Homes” constructed on trailer beds (Fig. 3);
- micro-suites (co-housing units or studio apartments) in multi-unit buildings including high-rise, mid- or low-rise, rowhouses, stacked towns, duplexes, triplexes, etc.<sup>44</sup>
- micro accessory dwelling units including laneway homes and laneway house units; and
- micro lock-off units in a primary residence.

While it’s clear that there are many micro-housing form factors, not all are necessarily compatible with the dense urban cityscape of Toronto. Furthermore, many of the options are completely disparate – with each requiring their own targeted analysis to identify barriers, issues and opportunities.



**Figure 3.** Tiny homes on wheels often use conventional building techniques, only shrunk down to fit a trailer bed. They are now explicitly considered in zoning bylaws for some Canadian jurisdictions.<sup>45</sup> (Credit: Weekend with Dee)

<sup>39</sup> There are many U.S. examples. For example, see See Cass Community Social Services in Detroit Michigan: [casscommunity.org/tinyhomes/](http://casscommunity.org/tinyhomes/)

<sup>40</sup> Homes for Heroes is Canadian Foundation that provides housing, a community of peers, and network of supports, to help veterans re-integrate into civilian life. In particular, Homes for Heroes is tackling the issues of homelessness amongst veterans. They have partnered with ATCO to build small communities of prefab micro detached homes (<300 ft<sup>2</sup>) with current developments planned in Calgary and Edmonton. See: [homesforheroesfoundation.ca](http://homesforheroesfoundation.ca)

<sup>41</sup> The City of Okotoks, Alberta, is in the planning stages of a Tiny House ecovillage as part of a broader ecological developed named The Homestead with support from CMHC Innovation Fund and Vagabond Tiny Homes. The development is planning for 42 “Tiny Homes” in total on 2.8 acre parcel of land. While housing affordability is a key issue motivating the development, the ecovillage has a broader goal “to influence society through the modeling of a sustainable lifestyle based on ideas, built form, and practices that are focused on a reduced ecological footprint primarily achieved through a local community-based sharing economy.” See: [www.okotoks.ca/municipal-government/public-participation/homestead-project](http://www.okotoks.ca/municipal-government/public-participation/homestead-project)

<sup>42</sup> There are many examples of this approach and Seattle is at the forefront. The Low Income Housing Institute (LIHI) operates several micro house villages in Washington for homeless individuals as well as housing at other scales for low-income and formerly homeless

individuals. Each micro-home is equipped with heating and electricity. Kitchen, shower, and other services are located in communal spaces. A number of other services and supports are also provided to transition people into permanent housing. See: [lihi.org/tiny-houses/](http://lihi.org/tiny-houses/)

<sup>43</sup> There are many cases of homeless individuals or community members building small sleeping structures from salvaged materials. The intent is most often about survival rather than comfort but, for many, even this represents a large step up from sleeping out in the open. As an example, see the CBC news article: Lorenda Reddekopp “It’s called ‘The Crammer’ and it could provide a safe space for the homeless,” Mar 7<sup>th</sup>, 2019. Accessed online Oct 2019: [www.cbc.ca/news/canada/toronto/cramper-shelter-homeless-1.5046033](http://www.cbc.ca/news/canada/toronto/cramper-shelter-homeless-1.5046033)

<sup>44</sup> Micro-suites can be shrunk-down conventional studio apartments, of which there are many examples, but other types exist as well. For example, a form of co-housing, termed congregate housing, experienced a boom in Seattle in the early 2010s. In congregate housing, several small units share a communal kitchen. In many ways, the concept is similar to an SRO hotel or student dorm.

<sup>45</sup> In the Canadian context, Tiny Homes on wheels are now explicitly considered in the Zoning Bylaw for Grand Forks, B.C., and Yarmouth, Nova Scotia. See: The Corporation of Grand Forks B.C. Zoning Bylaw No. 2039, p.15. Accessed online Oct 2019: [www.grandforks.ca/wp-content/uploads/bylaws/By2039-Zoning-Bylaw.pdf](http://www.grandforks.ca/wp-content/uploads/bylaws/By2039-Zoning-Bylaw.pdf). Also see: Town of Yarmouth, Land Use Bylaw. June 2016. Accessed online Oct 2019: [www.townofyarmouth.ca/land-use-bylaw.html](http://www.townofyarmouth.ca/land-use-bylaw.html)

## 1.5 Micro-housing Options for Toronto

While other micro-housing form factors may be of interest, this study has focused on micro-suites in multi-unit buildings as one of the most relevant to Toronto.

The working definition for a micro-suite used in this study, as formulated by the Urban Land Institute (ULI),<sup>46</sup> is:

**“a newly constructed housing unit that contains a private bathroom and kitchen or kitchenette, but that is significantly smaller than a standard studio in a given city.”**

This micro-housing form factor is present but not common in the Toronto cityscape, especially in low-rise buildings, and could be one of the most relevant in to helping address the current housing context.

Examples from other jurisdictions are shown in Figure 4. They include both market and non-market units, new construction, infill and renovations of existing buildings.



**Figure 4. (Top)** McKay Apartments in Burnaby BC was developed as low-cost housing for seniors.<sup>47</sup> Studios are as small as 350 ft<sup>2</sup>.<sup>48</sup> **(Mid)** The Burns Block development is a renovated SRO hotel in Vancouver's Downtown Eastside. It contains 30 units, some as small as 220 ft<sup>2</sup>.<sup>49</sup> **(Bottom)** The Ethel St. development in Kelowna by Worman is a stacked town on a formerly vacant lot that contains 24 micro-suites less than 320 ft<sup>2</sup>.<sup>50</sup> (Credits: Google Maps)

<sup>46</sup> Urban Land Institute. The Macro View on Micro Units. 2014. Accessed online Aug 2019: [www.uli.org/wp-content/uploads/ULI-Documents/MicroUnit\\_full\\_rev\\_2015.pdf](http://www.uli.org/wp-content/uploads/ULI-Documents/MicroUnit_full_rev_2015.pdf)

<sup>47</sup> Burnaby Now. Affordable housing project for seniors opens in South Burnaby. Apr 13<sup>th</sup>, 2019. Accessed online Oct 2019: [www.burnabynow.com/news/affordable-housing-project-for-seniors-opens-in-south-burnaby-1.23790755](http://www.burnabynow.com/news/affordable-housing-project-for-seniors-opens-in-south-burnaby-1.23790755)

<sup>48</sup> Global News. Micro suites offer affordable alternative to Lower Mainland seniors. Mar 19<sup>th</sup>, 2019. Accessed online Oct 2019: [www.globalnews.ca/news/5074525/micro-suites-offer-affordable-alternative-to-lower-mainland-seniors/](http://www.globalnews.ca/news/5074525/micro-suites-offer-affordable-alternative-to-lower-mainland-seniors/)

<sup>49</sup> Willem Thomas. Is it time for Vancouver to allow more micro-lofts? Vancouver Magazine. Jul 13, 2019. Accessed online Oct 2019: [www.vanmag.com/vancouver-micro-lofts](http://www.vanmag.com/vancouver-micro-lofts)

<sup>50</sup> Ron Seymour. More micro-suites coming. May 13<sup>th</sup>, 2015. Kelowna Daily Courier. Accessed online Oct 2019: [www.kelownadailycourier.ca/news/article\\_410acd6e-f9ed-11e4-9941-1b90a3541912.html](http://www.kelownadailycourier.ca/news/article_410acd6e-f9ed-11e4-9941-1b90a3541912.html)

## 1.6 Who is it For and Why Would Someone Choose it?

This question will be answered more scientifically in Section 7.2, but it is also worth addressing at the outset because micro-suites are often met with skepticism.

A prominent micro-suite developer noted that the primary demographic serviced by one of their micro-suite developments in Vancouver was millennials purchasing their first home.<sup>51</sup> Similar developments have attracted a range of individuals from young professionals to retirees.<sup>52</sup> Micro-suites have also been used as non-market units for seniors<sup>53</sup> or other vulnerable individuals.<sup>54</sup>

The primary reasons individuals and couples choose micro-suites are:

- **Affordability.** Micro-suites can provide individuals the opportunity to live independently and cost-effectively in a clean and safe environment.
- **Location.** Micro-suites often replace “space” with “place.” It allows people to stay or relocate to denser urban areas where there is easy access to transit, amenities, entertainment, employment, education, all in the context of a walkable complete community. In a sense, the city becomes a living room.
- **Better than the alternatives.** The alternatives are much less desirable – dependence on parents or other family for housing, living with strangers, living in an unsafe illegal rooming house, living in a suburb far from work or city amenities, debt, homelessness, long community housing wait times, etc.

Anecdotal reports from news articles provide initial insights that micro-suites are, in fact, an acceptable housing solution for many.

*"I want you to consider that there are people like me who are happy in a place like this... My unit is lovely, and the building is attractive. I can walk to stores and parks, and I can afford to live there."* Judy Green, 67, congregate-housing tenant in Seattle. Congregate housing is a form of co-housing where individual unit sizes are 140 to 200 ft<sup>2</sup>.<sup>55</sup>

*"I think it's a good kind of movement... This is a new, more well-thought out, well-executed kind of living, as long as people don't abuse it—you know, jam as many people as possible in... It's perfect for one person."* Dan Tomita, recent graduate, tenant in a 300 ft<sup>2</sup> market rental in New York City.<sup>56</sup>

*"It's small, but it's livable, we're very happy here."* Terry Murphy, 74, resident in a 350 ft<sup>2</sup> community housing micro-suite in Burnaby, BC.<sup>57</sup>

*"...the sacrifice of the space is an equal trade-off to have my own spot... [I previously was housemates] with people I found on Craigslist, and I lived with strangers, and one of them was just a nut."* Alex Tursi, 29, Microsoft employee and congregate-housing tenant in Seattle.<sup>58</sup>

*"My friends were like, 'It's too small; don't do it.' But I don't feel that way. I have my own bathroom, a full bed, a desk, shelves... I mostly just need a safe, clean place to shower, eat, and sleep... There's so much going on. I'm rarely home."* Anna Rogers, recent college graduate, living in congregate housing in Seattle.<sup>59</sup>

*"[The condo] had a really nice kitchen, a really nice dishwasher, the doors had a nice soft close... Even though it was small, it was fairly high quality. It was tiny but mighty."* Anna Wolak, 26, co-owner of a 258 ft<sup>2</sup> market condominium in Cubix Condos, San Francisco.<sup>60</sup>

*"I'm so comfortable here... It's everything I ever prayed for."* Chris Sabourin, 57, a formerly homeless individual and tenant in a 390 ft<sup>2</sup> suite from InDwell, a non-profit private community housing provider based in Hamilton, ON.<sup>61</sup>

*"From out there in the gutter, to this. I'm telling you, it's a miracle in my life."* William, Vancouver temporary modular housing resident.<sup>62</sup> Temporary modular housing units in Vancouver range in size from 250 to 320 ft<sup>2</sup>.

<sup>51</sup> Leslie Braunstein. Micro-suites Fill an Affordability Niche for Young and Older Residents. Urban Land Institute. April 26, 2014. Accessed online Oct 2019: [www.urbanland.ulii.org/development-business/micro-suites-fill-affordability-niche-young-older-residents/](http://www.urbanland.ulii.org/development-business/micro-suites-fill-affordability-niche-young-older-residents/)

<sup>52</sup> Dominic Holden. The Fight Against Small Apartments. Why Neighborhood Groups Are Uniting to Stop Developers from Building Tiny, Affordable Units. The Stranger. May 8, 2013. Accessed online Oct 2019: [www.thestranger.com/seattle/the-fight-against-small-apartments/Content?oid=16701155](http://www.thestranger.com/seattle/the-fight-against-small-apartments/Content?oid=16701155)

<sup>53</sup> MacKay Apartments in Burnaby features non-market studio apartments for seniors that are below 350ft<sup>2</sup>. See: Burnaby Now. Affordable housing project for seniors opens in South Burnaby. Apr 13th, 2019. Accessed online Oct 2019: [www.burnabynow.com/news/affordable-housing-project-for-seniors-opens-in-south-burnaby-1.23790755](http://www.burnabynow.com/news/affordable-housing-project-for-seniors-opens-in-south-burnaby-1.23790755)

<sup>54</sup> InDwell is a private non-profit community housing provider in Hamilton, ON, that includes micro-suites in many of their buildings. See: [www.indwell.ca](http://www.indwell.ca)

<sup>55</sup> Dominic Holden .The Fight Against Small Apartments. Why Neighborhood Groups Are Uniting to Stop Developers from Building Tiny, Affordable Units. The Stranger. May 8, 2013. Accessed online Oct 2019: [www.thestranger.com/seattle/the-fight-against-small-apartments/Content?oid=16701155](http://www.thestranger.com/seattle/the-fight-against-small-apartments/Content?oid=16701155)

<sup>56</sup> Amy Plitt. What it's really like to live in NYC's first micro-suite building. Curbed New York. Sep 22, 2016. Accessed online Oct 2019: [ny.curbed.com/2016/9/22/13019200/nyc-studio-apartment-carmel-place-house-calls](http://ny.curbed.com/2016/9/22/13019200/nyc-studio-apartment-carmel-place-house-calls)

<sup>57</sup> Global News. Micro suites offer affordable alternative to Lower Mainland seniors. Mar 19, 2019. Accessed online Oct 2019: [www.globalnews.ca/news/5074525/micro-suites-offer-affordable-alternative-to-lower-mainland-seniors/?utm\\_source=GlobalBC&utm\\_medium=Facebook](http://www.globalnews.ca/news/5074525/micro-suites-offer-affordable-alternative-to-lower-mainland-seniors/?utm_source=GlobalBC&utm_medium=Facebook)

<sup>58</sup> Dominic Holden. The fight against small apartments. The Stranger. May 8<sup>th</sup>, 2013. Accessed online Oct 2019: [www.thestranger.com/seattle/the-fight-against-small-apartments/Content?oid=16701155](http://www.thestranger.com/seattle/the-fight-against-small-apartments/Content?oid=16701155)

<sup>59</sup> David Neiman. How Seattle Killed Micro-Housing. Sightline Institute, Sept. 6, 2016. Accessed online Oct 2019: [www.sightline.org/2016/09/06/how-seattle-killed-micro-housing/](http://www.sightline.org/2016/09/06/how-seattle-killed-micro-housing/)

<sup>60</sup> Kathleen Pender. Big lifestyle decisions found in small places. San Francisco Chronicle. Jun 26<sup>th</sup>, 2016. Accessed online Oct 2019: [www.pressreader.com/usa/san-francisco-chronicle/20160626/282381218850755](http://www.pressreader.com/usa/san-francisco-chronicle/20160626/282381218850755)

<sup>61</sup> CBC News. Here's the secret to living in a 390-square-foot apartment. July 24<sup>th</sup>, 2018. Accessed online May 5<sup>th</sup>, 2020: [www.cbc.ca/news/canada/hamilton/micro-dwellings-1.4758636](http://www.cbc.ca/news/canada/hamilton/micro-dwellings-1.4758636)

<sup>62</sup> City of Vancouver Website. Temporary Modular Housing. Accessed online Feb 2020: [vancouver.ca/people-programs/temporary-modular-housing.aspx](http://vancouver.ca/people-programs/temporary-modular-housing.aspx)

## 1.7 Overview of Study

This study analyzed micro-suites in the context of Toronto. Using the experience in other jurisdictions as a guide, the aim was to evaluate barriers, opportunities, and issues. The study proceeded by:

- a review of planning, policy, code, and legal documents;
- a literature review and jurisdictional scan, including relevant case studies; and
- a limited series of consultations with relevant stakeholders.

The study concluded with recommendations and next steps intended to help micro-suites realize their affordability potential within Toronto, and other Canadian cities by extension.

## 2 Federal Policy Context

### 2.1 National Housing Strategy

#### *What is it?*

Canada's first National Housing Strategy (NHS)<sup>63</sup> was released by the Canadian Mortgage and Housing Corporation (CMHC) in 2018. It represents an investment of \$40 billion and a 10-year plan with the broad goal of ensuring "... Canadians across the country have access to housing that meets their needs and is affordable."

The goal will be accomplished using a mix of funding, grants and loans, available through a number of initiatives. NHS initiatives will directly incentivize new housing supply and the modernization of existing housing, provide resources for community housing providers, and also support research, demonstration, and knowledge sharing – prioritizing solutions for the most vulnerable Canadians.

#### *What are the specific goals?*

The plan articulates a number of targets, among them<sup>64</sup>:

- cutting chronic homelessness by 50%;
- removing 530,000 families from housing need;
- renovating and modernizing 300,000 homes; and
- building 125,000 new homes.

#### *How does it work?*

Initiatives can broadly be categorized as (1) those that provide direct funding for specific housing developments and (2) those that promote housing solutions through research or other resources. The direct funding initiatives most relevant for this work include:

- **The National Housing Co-Investment Fund** for New Construction which offers \$5.19 billion in loans and \$2.26 billion in capital contributions to support the creation of 60,000 new affordable housing units that are energy-efficient, socially inclusive, mixed-use, mixed-tenure and mixed-income.
- **The Affordable Housing Innovation Fund** which offers \$200 million to support innovative building techniques and funding models in affordable housing.
- **Rental Construction Financing** which offers \$3.75 billion in low-cost loans (with possibility for future expansion) to support sustainable apartment projects.
- **The Federal Lands Initiative** which offers \$200 million in funding to support the transfer of surplus federal used to develop housing that is affordable, sustainable, accessible and socially inclusive.

Two other initiatives relevant to this work include:

- **The NHS Demonstration Initiative** which offers funding for the demonstration of innovative housing solutions through a variety of media and formats.
- **The Solutions Lab** which offers funding to convene groups of stakeholders and experts in focused short- or long-term sessions aimed at tackling complex affordable housing issues.

## 3 Provincial Policy Context

### 3.1 Community Housing Renewal Strategy

The Ontario Government's Community Housing Renewal Strategy<sup>65</sup> seeks to address problems within the social and affordable housing sector across three areas, including housing supply, the experience of individuals within community housing (or seeking community housing), and rules and regulations of the system itself.

A key issue within housing supply is that the original agreements with non-profit and co-operative housing providers are expiring and it is unclear how many units will remain as community housing because they would no longer have a legal obligation to provide non-market housing. Approximately 6,500 units have been lost due to expiring agreements and 41,000 are currently at risk.

A key outcome of the Community Housing Renewal Strategy is to increase the supply and appropriate mix of affordable and adequate housing. The Province has announced two new initiatives to be launched in 2019-2020: The Canada-Ontario Community Housing Initiative and The Ontario Priorities Housing Initiative.

The program details have not yet been finalized but the Province has stated that this funding can be used by Service Managers to expand social and affordable housing supply and this includes new affordable rental construction.

<sup>63</sup> Government of Canada. Canada's National Housing Strategy. 2018. Accessed online Oct 2019: [www.publications.gc.ca/collections/collection\\_2018/edsc-esdc/Em12-54-2018-eng.pdf](http://www.publications.gc.ca/collections/collection_2018/edsc-esdc/Em12-54-2018-eng.pdf)

<sup>64</sup> These bullet points were taken directly from the webpage for the NHS: [www.cmhc-schl.gc.ca/en/nhs/guidepage-strategy](http://www.cmhc-schl.gc.ca/en/nhs/guidepage-strategy)

<sup>65</sup> Province of Ontario. Community Housing Renewal Strategy. 2019. Accessed online Oct 2019: [www.ontario.ca/page/community-housing-renewal-strategy](http://www.ontario.ca/page/community-housing-renewal-strategy)

### 3.2 Ontario's Housing Supply Action Plan

The vision of Ontario's Housing Supply Action Plan,<sup>66</sup> introduced in May 2019, is that all "... all Ontarians can find a home that meets their needs and their budget." The Government's 5-point plan has made the following commitments<sup>67</sup>:

- Maintaining Ontario's strong environmental protections while making the development approvals process faster
- Making costs more predictable to encourage developers to build more housing
- Making it easier to build different types of housing
- Protecting tenants and making it easier to build rental housing
- Encouraging more innovation and creativity in Ontario's housing sector

In line with these commitments, the Government has introduced changes to the Planning Act with Bill 108 to streamline local decision making, approvals and appeals; make it easier for individuals to create rental suits in laneways, above garages and in basements; make development costs more predictable; and increase certainty on where development can happen.

The Government has also made changes to the Local Planning Appeal Tribunal to address the backlog of legacy cases and long timelines for appeals. They have changed the Public Policy Statement to encourage a mix of housing development type, decrease uncertainty, reduce barriers and costs, recognize local decision-making, as well as update planning and development policies. Further changes include the Development Charges Act (notably to exempt development costs for secondary units), the Ontario Building Code as well as a number of other Acts.

<sup>66</sup> Province of Ontario. More Homes, More Choice: Ontario's Housing Supply Action Plan. May 2019. Accessed online Oct 2019: [files.ontario.ca/mmah-housing-supply-action-plan-21may2019.pdf](http://files.ontario.ca/mmah-housing-supply-action-plan-21may2019.pdf)

<sup>67</sup> The phrasing of these points is taken directly from the plan.

### 3.3 Growth Plan for the Greater Golden Horseshoe

The Growth Plan for the Greater Golden Horseshoe,<sup>68</sup> released May 2019, provides provincial policy upon which Greater Golden Horseshoe municipalities must base their land use planning.

The Plan covers many aspects of planning and development, including protected employment zones, housing, integrated transportation networks, natural environment, agricultural land, urban centres, and cultural heritage. A key concept within the document is the development of complete communities, defined within the Plan as:

*“Places such as mixed-use neighbourhoods or other areas within cities, towns, and settlement areas that offer and support opportunities for people of all ages and abilities to conveniently access most of the necessities for daily living, including an appropriate mix of jobs, local stores, and services, a full range of housing, transportation options and public service facilities. Complete communities are age-friendly and may take different shapes and forms appropriate to their contexts.”*

Section 2.2.6 provides policy specific to housing. Relevant items to this work include:

- targets for intensification and density;
- targets for housing, either owned or rented, that is affordable; and
- a directive to identify a mix of housing options and densities (including secondary units) to meet the needs of current residents and projections for the future.

### 3.4 Ontario Building Code

Minimum floor areas are laid out in the Ontario Building Code (OBC). These are the bare minimum and it is often the case that municipalities will specify more restrictive requirements in their zoning bylaw.

Section 9.5.8.1 states: *“where living, dining, bedroom and kitchen spaces are combined in a dwelling unit that contains sleeping accommodation for not more than two persons, the area of the combined spaces shall be not less than 13.5 m<sup>2</sup>.”*

Section 9.5.9.1 states: *“In every dwelling unit an enclosed space of sufficient size shall be provided to accommodate a water closet, lavatory and bathtub or shower stall.”*

Section 9.5.1.3 states: *“Minimum floor areas specified in this Section do not include closets or built-in bedroom cabinets unless otherwise indicated.”*

It follows that the minimum area requirement according to the building code is 145 ft<sup>2</sup> for a combined living/dining/kitchen/bedroom space in addition to the space required for closets and an enclosed bathroom of sufficient area to accommodate a sink, toilet and shower.

The OBC Supplementary Standard SB-10 provides energy efficiency requirements for new buildings and different compliance paths towards meeting them. Importantly, energy consumption targets are considered relative to building size, as energy use intensities (EUIs), rather than in terms of absolute energy usage. This means that a 3,000 ft<sup>2</sup> luxury home may be compliant, while a micro-home is not, despite the fact that the micro-home consumes a fraction of the energy overall (in absolute terms). It's worth noting that there are currently discussions around adding bonus points for small housing forms and eliminating any unfair treatment of small housing forms within compliance path methodologies.

<sup>68</sup> Province of Ontario. A Place to Grow Growth Plan for the Greater Golden Horseshoe. May 2019. Accessed online Oct 2019: [files.ontario.ca/mmah-greater-golden-horseshoe-place-to-grow-english-15may2019.pdf](https://files.ontario.ca/mmah-greater-golden-horseshoe-place-to-grow-english-15may2019.pdf)

## 4 Municipal Policy Context

### 4.1 Official Plan

The Toronto Official Plan<sup>69</sup> was adopted by in 2002 and approved with modifications by the Ontario Municipal Board in 2006. It was further approved with amendments in 2015. The Plan presents the vision for the growth of Toronto into the future as *“...an attractive and safe city that evokes pride, passion and a sense of belonging - a city where people of all ages and abilities can enjoy a good quality of life.”*

Key aspects of this are *“vibrant neighbourhoods that are part of complete communities”* and *“affordable housing choices that meet the needs of everyone throughout their life.”* The Plan states that the future of Toronto is a city where *“no person pays more than they can afford for shelter”* and *“innovative implementation solutions are embraced.”*

The Plan includes policy to help realize these, and other, objectives. This policy also directs where growth will happen in the City - in the Centres, Avenues, Employment Areas and the Downtown, each of which have their own separate plan or are under further study.

Sensitive infill will occur in Neighbourhoods and Apartment Neighbourhoods but these areas are considered stable (although this is now changing – see Section 4.7) and any development *“...will respect and reinforce the existing physical character of buildings, streetscapes and open space patterns in these areas.”* The Plan also includes policy specifically aimed at promoting new rental housing, which has fallen behind, as well as maintaining the current stock.

### 4.2 Housing Opportunities Toronto (HOT)

The HOT plan set targets and provided a blueprint for Toronto’s approach to affordable housing. The plan comprised \$484 million in investments over 10 years to assist a target of 257,700 households. It had recommendations across 8 themes. Among the themes are: (1) create housing opportunities in all neighbourhoods; (2) assist individuals and families to afford rents; (3) revitalize neighbourhoods; and (4) create new affordable rental homes;

Highlight recommendations relevant to this work include:

- *“Preserve and expand the supply of affordable housing available to single persons by... encouraging and permitting an increase in legal, well run rooming houses and other appropriate forms of housing where current zoning bylaws allow, and subject to any future changes to the zoning bylaw.”*
- *“Prioritize the allocation of affordable housing program funding for... initiatives to support the redevelopment of selected emergency shelter sites and the acquisition of SRO hotels... [and] proposals that deliver a range of housing types and rent levels... [and] affordable housing proposals that secure the affordability of units for longer terms (e.g. more than 20 years).”*
- *“Use planning tools to create affordable housing in mixed income, inclusive communities by... the use of Section 37 of the Planning Act to obtain contributions for affordable housing from other residential developments where density and/or height is increased.”*

<sup>69</sup> City of Toronto. Toronto Official Plan. Feb 2019 Consolidation. Accessed online Oct 2019: [www.toronto.ca/wp-content/uploads/2019/06/8f06-OfficialPlanAODA\\_Compiled-3.0.pdf](http://www.toronto.ca/wp-content/uploads/2019/06/8f06-OfficialPlanAODA_Compiled-3.0.pdf)

### 4.3 Toronto Housing Charter

The Toronto Housing Charter,<sup>70</sup> implemented in 2017, was created as part of the HOT and provides guiding principles for City Council's decision-making regarding housing. The Charter is brief, at only a page long, but it is a bold statement of citizens' rights for housing that is affordable:

*"It is the policy of the City of Toronto that fair access to a full range of housing is fundamental to strengthening Toronto's economy, its environmental efforts, and the health and social well-being of its residents and communities. ... In that regard: All residents should have a safe, secure, affordable and well-maintained home from which to realize their full potential."*

### 4.4 Housing Now

The first phase of Housing Now<sup>71</sup> was launched in 2019 and forms one part of the upcoming 2020-2030 Housing Action Plan. In total, the plan is expected to deliver over 10,000 residential homes – this includes affordable units (rented at 80% of market value), market rentals and ownership units. This will be accomplished by activating under-utilized City land for housing developments, mirroring similar efforts from The Government of British Columbia in 2017 (see Case Study 7). A new initiative within the City emulated previous initiatives in BC is using modular manufactured micro-suites deployed on vacant or under-utilized government land to provide immediate housing relief for homeless individuals. The City of Toronto is emulating this approach with 110 modular housing units across two sites planned for completion by September 2020, and 250 planned in total. CMHC's Affordable Housing Innovation Fund will cover 40% of the capital costs of Phase 1 in this development.

### 4.5 Housing 2020-2030 Action Plan

At the time of this report, Toronto's Housing 2020-2030 Action Plan<sup>72</sup> is still under development.

<sup>70</sup> City of Toronto. Toronto Housing Charter – Opportunity for all. 2017. Accessed online Oct 2019: [www.toronto.ca/wp-content/uploads/2017/11/8eca-2016-TOHousingCharter.pdf](http://www.toronto.ca/wp-content/uploads/2017/11/8eca-2016-TOHousingCharter.pdf)

<sup>71</sup> For more information see City of Toronto Housing Now website: [www.toronto.ca/community-people/community-partners/affordable-housing-partners/housing-now/](http://www.toronto.ca/community-people/community-partners/affordable-housing-partners/housing-now/)

<sup>72</sup> For more information see City of Toronto website: [www.toronto.ca/community-people/get-involved/public-consultations/toronto-housing-strategy-2020-2030/](http://www.toronto.ca/community-people/get-involved/public-consultations/toronto-housing-strategy-2020-2030/)

### 4.6 Open Door Affordable Housing Program

The Open Door Affordable Housing Program<sup>73</sup> was adopted in 2016 to allow the City to work with non-profit and private housing providers to accelerate the creation of affordable housing spaces. It includes capital funding, relief from fees and taxes, activating surplus land, and fast-tracking of approvals.

### 4.7 Expanding Housing Options in Neighbourhoods

In July of 2019, Toronto City Council voted unanimously "to direct the Chief Planner and Executive Director of City Planning to report to the Planning and Housing Committee in the fourth quarter of 2019 on options and a timeline to increase housing options and planning permissions in areas of Toronto designated as Neighbourhoods in Toronto's Official Plan."<sup>74</sup> These parts of the City, termed the "Yellow Belt," are predominantly low-density detached and semi-detached homes. This is a new direction from that in the The Official Plan, which states that development in these areas was to be very limited.

### 4.8 Toronto Municipal Code

Chapter 629-25 of the Toronto Municipal Code<sup>75</sup> provides occupancy standards for habitable rooms. It has the following requirements:

- "the maximum number of persons living in a habitable room shall not exceed one person for each nine square metres of habitable room floor area"
- "the minimum floor area of a room used by only one person for sleeping shall be six square metres with the room having a minimum dimension on one side of two metres."
- "the minimum floor area of a room used by two or more persons for sleeping shall be four square metres for each person so using the room"

It follows that the combined living/dining/kitchen/bedroom space in a micro-suite used by two individuals must be at least 18 m<sup>2</sup> (194 ft<sup>2</sup>) according to the Toronto Municipal Code.

<sup>73</sup> City of Toronto. Open Door Affordable Housing Program Guidelines. 2018. Accessed online Oct 2019: [www.toronto.ca/wp-content/uploads/2018/01/8d97-Open-Door-Guidelines-2018.pdf](http://www.toronto.ca/wp-content/uploads/2018/01/8d97-Open-Door-Guidelines-2018.pdf)

<sup>74</sup> See the City Council voting results on this initiative here: [app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.MM9.36](http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.MM9.36)

<sup>75</sup> City of Toronto Municipal Code. Accessed online Oct 2019: [www.toronto.ca/legdocs/bylaws/lawmcode.htm](http://www.toronto.ca/legdocs/bylaws/lawmcode.htm)

## 4.9 Zoning Bylaw

Parking requirements for dwelling units in an apartment are laid out in Table 200.5.10.1 of City of Toronto Zoning Bylaw 569-2013. The minimum number of required parking spaces depends on the policy area and rates are applied per unit. In Policy Areas 1 (Downtown), 2, 3, and 4, it is 0.3, 0.6, 0.6 and 0.7 spaces per studio unit, respectively and for all other areas of the City it is 0.8. It follows that parking requirements can be significant.

Sections 10.10.40.50 and 15.10.40.50 of the Zoning Bylaw covers indoor and outdoor amenity space requirements for residential and residential apartment zones. Requirements are determined based on the numbers of units: "an apartment building with 20 or more dwelling units must provide amenity space at a minimum rate of 4.0 square metres for each dwelling unit, of which: (A) at least 2.0 square metres for each dwelling unit is indoor amenity space; (B) at least 40.0 square metres is outdoor amenity space in a location adjoining or directly accessible to the indoor amenity space; and (C) no more than 25% of the outdoor component may be a green roof."

## 4.10 Growing Up Guidelines

Unit mix requirements apply to buildings with 20 or more units and are defined within the City's Growing Up Guidelines. They require that at least 25% of the units are large (2+ bedrooms). They also encourage flexible design that allows reconfiguration of units.

## 5 Summary of Policy Context

### 5.1 Overview

Housing policy across all levels of government echoes common themes. Interventions are needed to:

- improve affordability;
- improve supply of rental housing;
- safeguard and expand the current stock of community housing;
- improve environmental sustainability;
- encourage a range of different housing types;
- ensure housing is an integral part of complete communities;
- guide intensification and density growth in key areas;
- promote innovative solutions.

The vision of the Official Plan is that Toronto will be a city where “no person pays more than they can afford for shelter” and the Toronto Charter states that “... all residents should have a safe, secure, affordable and well-maintained home from which to realize their full potential.” Given the current housing crises, it is difficult to see how those aspiration can be fulfilled without new and innovative solutions.

Micro-suites are not specifically identified in any of these policy documents, but it is could be one innovative housing solution, among others, that could directly address these issues.

Overall, the major barriers for micro-suite developments are not found in higher-level policy documents, which if anything, are supportive of innovative solutions to address the housing crisis.

Rather, some barriers exist at the zoning by-law level. These will be discussed in Section 8 alongside other barriers identified in the literature search and jurisdictional scan.

<sup>76</sup> See the list of funded projects on CMHC’s website. Accessed online Oct 2019: [www.cmhc-schl.gc.ca/en/nhs/affordable-housing-innovation-fund?guide=WHAT%20IS%20INNOVATION](http://www.cmhc-schl.gc.ca/en/nhs/affordable-housing-innovation-fund?guide=WHAT%20IS%20INNOVATION)

### 5.2 Opportunities

Opportunities for micro-suites emerging from the policy review include:

- At the **federal** level, the National Housing Strategy has provided several initiatives relevant to micro-suite deployment and is currently funding at least four projects related to micro-housing.<sup>76</sup> The NHS Solutions Lab and Demonstration Initiative are further opportunities to study micro-suites and build knowledge.<sup>77</sup>
- At the **provincial** level, the Community Housing Renewal Strategy highlights new commitments to increase the supply and appropriate mix of affordable and adequate housing. Micro-suites have been used in other North American jurisdictions to cost-effectively house couples and individuals (for example see Case Study 3) and community housing renewal is an opportunity for micro-suite deployment.
- At the **municipal** level, new opportunities are emerging to increase the mix of housing in areas of the City traditionally zoned for detached and semi-detached housing and there are micro-suite form factors that could integrate well into these neighbourhoods (discussed in Figure 5). The acquisition and refurbishment of SRO hotels is also a unique opportunity to retrofit micro-suites into existing buildings (See Burns Block Building in Vancouver; Fig. 4). Various other initiatives exist to accelerate the development of affordable housing spaces – which could include micro-suites.

<sup>77</sup> See InDwell, covered in Case Study 3.

## 6 Jurisdictional Scan

### 6.1 Overview

The jurisdictional scan looked at the experience with micro-suites in British Columbia, Boston, Seattle, San Francisco and New York City, because these jurisdictions were identified as having more experience with the concept. Given the newness of micro-suites, and the lack of formal scientific study, the analysis relied heavily on non-academic sources – this included news reports, third-party reports, institutional websites, zoning/code documents, and similar, to piece together the overall experience from different perspectives.

The analysis proceeded through two lenses. The first simply tried to document a short case study summarizing the experience of the different jurisdictions. The second synthesized that experience across a common set of themes, including:

- Type of micro-suite allowed
- Ensuring livability, health and well-being
- Roll-out of micro-suite developments
- Mix of housing and ensuring long-term viability
- Incentivization for developers
- Process for engagement with the community
- Ensuring affordability
- Study of impacts
- Minimum area requirements
- Minimum parking requirements
- Integration with community housing

<sup>78</sup> See Case Study 1.

<sup>79</sup> Note that the micro-suite definition is tricky here. There are co-housing examples in Ontario that could fall into this category. For example, Abbey Field Society provides housing for seniors where, in some cases, they occupy different suites in a more-or-less conventional home and share communal spaces. See: [www.abbeyfield.ca/houses/abbeyfield-toronto-lakeside-house/](http://www.abbeyfield.ca/houses/abbeyfield-toronto-lakeside-house/). There are also cases where several individuals communally own a building and live in much the same way. See: CBC Radio, A new type of family: six

### 6.2 Type of Micro-suite Allowed

In the context of multi-unit buildings there have been two types of micro-suites used in different jurisdictions. The first type is essentially a micro-sized studio apartment unit. It has also been termed a small efficiency dwelling unit (SEDU) or a Micro Dwelling Unit (MDU). It contains everything a normal apartment would have, just shrunk down to a lower square footage.

The second is a type of co-housing unit. In Seattle, where it was first introduced, the official term is “congregate housing.”<sup>78</sup> Each suite is a separately leased micro-sized studio apartment equipped with a kitchenette, rather than a kitchen, and a bathroom. Several suites are serviced by a large communal kitchen. It is something in between a conventional-looking apartment and a rooming house, or perhaps close to a student dormitory.

Congregate housing has the potential for the smallest footprints (as small as 140 ft<sup>2</sup> in Seattle), greatest density, and therefore, the deepest levels of affordability. A congregate housing boom began in Seattle in 2009 when developers were able to make use of, what critics have called, a “loophole” in the zoning bylaw. This was followed by fierce opposition from community groups surrounding the placement of congregate housing in conventional low-density residential neighbourhoods, and then a series of incremental regulation changes which led to an effective moratorium.

To the author’s knowledge there have been no new congregate housing developments (of the type deployed in Seattle) in Canada<sup>79</sup> and all micro-suites in multi-unit buildings would fall under the category of SEDUs/MDUs. It is still feasible that Toronto could pilot this new form of housing, but the Seattle experience shows that a more thoughtful roll-out would be required.

housemates on the highs and lows of communal living. Oct 11, 2019; Accessed online Oct 2019: [www.cbc.ca/radio/tapestry/friendship-1.5316964/a-new-type-of-family-six-housemates-on-the-highs-and-lows-of-communal-living-1.5317053](http://www.cbc.ca/radio/tapestry/friendship-1.5316964/a-new-type-of-family-six-housemates-on-the-highs-and-lows-of-communal-living-1.5317053). These are important trends worth noting, but they are moving further away from the micro-suite concept as it is being explored in this study – where individuals or couples own or rent a distinct suite within a building.

### Case Study 1: Community Opposition in Seattle

Congregate housing in Seattle provides a useful micro-suite case study. Seattle is a growing city of approximately 730,000.<sup>80</sup> In the recent years it has flooded the rental market with new supply and now has high vacancy rates and declining (albeit still high) rents.<sup>81</sup> Previously low vacancies and affordability issues led to a boom in congregate housing, a new type of micro-suite.

Congregate housing is similar in concept to a rooming house or even some university dormitories. In Seattle, individual congregate housing units are as small as 140 ft<sup>2</sup> and are purpose-built rentals.<sup>82</sup> Each suite is a very small studio apartment equipped with a kitchenette and bathroom. Several suites are serviced by a large communal kitchen.

Seattle experienced a congregate housing boom starting in 2009 when developers were able to utilize what some termed as a “loophole” to form the new type of housing while avoiding review that would normally be part of the process for new apartment buildings.

The loophole was that up to seven separately-leased congregate housing suites which share a common kitchen could be defined within the existing zoning bylaw as a single dwelling, and provided the developments contained eight or fewer dwellings, they could avoid community review and environmental impact assessments.<sup>83</sup>

Effectively, a conventional apartment building with nine suites would be subject to much more stringent review than a congregate housing development with 56 suites. The developers could then apply for tax exemptions using the quantity of separately-leased suites<sup>84</sup> rather than the number of dwellings, but this loophole was eventually closed.

David Neiman, a Seattle-based architect, provides a timeline of the boom and bust of congregate-housing from a developer’s point of view. He argues that City policies incrementally “killed” an innovative housing solution that provided a much-needed affordable option for those looking to live independently and enjoy city amenities.



**Figure 5.** Example street view of congregate housing in Seattle under the aPodments® brand (Photo Credit: Google Maps).

The important factors cited by Neiman included a mandatory review process for all congregate housing developments implemented in August 2014, seen by developers as overly onerous, and more restrictive zoning introduced in 2014 preventing congregate housing from being implemented where other types of multi-family development were allowed (and where congregate housing made economic sense for tenants and developers). He argues that these and other amendments essentially led to a moratorium on congregate housing.

Micro-suites were still an option in the form of small efficiency dwelling units (SEDU) – essentially small studios with a full kitchen (and no communal kitchen) - but amendments and other factors served to incrementally reduce their development as well.

<sup>80</sup> Seattle Office of Planning and Community Development. Population & Demographics. Accessed online Oct 2019: [www.seattle.gov/opcd/population-and-demographics](http://www.seattle.gov/opcd/population-and-demographics)

<sup>81</sup>Joannah Connolly. Opinion: How Seattle reversed its rental housing crisis. Times Colonist. July 9<sup>th</sup>, 2018. Accessed online Oct 2019: [www.timescolonist.com/real-estate/opinion-how-seattle-reversed-its-rental-housing-crisis-1.23362308](http://www.timescolonist.com/real-estate/opinion-how-seattle-reversed-its-rental-housing-crisis-1.23362308)

<sup>82</sup> David Neiman. “How Seattle Killed Micro-Housing.” Sightline Institute, Sept. 6, 2016. Accessed online Jun 2019: [www.sightline.org/2016/09/06/how-seattle-killed-micro-housing/](http://www.sightline.org/2016/09/06/how-seattle-killed-micro-housing/).

<sup>83</sup> Seattle Times Editorial. Seattle should impose controls on ‘aPodments’ and conduct larger housing review. Seattle Times. April 28, 2013. Accessed online Jun 2019: [old.seattletimes.com/html/editorials/2020869474\\_editapodmentsxml.html](http://old.seattletimes.com/html/editorials/2020869474_editapodmentsxml.html).

<sup>84</sup> Ibid.

Neiman points to restrictions that make the stated minimum square footage of 220 ft<sup>2</sup> impossible to achieve in practice; restrictive changes to the City's geographic areas that are part of the "frequent transit network" (developments on this network may be exempt from off-street parking requirements)<sup>85</sup>; changes that excluded SEDUs from multi-family tax exemptions (MFTEs); and changes to building code interpretations which ultimately require more square footage.

Neiman argues that these changes effectively turned micro-suites into more conventionally sized studio apartments which resulted in fewer housing units and significantly greater rents.

An important factor motivating the City's decision-making was the strength of the opposition from local residents which has been well-documented by journalists.<sup>86, 87</sup> Several community groups organized around the issue of the growth of congregate housing developments, including Reasonable Density Seattle, Harvard Avenue Neighbors, Seattle Speaks Up and Capitol Hill Coalition.<sup>88</sup>

They voiced a number of criticisms. The thrust of their criticism has been characterized succinctly as "... greedy developers shoehorn[ing] downtown-style living into single-family neighborhoods and rip[ping] off residents with luxury-level premiums for borderline inhumane housing."<sup>89</sup>

Proponents have characterized the criticism as not-in-my-backyard-ism (NIMBYism), arguing that "micro units are green, affordable units for young, low-income, and mobile residents that act as entry points into a dense, walkable, and flexible urban environment."<sup>90</sup> Regardless of the criticism's truth, it stands that community opposition can significantly impact decision-making.

Highlights from the Seattle experience:

- Demand for congregate housing was high and it provided much needed affordable housing for those content with a smaller space.
- The rapid dissemination and siting of congregate housing in communities that did not want them, allowed by the existing bylaw "loophole," was disruptive to residents. It meant that the relationship between the community, developers and the City started off poorly and only digressed further.
- Community groups effectively lobbied the local government for a moratorium on congregate housing.
- The mandatory review process was sufficiently onerous to lead developers away from congregate housing entirely. Note that an alternative approach has been proposed.<sup>91</sup>

As is the case in many cities, Seattle is trying to balance the conflicting demands of affordability, intensification and the preservation of existing neighbourhoods. It seems feasible that better siting of certain developments and a higher level of community involvement earlier on may have led to better outcomes.

<sup>85</sup> Neiman claims this change was due to a micro-housing opposition group challenging the city in court that the criterion of 15-minute transit service for a given location to be labelled as FTS was not worded as a 15-minute *average*, such that if there was a space of time lasting 16 minutes at any point during the day due to things like personnel changes or breaks than the location would not be FTS. See: [neimanarchitects.blogspot.com/2016/07/the-war-against-micro-housing-is-over.html](http://neimanarchitects.blogspot.com/2016/07/the-war-against-micro-housing-is-over.html)

<sup>86</sup> Erica C. Barnett. Microhousing Opponents: They Shouldn't Be Allowed to Live Like That. The Seattle Met. June 25 2019. Accessed online Jun 2019: [www.seattlemet.com/articles/2014/6/25/the-anti-logic-of-microhousing-opposition-june-2014](http://www.seattlemet.com/articles/2014/6/25/the-anti-logic-of-microhousing-opposition-june-2014)

<sup>87</sup> Dominic Holden. The Fight Against Small Apartments. The Stranger. May 8, 2013. Accessed online Jun 2019: [www.thestranger.com/seattle/the-fight-against-small-apartments/Content?oid=16701155](http://www.thestranger.com/seattle/the-fight-against-small-apartments/Content?oid=16701155)

<sup>88</sup> Ibid.

<sup>89</sup> Ben Crowther. Micro Housing Part 3: Arguments in Opposition. The Urbanist. April 23, 2015. Accessed online Jun 2019: [www.theurbanist.org/2015/04/23/micro-housing-part-3-arguments-in-opposition/](http://www.theurbanist.org/2015/04/23/micro-housing-part-3-arguments-in-opposition/)

<sup>90</sup> Ben Crowther. Micro Housing Part 2: Arguments in Opposition. The Urbanist. April 23, 2015. Accessed online Jun 2019: [www.theurbanist.org/2015/04/22/micro-housing-part-2-arguments-in-favor/](http://www.theurbanist.org/2015/04/22/micro-housing-part-2-arguments-in-favor/)

<sup>91</sup> Essentially, a more costly formal review process is only triggered when the developer and community groups are unable to come to another arrangement whereby the concerns of the community are adequately addressed – possibly with the developer providing some type of additional value to the community to compensate for the real or perceived loss of value (to community members) that comes with the increased density. See: Patrick Carter. Micro-Housing in Seattle: A Case for Community Participation in Novel Land Use Decisions. Seattle University Law Review. Accessed online Jun 2019: [digitalcommons.law.seattleu.edu/sulr/vol39/iss3/16/](http://digitalcommons.law.seattleu.edu/sulr/vol39/iss3/16/)

### 6.3 Ensuring Livability, Health and Well-being

Although the limited research available on the health and well-being of tenants in micro-suites<sup>92</sup> does not point to any specific issues, concerns still exist, especially considering the negative legacy of tenement housing.

Among the jurisdictions considered, Vancouver provides the clearest guidelines aimed at ensuring livability in micro-suites.<sup>93</sup> Considerations are provided around light, ventilation, noise, living and sleeping spaces, bathrooms, kitchens, in-suite storage, outdoor space, and amenity space.

The design factors which promote livability and well-being appear to be well-known. For example, Carmel Place in New York City incorporates many of the same factors considered in the Vancouver guidelines.<sup>94</sup> It is feasible that any jurisdictions considering micro-suite developments could put in place similar guidelines to help ensure the livability of the units and tenant well-being.

Overcrowding in micro-suites, and the resultant impact on health and well-being, has also been voiced as a concern although it has not seemed to be an issue in any of the jurisdictions considered. It's important to note that micro-suites are not a magic bullet for housing affordability, but rather one potential part of a broader suite of measures. It's therefore important that affordable options for families are made available as well and this would mitigate the potential for overcrowding.

The cold-climate of Toronto, and other Canadian cities, provides unique challenges for the well-being of occupants when compared to the warmer climates considered in this study. The City becomes less accessible during the winter and more time is spent indoors.

InDwell is a Hamilton Ontario based not-for-profit private community housing provider that operates many buildings incorporating micro-suites serving low-income individuals. They provide a useful example of micro-suites deployed in a cold-climate.<sup>95</sup>

Through years of experience, they've developed many useful insights on the design of micro-suites, and buildings, to enhance the experience of tenants. Their experience is that micro-suites can be used to provide high-quality housing while maximizing the number of individuals served given space and cost constraints.



**Figure 6.** This floorplan for a 286 ft<sup>2</sup> unit from Smart House Condos shows different features that promote livability. There is up to 80 ft<sup>2</sup> of outdoor balcony space, large windows, a combination island/countertop for dining and food preparation, seating for several individuals, and a fold-down bed to optimize day-time/night-time use of space. (Credit: Smart House)

<sup>92</sup> See Section 7.2.

<sup>93</sup> See Case Study 2.

<sup>94</sup> See Case Study 4.

<sup>95</sup> See Case Study 3

## Case Study 2: Pilot in Vancouver Downtown Eastside

Micro-suite developments have been incentivized by the British Columbia government through a policy which saw development cost charges (DCCs) waived for the construction of units less than 29 m<sup>2</sup> (313 ft) – what they call Micro Dwelling Units (MDU).<sup>96</sup>

According to the Province, MDUs are exempt “because these units generally use existing infrastructure, are more energy efficient and are more affordable.”<sup>97</sup> DCCs are used by municipalities to offset the capital cost of providing city infrastructure, like roads, sewers, and water, to new developments.

BC municipalities vary in their level of acceptance and overall approach to MDUs. Metro Vancouver is home to close to 2.5 million residents and has grown by 6.5% between 2011 and 2016.<sup>98</sup> The problem of affordability in Vancouver continues to deepen and is even worse than in Toronto.<sup>99</sup> Despite a keen interest from developers to construct more MDUs to meet demand,<sup>100</sup> Vancouver has taken a more measured approach when compared to nearby municipalities.

The minimum square footage for a dwelling in most of the city is 398 ft<sup>2</sup>.<sup>101</sup> However, Vancouver is permitting MDUs as small as 250 ft<sup>2</sup>, with conditions, in the Downtown Eastside.<sup>102</sup> A notable building is the Burn’s Block Development, a former SRO Hotel.<sup>103</sup> There are 30 units, all less than 291 ft<sup>2</sup>.<sup>104</sup>

Another notable building is The Anjok on 288 East Hastings, which was completed in 2018.<sup>105</sup> It consists of 60% non-market community housing micro-dwelling units and 40% secured market rentals.<sup>106</sup> It was the first project<sup>107</sup> approved to meet the 60/40 zoning policy (passed in 2014) that encourages the development of social housing units and secured rentals through bonus density allowances.<sup>108</sup> This building is an example of the recent scaling up of MDUs being used to boost the supply of community housing.<sup>109</sup>

Other Downtown Eastside community housing projects utilizing MDUs include the redevelopment of Roddan Lodge, an existing SRO hotel, which broke ground in early 2019,<sup>110</sup> and the development on 177 West Pender.<sup>111</sup> Both are mid-rises with 213 and 90 units, respectively.

In Vancouver, developers of MDUs must comply with guidelines providing by the City covering many aspects of livability, affordability and flexibility.<sup>112</sup> Highlights of those guidelines are provided below.

- **Light and Ventilation**

- Minimum of two operable vents placed far apart
- Considerations to promote daylighting
- Higher ceilings
- Reflective light shelves
- Strategy for natural light to reach rear of unit
- Open balconies or sun decks

<sup>96</sup> Local Government Act; Section 561; Subsection 7 (a). Accessed online Oct 2019; [www.bcclaws.ca/civix/document/id/complete/statreg/r15001\\_14](http://www.bcclaws.ca/civix/document/id/complete/statreg/r15001_14)

<sup>97</sup> Government of British Columbia Website. Incentives for Housing. Accessed online Jun 2019; [www2.gov.bc.ca/gov/content/housing-tenancy/local-governments-and-housing/policy-and-planning-tools-for-housing/incentives-for-housing](http://www2.gov.bc.ca/gov/content/housing-tenancy/local-governments-and-housing/policy-and-planning-tools-for-housing/incentives-for-housing)

<sup>98</sup> Statistic Canada. Greater Vancouver Census Profile, 2016. Accessed online Jun 2019; [www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/details/page.cfm?lang=E&Geo1=CD&Code1=5915&Geo2=PR&Code2=47&Data=Count&SearchText=Greater%20Vancouver&SearchType=Begins&SearchPR=01&B1=All&TABID=1](http://www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/details/page.cfm?lang=E&Geo1=CD&Code1=5915&Geo2=PR&Code2=47&Data=Count&SearchText=Greater%20Vancouver&SearchType=Begins&SearchPR=01&B1=All&TABID=1)

<sup>99</sup> Royal Bank of Canada Economic Research. Housing Trends and Affordability. March 2019. Accessed online Jun 2019; [rbc.com/newsroom/assets-custom/pdf/house-mar2019.pdf](http://rbc.com/newsroom/assets-custom/pdf/house-mar2019.pdf)

<sup>100</sup> Kent Spencer. Micro-suites in Vancouver: Small-time living or living small? Vancouver Sun. February 13, 2017. Accessed online Oct 2019; [vancouver.sun.com/news/local-news/micro-suites-in-vancouver-small-time-living-or-living-small](http://vancouver.sun.com/news/local-news/micro-suites-in-vancouver-small-time-living-or-living-small)

<sup>101</sup> City of Vancouver. Zoning and Development Bylaw. Section 10.21.2. (a). April 2015.

<sup>102</sup> City of Vancouver. Downtown-Eastside/Oppenheimer Official Development Plan. Section 6.2.1 (e). Accessed online Oct 2019; [bylaws.vancouver.ca/odp/odp-downtown-eastside-oppenheimer.pdf](http://bylaws.vancouver.ca/odp/odp-downtown-eastside-oppenheimer.pdf)

<sup>103</sup> Adele Weder. Living in 226 square feet on Vancouver’s east side. The Globe and Mail. February 9<sup>th</sup>, 2012. Accessed online Oct 2019; [www.theglobeandmail.com/life/home-and-garden/architecture/living-in-226-square-feet-on-vancouver-east-side/article545555/](http://www.theglobeandmail.com/life/home-and-garden/architecture/living-in-226-square-feet-on-vancouver-east-side/article545555/)

<sup>104</sup> Ibid.

<sup>105</sup> BC Housing. Webpage for 288/292 East Hastings. Accessed online Jun 2019; [www.bchousing.org/partner-services/major-projects/288-east-hastings](http://www.bchousing.org/partner-services/major-projects/288-east-hastings)

<sup>106</sup> Brian Morton. New project provides ‘affordable housing’ to Downtown Eastside. Vancouver Sun. Jan 25<sup>th</sup>, 2016. Accessed online Oct 2019; [www.vancouver.sun.com/business/project+provides+affordable+housing+downtown+eastside/11675550/story.html](http://www.vancouver.sun.com/business/project+provides+affordable+housing+downtown+eastside/11675550/story.html)

<sup>107</sup> Ibid.

<sup>108</sup> City of Vancouver. Downtown-Eastside/Oppenheimer Official Development Plan. Section 4.5.1 (a). Accessed online Oct 2019; [bylaws.vancouver.ca/odp/odp-downtown-eastside-oppenheimer.pdf](http://bylaws.vancouver.ca/odp/odp-downtown-eastside-oppenheimer.pdf)

<sup>109</sup> Justin McElroy. Vancouver unveils new housing strategy for the next decade. CBC News. Nov 23, 2017. Accessed online Oct 2019; [www.cbc.ca/news/canada/british-columbia/vancouver-housing-strategy-reset-report-1.4416669](http://www.cbc.ca/news/canada/british-columbia/vancouver-housing-strategy-reset-report-1.4416669)

<sup>110</sup> Alissa Reed. Site cleared at 124 Dunleavy. Skyrise Vancouver. Jan 7/2019. Accessed online Jun 2019; [vancouver.skyrisecities.com/news/2019/01/site-cleared-124-dunleavy-ave](http://vancouver.skyrisecities.com/news/2019/01/site-cleared-124-dunleavy-ave)

<sup>111</sup> Alissa Reed. 177 West Pender Project Approved by City Council. Skyrise. Accessed online Oct 2019; [vancouver.skyrisecities.com/news/2017/12/177-west-pender-project-approved-city-council](http://vancouver.skyrisecities.com/news/2017/12/177-west-pender-project-approved-city-council)

<sup>112</sup> City of Vancouver. Micro Dwelling Policies and Guidelines. Land Use and Development Policies and Guidelines Planning, Urban Design and Sustainability Department. Adopted by City Council on March 15, 2014 Amended October 31, 2017. Accessed online Oct 2019; [guidelines.vancouver.ca/D015.pdf](http://guidelines.vancouver.ca/D015.pdf)

- **Noise**
  - Mitigating noise transfer must be considered in placement of vents, balconies, windows, etc.
- **Living/Sleeping Space**
  - Large enough to accommodate fold-down bed
  - Daylighted by large window
  - Not enclosed from remainder of space
  - Consideration for day and night-time use of spaces (hide-a-beds, fold-down tables, etc.)
- **Bathroom**
  - Must be physically separated from rest of unit by partitions and a door
  - Must include shower (and/or bath), toilet and wash-basin
- **Kitchen**
  - Includes ventilation, sink, stove, refrigerator (with minimum 12 ft<sup>3</sup> capacity), stove, and sufficient counter-space
  - Kitchen and dining area sufficient for two people standing or sitting side-by-side
- **In Suite Storage**
  - Preference for in-suite open and closed shelving and/or loft space in addition to accessible storage outside of the unit
- **Outdoor Space**
  - 4.5 m<sup>2</sup> outdoor space per micro-suite, either shared or private
  - Considerations for privacy, views and exposure to sunlight
  - Consideration for large operable windows or Juliet balconies to provide a feeling of openness to the exterior
- **Amenity Space**
  - Building should include amenity space like lounge areas or meeting rooms

- **Flexibility for Future Use**
  - Consideration for routing of utility services to allow combining of units to meet future housing needs
- **Unit Type and Distribution**
  - Mix of MDUs and larger studios, 1-bedroom, and 2-3 bedrooms is encouraged
  - Flexibility to meet housing needs of local area (for example, higher proportion of MDUs when replacing an SRO hotel)
- **Affordability**
  - Rents should be below market compared to other studios or one-bedrooms in the area
  - Affordability targets may be applied
  - Rental amounts to be secured in housing agreements

It follows that there are several points worth noting about the roll-out of micro-suites in Vancouver. The City:

- has started by permitting MDUs only in a segment of the City;
- provided formal design guidelines aimed at ensuring livability and occupant well-being;
- put in place measures to ensure affordability;
- put in place measures to ensure there is built-in flexibility to help meet future housing needs; and
- incorporated micro-suites into community housing.

### Case Study 3: Indwell's Cold-climate Non-market Micro-suites<sup>113</sup>

Indwell provides supportive community housing to vulnerable and low-income individuals. They are based in Hamilton, ON, but they have approximately a dozen buildings in their portfolio that also span Woodstock, Simcoe and London.<sup>114</sup> There are also several more projects in the pipeline,<sup>115,116</sup> including a development in Mississauga.<sup>117</sup>

Their primary goal is to support individuals towards health, wellness and belonging. With limited space and funding, Indwell has embraced the micro-suite concept to help the maximum number of people. They operate hundreds of units below 400 ft<sup>2</sup>, many of which are in the 250 to 350 ft<sup>2</sup> square range.<sup>118</sup>

Their buildings typically have 40- to 60-units and this is intentional. They've found that this is good size to foster a sense of community. At that scale, they've also found that buildings comprised almost entirely of studio apartments works well for the tenants and the community, but for larger buildings, a mix of unit sizes is needed. Indwell emphasizes the importance of good design.

They obtain useful insights through focus groups with residents, and employees have occupied units temporarily to understand how unit design impacts livability. Through these efforts, they've identified features that promote maximum livability and wellness in small units.

Their units have a full kitchen, including a 24" fridge with 11 - 12 ft<sup>3</sup> of storage. Space-saving fridges, like those mounted underneath countertops, have not adequately met tenant needs. Units typically also have a 24" range, although in some cases, this is replaced by a two-burner cooktop. There is ample drawer and cabinet space, designed to maximize multi-use functionality, and at least 6 ft of counter space.



**Figure 7.** Parkdale Landing in Hamilton consists of 57 small studio apartments and was completed by Indwell in 2018. It was designed to meet Passivehaus standards, resulting in drastically lower utility bills. (Credit: Google Maps)

A fold down bed fixes the layout of the room and Indwell has found that there is psychological benefit to giving tenants choice over the room's layout. Their units allow for a bed to be oriented in different ways.

As a community housing provider, they are not installing many of the high-end finishes used to maximize rents in market-rate luxury apartments – but they do see the value in *not* defaulting to the lowest-cost options. By avoiding base-grade materials and finishes in the smaller details, cost premiums are manageable, and tenants have increased pride in their units.

<sup>113</sup> The content of this case study is based on an interview with Graham Cubitt, Director of Projects and Development at Indwell, conducted on Sept. 10th, 2019.

<sup>114</sup> See [Indwell.ca](http://Indwell.ca).

<sup>115</sup> Kelly Bennett. Transforming a derelict tavern from a 'home of last resort' to a place people want to live. CBC News. 03/08/2017. Accessed online Sep 2019: [www.cbc.ca/news/canada/hamilton/headlines/transforming-a-derelict-tavern-from-a-home-of-last-resort-to-a-place-people-want-to-live-1.4013878](http://www.cbc.ca/news/canada/hamilton/headlines/transforming-a-derelict-tavern-from-a-home-of-last-resort-to-a-place-people-want-to-live-1.4013878)

<sup>116</sup> Desmond Brown. How this charity is addressing Hamilton's housing crisis, 1 derelict building at a time. CBC News. July 21<sup>st</sup>, 2018. Accessed online Sep 2019: [www.cbc.ca/news/canada/hamilton/indwell-affordable-housing-former-royal-oak-dairy-1.4755594](http://www.cbc.ca/news/canada/hamilton/indwell-affordable-housing-former-royal-oak-dairy-1.4755594)

<sup>117</sup> See: Maryam Mirza. New development in Mississauga to provide affordable housing and supports programs for people with mental or physical disabilities. Aug 9<sup>th</sup>, 2018. Mississauga.com. Accessed online Sep 2019: [www.mississauga.com/news-story/8795650-new-development-in-mississauga-to-provide-affordable-housing-and-supports-programs-for-people-with-mental-or-physical-disabilities/](http://www.mississauga.com/news-story/8795650-new-development-in-mississauga-to-provide-affordable-housing-and-supports-programs-for-people-with-mental-or-physical-disabilities/)

<sup>118</sup> As an example, one of their units can be seen in: CBC News. Here's the secret to living in a 390-square-foot apartment. July 24<sup>th</sup>, 2018. Accessed online Sep 2019: [www.cbc.ca/news/canada/hamilton/micro-dwellings-1.4758636](http://www.cbc.ca/news/canada/hamilton/micro-dwellings-1.4758636)

Amenities within the building are key. They are typically designed with 2 - 3 m<sup>2</sup> of indoor amenity space per unit, which may include a server room (i.e. a communal kitchen), a computer lounge or other flexible space. This allows tenants to interact informally over coffee or through events like a potluck, and overall this fosters a sense of community. The indoor amenity space is also important given the cold-climate. **While there are many examples of micro-suites housing more affluent individuals in warmer climates, where “the city is the living room,” Indwell provides an important example of micro-suites in a cold-climate successfully serving low-income individuals.**

Storage space is another important design consideration. At a unit size of 250 ft<sup>2</sup>, they've found that an external locker is essential for seasonal-use items but at 350 ft<sup>2</sup>, it's possible to include that storage space in the unit itself. Indwell has also made some counter-intuitive conclusions around colour schemes. Conventional wisdom is that lighter colours are better in small spaces, but they've found that the incorporation of dark accent walls in combination with lighter colours provides a greater sense of depth.

Aside from providing useful design insights, Indwell is also a model for environmental sustainability. Their Parkdale Landing building is designed to Passive House standards. Passivehaus is the most rigorous building energy standard, requiring that the building consumes a small fraction of the energy used by comparable conventional buildings. Their decision to choose Passivehaus design was twofold.

Firstly, there is the moral imperative of energy conservation and carbon mitigation in the context of global climate change. Secondly, it made good business sense. Indwell both develops *and then operates* the building for its useful lifetime. It follows that they must live with their design decisions in the long-term. In other cases, it's often possible for developers to simply pass on the added costs associated with inefficient design to the future owners.

Indwell is candid about their experience with Passive House design, cautioning that the learning curve was steep but also, importantly, that it wasn't endless. They found that the biggest design challenge was the management of thermal bridging (i.e. those points within a building envelope where heat is more easily transferred between the interior and exterior). Airtightness, windows, and doors, all posed much less of a challenge. It was also a challenge for contractors and tradespeople to familiarize themselves with this form of construction – particularly around scheduling of jobs. At the end of the learning curve, Indwell estimates that Passivehaus design added a relatively small premium (3 to 5%) on to the total cost of construction and for this they credit a strong design team.

In terms of barriers, they have encountered issues related to bylaws and zoning, the largest of which is a restrictive minimum area requirements in some jurisdictions. However, for Indwell, a greater challenge is the same one facing many in the industry: the high-cost of construction. In the current context, work is plentiful for contractors and tradespeople and this ultimately serves to drive up costs. It also may stifle innovation. Indwell does see potential for micro-suites to make a broader impact on affordability in unsubsidized market units, but notes that the landscape is complex. Given the high cost of construction, it's difficult to construct affordable market units to begin with, but even if that was achievable, developers sell or rent their units at prices that the market is willing to pay. Unfortunately, that is currently more than many can afford. Affordable market-rate micro-suites may then require a change in market forces, the regulatory environment, or a paradigm shift on the part of developers.

Overall, Indwell provides an important example for micro-suites in a cold-climate. Concern for tenant well-being has been an important barrier for micro-suites in other jurisdictions but, in contrast, Indwell has used micro-suites to *enhance* well-being, and to do so across the largest segment of individuals possible. They've accomplished this through careful attention to design and learning from experience. Importantly, they've also shown that, with the right design team, deep levels of energy and carbon reductions are possible for relatively small cost premiums.

## 6.4 Roll-out of Micro-suite Developments

Of the jurisdictions considered, New York was the most conservative in implementing new micro-suites by starting with a single pilot building. The design competition began in 2012 and the building was completed by 2016. This gave the City a degree of experience with the micro-suite concept in new builds. This was followed by the Zoning for Quality and Affordability amendment which was implemented in 2016. It removed the previously existing 400 ft<sup>2</sup> minimum area requirement – allowing micro-suites to be implemented in developments with a mix of unit sizes.<sup>119</sup>

Vancouver also had a very measured roll-out of micro-suites after the Province of BC decided to incentivize micro-suites by removing development cost charges. Implementation started in a single downtown neighbourhood with the renovation of existing SROs. Despite a keen interest from developers to construct more micro-suites to meet demand the City is waiting until they have the opportunity for more detailed study of the existing development before further action.<sup>120</sup> Boston is also conducting a pilot,<sup>121</sup> as is San Francisco.<sup>122</sup>

Kelowna, BC, had fewer restrictions on the siting of micro-suites. It started with a broad-scale roll-out across the City, including single-family residential neighbourhoods, before later being limiting development to the town centres and areas surrounding the university.<sup>123</sup>

The boom of congregate housing in Seattle was not planned by the City.<sup>124</sup> Rather, it was the result of an existing bylaw loophole. The boom was followed by a bust. A number of developments were permitted prior to the City receiving significant community backlash which caused them to incrementally restrict development until it stalled entirely. Importantly, Seattle was the only jurisdiction where the more broadscale roll-out of micro-suites was not first proceeded by a conscious effort from the local municipal government to explore micro-suites.

<sup>119</sup> See Case Study 4.

<sup>120</sup> See Case Study 2.

<sup>121</sup> See Case Study 8.

<sup>122</sup> See Case Study 6.

<sup>123</sup> See Case Study 5.

<sup>124</sup> See Case Study 1.

## 6.5 Mix of Housing and Ensuring Long-term Viability

Some critics of micro-suites have concerns that they are a fad, and that these developments may become stranded. In general, this may be in contrast with current and projected trends. The number of single-person households is already large and continues to outpace other demographics, cities will continue to become denser moving forward, and affordability issues will persist.<sup>125</sup>

However, the demographics of neighbourhoods can change – and micro-suites are a niche housing form factor that is not suitable for everyone, nor for every stage of life. That is, in part, why many jurisdictions are encouraging a mix of unit sizes within developments incorporating micro-suites.

For example, the recent Zoning for Quality and Affordability amendment in New York City relaxed the minimum 400ft<sup>2</sup> square requirement and instead focuses on density factors, provided the minimum room sizes are adherent to the Building Code, Housing Maintenance Code and Multiple Dwelling Law. The density factors would allow some micro-suites but ultimately prevent a developer from building a fully micro-suite development.<sup>126</sup>

A mix of unit sizes is also encouraged in Vancouver but with flexibility build in for certain developments (like renovation of an SRO hotel). Specific concerns around the long-term viability of micro-suites can also be alleviated through design. As an example, the guidelines put in place by Vancouver request that developers consider the routing of utility services to allow combining of units to meet future housing needs.<sup>127</sup>

In San Francisco, developers have preferred fully micro-suite developments. There are some market rental and ownership condominiums consisting fully of micro-suites and the approach has been successful for dedicated housing application like off-campus student rental housing.<sup>128</sup>

Kelowna has also allowed developments consisting fully of micro-suites.<sup>129</sup>

<sup>125</sup> See Section 1.1.

<sup>126</sup> See Case Study 4.

<sup>127</sup> See Case Study 2.

<sup>128</sup> See Case Study 6.

<sup>129</sup> See Case Study 5.

### Case Study 4: Micro-suite Pilot Building in New York

New York City is home to 8.4 million residents<sup>130</sup> and is facing significant erosion of housing affordability. For example, between 2005 and 2017, the number of apartments with rents less than \$900/month (in 2017 dollars) decreased by 425,000.<sup>131</sup> More than half of these units had rental increases between \$1,051 and \$1,650 per month.<sup>132</sup> At the same time, the number of units with rents greater than \$2,700 per month doubled.<sup>133</sup>

This is indicative of a city-wide shift away from lower-cost rentals. There are a variety of reasons motivating the shift, for example new supply not keeping pace with demand, new supply not being affordable, and high-rent vacancy deregulation when a tenant does not renew a lease, allowing the suite to leave rent regulation.<sup>134</sup>

In 2014, the City released its Housing New York Plan<sup>135</sup> to address the affordability crisis and it was updated in 2017.<sup>136</sup> but a complete discussion of the affordability issues, and the City's plan for tackling them, is beyond the scope of this report.

New Yorkers have a long history of micro-sized living space and examples of the existing stock of micro-suites has been well-documented in media reports.<sup>137,138</sup> These were constructed prior to 1987 when a minimum square footage of 400 ft<sup>2</sup> was introduced to the zoning bylaw as part of the Quality Housing Program.

More recently, the Zoning for Quality and Affordability amendment<sup>139</sup> relaxed the 400 ft<sup>2</sup> square requirement and instead focuses on density factors, provided the minimum room sizes are adherent to the Building Code, Housing Maintenance Code and Multiple Dwelling Law. However, the density factors would ultimately prevent a developer from building a fully micro-suite development.<sup>140</sup>

The most notable example of micro-suites, relevant to this work, come from the adAPT NYC Competition run by the City in 2012/2013. Mayoral overrides waived the 400 ft<sup>2</sup> requirement, as well other requirements, and the winning bid from nArchitects worked extensively with the City to realize the project which was completed in 2016 and named Carmel Place.

The development consists of 55 units in total, averaging 286 ft<sup>2</sup>. The building used modular construction techniques, with modular units being constructed offsite and erected at the building location over a two-week period.<sup>141</sup>

Onsite amenities promote the livability of the space. They include a community room, green roof, rooftop terrace, fitness centre, seating alcoves, bike storage, retail space, additional tenant storage, den/study space, laundry facilities and a patio adjacent to the building.<sup>142</sup>

Units feature 8' tall sliding windows and Juliet balconies, a large storage loft, full bathroom (with shower), 9'-8" ceilings, additional storage closet, convertible furniture including queen-size fold-down bed, conventional fridge, pantry storage, an electric stove, a dishwasher, and other design features aimed at maximizing the efficient use of space and the feeling of volume.<sup>143</sup> The building consists of 40% non-market affordable housing and 60% market rate rentals. Approximately 60,000 people applied for the affordable housing units.<sup>144</sup> Rental rates for the market units are comparable (or greater than) the median price for much larger studios.

There appears to be no formal study on the impacts of Carmel Place but anecdotal reports from tenants are positive.<sup>145,146,147</sup> While tenants do want more space, and may not see this as their permanent living arrangement, micro-living is not viewed as a hardship and it appears to provide a better alternative to their other living options.

<sup>130</sup> United States Census Bureau Quick Facts: New York City, New York. Accessed online Jul 2019; [www.census.gov/quickfacts/newyorkcitynewyork](http://www.census.gov/quickfacts/newyorkcitynewyork)

<sup>131</sup> Scott M. Stringer. The Gap is Still Growing: New York City's Continuing Housing Affordability Challenge. September 25<sup>th</sup>, 2018. New York City Comptroller Website. Accessed online Jul 2019; [comptroller.nyc.gov/reports/the-gap-is-still-growing-new-york-citys-continuing-housing-affordability-challenge/](http://comptroller.nyc.gov/reports/the-gap-is-still-growing-new-york-citys-continuing-housing-affordability-challenge/)

<sup>132</sup> Ibid.

<sup>133</sup> Ibid.

<sup>134</sup> Ibid.

<sup>135</sup> City of New York. Housing New York: A Five-Borough, Ten-year Plan. 2014. Accessed online Jul 2019; [www1.nyc.gov/assets/hpd/downloads/pdf/housing\\_plan.pdf](http://www1.nyc.gov/assets/hpd/downloads/pdf/housing_plan.pdf)

<sup>136</sup> City of New York. Housing New York 2.0. 2017. Accessed online Jul 2019; [www1.nyc.gov/assets/hpd/downloads/pdf/about/hny-2.pdf](http://www1.nyc.gov/assets/hpd/downloads/pdf/about/hny-2.pdf)

<sup>141</sup> nArchitects Website. Accessed online Jul 2019; [narchitects.com/work/carmel-place/](http://narchitects.com/work/carmel-place/)

<sup>142</sup> Ibid.

Carmel Place has not been replicated in New York City and given the recent bylaw amendments, it is likely that future buildings will not consist wholly of micro-suites.

Some important themes from the New York experience include:

- high levels of interest;
- high levels of livability appear possible with effective design;
- tenants don't view micro-living as a hardship (when done well) and see it as a better alternative to other options;
- tenants may see it as a housing solution for a certain stage of life, rather than a permanent option; and
- micro-suite market rentals don't *necessarily* achieve significant affordability improvements.



**Figure 8.** The micro-suites at Carmel place appear to achieve a high level of livability through ample natural light, thoughtful storage and flexible use of space. Note that kitchen and bathroom space is present but behind the camera. (Credit: nArchitects)

<sup>139</sup> NYC Planning. Housing New York: Zoning for Quality and Affordability Overview. June 2016. Accessed online Jul 2019: [www1.nyc.gov/assets/planning/download/pdf/plans-studies/zqa/adoption-overview.pdf?r=1](http://www1.nyc.gov/assets/planning/download/pdf/plans-studies/zqa/adoption-overview.pdf?r=1)

<sup>140</sup> Emily Nonko. Is there a future for micro housing in New York City? Curbed, New York. Sept 16, 2019. Accessed online 07/02/2019: [ny.curbed.com/2016/9/19/12970542/micro-housing-nyc-future-studio-apartments](http://ny.curbed.com/2016/9/19/12970542/micro-housing-nyc-future-studio-apartments)

<sup>141</sup> nArchitects Website. Accessed online Jul 2019: [narchitects.com/work/carmel-place/](http://narchitects.com/work/carmel-place/)

<sup>142</sup> Ibid.

<sup>143</sup> Ibid.

<sup>144</sup> Ronda Kaysen. Leasing Begins for New York's First Micro-Apartments. New York Times. Nov 20 2015. Accessed online Jul 2019: [www.nytimes.com/2015/11/22/realestate/leasing-begins-for-new-yorks-first-micro-apartments.html?\\_r=0&register=google](http://www.nytimes.com/2015/11/22/realestate/leasing-begins-for-new-yorks-first-micro-apartments.html?_r=0&register=google)

<sup>145</sup> Amy Plitt. What it's really like to live in NYC's first micro-suite building. Curbed New York. Sept 22<sup>nd</sup> 2016. Accessed online Jul 2019: [ny.curbed.com/2016/9/22/13019200/nyc-studio-apartment-carmel-place-house-calls](http://ny.curbed.com/2016/9/22/13019200/nyc-studio-apartment-carmel-place-house-calls)

<sup>146</sup> Leanna Garfield. Manhattan's first micro-apartments just won a prestigious design award — here's what it's like to spend a night in one. Business Insider. Jan 17 2017. Accessed online Jul 2019: [www.businessinsider.com/what-its-like-to-live-in-new-yorks-micro-apartments-at-carmel-place-2017-1](http://www.businessinsider.com/what-its-like-to-live-in-new-yorks-micro-apartments-at-carmel-place-2017-1)

<sup>147</sup> Vanessa Quirk. Inside Carmel Place: New York City's First Micro Housing Building. Audio Piece. Metropolis Magazine. Feb 10 2017. Access online Jul 2019: [www.metropolismag.com/architecture/residential-architecture/inside-carmel-place-new-york-citys-first-micro-housing-building/](http://www.metropolismag.com/architecture/residential-architecture/inside-carmel-place-new-york-citys-first-micro-housing-building/)

## 6.6 Incentivization for Developers

Exemption from development cost charges in British Columbia appeared to be a strong incentive for developers. However, the lost revenue for some municipalities was significant. They mitigated the loss by increasing charges for neighbouring developments and scaling back on other measures – like tax incentives for purpose-built rentals – which some claim allowed micro-suite developments to “double-dip.”<sup>148</sup>

In New York, developers were incentivized to submit design proposals for the adAPT NYC micro-suite pilot in part because it was a highly-publicized and prestigious competition.<sup>149</sup>

Vancouver has been more measured in their roll-out of micro-suites in comparison with neighbouring jurisdictions. Through their 60/40 zoning policy, the City has effectively made the opportunity to develop micro-suites an incentive in itself. The policy provides bonus density allotments, which can be used to construct micro-suites, that encourages the development of social housing units and secured rentals. Uptake with that policy appears to be slow. It was implemented in 2014 and the first building to utilize it, The Anjok on 288 East Hastings, was completed in 2018.<sup>150</sup>

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<sup>148</sup> See Case Study 5.

<sup>149</sup> See Case Study 4.

## 6.7 Process for Engagement with the Community

The Seattle experience with congregate housing is a strong example on the consequences of insufficient community engagement for new micro-suite developments in low-density neighbourhoods.<sup>151</sup>

Developers were able to utilize an existing zoning bylaw “loop-hole” to implement high-density micro-suite developments in communities that not adequately notified or prepared for the development.

Community groups lobbied the local government to include a mandatory community review process. Developers claimed the review process was overly onerous and co-opted as a stall tactic. Combined with other factors, this effectively led to a moratorium. It's important to note that this is an extreme example and **such vehement opposition was not seen in any other jurisdiction.**

Proponents of congregate housing contend that the backlash was simply NIMBYism, but other experts have observed that in some of these cases there was a real loss of value to local residents.

Experts argue that there ought to have been a process in place for residents to have their concerns adequately addressed and, if need be, for developers to compensate residents for the loss of value by adding value to the community in some other way (for example, through the addition park space or contributions to other community amenities).

<sup>150</sup> See Case Study 2.

<sup>151</sup> See Case Study 1.

## 6.8 Ensuring Affordability

An important observation from the jurisdictional scan is that micro-suites do not in-and-of-themselves ensure affordability when the units are market rentals. They can be accompanied by premium finishes and be in trendy areas – both of which can drive up costs. In some cases, micro-suites have rented at the same rate as much larger conventional studio apartments. Carmel Place in New York is an excellent example of this, with a recent micro-suite listing asking \$2,850/month.<sup>152</sup>

It follows that other measures have been needed to ensure affordability. Carmel Place consisted of 40% subsidized affordable housing and 60% market rental units. The rental rates of subsidized was significantly below market value and demand was so high that 60,000 applications were received for 22 subsidized units.<sup>153</sup> Micro-suite community housing has been deployed elsewhere – including Hamilton, ON,<sup>154</sup> Vancouver,<sup>155</sup> as well as other BC municipalities.<sup>156</sup>

The development guidelines provided by Vancouver stipulate the rents should be below market value compared to other studios or one-bedroom in the area, and also that affordability targets may be applied and rental amounts may be secured in housing agreements.<sup>157</sup>

The deepest levels of affordability may have been achieved in the Seattle congregate housing units and this is primarily because these units drove down the square footage to greatest degree – with some units as small as 140 ft<sup>2</sup> – by incorporating shared kitchen space. One Seattle architect argued that congregate housing micro-suites could rent at \$900 when conventional studios were renting much higher, at \$1,400.<sup>158</sup>

In heated real estate markets, market ownership units have been reported to be subject to a high degree of speculation which can drive up ownership costs and prevent units from actually housing anyone. In BC, speculation taxes have been used to deter unoccupied units.<sup>159</sup>

<sup>152</sup> City Realty. Carmel Place, 335 East 27th Street, #9C. Listed Oct 2, 2019. Accessed online Oct 2019: [www.cityrealty.com/nyc/murray-hill/carmel-place-335-east-27th-street/apartment-9C/HSGPloQllrz](http://www.cityrealty.com/nyc/murray-hill/carmel-place-335-east-27th-street/apartment-9C/HSGPloQllrz)

<sup>153</sup> See Case Study 4.

<sup>154</sup> See Case Study 3.

<sup>155</sup> See Case Study 2.

## 6.9 Study of Impacts

Another common theme across all jurisdictions is that micro-suites are sufficiently new that there is minimal formal scientific study that provides insights on the actual benefits and impacts for communities – either in existing developments or projecting into the future. It is for this reason that this study has had to rely primarily on non-academic sources.

This is a barrier because it leaves unanswered questions and concerns to jurisdictions interested in implementing micro-suites, causing them to proceed with a high degree of caution.

For example, there are concerns around

- the health and well-being of tenants;
- the overall impacts removing affordable already-existing SROs units from the market in favour of higher-end micro-suites;
- impacts of increased density on infrastructure;
- whether or not they will provide housing that is more affordable;
- how they impact the rental rates of other units;
- and a number of other factors.

Conversely, the benefits are also not studied, and this prevents a fair assessment of the opportunity. Potential benefits may include:

- *improvements* in health and well-being;
- removal of individuals from unsafe illegal rooming houses;
- freeing up of larger 2- or 3-bedroom units for families;
- positive economic impacts from attracting young professionals and companies to the City;
- energy conservation;
- reduced commuting times;
- reduced congestion; and
- reduced carbon emissions.

<sup>156</sup> See Section 6.12.

<sup>157</sup> See Case Study 2.

<sup>158</sup> David Neiman. "How Seattle Killed Micro-Housing." Sightline Institute. Sept. 6, 2016. Accessed online Jun 2019: [www.sightline.org/2016/09/06/how-seattle-killed-micro-housing/](http://www.sightline.org/2016/09/06/how-seattle-killed-micro-housing/)

<sup>159</sup> See Case Study 2.

### Case Study 5: Micro-suite Boom in Kelowna

As discussed in the Vancouver Case Study, micro-suites developments have been incentivized by the British Columbia government through a policy which saw development cost charges (DCCs) waived for the construction of units less than 29 m<sup>2</sup> (313 ft).<sup>160</sup>

Kelowna is approximately 400 km to the east of Vancouver. It has a much smaller population than Vancouver, approximately 200,000<sup>161</sup>, but has faced many of the same housing issues – including extremely low vacancy rates<sup>162</sup> and rapidly increases property values.<sup>163</sup>

Increased demand for micro-suites in Kelowna has been described by city staff as “overwhelming.”<sup>164</sup> The concept is new to the City but, as of June 2016, there were more than 500 units less than 314 ft<sup>2</sup> under construction<sup>165</sup>, sited around the city’s town centres and university campus.<sup>166</sup>

The loss of revenue from DCCs was substantial for the first micro-suite developments through the pipeline, and the City began considering changes to mitigate that loss – specifically the reduction of other tax incentives for micro-suites designed to be rentals – noting that the DCC exemption was a sufficient incentive on its own.<sup>167</sup>

A notable micro-suite development in Kelowna is Cambridge House, a 5-storey building with 192 market condominium units composed mostly of studios that are 313 ft<sup>2</sup>.<sup>168</sup> Estimates put the number of investment properties (as opposed to owner-occupied units) in the building units at 50%,<sup>169</sup> or even 75%.<sup>170</sup>

The developer, K West Homes, has noted that units changed hands about 40 times prior to registration<sup>171</sup>, and that trend continued after<sup>172</sup> – suggesting a high amount of speculation. Note that a speculation tax was introduced by the Province, starting in 2019, to help ensure investment properties are occupied by renters.<sup>173</sup>

A few years after registration, the Cambridge House development has received some criticism. There is dissatisfaction among some residents that claim the parking and other on-site services are insufficient for the quantity of residents.<sup>174</sup>

There is also criticism that the development is not actually providing more affordable rental housing, with claims that rents are comparable to one-bedroom units.<sup>175</sup> However, in summer 2018, the asking price for some micro-suites sold in the complex was less than \$200,000<sup>176</sup> (compared to the 2019 Q1 median condo price of \$447,260 in Kelowna<sup>177</sup>) showing that the purchase price for some units is still well below the median in the area.

The development on 2127 Ethel St.<sup>178</sup> (Fig. 10) is also worth noting because it showcases that micro-suites can be effectively done as infill and in relatively small buildings. It is a simple, traditional and aesthetically-pleasing 2-story stacked town that integrates well into the surrounding residential neighbourhood. It consists of 24 units that are less than 320 ft<sup>2</sup>. This development was approved prior to the ruling that micro-suites should be limited to the town centres.<sup>179</sup>

<sup>160</sup> Local Government Act; Section 561; Subsection 7 (a). Accessed online Oct 2019: [www.bclaws.ca/civix/document/id/complete/statreg/r15001\\_14](http://www.bclaws.ca/civix/document/id/complete/statreg/r15001_14)

<sup>161</sup> Statistics Canada. 2016 Census Data. Accessed online Jun 2019: [www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/details/page.cfm?Lang=E&Geo1=CMA&Code1=915&Geo2=PR&Code2=47&Data=Count&SearchText=Kelowna&SearchType=Begins&SearchPR=01&B1=All](http://www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/details/page.cfm?Lang=E&Geo1=CMA&Code1=915&Geo2=PR&Code2=47&Data=Count&SearchText=Kelowna&SearchType=Begins&SearchPR=01&B1=All)

<sup>162</sup> Vacancy rates increased from a very low 0.2% to a more reasonable 1.9% between October 2017 and November 2018 due to the increase in housing supply which surpassed demand. See: Dylan McCullough. Average rental price and vacancy rates for Canadian cities released. Kelowna Now. Nov. 28, 2018. Accessed online Jun 2019: [www.kelownanow.com/watercooler/news/news/Kelowna/Average\\_rental\\_vacancy\\_rates\\_and\\_prices\\_across\\_Canada\\_released/#fs\\_74880](http://www.kelownanow.com/watercooler/news/news/Kelowna/Average_rental_vacancy_rates_and_prices_across_Canada_released/#fs_74880)

<sup>163</sup> Between 2017 and 2018 property values in Kelowna increased by 17%. See: Dylan McCullough. Central Okanagan sees big property value increase in 2018 BC Assessment. Jan 2, 2018. Accessed online Jun 2019: [www.kelownanow.com/watercooler/news/news/Real\\_Estate/2018\\_BC\\_assessments\\_shows\\_big\\_increase\\_Okanagan\\_property\\_values/](http://www.kelownanow.com/watercooler/news/news/Real_Estate/2018_BC_assessments_shows_big_increase_Okanagan_property_values/)

<sup>171</sup> Carli Berry. Small homes, small benefits: Speculators eye up Kelowna’s micro suite pool. Kelowna Capital News. Nov. 23, 2018. Accessed online Jun 2019: [www.kelownacapnews.com/news/small-homes-small-benefits-speculators-eye-up-kelownas-micro-suite-pool/](http://www.kelownacapnews.com/news/small-homes-small-benefits-speculators-eye-up-kelownas-micro-suite-pool/)

<sup>172</sup> Ibid.

<sup>173</sup> Ibid.

<sup>174</sup> Caitlin Clow. Cambridge House strata council says no room for retail. Kelowna Capital News. May. 23, 2019. Accessed online Jun 2019: [www.kelownacapnews.com/news/cambridge-house-strata-council-says-no-room-for-retail/](http://www.kelownacapnews.com/news/cambridge-house-strata-council-says-no-room-for-retail/)

<sup>175</sup> Carli Berry. Rent isn’t cheaper in a Kelowna micro suite. Kelowna Capital News. Nov. 24, 2018. Accessed online Jun 2019: [www.kelownacapnews.com/news/rent-isnt-cheaper-in-a-kelowna-micro-suite/](http://www.kelownacapnews.com/news/rent-isnt-cheaper-in-a-kelowna-micro-suite/)

Highlights from the micro-suite experience in Kelowna include:

- High volume of applications from developers for the construction of micro-suites
- High demand from renters and potential owners with developments quickly selling out
- Speculation and investment properties for the market units
- Initial incentives for micro-suite developments may have been overly generous causing the City to consider scaling back
- Some developments were approved prior to regulations limiting the developments to certain areas of the city
- Different form factors are possible, including stacked townhouses that integrate well into existing neighbourhoods to more conventional looking large MURBs
- Amenities may have been insufficient in some developments to meet needs of some tenants



**Figure 9.** The 24-unit stacked townhouse micro-suite development on 2127 Ethel St. was constructed on a vacant lot and integrates well into the surrounding neighbourhood (Credit: Google Maps).

<sup>169</sup> Carli Berry. Small homes, small benefits: Speculators eye up Kelowna's micro suite pool. Kelowna Capital News. Nov. 23, 2018. <https://www.kelownacapnews.com/news/small-homes-small-benefits-speculators-eye-up-kelownas-micro-suite-pool/>

<sup>170</sup> Carli Berry. Rent isn't cheaper in a Kelowna micro suite. Kelowna Capital News. Nov. 24, 2018. <https://www.kelownacapnews.com/news/rent-isnt-cheaper-in-a-kelowna-micro-suite/>

<sup>171</sup> Carli Berry. Small homes, small benefits: Speculators eye up Kelowna's micro suite pool. Kelowna Capital News. Nov. 23, 2018. Accessed online Jun 2019: [www.kelownacapnews.com/news/small-homes-small-benefits-speculators-eye-up-kelownas-micro-suite-pool/](http://www.kelownacapnews.com/news/small-homes-small-benefits-speculators-eye-up-kelownas-micro-suite-pool/)

<sup>172</sup> Ibid.

<sup>173</sup> Ibid.

<sup>174</sup> Caitlin Clow. Cambridge House strata council says no room for retail. Kelowna Capital News. May. 23, 2019. Accessed online Jun 2019: [www.kelownacapnews.com/news/cambridge-house-strata-council-says-no-room-for-retail/](http://www.kelownacapnews.com/news/cambridge-house-strata-council-says-no-room-for-retail/)

<sup>175</sup> Carli Berry. Rent isn't cheaper in a Kelowna micro suite. Kelowna Capital News. Nov. 24, 2018. Accessed online Jun 2019: [www.kelownacapnews.com/news/rent-isnt-cheaper-in-a-kelowna-micro-suite/](http://www.kelownacapnews.com/news/rent-isnt-cheaper-in-a-kelowna-micro-suite/)

<sup>176</sup> Ibid.

<sup>177</sup> Dylan McCullough. House prices rebound to start the year in Kelowna. Kelowna Now. Apr 4, 2019. Accessed online Jun 2019: [www.kelownanow.com/watercooler/news/news/Real\\_Estate/House\\_prices\\_rebound\\_to\\_start\\_the\\_year\\_in\\_Kelowna/](http://www.kelownanow.com/watercooler/news/news/Real_Estate/House_prices_rebound_to_start_the_year_in_Kelowna/)

<sup>178</sup> See the development webpage at [worman.ca/micro-suites](http://worman.ca/micro-suites).

<sup>179</sup> Alistair Waters. Micro-suites put in their place by Kelowna council. Kelowna Capital News. Oct 13, 2015. Accessed online Jun 2019: [www.kelownacapnews.com/opinion/micro-suites-put-in-their-place-by-kelowna-council/](http://www.kelownacapnews.com/opinion/micro-suites-put-in-their-place-by-kelowna-council/)

### Case Study 6: Micro-suites in San Francisco

New MURB micro-suite developments started earlier in San Francisco than in other jurisdictions. For example, in 2006, a building formerly used as a Methodist book publisher was converted to 60 condominiums from 260 to 500 ft<sup>2</sup> in a development called The Book Concern.<sup>180</sup> In 2008, this was followed by another major development, Cubix Condos, featuring 98 studios from 250 to 350 ft<sup>2</sup>.<sup>181</sup> Cubix has no on-site parking.<sup>182</sup>

At the time of these developments the San Francisco Building code allowed units as small as 220 ft<sup>2</sup> in addition to the area required for closets and bathrooms. However, the California Building Code allowed smaller units. In 2012, the San Francisco Building Code was amended to allow market units with a *total area* (including closets, living space, bathroom, etc.) as small as 220 ft<sup>2</sup>.<sup>183</sup> This began as a trial with the City stating they would allow 375 units under the new regulation, reviewing the results after 325 were constructed.<sup>184</sup> Results are not yet available to the authors' knowledge. Some of the arguments put forth in favour of the smaller unit sizes included that:<sup>185</sup>

- it would allow the more cost-effective creation of transitional housing for the homeless (with San Francisco having a very high homeless population);
- it would more cost-effectively meet the needs of students (of which there are 125,000 attending post-secondary in the City) relieving the pressure on units capable of housing families;
- it would more cost-effectively house low-income and special needs individuals, as well as facilitate the conversion of underutilized tourist hotels.

Detractors argued that the units will cater almost exclusively to young higher-income tech workers and continue to drive up rents, while not providing options for families.<sup>186</sup> They also argue that spaces this small may not be healthy and this sets a concerning precedent.<sup>187</sup>

One of the first buildings including units build under the new regulations, completed in 2015, was The Panoramic on 1321 Mission St.<sup>188</sup> from developer Panoramic Interests.<sup>189</sup> An existing vacant building, formerly a furniture store, was demolished to allow the dense mixed-use development featuring 120 micro-studios (averaging approximately 275 ft<sup>2</sup>) and 40 larger suites. The Panoramic has no on-site parking.<sup>190</sup>

On-site amenities include a lounge on each floor, roof deck green-space and entertainment areas, café and wine bar, bike parking and repair stations, as well as other features. The building contains only one parking space to be used for a car share vehicle. It has been master-leased to the California College of Arts<sup>191</sup> and consists entirely of student housing units, which are not included in 375 unit cap.<sup>192</sup>

Official numbers on the extent of micro-suite development in San Francisco are not publicly available. In terms of the market-rate developments, a 2015 study noted one condominium development in addition to The Panoramic and a handful of other buildings in various stages of completion.<sup>193</sup>

It follows that micro-suite development has not been rapid. Patrick Kennedy, from Panoramic Interests, has argued that the regulatory complexity within San Francisco has pushed developers to neighbouring jurisdictions like Oakland or Berkeley.<sup>194</sup> The City reports they are currently taking measures to streamline the process.<sup>195</sup>

<sup>180</sup> Kathleen Pender. Tiny living: What it's like after the honeymoon period. San Francisco Chronicle. June 25 2016. Accessed online Jul 2019: [www.sfchronicle.com/business/networth/article/Tiny-living-What-it-s-like-after-the-honeymoon-8324266.php#photo-10424919](http://www.sfchronicle.com/business/networth/article/Tiny-living-What-it-s-like-after-the-honeymoon-8324266.php#photo-10424919)

<sup>181</sup> Ibid.

<sup>182</sup> Zumper. 766 Harrison St. Accessed online Oct 2019: [www.zumper.com/apartments-for-rent/27314364/studio-soma-san-francisco-ca](http://www.zumper.com/apartments-for-rent/27314364/studio-soma-san-francisco-ca)

<sup>183</sup> See 2016 San Francisco Building Code Section 1208.4. Accessed online Aug 2019: [library.amlegal.com/nxt/gateway.dll/California/sfbuilding/sanfranciscobuildinginspectioncommission?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco\\_ca\\$sync=1](http://library.amlegal.com/nxt/gateway.dll/California/sfbuilding/sanfranciscobuildinginspectioncommission?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca$sync=1)

<sup>184</sup> Lori Preuit. Minimum Living Space in SF is Now 220 Sq. Feet. NBC Bay Area. Nov 20<sup>th</sup>, 2012. Accessed online Aug 2019: [www.nbcbayarea.com/news/local/Minimum-Living-Space-in-SF-Now-220-Sq-Foot-180257571.html](http://www.nbcbayarea.com/news/local/Minimum-Living-Space-in-SF-Now-220-Sq-Foot-180257571.html)

<sup>185</sup> Malia Wollan. San Franciscans Divide Over Pint-Size Apartments. New York Times. Sept 26<sup>th</sup>, 2012. Accessed online Aug 2019: [www.nytimes.com/2012/09/27/us/micro-suite-apartment-proposal-divides-san-francisco.html](http://www.nytimes.com/2012/09/27/us/micro-suite-apartment-proposal-divides-san-francisco.html)

<sup>187</sup> Ibid.

<sup>188</sup> See: San Francisco Planning Department Executive Summary Hearing Date January 10<sup>th</sup>, 2013, Case No. 2011.0312 CEKWXI. Accessed online Aug 2019: [commissions.sfplanning.org/cpcpackets/2011.0312CEKWXI.pdf](http://commissions.sfplanning.org/cpcpackets/2011.0312CEKWXI.pdf)

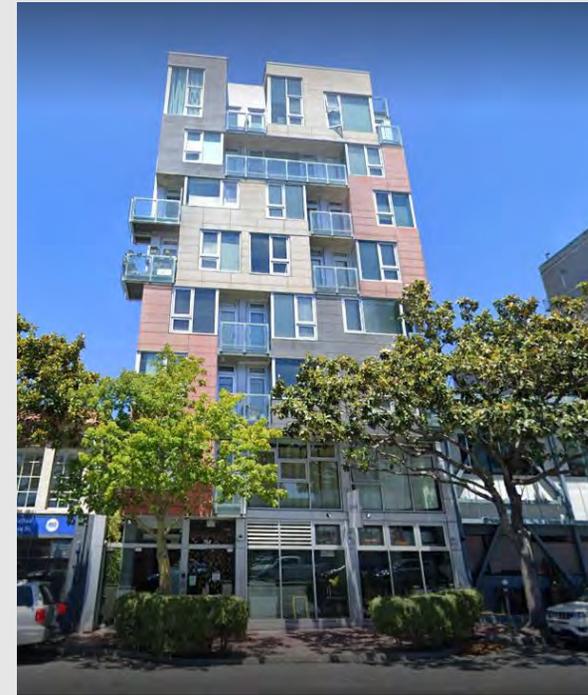
<sup>189</sup> An overview is provided at: Panoramic Interests. CITYSPACES@ 1321 The Panoramic. Accessed online Aug 2019: [www.panoramic.com/cityspaces-location/mission-san-francisco/](http://www.panoramic.com/cityspaces-location/mission-san-francisco/)

<sup>190</sup> Panoramic Residences Website. Accessed online Oct 2019: [www.panoramicalivingsf.com/page-faq.html](http://www.panoramicalivingsf.com/page-faq.html)

Also of note within the San Francisco context, as well as the surrounding area, is growing interest towards modular prefabricated micro-suites, specifically applied in the context of non-market community housing. In 2017, the City tendered an RFQ for a supportive housing development, constructed using modular techniques, to replace an existing parking lot.<sup>196</sup> The contract was ultimately awarded to Mercy Housing in partnership with Episcopal Community Services (ECS).<sup>197</sup>

The size of the housing was not specified within the RFQ. However, modular prefabricated micro-suite options are available. Panoramic Interests has developed a modular micro-suite they are calling the MicroPAD (portable accessory dwelling). It is a 160 ft<sup>2</sup> fully furnished studio apartment with kitchen, bath, storage and convertible bed, in a stackable steel container.<sup>198</sup>

They have proposed the MicroPAD as a solution to homelessness in the City. They claim that modular pre-fabricated units allow them to reduce construction costs by 40%, shorten construction times, and better use existing space. Panoramic has proposed to construct the units and then lease them to the City but no agreement has yet been achieved. Panoramic claims the main barrier is opposition from “certain elements of organized labour” which would prefer to see the units fabricated locally instead of overseas.<sup>199</sup> They’ve finished a development using a larger version (~300 ft<sup>2</sup>) of the MicroPAD in neighbouring Berkeley to be used as graduate student housing.<sup>200</sup>



**Figure 10.** Cubix Condos was completed in 2008. It features 98 studios from 250 to 350 ft<sup>2</sup>. (Credit: Google Maps).

<sup>190</sup> Panoramic Residences Website, Accessed online Oct 2019: [www.panoramiclivingsf.com/page-faq.html](http://www.panoramiclivingsf.com/page-faq.html)

<sup>191</sup> Blanca Torres. Prolific developer strikes again with more student housing projects in San Francisco and Berkeley. San Francisco Business Times. June 5<sup>th</sup>, 2018. Accessed online Jul 2019: [www.bizjournals.com/sanfrancisco/news/2018/06/05/panoramic-interests-student-housing-san-francisco.html](http://www.bizjournals.com/sanfrancisco/news/2018/06/05/panoramic-interests-student-housing-san-francisco.html)

<sup>192</sup> The Executive Summary for the planning meeting (referenced above) states student housing is not included in the cap.

<sup>193</sup> Gabbe, C. J. (2015). Looking through the lens of size: Land use regulations and micro-apartments in San Francisco. *Cityscape*, 17 (2). Accessed online Aug 2019: [scholarcommons.scu.edu/cgi/viewcontent.cgi?article=1041&context=ess](http://scholarcommons.scu.edu/cgi/viewcontent.cgi?article=1041&context=ess)

<sup>194</sup> Julie Littman. Some Developers 'Terrified' Of Entering San Francisco's Development Process. But City Is Working To Improve It. Bisnow. Accessed online Aug 2019: [www.bisnow.com/san-francisco/news/construction-development/san-francisco-policy-87227](http://www.bisnow.com/san-francisco/news/construction-development/san-francisco-policy-87227)

<sup>195</sup> Ibid.

<sup>196</sup> San Francisco Mayor's Office of Housing and community Development. 1064-1068 Mission St RFQ . Accessed online Aug 2019: [sfmohcd.org/1064-1068-mission-st-rfq](http://sfmohcd.org/1064-1068-mission-st-rfq)

<sup>197</sup> Joshua Sabatini. Homeless housing project slated for completion by August 2021. San Francisco Examiner. June 20<sup>th</sup>, 2019. Accessed online Aug 2019: [www.sfoxaminer.com/the-city/homeless-housing-project-slated-for-completion-by-august-2021/](http://www.sfoxaminer.com/the-city/homeless-housing-project-slated-for-completion-by-august-2021/)

<sup>198</sup> Panoramic Interests, MicroPAD Brochure. Accessed online Aug 2019: [www.panoramic.com/wp-content/uploads/2016/11/MicroPAD-Exec-Summary-Revised-11-29-2016-Rev-3.pdf](http://www.panoramic.com/wp-content/uploads/2016/11/MicroPAD-Exec-Summary-Revised-11-29-2016-Rev-3.pdf)

<sup>199</sup> Scott Beyer. America's Progressive Developers, San Francisco Edition: Patrick Kennedy. Forbes. Mar. 31<sup>st</sup>, 2018. Accessed online Aug 2019: [www.forbes.com/sites/scottbeyer/2018/03/31/americas-progressive-developers-san-francisco-edition-patrick-kennedy/#503baba84722](http://www.forbes.com/sites/scottbeyer/2018/03/31/americas-progressive-developers-san-francisco-edition-patrick-kennedy/#503baba84722)

<sup>200</sup> Adele Peters. Can these pre-fab modular apartments help house the homeless? Fast Company. 08/22/2019. Accessed online Aug 2019: [www.fastcompany.com/90219330/can-pre-fab-shipping-container-apartments-house-the-homeless](http://www.fastcompany.com/90219330/can-pre-fab-shipping-container-apartments-house-the-homeless)

### Case Study 7: Modular Prefab Micro-suites In British Columbia

There were an estimated 3,605 individuals found to be experiencing homelessness in Metro Vancouver in 2017, and this represented a 30% increase from 2014 despite an average population growth of only 6.5%.<sup>201</sup> To begin to address the homelessness crisis, the BC government committed \$66 million to create 600 modular housing units in Vancouver to be used as transitional housing.<sup>202</sup> This was part of a broader effort to generate 2,000 units provincially.<sup>203</sup> As of February 2020, The Vancouver Affordable Housing Agency (VAHA) website shows 606 units approved or currently under construction.<sup>204</sup> This is across 20 buildings – 11 of which are now listed as complete (as of February 2020).<sup>205</sup> The benefits of temporary modular housing for this application from the City's perspective are:<sup>206</sup>

- it can be constructed in ~3 months on underused sites across the city;
- it can provide immediate relief to hundreds of people without a home;
- it can provide the right supports until permanent housing is available; and
- it can be relocated and reconfigured to fit different sites.

As an example, Margaret Mitchell Place is a recently completed building by manufactured housing builder Horizon North for VAHA. The building consists of 52 units at 320 ft<sup>2</sup> each (slightly larger for the units designed to be wheelchair accessible). Note that units in other VAHA buildings are as small as 250 ft<sup>2</sup>. Each modular unit is a studio apartment with combined living/sleeping, a kitchenette, bathroom, and individual heating system. The completed building also contains additional amenity space to encourage social interaction and meeting rooms to support the tenants. The modular units were factory built in Kamloops BC and transported to Vancouver. Design started in 2018 Q1; manufacturing in Q2; and on-site construction started and completed in Q3.<sup>207</sup>



**Figure 11.** M. Mitchell Place in Vancouver provides immediate housing relief to vulnerable individuals. It consists of 52 modular prefabricated micro-suites at 320 ft<sup>2</sup> each. (Credit: Google Maps)

Construction costs on a per unit area basis for this style of construction were reported to be comparable to conventional wood-frame construction for low-rise buildings in the area.<sup>208</sup> However, this metric can be misleading. The most expensive rooms in any dwelling, the kitchen and the bathroom, are needed regardless of the unit size. If a micro-sized unit constructed from modular techniques can achieve comparable cost on a per unit area basis versus conventional sized units built with conventional techniques, then that means the modular construction technique is less costly overall and more units can be achieved for the same cost.

<sup>201</sup> BC Non-Profit Housing Association and M. Thomson Consulting. 2017 Homeless Count in Metro Vancouver: Final Report. September 2017. Accessed online Feb 2020: [stophomelessness.ca/wp-content/uploads/2017/11/2017MetroVancouverHomelessCount\\_Nov2017.pdf](http://stophomelessness.ca/wp-content/uploads/2017/11/2017MetroVancouverHomelessCount_Nov2017.pdf)

<sup>202</sup> City of Vancouver Website. Temporary Modular Housing. Accessed online Feb 2020: [vancouver.ca/people-programs/temporary-modular-housing.aspx](http://vancouver.ca/people-programs/temporary-modular-housing.aspx)

<sup>203</sup> BC Housing Website. Rapid Response to Homelessness. Accessed online Feb 2020: [www.bchousing.org/projects-partners/Building-BC/RRH-program](http://www.bchousing.org/projects-partners/Building-BC/RRH-program)

<sup>204</sup> VAHA Website. Accessed online Feb 2020: [vaha.ca/projects/](http://vaha.ca/projects/)

<sup>205</sup> Units listed as complete on the VAHA website ([vaha.ca/projects/](http://vaha.ca/projects/)) include 7430 & 7460 Heather Street (Reiderman Residence); 1131 Franklin Street (Chartrand Place) with 39 units; 525 Powell Street (Aneki House for Women) with 39; 4480 Kaslo Street (Sarah Ross House) with 52 units; 2132 Ash Street (M. Mitchell Place) with 52 units; 137 East 37th Avenue (Iltiel Mountain) with 46 units; 610 and 620 Cambie Street with 98 units; 5077 and 5095 Heather Street with 98 units; 265 West 1st Avenue with 52 units; 258 Union Street with 52 units; and 220 Terminal Avenue with 40 units. Units are 250 to 320 ft<sup>2</sup>.

<sup>206</sup> These benefits are taken nearly verbatim from the City of Vancouver website. Accessed online Feb 2020: [vancouver.ca/people-programs/temporary-modular-housing.aspx](http://vancouver.ca/people-programs/temporary-modular-housing.aspx)

<sup>207</sup> Horizon North Blog. Modular Built Units Provide Affordable Living for Vulnerable Citizens. Oct 3<sup>rd</sup>, 2018. Accessed online Feb 2020: [www.horizonnorth.ca/modular-affordable-housing/](http://www.horizonnorth.ca/modular-affordable-housing/)

<sup>208</sup> CMHC. Housing Research Report: Evaluation of a Movable, Modular Affordable Housing Project. Accessed online Feb 2020: [heppdsrsmssa01.blob.core.windows.net/cmhcprodcontainer/st/project/archive/research\\_2/evaluation-of-a-movable-modular\\_ahp\\_.pdf](https://heppdsrsmssa01.blob.core.windows.net/cmhcprodcontainer/st/project/archive/research_2/evaluation-of-a-movable-modular_ahp_.pdf)

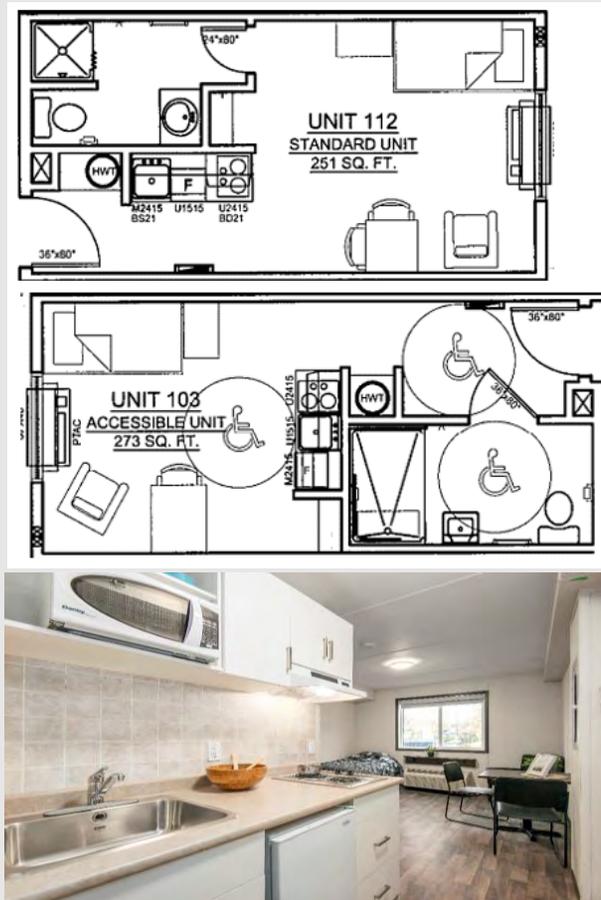


Figure 12. (Top) Example layouts of modular housing units at 220 Terminal Ave. (Bottom) Interior of unit at 220 Terminal Ave. (Credit: Horizon North)

Modular constructions techniques allowed City to cost-effectively make significant progress towards reducing homelessness in a short amount of time. However, their implementation has not been without its challenges. News reports documented that much of the feedback from local residents regarding proposed new modular developments in their neighbourhoods was negative, with security as a primary concern. In some neighbourhoods, the opposition was nearly unanimous. The proximity to schools and the safety of children were commonly mentioned factors.<sup>209</sup>

Proponents argue that homeless individuals themselves that are the most likely victims of violence and discrimination and this highlights the importance of finding them immediate housing options. To address the concerns around safety and other issues, community advisory committees were established as part of the development process. Student groups (whose safety was the point of concern) have organized to support the developments. They argued that it was NIMBYism and discrimination that was motivating the opposition.<sup>210</sup> It's also important to note that not all feedback has been negative. Community members have also gathered to welcome their new neighbours in these buildings.<sup>211</sup> It follows that there are both proponents and detractors within the community. Success can be fostered by addressing the concerns of detractors while also harnessing the support of proponents.

Tenant experience in one of the modular buildings was evaluated using surveys conducted one year after occupancy. The study evaluated the building on 220 Terminal Ave, which opened in February 2017 and consists of 40 modular units with an area of 250 ft<sup>2</sup> each. Overall, 84% of survey respondents indicated that they were satisfied or very satisfied with their housing and no respondents were unsatisfied or very unsatisfied.<sup>212</sup> The Vancouver experience with temporary modular housing is an important case study that demonstrates how small housing forms can be utilized to rapidly respond to homelessness in a way that is cost-effective and achievable within the cityscape. This solution is no being deployed in Toronto, with 110 units planned for completion by September 2020, and 250 unit it total.

<sup>209</sup> Saša Lakić. Documents show mixed response to temporary modular housing across Vancouver. Vancouver Courier. March 14, 2018. Accessed online Feb 2020: [www.vancourier.com/news/documents-show-mixed-response-to-tempora-vancouver.ca/people-programs/temporary-modular-housing-neighbours-meeting-neighbours-ry-modular-housing-across-vancouver-1.23201956](http://www.vancourier.com/news/documents-show-mixed-response-to-tempora-vancouver.ca/people-programs/temporary-modular-housing-neighbours-meeting-neighbours-ry-modular-housing-across-vancouver-1.23201956)

<sup>210</sup> Anna Dimoff. Marpole students raise voices in support of neighbourhood modular housing. CBC News. Nov 15, 2017. Accessed online Feb 2020: [www.cbc.ca/news/canada/british-columbia/marpole-students-raise-voices-in-support-of-neighbourhood-modular-housing-project-1.4404509](http://www.cbc.ca/news/canada/british-columbia/marpole-students-raise-voices-in-support-of-neighbourhood-modular-housing-project-1.4404509)

<sup>211</sup> City of Vancouver Website. Neighbours Meeting Neighbours. Accessed online Feb 2020: [vancouver.ca/people-programs/temporary-modular-housing-neighbours-meeting-neighbours](http://vancouver.ca/people-programs/temporary-modular-housing-neighbours-meeting-neighbours).

<sup>212</sup> CMHC. Housing Research Report: Evaluation of a Movable, Modular Affordable Housing Project. Accessed online Feb 2020: [heppdscrmssa01.blob.core.windows.net/cmhcprodcontainer/sf/project/archive/research\\_2/evaluation-of-a-movable-modular\\_ahp\\_.pdf](http://heppdscrmssa01.blob.core.windows.net/cmhcprodcontainer/sf/project/archive/research_2/evaluation-of-a-movable-modular_ahp_.pdf)

## 6.10 Minimum Area Requirements

Minimum square footage requirements are put in place for different reasons, among them is to ensure the health and well-being of tenants and the livability of units. However, some micro-suite advocates point to the fact that historical minimum square footage requirements can be arbitrary and not actually based on evidence.

Notably, recent National Healthy Housing Standard, prepared by the National Centre for Healthy Housing and the American Public Health Association, does not recommend a minimum overall square footage for a dwelling – only minimum size for rooms within a dwelling.<sup>213</sup>

For the jurisdictions considered in this study:

- After their pilot micro-suite building which had units averaging 286 ft<sup>2</sup>, New York City recently removed their requirement of 400 ft<sup>2</sup> minimum area.<sup>214</sup>
- Vancouver has a minimum area requirement of 398 ft<sup>2</sup> which was relaxed to 250 ft<sup>2</sup> for their Downtown Eastside micro-suite pilot.<sup>215</sup>
- Seattle initially allowed congregate housing units as small as 140 ft<sup>2</sup> but this was changed incrementally until only more conventional studios were allowed.<sup>216</sup>
- San Francisco Building code allowed units as small as 220 ft<sup>2</sup> in addition to closets and bathrooms. However, the California Building Code allowed smaller units. In 2012, the San Francisco Building Code was amended to allow market units with a *total area* (including closets, living space, bathroom, etc.) as small as 220 ft<sup>2</sup> as part of a micro-suite pilot.<sup>217</sup>
- The Boston City Living Pilot (See Case Study 8) specified maximum, rather than minimum, areas at 450 ft<sup>2</sup>.<sup>218</sup>

<sup>213</sup> National Center for Healthy Housing & American Public Health Association. (2014, May 16). *National healthy housing standard*. Columbia, MD: National Center for Healthy Housing. Accessed online Oct 2019: [nchh.org/resource-library/national-healthy-housing-standard.pdf](http://nchh.org/resource-library/national-healthy-housing-standard.pdf)

<sup>214</sup> See Case Study 4.

<sup>215</sup> See Case Study 2.

<sup>216</sup> See Case Study 1.

<sup>217</sup> See Case Study 6.

## 6.11 Minimum Parking Requirements

A key factor that can impact the affordability of micro-suite units is the parking requirements. One of the main arguments for micro-suites is that they are a solution for dense urban areas that allow individuals access to city amenities – one of which is public transit – which immediately suggests that reduced parking requirements are reasonable.

The Boston City Living Pilot has taken the most interesting approach to transportation and parking of the jurisdictions considered. The City was clear that on-street parking permits were *not* available for micro-suite developments. Off-street parking requirements are first determined based on the proximity of the development to a transit stop.<sup>219</sup>

A number of different options are then available whereby the developer can satisfy those requirements. The options vary from additional bicycle parking/storage, bike share station, car share stop, shuttle service, subsidized transit for residents, as well as a host of other options. There also points for adding unbundled parking spots. The rationale is: if affordability is the goal – why force individuals to pay for parking they may not need?

In Seattle, parking requirements for micro-suites were also reduced when the developments occurred on the frequent-fast-transit network where the location was serviced by transit at least every 15 minutes.<sup>220</sup>

Cubix Condos in San Francisco, consisting of 98 micro-suites, was constructed with no on-site parking. The Panoramic, another primarily micro-suite development in San Francisco, also has no on-site parking but it is being used only for students and interns.<sup>221</sup>

Micro-suite developments in BC municipalities have also been constructed with no parking.<sup>222</sup> Notably, the limited parking has been voiced as an issue for residents in Kelowna but it is not a dense urban centre to the same extent as other jurisdiction considered in this study.<sup>223</sup>

<sup>218</sup> See Case Study 8.

<sup>219</sup> Ibid.

<sup>220</sup> See Case Study 1.

<sup>221</sup> See Case Study 6.

<sup>222</sup> Willem Thomas. Is it time for Vancouver to allow more micro-lofts? Vancouver Magazine. July 13, 2019. Accessed online Oct 2019:

[www.vanmag.com/vancouver-micro-lofts](http://www.vanmag.com/vancouver-micro-lofts)

<sup>223</sup> See Case Study 5.

### Case Study 8: Transportation Management in Boston Pilot

The two-year Compact Living Pilot in Boston was announced in October 2018.<sup>224</sup> It allows eligible developments to incorporate units that are smaller than the current city-mandated restrictions. City officials say that this is in line with a high-level of developer interest in smaller housing forms.<sup>225</sup> Affordability is a key goal, but also important is the gap between demand and supply. In Boston, 69% of households contain 1 or 2 occupants while studio and 1-bedrooms represent only 33% of supply.<sup>226</sup>

The work preceding the pilot helped formulate the guidelines. Uniquely, a 385 ft<sup>2</sup> mobile model unit was created,<sup>227</sup> called the Urban Housing Unit, and presented to the community for feedback. The City received responses from 2,000 community members.

Some developments are now reportedly in the pipeline.<sup>228,229</sup> The pilot covers new developments containing 10 or more units. It allows both congregate housing and SEDUs (according to the definitions in Case Study 1). Developers must comply with the Compact Living Guidelines and designs are reviewed by the City. The guidelines cover three categories: unit interior, shared space, and transportation.

#### Unit Interior

In formulating the guidelines for the unit interior, the City has often not provided precise requirements and has left much up to the developer to justify how their design is in line with the goals of the pilot. The guidelines specify a maximum (rather than a minimum) square footage. The maximum square footage for studios is 450 ft<sup>2</sup>. The Unit Interior guidelines are further broken down into three categories: function, storage and daylight.

The City requires that there is sufficient space to accommodate normal living activities. Furniture plans are included with the developer's submittals, as well as detailed information on clearances. If the design requires specialized furniture, it must be provided with the unit.

Cooking areas require more than 4 ft<sup>2</sup> of contiguous food preparation surface area and include cooking appliance(s) with ventilation, as well as a refrigerator, sink, and cabinet storage. Full kitchen's are not explicitly required but must be included in shared space when not included in individual units.

The guidelines require ample storage for all essential items as well as supplemental storage, if needed, for larger or seasonal items. Creative storage solutions are encouraged. Ceilings are preferably at 9ft tall, with windows at 6 ft tall and having an area equivalent to 15% of the habitable floor area. Creative solutions to maximizing daylight are encouraged.

#### Shared Space

Smaller dwelling units require increased shared space and The City has provided a formula for calculating shared space requirements. Shared space should be both inside and outside, accessible to everyone, along a common path of travel, with indoor and outdoor spaces being ideally adjacent to one another. Importantly, the shared space should foster community and social interaction. A plan for managing the space to achieve that goal should be included.

#### Transportation

One of the most notable aspects of the City's approach compared to other jurisdictions is the approach to transportation demand management (TDM). The TDM policy is aimed at avoiding the cost of unnecessary over supply of parking and encouraging other forms of transit that reduce congestion and promote sustainability.

<sup>224</sup> City of Boston. Boston Compact Living Pilot. October 11<sup>th</sup>, 2018. Accessed online Jul 2019: [www.boston.gov/sites/default/files/compact\\_living\\_guidelines\\_181012.pdf](http://www.boston.gov/sites/default/files/compact_living_guidelines_181012.pdf)

<sup>225</sup> Jordan Graham. Micro Apartments Heading to Boston. Boston Herald. Oct 12th, 2018. Accessed online Jul 2019: [www.bostonherald.com/2018/10/12/micro-apartments-heading-to-boston/](http://www.bostonherald.com/2018/10/12/micro-apartments-heading-to-boston/)

<sup>226</sup> City of Boston. Compact Living Pilot Webpage. Accessed online Jul 2019: [www.boston.gov/departments/new-urban-mechanics/housing-innovation-lab/compact-living](http://www.boston.gov/departments/new-urban-mechanics/housing-innovation-lab/compact-living)

<sup>227</sup> Megan Turchi. 385-square-foot 'urban housing unit' will be on display at City Hall Plaza. Real Estate by Boston.com and Globe.com. August 9th, 2016. Accessed online Jul 2019: [realestate.boston.com/news/2016/08/09/urban-housing-unit-wi/](http://realestate.boston.com/news/2016/08/09/urban-housing-unit-wi/)

<sup>228</sup> Tim Logan. Developer revises plans for Dot Block project. The Globe. February 1<sup>st</sup>, 2019. Accessed online Jul 2019: [www.bostonglobe.com/business/2019/02/01/developer-revises-plans-for-dot-block-project/b7ZXP2WtrALb9NyixZH9NI/story.html](http://www.bostonglobe.com/business/2019/02/01/developer-revises-plans-for-dot-block-project/b7ZXP2WtrALb9NyixZH9NI/story.html)

<sup>229</sup> Meeting on Thursday to discuss lower-cost studio apartments proposed for Fields Corner. Dorchester Reporter. April 10<sup>th</sup>, 2019. Accessed online Jul 2019: [www.dotnews.com/2019/small-lower-cost-studios-proposed-fields-corner](http://www.dotnews.com/2019/small-lower-cost-studios-proposed-fields-corner)

Residents of Compact Living Units cannot obtain on-street parking permits and this should be made clear to them prior to lease or purchase. The maximum per unit parking allowed is a function of the distance from a transit stop – it's 0.25 if the unit is within 0.25 miles, it's 0.5 if the unit is between 0.25 and 0.5 miles, and it's 0.75 beyond 0.75 miles.

The number of parking spaces in a development is then used to set a target number of TDM points. The developer then chooses different TDM strategies, each with an associated number of points, to satisfy the target. Example TDM measures include:

- additional bicycle parking;
- bicycle share stations;
- on-site bicycle maintenance;
- unbundled parking (i.e. parking spaces not automatically included with unit);
- on-site car share parking;
- shuttle service to major hubs;
- subsidized transit;
- delivery supportive amenities; and
- on-site childcare.

Overall, the Compact Living Pilot is still too new to draw firm conclusions but it remains a notable micro-suite program worth future evaluation. One of the most interesting aspects of the pilot is the approach transportation demand management which acknowledges the changing transportation landscape within modern cities.



**Figure 13.** Rendering of a proposed building at 141 Westville St. in Boston with units 260 to 280 ft<sup>2</sup> as part of the Compact Living Pilot.<sup>230</sup>

<sup>230</sup> Image from: Project Notification Form - 141 Westville Street Dorchester, MA. April 1<sup>st</sup>, 2019. Accessed online Jul 2019: [www.bostonplans.org/getattachment/79f263d9-4b5a-4f8c-983b-b74611fe69fe](http://www.bostonplans.org/getattachment/79f263d9-4b5a-4f8c-983b-b74611fe69fe)

## 6.12 Integration with Community Housing

A notable trend amongst the different jurisdictions is the use of micro-suites for non-market community housing. Carmel Place in New York City is 40% non-market units. They reportedly received 60,000 applications for just 22 spots.<sup>231</sup>

A notable development from Burnaby BC is MacKay Apartments, developed by the Fair Haven Homes Society which runs low-cost housing for seniors.<sup>232</sup> The development is a four-storey non-market rental building that consists of 145 units, 113 studios and 32 one-bedrooms, for low- to moderate income 55+ seniors. Some studios are as small as 350 ft<sup>2</sup>.<sup>233</sup>

There also notable examples in Vancouver. The Anjok on 288 East Hastings consists of 60% non-market community housing micro-dwelling units and 40% secured market rentals.<sup>234</sup> The Ming Sun development on the Downtown Eastside is also being redeveloped into non-market micro-suite units.<sup>235</sup>

A notable policy in BC has seen the purchase of existing SRO hotels for redevelopment as community housing.<sup>236</sup> The SRO Renewal Initiative from The Government of BC involved the purchase and renovation of 13 single-room occupancy (SRO) hotels in Vancouver for the purpose of providing non-market community housing to 900 individuals. Buildings were purchased from 2007 to 2009 and renovations completed in 2017. This was a \$147 million investment from the Province, with an additional \$29.1 million from the Federal Government.

The redevelopment of SRO hotels to provide market rental has been met with opposition because critics argue that it is effectively removing low-cost housing options for vulnerable individuals while replacing them with higher-cost units – in some ways achieving the opposite outcome (i.e. removing affordable housing units) that was intended.<sup>237</sup>

InDwell (Case Study 3) provides an excellent example of micro-suite community housing in Ontario.

<sup>231</sup> See Case Study 4.

<sup>232</sup> Burnaby Now. Affordable housing project for seniors opens in South Burnaby. Apr 13<sup>th</sup>, 2019. Accessed online Oct 2019: [www.burnabynow.com/news/affordable-housing-project-for-seniors-opens-in-south-burnaby-1.23790755](http://www.burnabynow.com/news/affordable-housing-project-for-seniors-opens-in-south-burnaby-1.23790755)

<sup>233</sup> Global News. Micro suites offer affordable alternative to Lower Mainland seniors. Mar 19<sup>th</sup>, 2019. Accessed online Oct 2019: [www.globalnews.ca/news/5074525/micro-suites-offer-affordable-alternative-to-lower-mainland-seniors/](http://www.globalnews.ca/news/5074525/micro-suites-offer-affordable-alternative-to-lower-mainland-seniors/)

<sup>234</sup> Brian Morton. New project provides "affordable housing" to Downtown Eastside. Vancouver Sun. Jan 25<sup>th</sup>, 2016. Accessed online Oct 2019: [vancouversun.com/news/local-news/new-project-provides-affordable-housing-to-downtown-eastside](http://vancouversun.com/news/local-news/new-project-provides-affordable-housing-to-downtown-eastside)

## 6.13 Summary

In the jurisdictions considered, there has been high demand for micro-suites and high demand from developers to provide them. It has emerged intentionally from government subsidy or pilot projects, but also spontaneously through existing bylaw "loopholes." Micro-suites have been used as non-market community housing, supportive housing for vulnerable demographics, secured market rentals, and market ownership units. It has housed seniors, students, and working professionals across a range of age and income groups.

It's clear that most jurisdictions are still in the learning phase regarding how micro-suites best integrate with their cityscape. The greatest barriers likely have to do with the newness of this housing form which creates uncertainty. A common concern is the livability of micro-suite units and the well-being of tenants. Community and market impacts, whether positive or negative, are not fully known.

However, it's important to note that the design principles which foster livability and well-being appear to be well-known and have been implemented in micro-suite developments that serve as positive examples. They've also been used to generate formal design guidelines in certain jurisdictions.

A key issue that any jurisdictions must resolve is the fact that "micro" does not necessarily imply "affordable." In fact, simply developing micro-suites with no other measures to ensure affordability could result in units that are no more affordable (or only marginally so) than the studio apartments already available on the market, and the intended outcome of affordability may not be achieved.

Several approaches to ensuring affordability have emerged from the jurisdictional scan: (1) incorporate them in non-market community housing; (2) make their development contingent on housing agreements that guarantee below market rents; (3) modular construction techniques; and (4) make them very small.

Overall, there is a general recognition that micro-suites have a role to play in the denser cities of the future – but there is not yet consensus on best practices.

<sup>235</sup> Naoibh O'Connor. Social housing development to replace Ming Sun building. Vancouver Courier. November 27, 2018. Accessed online Oct 2019: [www.vancourier.com/news/social-housing-development-to-replace-ming-sun-building-1.23511572](http://www.vancourier.com/news/social-housing-development-to-replace-ming-sun-building-1.23511572)

<sup>236</sup> See B.C. Housing Website. Vancouver – SRO Renewal Initiative. Accessed online Oct 2019: [www.bchousing.org/projects-partners/development-projects/sro-renewal](http://www.bchousing.org/projects-partners/development-projects/sro-renewal)

<sup>237</sup> City Hall Watch. Burns Block – Anything but Affordable? Dec 21, 2011. Accessed online Oct 2019: [cityhallwatch.wordpress.com/2011/12/21/the-new-burns-block-burning-affordable-housing-promises/](http://cityhallwatch.wordpress.com/2011/12/21/the-new-burns-block-burning-affordable-housing-promises/)

## 7 Literature Review

### 7.1 Overview

The literature review component of this study evaluated articles in academic and industry publications. The aim was twofold:

1. to understand the experience and needs of potential and current micro-suite renters and
2. to identify barriers to micro-suite deployment.

Unfortunately, literature was not available on other important research questions concerning the impact of micro-suite on communities. This is an important gap that should be filled in future work.

### 7.2 Renter Experience and Needs

This section focuses on the information available from more rigorous scientific studies regarding tenant experience in micro-suites. The available studies included:

- *The Macro View on Micro Units* from the Urban Land Institute (ULI), published in 2014<sup>238</sup>
- *Research Study Exploring Best Practices and Lessons Learned with Small Market Units* by Heather Evans Consulting, Margaret Forbes, and Louise Godard, published in 2015<sup>239</sup>
- *Residents' Satisfaction with Mini-Suite Housing: A Case Study of 600 Drake* by Sidjak C.T., a Master's Thesis published in 1995<sup>240</sup>

The best data on tenants in micro-suites comes from the ULI study. It incorporated online survey components both for conventional renters and micro-suite renters. In total, there were 3,407 responses from renters in conventional units (of 37,000 contacted), and 110 responses from renters in micro-suites (of 422 contacted).

Primary data on tenant experience also comes from Evans, Forbes and Godard. While their study incorporated different levels of analysis of small market housing in BC, most relevant to this section is the focus group and online surveys they administered. It included 15 residents of "small market housing" including micro-suite rentals. It also included results from consultations with industry stakeholders like developers and market analysts.

In his Master's Thesis, C.T. Sidjak provides an excellent case study of a specific building incorporating primarily market rental micro-suites. As part of his study, he administered surveys to residents of the building 600 Drake in Vancouver and received 56 replies from tenants. Surveys were administered less than a year post-occupancy. The building contains 192 units, with 64% being less than 320 ft<sup>2</sup> (some as small as 281 ft<sup>2</sup>). The remainder of this section seeks to answer specific questions about micro-suite tenants.

<sup>238</sup> Urban Land Institute. *The Macro View on Micro Units*. 2014. Accessed online Aug 2019: [ul.org/wp-content/uploads/ULI-Documents/MicroUnit\\_full\\_rev\\_2015.pdf](http://ul.org/wp-content/uploads/ULI-Documents/MicroUnit_full_rev_2015.pdf)

<sup>239</sup> Heather Evans Consulting, Margaret Forbes and Louise Godard. *Research Study Exploring Best Practices and Lessons Learned with Small Market Units*. 2015. Accessed online Aug 2019: [www.reibc.org/Library/Documents/Report\\_and\\_Appendices\\_-\\_Research\\_Study\\_Exploring\\_Best\\_Practices\\_and\\_Lessons\\_Learned\\_with\\_Small\\_Market\\_Units\\_Final\\_report\\_Jan\\_30\\_2015\\_.pdf](http://www.reibc.org/Library/Documents/Report_and_Appendices_-_Research_Study_Exploring_Best_Practices_and_Lessons_Learned_with_Small_Market_Units_Final_report_Jan_30_2015_.pdf)

<sup>240</sup> Craig Thomas Sidjak. *Residents' Satisfaction with Mini-Suite Housing: A Case Study of 600 Drake*. University of British Columbia Master's Thesis in School of Community and Regional Planning. 1995. Accessed online Aug 2019: [open.library.ubc.ca/ciRcle/collections/ubctheses/831/items/1.0086752#downloadfiles](http://open.library.ubc.ca/ciRcle/collections/ubctheses/831/items/1.0086752#downloadfiles)

### What is the interest level in micro-suites amongst potential renters?

The ULI study found that 24% renters in conventional units are probably or definitely interested in renting micro-suites.<sup>241</sup> The interest level doubled, with nearly half expressing interest, for single respondents that were under the age of 34, earning less than \$40k, and living with roommates.<sup>242</sup> The factors which would motivate conventional renters to choose micro-suites (in order of importance) were cost, desired location, and the ability to live alone.<sup>243</sup>

**Table 1.** Renters in conventional units would choose a micro-suite in exchange for these factors.<sup>244</sup>

Ranking Areas	1 <sup>st</sup> or 2 <sup>nd</sup> -rank mentions	1 <sup>st</sup> -rank mentions
Lower rent compared with conventional studios	73%	53%
Desired location/neighbourhood	44%	23%
Reduced utility costs	35%	7%
Ability to live alone (i.e. without roommates)	28%	12%
Shorter commute to work	19%	8%
Minimal apartment upkeep, cleaning, etc.	10%	3%
Neighbours with a similar lifestyle	8%	3%
More community amenities/shared spaces	7%	2%
Proximity to public transportation	6%	3%

Market analysts and developers informing the study of Evans, Forbes and Goddard, stated that the demand for small units was very high in Vancouver and Victoria, both for rentals and ownership.<sup>245</sup>

### Who is renting in micro-suites?

Sidjak included demographic questions in his surveys. This is his description of a typical resident at 600 Drake:

*“A typical resident of 600 Drake is under 40 years of age, single and holds a post-secondary degree. This resident walks or takes public transit to a service sector job in Downtown Vancouver. Their leisure time is divided between many recreational, entertainment and social activities, most of which take place outside their home.”<sup>246</sup>*

While this is the typical resident, it's worth noting that 26% resident were over 40, and 11% were over 60 - pointing to the fact that micro-suites are not exclusively for the young people.<sup>247</sup> Previous examples provided in this work have shown that micro-suites have been used for non-market community housing for seniors.<sup>248</sup>

The sense from the interviews, surveys and focus group from Evans Forbes and Goddard is that the question may be less about “who” than it is about “when.” The units are primarily young people just getting into the market, but also by older individuals scaling down later in life.<sup>249</sup>

However, one stakeholder identified that it is perhaps an incorrect pre-conception that single people are young and transient will eventually settle down with a family.<sup>250</sup> Many will remain single and this housing form factor could serve them throughout their lives.

<sup>241</sup> Pg. 17 of ULI (2014).

<sup>242</sup> Ibid.

<sup>243</sup> Ibid.

<sup>244</sup> Ibid.

<sup>245</sup> Pg. 25 of Heather Evans Consulting, Margaret Forbes and Louise Goddard (2015).

<sup>246</sup> Pg. 62 - 63 of Sidjak (1995).

<sup>247</sup> Pg. 58 Chart 2 of Sidjak (1995).

<sup>248</sup> For example, McKay Apartments in Burnaby B.C. was developed by the Fair Haven Homes Society and consists of low-cost micro-suites for seniors.

<sup>249</sup> Pg. 21 - 23 of Heather Evans Consulting, Margaret Forbes and Louise Goddard (2015).

<sup>250</sup> Pg. 22 of Heather Evans Consulting, Margaret Forbes and Louise Goddard (2015).

### Why have people chosen micro-suites?

In the ULI study, most micro-suite renters did not set out to specifically lease a micro-suite.<sup>251</sup> They ended up renting a micro-suite for the same key factors that would motivate conventional renters: cost, location and ability to live alone. 97% of micro-suite renters ranked location as 4 or 5 (out of 5) as a priority in leasing a micro-suite. This was further broken down into proximity to work/school (78%), proximity to neighbourhood amenities (73%), and proximity to public transportation (62%). 86% ranked price as 4 or 5. 71% ranked the ability to live alone as 4 or 5.<sup>252</sup>

**Table 2.** The priorities of survey respondents were ranked on a scale of 1 to 5.<sup>253</sup>

Lease decision factors	Percent 4s or 5s
Location	97%
Price	86%
Proximity to work/school	78%
Proximity to neighbourhood amenities	73%
Ability to live alone	71%
Proximity to public transportation	62%
Internet/wifi services	54%
Quality of finishes	52%
Floor plan/layout	42%
Assigned parking	32%
Common areas/amenities	32%
Sustainability practices	29%
Sense of community	27%
Pets allowed	26%
In-unit storage	25%
Visitor parking	21%
Neighbours with similar lifestyles	20%

The interviews, surveys, and focus group from Evans, Forbes and Goddard echoed similar sentiments. People are typically not after a small space specifically, rather, it is a means to these other goals of affordability, location and living alone.<sup>254</sup>

<sup>251</sup> Pg. 18 of ULI (2014).

<sup>252</sup> Pg. 19 of ULI (2014).

<sup>253</sup> Ibid.

### What amenities are most important?

The ULI study asked renters in conventional units what amenities would matter most if they were to live in a micro-suite. The amenities which were ranked as 4 or 5 (out of 5) by more than 75% of respondents were: a grocery store, a building laundry room (or in-suite washer dryer), storage space, a full-size refrigerator, a full-size sink, and a four-burner stove.<sup>255</sup>

**Table 3.** The importance of amenities if switching to a micro-suite.<sup>256</sup>

Type	Amenity	Percentage 4s or 5s
Neighbourhood	Grocery store	88%
Neighbourhood	Restuarants/bars	68%
Neighbourhood	Gym	56%
Neighbourhood	Entertainment	53%
Neighbourhood	Retail Centres	52%
Neighbourhood	Cafes	49%
Neighbourhood	Recreation	46%
Neighbourhood	Public transit	41%
Building	Laundry room	83%
Building	Assigned parking	72%
Building	Visitor parking	72%
Building	Fitness centre	70%
Building	Roof/outdoor space	62%
Building	Pool	56%
Building	Living room on each floor	43%
Building	Central lounge	26%
Building	Bike rack	23%
Building	Communal kitchen	19%
Unit	Washer and dryer	86%
Unit	Built-in closets and doors	82%
Unit	Storage space	81%
Unit	Full-size refrigerator	77%
Unit	Full-size kitchen sink	75%
Unit	Four-burner stove	75%
Unit	Dishwasher	71%
Unit	Bathtub	61%
Unit	Space partitions	53%
Unit	High ceilings (9 ft+)	49%
Unit	Over-sized windows	49%
Unit	Flat-screen TV	42%
Unit	Juliet Balcony	41%

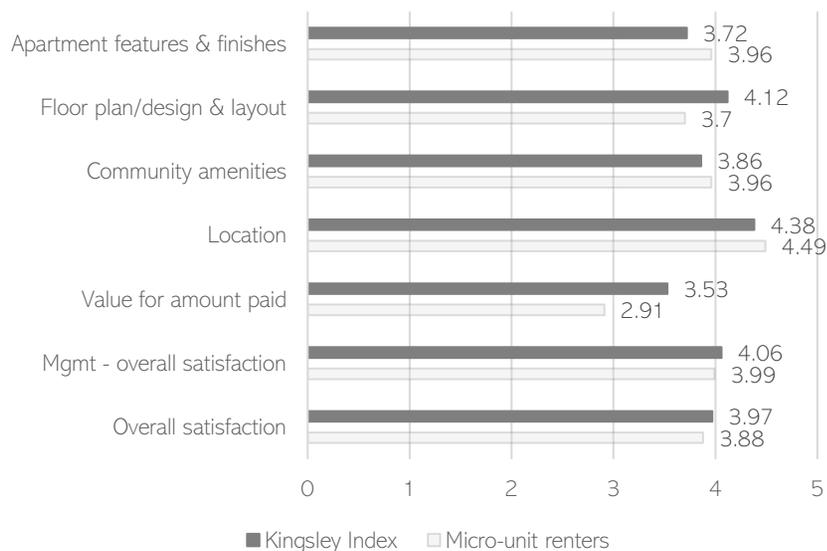
<sup>254</sup> Pg. 22 – 24 of Heather Evans Consulting, Margaret Forbes and Louise Goddard (2015).

<sup>255</sup> Pg. 18 of ULI (2014).

<sup>256</sup> Ibid. Note that some have been omitted to fit on this page.

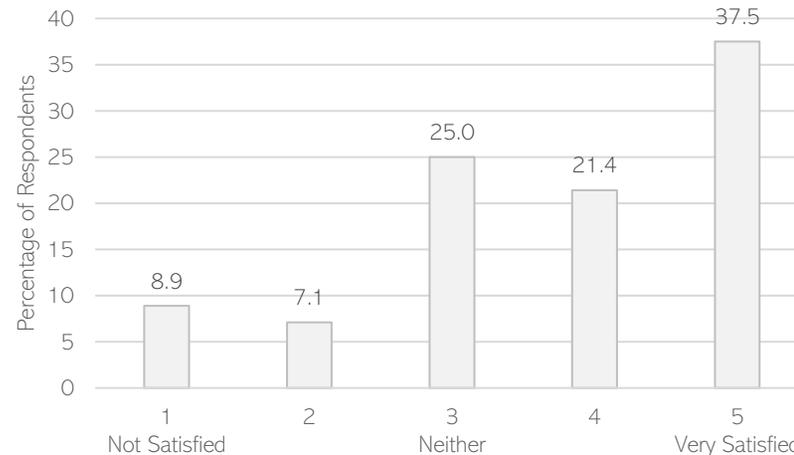
### How satisfied are micro-suite renters?

The ULI study compared the satisfaction of renters in micro-suites to that of renters in conventional units. The satisfaction of tenants in conventional units was quantified via the Kingsley Index which is based on data from more than 100 companies, including 7 of ten largest apartment managers in the U.S. Overall tenant satisfaction in micro-suites is comparable to that in conventional apartments. While micro-suite renters do perceive significantly less value for money, other factors like the location, community amenities and apartment features & finishes, all left micro-suite renters more satisfied.



**Figure 14.** The ULI study showed comparable levels of satisfaction between renters in conventional rentals and micro-suites across most categories.<sup>257</sup>

C.T. Sidjak surveyed the residents of 600 Drake about their level of satisfaction with their micro-suite; 59% reported that they were either satisfied or very satisfied, 25% reported that they were neither satisfied nor unsatisfied, and 16% reported being unsatisfied.<sup>258</sup>



**Figure 15.** The survey of residents at 600 Drake in Vancouver show that most residents are satisfied with their micro-suite while a small minority are unsatisfied.

Evans, Forbes and Goddard found that overall the experience of residents was positive but they also cautioned it is not for everyone, nor every stage of life.<sup>259</sup>

These studies agree that the large majority of tenants in micro-suites report being satisfied overall with their units. This is also in agreement with anecdotal evidence from other sources. However, there are a few things worth noting.

Firstly, in all cases, the tenants were simply asked if they were satisfied. This is expedient for study purposes but it is not a rigorous assessment of health and well-being. Secondly, many of the specific factors which have fostered or impeded satisfaction (and the degree to which they've done so) are not fully clear. Lastly, the respondents freely chose micro-suites and the researchers did not conclude that any group of individuals from the general public would have the same experience.

Based on these studies, it's also worth noting there is no evidence that living in micro-suites has substantially impacted the health or well-being of tenants in a negative way. This is important because this factor is often cited as a primary concern from decision-makers and critics.

<sup>257</sup> Pg. 19 of ULI (2014).

<sup>258</sup> Pg. 70 Chart 17 of Sidjak (1995)

<sup>259</sup> Pg.43 of Heather Evans Consulting, Margaret Forbes and Louise Goddard (2015).

## Summary of Tenant Experience and Needs

The existing studies on current and potential micro-suite tenants shows:

- they are generally satisfied with their micro-suite;
- a notable fraction of renters in conventional units would consider micro-suites given certain trade-offs;
- they are predominantly single and under 40 but may also be in later stages of life;
- they choose micro-suites because of affordability, location and the ability to live independently (i.e. without roommates), and not typically because they actually prefer something smaller;
- the amenities they value most are the more practical ones that make day-to-day living easier – like a local grocery store, in-suite or in-building laundry, full kitchen with conventionally sized appliances, storage space, etc.
- Design features intended to enhance livability and well-being, like large windows, a Juliet balcony, high ceilings, as well as communal lounge and living space, were important to approximately half of potential micro-suite renters.

While these are useful insights, it's also important to note that the literature in this area is limited and these findings are not necessarily broadly applicable across all jurisdictions or micro-suite developments

### 7.3 Micro-suite Barriers in the Academic Literature

C. J. Gabbe<sup>260</sup> evaluated micro-suite regulatory barriers in San Francisco and grouped them under three categories: (1) regulations that limit the density of development; (2) regulations that impose design and performance standards; and (3) regulations that shift costs from the locality to the developer.

Under the first category are parking requirements, outdoor open space requirements and indoor common space requirements. These disproportionately impact micro-suite developments due to their greater density and the fact that requirements are on a per-unit basis. Effectively, more parking and more open space is required for a micro-suite development than in a conventional development and this can drive up rents to the point where micro-suites are no longer economically feasible. Micro-suites developments also have indoor common space requirements that are not in place for conventional developments.

Under the second category, the primary barrier is unit-mix requirements. In San Francisco, micro-suite development has primarily occurred in zones without such requirements and in buildings with predominantly micro- or small units. The City also has policy that requires a certain percentage of family-sized units (2-bedrooms or greater). Gabbe notes that the literature is unclear on whether this approach to promoting family-sized units is more effective than the production of smaller units to alleviate pressure on the existing stock.

Under the last category, the primary barrier is inclusionary zoning policies which requires a certain percentage of units be available at below-market rent or an additional fee be paid. The issue is again based on how the policy is applied on a per-unit basis. Denser buildings of the same gross floor area as conventional buildings would end up paying proportionally more in fees.

Gabbe suggests potential solutions: removal of minimum parking in medium- and high-density zones; open space requirements based on area rather than units; more equitable common space requirements; lower in-lieu inclusionary zoning payments for micro-suites; as well as other suggestions.

T. Iglesias<sup>261</sup> defined the primary regulatory and policy issues relevant to micro-suites as (1) defining and articulating micro-suites as a dwelling type and (2) setting zoning ordinances and planning policies accordingly.

While the first point is more-or-less straightforward, the second entails a number of other factors. The most general of them is that if micro-suites are intended to meet a certain housing need, then planning, zoning, and other fiscal policies need to be in place to support that goal. Factors to consider include:

- which zones to allow micro-suites in and whether they are allowed by right or require a special permit;
- allowable density and need to up-zone density where micro-suite developments will occur;
- design standards including: minimum allowable area, height standards, bulk standards, setbacks, lot coverage, size of common areas, required amenities, parking, landscaping and exterior requirements, permissible construction forms, etc.
- consistency with residential habitability standards;
- revisions of design review procedures and standards where necessary;
- affordability requirements; and
- exactions (where necessary) on developers to support additional infrastructure.

These are not framed as barriers per se, but the point is clear that micro-suites do require a degree of special consideration within planning and zoning documents. The extent to which any given municipality has (or does not have) a plan will impact the pace and overall impact of micro-suite development.

J. Infranca<sup>262</sup> looked at the regulatory challenges of micro-suites in five different U.S. cities: New York, Washington D.C., Seattle, Denver and Austin. Some of the issues he found included:

- parking requirements

<sup>260</sup> C. J. Gabbe. Looking through the lens of size: Land use regulations and micro-apartments in San Francisco. *Cityscape*, 17(2). Accessed online Aug 2019: [pdfs.semanticscholar.org/08a0/65d8ceb83795212a63bc916c2de9f4af43c2.pdf](https://pdfs.semanticscholar.org/08a0/65d8ceb83795212a63bc916c2de9f4af43c2.pdf)

<sup>261</sup> Iglesias, Tim, The Promises and Pitfalls of Micro-Housing (November 1, 2014). Zoning and Planning Law Report 37.10 (2014): 1-12; Univ. of San Francisco Law Research Paper No. 2015-02. Accessed online Aug 2019: [works.bepress.com/tim\\_iglesias/29/](https://works.bepress.com/tim_iglesias/29/)

<sup>262</sup> John Infranca. Housing Changing Households: Regulatory Challenges for Micro-suites and Accessory Dwellings. 25 *Stanford Law and Policy Review*, 52 note 76. (2014). Accessed online Aug 2019: [papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2339136](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2339136)

- per-unit parking requirements can make micro-suites unprofitable;
- minimum square footage requirements
  - directly restricts unit size;
- limitations on number of units that can be developed in addition to limitations on floor area allowed
  - such limitations make it more profitable to produce larger units that will produce greater rents;
- financing for developments:
  - demand for micro-suite buildings is not yet clearly established and this can impact financing agreements; for example, lenders may perceive a greater degree of risk, they may undervalue the development and they may make other demands (like parking) that can drive up the costs;
- height and setback requirements:
  - possible for these to impede modular prefabricated construction which may be less dimensionally flexible.

He recommends that cities rethink parking – either eliminating requirements in certain districts or reducing them for areas in proximity to transit or with strong walk scores. He also recommends that cities replace regulations imposing higher unit sizes and maximum allowable numbers of units with clear regulations around common spaces in micro-suite developments. He suggests that encouraging a mix of unit sizes and designing units such that they could be reconfigured in the future could mitigate many concerns.

T. Geffner<sup>263</sup> conducted a literature search on existing barriers to micro-suites. He generalized the barriers under three headings:

1. Unfamiliarity leads to caution
2. Unfamiliarity leads to opposition
3. Unfamiliarity leads to regulatory barriers

According to Geffner, a primary issue under the first subheading is difficulties in securing institutional development capital to fund micro-suite developments. Such developments are perceived as riskier, possibly leading developers to incorporate fewer micro-suites in their buildings.

<sup>263</sup> Thomas Geffner. *Towards a Smaller Housing Paradigm: a Literature Review of Accessory Dwelling Units and Micro Apartments*. Portland State University Honours Thesis, 2018. Accessed online Aug 2019: [pdxscholar.library.pdx.edu/cgi/viewcontent.cgi?article=1636&context=honorsthesis](https://pdxscholar.library.pdx.edu/cgi/viewcontent.cgi?article=1636&context=honorsthesis)

Under the second heading, Geffner is referring primarily to opposition from the local community, capable of limiting, stalling or even preventing micro-suite developments entirely. Some of the most common points of criticism, whether justified or not, are:

- the size of micro-suites makes them unhealthy and/or unsafe;
- micro-suite developments may clutter on-street parking;
- micro-suites will house undesirables and deteriorate into slums; and
- micro-suites have a high cost per unit area which could lead to inflated rents in conventional rentals .

Under the third heading, Geffner's literature search identified a number of regulatory barriers impacting micro-suites: density regulations, parking requirements, unit size limitations, open space mandates and unit mix requirements.

A. Renn and A. Armlovich<sup>264</sup> looked at opportunities and challenges of micro-suites, specifically in the context of Seattle and New York City. They noted the overall density cap in New York City that limits the number of micro-suites. They also noted that much of Seattle is zoned for single-family homes, not allowing even more traditional apartment buildings. Regulations like these show that even if micro-suites are permitted in theory, various regulatory factors would limit or prevent their construction in practice.

They also note some primary criticisms of micro-suites; chiefly among them is the perception of individuals that will be living in these developments. One factor that creates confusion is that this type of housing can serve different demographics. Perceptions from local residents may be that this housing is for less desirable individuals from different segments of society but it could just as well serve middle-class working professionals. It follows that any policy aimed at affordability in the middle class may be subject to misconceptions about the residents.

They suggest that the opposition and strength of these negative perceptions is related to where the developments are located. In wealthier neighbourhoods, existing residents may view micro-suites as a problem because they expect the neighbourhood to be housing other “upper-class” individuals. The authors suggest that the likelihood of micro-suites being perceived as a threat would be much

<sup>264</sup> A. Renn and A. Armlovich. *Microunits: A Tool to Promote Affordable Housing*. Essay in “Retooling Metropolis” Policy Research Document by Manhattan Institute, 2016. Accessed online Aug 2019: [media4.manhattaninstitute.org/sites/default/files/Retooling\\_Metropolis\\_2016.pdf#page=35](https://manhattaninstitute.org/sites/default/files/Retooling_Metropolis_2016.pdf#page=35)

lower in high-density cosmopolitan inner-city areas but also in low-density commercial and industrial areas of inner-suburbs.

They suggest that targeted rezoning (i.e. specially selected areas of a city where micro-suites are permitted) could be a reasonable compromise that eventually improves public perception to the extent where it becomes acceptable to a greater number of neighbourhoods.

M. Potikyan<sup>265</sup> sought to evaluate the trends which have influenced the growth of micro-suites in San Francisco and L.A. Part of the analysis looked at barriers as well. These included:

- minimum unit size requirements;
- provisions around common space;
- off-street parking requirements;
- unit-mix requirements;
- maximum densities allowable on lots; and
- developers' access to capital.

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<sup>265</sup> M. Potikyan. Advantages and Opportunities of Developing and Investing in Micro-suites. Master's Theses. MIT. 2017. Accessed online Aug 2019; [dspace.mit.edu/handle/1721.1/1108883](https://dspace.mit.edu/handle/1721.1/1108883)

## 8 Potential Micro-suite Barriers and Actions

### 8.1 Overview

This section synthesizes the results from all previous section to identify barriers and potential solutions. One researcher has suggested that the primary challenges to broader micro-suite development are rooted in unfamiliarity with the concept and this may result in caution, opposition and regulatory barriers.<sup>266</sup> This study has adapted those categories. Barriers are listed below:

#### Caution

- Concerns over health, well-being and equity
- Lack of information on impacts
- Concern over long-term viability of micro-suite developments
- Development financing

#### Opposition

- Community opposition

#### Regulatory Barriers

- Minimum parking requirements
- Restrictive minimum unit size requirements
- Open and common space requirements
- Unit-mix requirements
- Zoning

This section treats the barriers and potential actions arising from the literature review and jurisdictional scan from a general perspective. The implication of each for Toronto specifically are in Section 9.

### 8.2 Caution

#### 8.2.1 Concerns over health, well-being and equity

##### Description

Reluctance on the part of city officials to embrace micro-suite over fears of the health and well-being of tenants. Included in this is the issue of equity, in that a micro-suite is more livable to those with higher incomes because they can entertain themselves outside of the home. Also included is the fear that micro-suites may foster overcrowding where multiple individuals, or a family, occupy a single micro-suite unit designed for one or two individuals.

##### Findings from Literature Search and Jurisdictional Scan

Actual instances of overcrowding in micro-suites were not found and the limited research available on tenant experience in micro-suites has found tenants to be satisfied living in their units. The additional impact of a cold-climate on the quality of life in micro-suites has not been specifically studied but anecdotal evidence from an Ontario community housing project shows promise for the concept. Concerning equity, a key reason that individuals have chosen micro-suites is the freedom to live independently without roommates and, in this sense, micro-suites may promote equity by offering safe, affordable, and independent living to a greater number of individuals. The design principles which promote well-being in micro-suites are well-known and it is possible to enforce design guidelines. However, research shows that potential occupants are most interested in affordability, location, and the freedom to live alone, as well as building and unit amenities that make day-to-day tasks like cooking and laundry easier. The research team suggests that additional design requirements aimed at enhancing livability should be closely evaluated if they significantly impact the key criterion of affordability.

##### Potential Actions

1. Provide design guidelines for micro-suite developments.
2. Commission formal study of tenants in existing Ontario micro-suites.
3. Undertake different measures aimed at improving affordability across the housing spectrum (for individuals and families) to mitigate concerns around overcrowding in micro-suites.

<sup>266</sup> Thomas Geffner. Towards a Smaller Housing Paradigm: a Literature Review of Accessory Dwelling Units and Micro Apartments. Portland State University Honours Thesis, 2018. Accessed online Aug 2019: [pdxscholar.library.pdx.edu/cgi/viewcontent.cgi?article=1636&context=honorsthesis](https://pdxscholar.library.pdx.edu/cgi/viewcontent.cgi?article=1636&context=honorsthesis)

### 8.2.2 Lack of information on impacts

#### Description

Formal scientific study on micro-suites is limited. The concept is still new, with many of the major advances in North American cities happening over the last decade. This introduces caution on the part of planners.

#### Findings from Literature Search and Jurisdictional Scan

It's useful to clearly articulate what is known and not known about micro-suites. The important things that we know about micro-suites have to do with the individuals renting/owning them (wants, needs, level of satisfaction, etc.), how to design them to maximize livability and well-being, major barriers, and their potential for achieving affordability. The important things that we don't know well (or least upon which there is little consensus) have to do with broader long-term community impacts, impacts on city services, and specific details regarding the regulatory/policy measures needed. For example:

- Micro-suites may relieve the pressure on the existing rental stock of larger units suitable for families but research is needed.
- Negative impacts are not fully clear (i.e. Will they be used as vacation rentals? Will they deteriorate the quality of neighbourhoods?)
- The design features which optimize livability are well-known but the best approach to incorporating these in deeply affordable market rental units is not well-known. There are market micro-suite examples that have not actually produced deep levels of affordability.
- It is known that micro-suites need a tailored approach for parking, common space, open space, unit-mix and other requirements. Different approaches are being tested but this also shows that there is not yet consensus on the best strategy.

#### Potential Actions

1. Additional scientific study on community and rental market impacts.
2. Continued knowledge sharing with other jurisdictions.
3. Build capacity by first targeting the more straightforward opportunities. Examples from the literature and jurisdictional scan include off-campus student rentals, conversion of SRO hotels into non-market micro-suite community housing, and the use of modular micro-suites to provide immediate housing relief to vulnerable demographics.

### 8.2.3 Concern over long-term viability

#### Description

Micro-suites, and specifically developments consisting fully of micro-suites, are rigid in the demographics they serve and demographics change over time. There is risk that cities will be left with a legacy of unwanted micro-suite development.

#### Findings from Literature Search and Jurisdictional Scan

Demographic trends suggest that micro-suites do have a future (to at least some extent) in large metropolitan cities like Toronto. The population is increasing and will continue to do so at a fast pace, real estate is increasingly unaffordable and there is minimal land available, the number of people living alone is increasing, and a significant portion of individuals currently living roommates would prefer to live alone. However, demographic changes at a neighbourhood level may be more pronounced and the risk of future unwanted developments at this granularity may be real. This risk can be mitigated in different ways. For example, only allow micro-suites in buildings with a mix of other unit sizes example (past a certain size of building), encourage builders to design buildings with potential for the merging of micro-suites in the future, deployment of purpose-built micro-suite developments for applications like student or community housing, and the use of micro-suites as infill in small-scale developments.

#### Potential Actions

1. Require a certain mix of unit sizes in buildings (past a certain size of building).
2. Encourage flexible building design that may allow for merging of micro-suites in the future.
3. Consider micro-suites as a more cost-effective option in certain purpose-built applications like off-site student rentals or community housing.
4. Consider micro-suites for infill in small-scale developments.

### 8.2.4 Development financing

#### Description

Micro-suites are a new form of housing and has therefore been perceived as riskier by institutional lenders that finance developments. This may prevent development or limit the number of micro-suites in a development. It may also require that the developer incorporate features into the building (like increased parking spots) that will overall decrease affordability.

#### Findings from Literature Search and Jurisdictional Scan

While this has been mentioned as an issue within the literature search and jurisdictional scan, no specific solutions have been offered to the author's knowledge. It may diminish in time as awareness and knowledge surrounding this new housing form increases.

## 8.3 Opposition

### 8.3.1 Community opposition

#### Description

Community opposition can stall, limit or entirely prevent micro-suite developments.

#### Findings from Literature Search and Jurisdictional Scan

Congregate housing in Seattle faced vehement opposition from community groups, enough to halt development entirely, but this was not seen for micro-suites in other jurisdictions. It is also worth noting there was a low level of community resistance for temporary modular micro-suites in Vancouver, but not enough to limit development. The opposition largely surrounds development in low-density residential neighbourhoods. There is concern about the "type" of individuals occupying micro-suites, safety, a degradation of the character of neighbourhoods, an overwhelming of services, a lack of consultation with residents and overall, a perceived loss of value and quality of life. Some concerns are due more to a lack of understanding while others may represent real potential impacts. Researchers have suggested that opposition would be much lower in high-density cosmopolitan inner-city areas and low-density commercial and industrial areas of inner suburbs.

#### Potential Actions

1. Targeted rezoning for micro-suites (i.e. specially selected areas of a city where micro-suites are permitted).
2. Incorporate micro-suites in neighbourhood-level planning studies to identify opportunities where acceptance would be higher.
3. Develop a process for communication between micro-suite developers and community groups (like community advisory committee meetings).
4. Provide education on the multiple benefits of micro-suites and compact community designs in terms of smaller carbon footprint, reduced commuting times, more land available for parks/greenspace, etc.
5. Communications that help share positive experiences of people who live in micro-suites (similar the "tiny house" movement<sup>267</sup>).
6. Developers may add value to the community (i.e. park, donation to community centre, etc.) to compensate for real or perceived losses.
7. Additional scientific study on community impacts.

<sup>267</sup> There are many examples of this – like the "Tiny House Blog" online or the "Living Big in a Tiny House" channel on Youtube.

## 8.4 Regulatory

### 8.4.1 Minimum parking requirements

#### Description

Parking requirements are often specified on a per-unit basis and may add cost disproportionately to micro-suite developments based on their greater density. This can push development cost past the point of economic feasibility. Furthermore, when parking is not actually needed by occupants as might be the case in a dense urban environment, regulations that require the bundling of parking spaces with micro-suite units erodes affordability unnecessarily.

#### Findings from Literature Search and Jurisdictional Scan

The different jurisdictions, and developments within the jurisdictions, varied in the approaches to parking. There were examples of micro-suite developments with no off-street parking at all and other examples of different approaches to reduce the amount of off-street parking.

#### Potential Actions

1. Consider approaches to unbundle parking from micro-suite units.
2. Encourage micro-suite developments near transit corridors.
3. Reduce or remove minimum parking requirements for micro-suite developments in higher-density zones.
4. Consider parking requirements within a point system considering proximity to public transit and other building amenities like a bikeshare station, bike parking, carshare spaces, etc.
5. Given the expenses that are avoided, mortgage lenders may consider increased financing for individuals living in a location with high bike, walk, and transit scores, and do not own a car

### 8.4.2 Minimum unit sizes

#### Description

Minimum unit sizes explicitly restrict the size of units and, in some jurisdictions, they prohibit micro-suites entirely.

#### Findings from Literature Search and Jurisdictional Scan

Some micro-suite advocates point to the fact that historical minimum square footage requirements can be arbitrary and not actually based on evidence. In certain jurisdictions, micro-suite pilot projects have required overrides for minimum suite size requirements. This includes overrides for a pilot building (New York), a neighbourhood-level pilot study (Vancouver), or for a limited number of buildings (San Francisco). Notably, in New York City, the additional restrictions for suite size put in place by the local government were removed after having piloted a micro-suite building.

#### Potential Actions

1. Remove or reduce more restrictive minimum unit size requirements put in place by the local government for a pilot building, a neighbourhood level pilot study, or a limited number of buildings.

### 8.4.3 Open and common space requirements

#### Description

Open and common space requirements become barriers for micro-suite deployment because they increase the cost and therefore, the economic feasibility, of micro-suite developments. Such requirements are also often specified on a per-unit basis such that a micro-suite development of the same floor area will require more open and/or common space than a conventional development – and proponents have argued that this is unfair.

#### Findings from Literature Search and Jurisdictional Scan

The key aspect of micro-suites that is of interest to individuals and local governments is **affordability**. However, to safeguard tenant well-being, local governments use (in part) open and common space requirements. This typically means that the development becomes less affordable because there are effectively fewer units that can be constructed. Tenant well-being and affordability are therefore at odds to a certain extent and regulations should strive to encourage an optimal balance. Housing providers that do have significant common and/or open space in their buildings have noted that it is an important part of building a sense of community, which can be especially important in non-market units housing more vulnerable demographics – and also more important in a cold-climate. At the same time, research on potential micro-suite occupants has shown that, while outdoor space is higher on the list of desired features, building common space features like a communal lounge, kitchen or living room on each floor, are lower down. The study team is not aware of any research evaluating common and open space requirements and their resultant impact on affordability and tenant well-being in micro-suites. Best practices are therefore not established. However, it is still possible to amend existing regulations to ensure that micro-suites are at least not disproportionately affected when compared to conventional units.

#### Potential Actions

1. Open and/or common space requirements based on *area* rather than number of units.
2. Further scientific study on the impact of open and common space requirements and their resultant impacts on affordability and tenant well-being.

### 8.4.4 Unit mix requirements

#### Description

Developments consisting *fully* of micro-suites may be easier and less expensive for a developer to construct in some cases. Requiring a mix of unit sizes within a building may therefore increase the cost of development and decrease the affordability of the units.

#### Findings from Literature Search and Jurisdictional Scan

In some jurisdictions, researchers have noted that micro-suite development has occurred in zones without such requirements and in buildings with predominantly micro- or small units – suggesting that this can be a notable barrier for micro-suite development. Others have noted that it is ultimately a matter of scale. A building with have 40- to 60-units (all micros) can work well in a community, but for larger buildings, a mix of unit sizes is needed. Micro-suite design guidelines have encouraged (but perhaps not firmly required) a mix of unit sizes. This may allow more flexibility for developers in cases where a building or site is especially amenable to fully (or mostly) doing micro-suites – like the renovation of an SRO hotel.

#### Potential Actions

1. Allow developments consisting of fully or mostly of micro-suites up to a certain number of units, while requiring a mix of unit sizes for larger buildings.

## 8.4.5 Zoning

### Description

The zoning bylaw may explicitly not allow multi-family buildings in large areas of a city and this prevents the deployment of micro-suites in those areas.

### Findings from Literature Search and Jurisdictional Scan

The jurisdictional scan considered different approaches used to pilot micro-suites – whether via a single building, a single neighbourhood, or a limited number of buildings/units across different neighbourhoods. This required overrides or amendments to the zoning bylaw, typically to circumvent restrictive minimum unit size requirements, but the areas in which the micro-suites were implemented were already zoned for multi-family buildings. In this sense, the given zone in which a pilot project took place was not a barrier – at least not initially – but it's also clear that explicitly not allowing multi-family buildings in large areas of a city is a barrier for micro-suite deployment.

The exception was Seattle. The zoning bylaw had a loophole where new forms of high-density micro-suite buildings could be placed next to semi-detached and detached homes without any notice to the community. As discussed in Case Study 1, that did not end well. Like Seattle, much of Toronto is zoned primarily for detached and semi-detached homes (the so-called “Yellow Belt”) – and there is a tension between, on one hand, preserving the existing character of neighbourhoods, and on the other, the need to increase density, diversify the housing mix, and improve affordability.

In Ontario, there are different initiatives both provincially and municipally to increase housing supply and to diversify the housing mix in traditionally low-density zones by removing regulatory barriers for secondary suites within a primary dwelling and a secondary suite that is ancillary to a primary dwelling (included in this is laneway housing). However, a discussion of these options was beyond the scope of this study.

At this time, the authors are unable to speculate on the future role of multi-unit micro-suite developments in these zones.

## 8.5 Summary of Barriers and Potential Actions

**Table 4.** Summary of barriers for micro-suite deployment from literature search and jurisdictional scan

Category	Barrier	Description
<b>Caution</b>	Concerns over health, well-being and equity	Reluctance on the part of city officials to embrace micro-suite over fears of the health and well-being of tenants. Included in this is the issue of equity, in that a micro-suite is more livable to those with higher incomes because they can entertain themselves outside of the home. Also included is the fear that micro-suites may foster overcrowding where multiple individuals, or a family, occupy a single micro-suite unit designed for one or two individuals.
	Lack of information on impacts	Formal scientific study on micro-suites is limited. The concept is still new, with many of the major advances in North American cities happening over the last decade. This introduces caution on the part of planners.
	Concern over long-term viability	Micro-suites, and specifically developments consisting fully of micro-suites, are rigid in the demographics they serve and demographics change over time. There is a perceived risk that cities will be left with a legacy of unwanted micro-suite development.
	Development financing	Micro-suites are a new form of housing and has therefore been perceived as riskier by institutional lenders that finance developments. This may prevent development or limit the number of micro-suites in a development. It may also require that the developer incorporate features into the building (like increased parking spots) that will overall decrease affordability.
<b>Opposition</b>	Community Opposition	Community opposition can stall, limit or even entirely prevent micro-suite developments.
<b>Regulatory</b>	Minimum parking requirements	Parking requirements are often specified on a per-unit basis and may add cost disproportionately to micro-suite developments based on their greater density. This can push development cost past the point of economic feasibility. Furthermore, when parking is not actually needed by occupants as might be the case in a dense urban environment, regulations that require the bundling of parking spaces with micro-suite units erodes affordability unnecessarily.
	Minimum unit sizes	Minimum unit sizes explicitly restrict the size of units and, in some jurisdictions, they prohibit micro-suites entirely.
	Open and common space requirements	Open and common space requirements become barriers for micro-suite deployment because they increase the cost and therefore, the economic feasibility, of micro-suite developments. Such requirements are also often specified on a per-unit basis such that a micro-suite development of the same floor area will require more open and/or common space than a conventional development – and proponents have argued that this is unfair.
	Unit mix requirements	Developments consisting fully of micro-suites may be easier and less expensive for a developer to construct in some cases. Requiring a mix of unit sizes within a building may therefore increase the cost of development and decrease the affordability of the units.
	Zoning	The zoning bylaw may explicitly not allow multi-family buildings in large areas of a city and this prevents the deployment of micro-suites.

**Table 5.** Potential actions to address barriers identified in literature search and jurisdictional scan

Category	Potential Actions
<b>Caution</b>	1. Provide design guidelines for micro-suite developments.
	2. Commission formal scientific study of tenant experience in existing Ontario micro-suites.
	3. Undertake different measures aimed at improving affordability across the housing spectrum to mitigate concerns around overcrowding in micro-suites.
	4. Commission formal scientific study on the community and rental market impacts of micro-suites.
	5. Continue knowledge sharing with other jurisdictions as the various micro-suite pilots progress.
	6. Build capacity by first targeting the more straightforward opportunities: off-campus student rentals, conversion of SRO hotels into non-market micro-suite community housing, and immediate housing relief to vulnerable demographics.
	7. Require a certain mix of unit sizes in buildings in buildings greater than a specified minimum size
	8. Encourage flexible building design that may allow for merging of micro-suites in the future.
	9. Consider micro-suites as infill in small-scale developments.
<b>Opposition</b>	1. Targeted rezoning for micro-suites (i.e. specially selected areas of a city where micro-suites are permitted)
	2. Incorporate micro-suites in neighbourhood-level planning studies to identify opportunities where acceptance would be higher
	3. Develop a process for communication between micro-suite developers and community groups that is not overly onerous to developers
	4. Provide education on the multiple benefits of micro-suites and compact community designs
	5. Communications that help share positive experiences of people who live in micro-suites
	6. Where necessary, developers can provide additional value to the community (i.e. park, donation to community centre, etc.) to compensate for real or perceived losses
<b>Regulatory</b>	1. Consider approaches to unbundle parking from micro-suite units.
	2. Encourage micro-suite developments near transit corridors.
	3. Reduce or remove minimum parking requirements for micro-suite developments in higher-density zones
	4. Consider parking requirements within a point system considering proximity to public transit and other building amenities like a bikeshare station, bike parking, carshare spaces, etc.
	5. Mortgage lenders may consider increased financing for individuals living in a location with high bike, walk, and transit scores, and do not own a car
	6. Open and/or common space requirements based on <i>area</i> rather than number of units.
	7. Further scientific study on the impact of open and common space requirements and their resultant impacts on affordability and tenant well-being.
	8. Allow developments consisting of fully or mostly of micro-suites up to a certain number of units, while requiring a mix of unit sizes for larger buildings.

## 9 Micro-suite Barriers and Toronto Context

### 9.1 Literature Search and Jurisdictional Scan Considerations

Table 6 discusses details about the Toronto context in reference to the barriers identified in the literature search and jurisdictional scan. The most significant barrier in other jurisdictions – restrictive minimum area requirements – are not a barrier in Toronto. Without this barrier present within the City, several new market-ownership buildings have incorporated micro-suites (see Table 7).

However, other regulatory barriers are likely present and serve to impact overall deployment and affordability. Similar to other jurisdictions, open- and common-space requirements are based on the number of units. This means that micro-suites require proportionally more of the buildings to be used for functions other than housing, increasing costs. Outside the downtown core, parking requirements for most of the city are significant and also add notable cost.

Large swaths of the City are zoned for detached and semi-detached housing, and this excludes the multi-unit micro-suite buildings considered in this study. However, it's worthwhile to note that density is increasing with recent changes like By-Law 810-2018, allowing laneway housing in certain areas of the City. Moving forward, recent changes to the Planning Act will increase density further, in some cases by allowing up to three units on a single residential lot (including a secondary suite within a primary dwelling, and another suite ancillary to it).

Lastly, unit mix requirements have been mentioned as a barrier in other jurisdictions. In Toronto, at least 25% of units should be larger units (2+ bedrooms) in developments with more than 20 units. However, it is worth noting that there are positive local examples of community housing buildings, with 40 – 60 units, comprised entirely of micro-suites.<sup>268</sup> This suggests that the 20 unit cut-off could be relaxed conditionally for micro-suites developments offering affordability and other co-benefits.

<sup>268</sup> See Case Study 2 for Indwell based in Hamilton, ON.

<sup>269</sup> Statistics Canada. 2016 Census Profile for Toronto.

<sup>270</sup> This is the average studio rental rate for the City of Toronto as of Q2 2018 from Urbanation Inc. Accessed online Feb 2020: [www.urbanation.ca/news/229-greater-toronto-area-condo-rental-rates-shoot-another-112-cent](http://www.urbanation.ca/news/229-greater-toronto-area-condo-rental-rates-shoot-another-112-cent)

### 9.2 Micro-suites Currently in Toronto

This study did not incorporate detailed market analysis – but it was worthwhile to look at example buildings in Toronto to answer key questions. Table 7 shows four new developments – all of which are market-ownership condominiums with micro-suites frequently purchased by owners and leased to renters.

Firstly, are they affordable to rent? The CMHC describes housing as being “affordable” when it costs less than 30% of pre-tax income. Based on the monthly rents, micro-suites in Karma Condos and Smart House are affordable to a single renter earning more than approximately \$70k/year. The median income from the latest census for full-year full-time workers in Toronto was \$47,420.<sup>269</sup> It follows that these units would not be considered “affordable” to a large majority of full-time workers in the City. Even the in a lower demand area like Downsview, micro-suites rents would not be affordable to the majority of workers.

Secondly, are they *more* affordable to rent than conventional studios? In 2018, the average for new leases in studio apartments in Toronto was \$1,720.<sup>270</sup> Rentals rates for new leases in Karma Condos and Smart House were slightly above this, and those for The 2800 Condos in Downsview were slightly below – showing the difference in demand for the respective locations. It follows that the micro-suites in these buildings do not seem to offer more affordable rental alternatives.

Thirdly, are they more affordable to *own* than conventional studios? In 2018, the average sale price for studio condos in the City was \$384k.<sup>271</sup> This is near the sale price of micro-suites from Karma Condos. However, The 2800 Condos offers sale prices approximately 30% below this average. The 2800 Condos is a useful case study. In January 2019, a micro-suite with no parking and a floor area of 310 ft<sup>2</sup> sold for \$267k.<sup>272</sup> Assuming 20% down, 2.75% interest, 25 year amortization and 135 \$/month condo fee (from the listing), the monthly cost of ownership is \$1,120. This is affordable to an individual making

<sup>271</sup> From zolo.ca Toronto Real Estate Trends Housing Market Report for October 2019 (looking at one year ago). Accessed online Oct 2019: [www.zolo.ca/toronto-real-estate/trends](http://www.zolo.ca/toronto-real-estate/trends)

<sup>272</sup> MLS # W4344140. This list, Unit 705, is 310 ft<sup>2</sup> according to the floorplans available from the developer Quadcam. See: [quadcam.ca/pdf/fp/2800/Quadcam-the2800-SA.pdf](http://quadcam.ca/pdf/fp/2800/Quadcam-the2800-SA.pdf)

approximately \$45k per year. Based on the median income provided above, this unit would be affordable to the majority of full-time workers in the City. Note that Table 7 shows that the same unit was leased for much greater at \$1,550/month.

Looking at other units in the same building, in February 2019, a larger studio (371 ft<sup>2</sup>) with no parking sold for 312k\$.<sup>273</sup> In March 2019, a 1-bedroom unit with a parking space sold for \$450k.<sup>274</sup> It follows that the smallest micro-suite with no parking was 40% less expensive than the 1-bedroom with a parking space, and approximately 15% less expensive than a larger (albeit, still small) studio.

There is often skepticism that micro-suites can obtain much higher-levels of affordability because there is the same number of kitchens and bathrooms, and this is where much of the cost is expended. However, this example from The 2800 Condos shows that a micro-suite *can* obtain much deeper levels of affordability in Toronto when compared to larger studios and 1-bedroom units but it is not always (or even, commonly) the case.

The greatest opportunity for affordability is when the unit is not bundled with parking and when it is located in a location with lower demand (still with good walk, transit, and bike scores) – and also, when it is purchased and occupied by the owner rather than rented on the secondary market (at which point the affordability seems to erode). There may also be potential for micro-suites to remain affordable as purpose-built rentals, where it would be easier to safeguard affordability than in the secondary market.

This is a small number of buildings, so conclusions are preliminary. The data *does* indicate potential for micro-suites to promote affordability – just not as rentals in market-ownership condominiums where they are often deployed (at least not in the current market). It follows that the opportunity for micro-suites to promote affordability is real but currently, that opportunity is not realized in the existing stock of micro-suites within the City.

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<sup>273</sup> MLS # W4326907.

<sup>274</sup> MLS # W4328760.

**Table 6.** Barriers identified in the literature search and jurisdictional scan applied to Toronto context

Barriers	Toronto Context
<p><b>Caution</b> Concerns over health, well-being and equity Lack of information on impacts Concern over long-time viability of units Development financing</p>	<p>Whether concerns exist or not, it would seem that they have not actually resulted in a barrier for the Toronto context. Toronto has neither actively encouraged the development of micro-suites (as other jurisdictions have) nor have they discouraged them. For example, micro-suite units are now available in several new market ownership condominiums.</p> <p>Lack of information on impacts is not helpful for progress. The total benefits of micro-suites to the City as a whole have not been adequately articulated and backed by scientific analysis.</p>
<p><b>Opposition</b> Community opposition</p>	<p>The level of community opposition to a development can be clear from local media coverage. In the case of Toronto, the research team could not uncover any evidence of notable community opposition to the new micro-suite units on the market. In the jurisdictional scan, opposition became an issue when micro-suite developments occurred in low-density areas dominated by detached and semi-detached homes. In contrast, the micro-suites available in Toronto are in large high- and mid-rise buildings in higher density areas.</p>
<p><b>Regulatory</b> Minimum parking requirements Minimum unit sizes Open and common space requirements Unit-mix requirements Zoning</p>	<p>Toronto does not have additional minimum area requirements over and above the requirements of the Ontario Building Code (which are not very restrictive in terms of the allowed area). The Toronto Municipal Code does provide habitability standards where a certain area is required based on the number of occupants but they are also not very restrictive when applied to micro-suites housing one or two individuals.</p> <p>Parking requirements for dwelling units in an apartment are laid out in Table 200.5.10.1 of City of Toronto Zoning Bylaw 569-2013, The minimum number of required parking spaces depends on the policy area and rates are applied per unit. In Policy Areas 1 (Downtown), 2, 3, and 4, it is 0.3, 0.6, 0.6 and 0.7 spaces per studio unit, respectively and for all other areas of the City it is 0.8. It follows that parking requirements can be significant. In terms of added costs, a parking space in the downtown can add \$69k<sup>275</sup> while in areas with less demand, \$36k.<sup>276</sup></p> <p>Sections 10.10.40.50 and 15.10.40.50 of the Zoning Bylaw covers indoor and outdoor amenity space requirements for residential and residential apartment zones. Requirements are determined based on the numbers of units: "an apartment building with 20 or more dwelling units must provide amenity space at a minimum rate of 4.0 square metres for each dwelling unit, of which: (A) at least 2.0 square metres for each dwelling unit is indoor amenity space; (B) at least 40.0 square metres is outdoor amenity space in a location adjoining or directly accessible to the indoor amenity space; and (C) no more than 25% of the outdoor component may be a green roof."</p> <p>Unit mix requirements apply to buildings with 20 or more units and are defined within the City's Growing Up Guidelines. They require that at least 25% of the units are large. This is likely not an overly onerous requirement on developers, but it is worth noting that there are positive local examples of community housing buildings, with 40 – 60 units, comprised entirely of micro-suites. This suggests that the 20 unit cut-off could be relaxed for micro-suites developments offering affordability and improved environmental sustainability. It is also possible to encourage flexible design that allows reconfiguration of micro-suites into larger units.</p> <p>A large swath of the city is zoned for low-density detached and semi-detached housing. Informally termed the "Yellow Belt" (Neighbourhoods in the Official Plan) this area is 1.8 times the total area of all other residential zones. Multi-unit buildings have not been allowed in these areas. Experts have argued that this constrains the supply and diversity of housing in these amenity-rich areas and promotes socio-economic inequality.<sup>277</sup> Recent policy changes like the Official Plan Amendment 320 have attempted to promote gentle density in these areas but experts have argued that these are ineffective in practice. In July of 2019, Toronto City Council voted unanimously "to direct the Chief Planner and Executive Director of City Planning to report to the Planning and Housing Committee in the fourth quarter of 2019 on options and a timeline to increase housing options and planning permissions in areas." See Section 4.7.</p>

<sup>275</sup> Estimate is from the TalkCondo website for Smart House Condos. Accessed online Oct 2019: [www.talkcondo.com/toronto/smart-house-condos/](http://www.talkcondo.com/toronto/smart-house-condos/)

<sup>276</sup> Estimate is from the TalkCondo website for The 2800 Condos. Accessed online Oct 2019: [www.talkcondo.com/toronto/the-2800-condos/](http://www.talkcondo.com/toronto/the-2800-condos/)

<sup>277</sup> mapTO Website. The Yellowbelt. Accessed online Oct 2019: [www.mapto.ca/maps/2017/3/4/the-yellow-belt](http://www.mapto.ca/maps/2017/3/4/the-yellow-belt)

**Table 7.** Example buildings incorporating micro-suites in different areas of Toronto

Name	Location	Completion Date <sup>278</sup>	Minimum Area <sup>279</sup> (ft <sup>2</sup> )	Storeys <sup>280</sup>	Total # of Units <sup>281</sup>	Total # Micros (<350 ft <sup>2</sup> )	Micro Rental Rate (\$/month 2019)	Micro Resale Price (\$ in 2018-19)	Walk Score <sup>282</sup>	Transit Score	Bike Score
Karma Condos	15 Grenville (Bay St. Corridor)	2016	277	50	495	25 <sup>283</sup>	1,785 to 1,850 <sup>284</sup>	370k to 385k <sup>285</sup>	99 Walker's Paradise	100 Rider's Paradise	71 Very Bikeable
Smart House	215 Queen St. W	2018	289	25	256	36 <sup>286</sup>	1,690 to 2,100 <sup>287</sup>	No data	99 Walker's Paradise	100 Rider's Paradise	95 Biker's Paradise
Art Shoppe Lofts + Condos	2131 Yonge St. (Near Eglinton)	2019	321	28	624	>15 <sup>288</sup>	No data	No data	99 Walker's Paradise	94 Rider's Paradise	72 Very Bikeable
The 2800 Condos	2800 Keele St. (Downsview)	2017	310	11	237	8 <sup>289</sup>	1,550 to 1,600 <sup>290</sup>	267k <sup>291</sup>	76 Very Walkable	69 Good transit	50 Bikeable

<sup>278</sup> Completion dates were obtained from the BuzzBuzzHome website. Accessed online Oct 2019: [www.buzzbuzzhome.com](http://www.buzzbuzzhome.com)

<sup>279</sup> Min floor areas were determined by evaluating the condo floorplans available on the TalkCondo website. Accessed online Oct 2019: [www.talkcondo.com](http://www.talkcondo.com)

<sup>280</sup> Number of storeys was obtained from the BuzzBuzzHome website. Accessed online Oct 2019: [www.buzzbuzzhome.com](http://www.buzzbuzzhome.com)

<sup>281</sup> Total number of units was obtained from the BuzzBuzzHome website. Accessed online Oct 2019: [www.buzzbuzzhome.com](http://www.buzzbuzzhome.com)

<sup>282</sup> Walk, transit and bike scores are available from [walkscore.com](http://walkscore.com).

<sup>283</sup> The floorplan for the 277 ft<sup>2</sup> micro-suite indicates one unit per floor from the 5<sup>th</sup> to 29<sup>th</sup> floor. An equal number of 352 ft<sup>2</sup> studios are available but this wasn't included in the total. Floorplans viewed via talkcondo.com accessed online Oct 2019: [www.talkcondo.com/toronto/karma-condos/](http://www.talkcondo.com/toronto/karma-condos/)

<sup>284</sup> Historical rental rates based on MLS listings are available from Condos.ca. This range covers rentals for units 2904, 2504, 1204, 704, and 2004 in approximately the last year, with some units being posted more than once in that time period. MLS ID #s are C4530129 (Leased for \$1,850/month in July 2019), C4472561 (Leased for \$1,785/month in June 2019), C4444949 (Leased for \$1,795/month in June 2019), C4379134 (Asking \$1,795 but terminated), C4327188 (Asking \$2,100 initially, then reduced to \$2,000 and expired in November 2019).

<sup>285</sup> Historical sale prices based on MLS listings are available from condos.ca. This range covers rentals for units 2804 and 1904. MLS ID #s are C4212447 and C3976934. Accessed online Oct 2019: [www.condos.ca](http://www.condos.ca)

<sup>286</sup> The floor plans for the building were accessed through the Talk Condo website. There is a 289 ft<sup>2</sup> unit (Suite 11) from floors 6 to 20 (one per floor) and 305 ft<sup>2</sup> unit (Suite 06) from floors 5 to 25 (one per floor). There are also units 350, 370 and 380 ft<sup>2</sup> (estimated 62 of these units in total) but these were not included in the total provided in the table because they begin to approach more conventional studio apartments. Note that the naming conventions between the actual building and the data available on the TalkCondo website seem to have changed in that the relevant micro-suite are 06 and 07, and not 11 – this was clear from the MLS listings accessed through condos.ca. Accessed online Oct 2019: [www.talkcondo.com/toronto/smart-house-condos/](http://www.talkcondo.com/toronto/smart-house-condos/)

<sup>287</sup> Historical rental rates based on MLS listings are available from condos.ca. This range covers rentals for units 906, 2106, 1806, and 1007. MLS ID #s are C4531111, C4345089, C4360054, and C4365198.

<sup>288</sup> Floor plans were reviewed using CondoNow website accessed online Feb 2020: [condonow.com/Art-Shoppe-Lofts-Condos/Floor-Plan-Price](http://condonow.com/Art-Shoppe-Lofts-Condos/Floor-Plan-Price). Floorplans 321, 339, L-SA, L-SB, L-SC, L-SD, L-45, and, T-SA are all below 350 ft<sup>2</sup>. In some cases, floorplans do not provide then number of units and, in other cases, the floorplans are duplicates (e.g. 321 and T-SA are the same unit). A best guess is that there are >15 units below 350 ft<sup>2</sup> in this building.

<sup>289</sup> The floor plans for the building were accessed through the Quadcam Development Group website. There is one 310 ft<sup>2</sup> unit per floor from floors 4 to 9, and a 338 ft<sup>2</sup> unit on floor 2 and 3. Accessed online Oct 2019: [quadcam.ca/2800-condominiums-floorplans-bachelor.php](http://quadcam.ca/2800-condominiums-floorplans-bachelor.php)

<sup>290</sup> Historical rental rates based on MLS listings are available from condos.ca. This range covers rentals for units 705, 805, and 905. MLS ID #s are W4470365, W4401580, and W4376174. Accessed through condos.ca Oct 2019: [condos.ca](http://condos.ca)

<sup>291</sup> Unit 705. Sold Jan 2019 for \$267k asking \$265k. MLS@#: W4344140. Information accessed through condos.ca Oct 2019: [condos.ca/toronto/the-2800-condos-2800-keele-st/unit-705-W4344140](http://condos.ca/toronto/the-2800-condos-2800-keele-st/unit-705-W4344140)

### 9.3 Toronto Demographics and Rental Market Supply

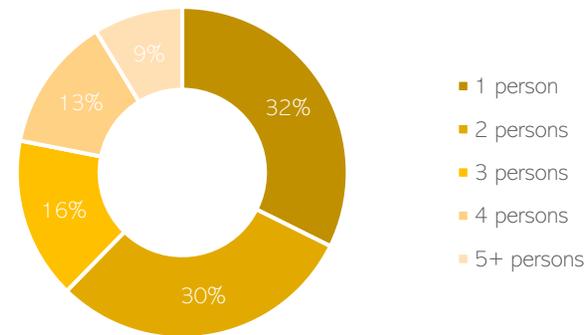
A brief overview of the Toronto rental market is helpful. Key trends are below. They portray a hot rental market constrained by high demand and low supply.

- The Toronto population grew 4.5% between 2011 and 2016.<sup>292</sup>
- The high cost of ownership and tougher borrowing criteria has kept demand for rental housing strong.<sup>293</sup>
- Vacancy rates for rental housing are near record lows.<sup>294</sup>
- The supply of purpose-built rental housing is increasing but not keeping pace with demand.<sup>295</sup>
- A third of condominiums in Toronto are rented out<sup>296</sup> (comprising ~17.4% of the total rental market supply).<sup>297</sup> The secondary condo rental market provides important relief to the rental sector but high cost of ownership drives buyers to make condo purchases (rather detached or semi-detached homes) – removing rental units from the secondary market.<sup>298</sup>
- Rentals in the City are divided nearly equally between primary (purpose-built rentals) and secondary markets but the proportion of the market provided through primary market is declining.<sup>299</sup>

In terms of demographic groups, one and two person households are the largest. Two person households encompass a lone parent with one child and also, couples without children, but couples without children is significantly larger. It follows micro-suites may be potentially suitable to most of the two person households.

Studios and 1-bedrooms comprise half of the available rental housing. This is well-matched to their target demographics. The potential of micro-suites is in moving forward, promoting affordability as these demographics grow. The relative proportions of studios could also be encouraged to grow and within that, studio micro-suites could make inroads.

Toronto Household Size



Toronto Rental Unit Types

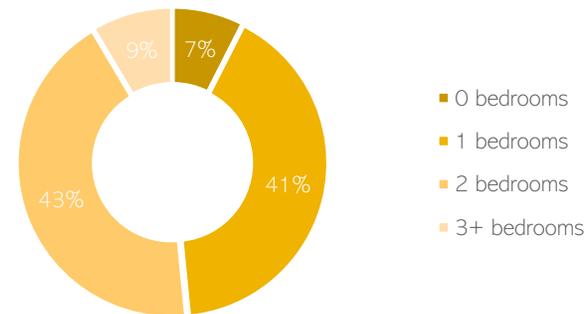


Figure 16. Household size<sup>300</sup> and rental mix in Toronto.<sup>301</sup>

<sup>292</sup> Statistics Canada. 2016 Census Profile for Toronto.

<sup>293</sup> CMHC. Rental Market Report 2018 for Toronto.

<sup>294</sup> Ibid.

<sup>295</sup> Ibid.

<sup>296</sup> Ibid.

<sup>297</sup> The Canadian Centre of Economic Analysis (CANCEA) and the Canadian Urban Institute (CUI) for the Affordable

Housing Office (AHO) of the City of Toronto. Toronto Housing Market Analysis: From Insight to Action. Jan 2019.

<sup>298</sup> CMHC. Rental Market Report 2018 for Toronto.

<sup>299</sup> The Canadian Centre of Economic Analysis (CANCEA) and the Canadian Urban Institute (CUI) for the Affordable Housing Office (AHO) of the City of Toronto. Toronto Housing Market Analysis: From Insight to Action. Jan 2019.

<sup>300</sup> Statistics Canada. 2016 Census Profile for Toronto.

<sup>301</sup> CMHC. Rental Market Report 2018 for Toronto.

## 9.4 Towards Affordable Market Micro-suites in Toronto

Toronto currently has a limited supply of micro-suites in high- and mid-rise market ownership condominiums. They have potential as a more affordable option for owner-occupants but when rented on the secondary market that affordability is diminished or lost because the micro-suite units can be rented at rates near or above that for conventional studios.

Recent market and demographic data shows that the City currently has an adequate supply of unit types serving single persons and couples without children – that is why there are actively encouraging the construction of larger units. Moving forward, as the City population grows, and as these demographics grow larger in proportion, there is an opportunity for affordable micro-suites to occupy an increasing share of the studio and 1-bedroom mix. However, if micro-suites are left to the secondary rental market where they currently have been implemented, that opportunity may not be fully realized.

A potential solution may lie in encouraging an appropriate level of micro-suite deployment in purpose-built rentals with rental rates agreed upon in housing agreements. The current examples within Toronto indicate that there is developer interest and furthermore, condo sale prices suggest that developers can, in fact, build micro-suites that are cheaper than conventional studios.

Based on the existing examples, the best opportunities for promoting affordability may lie in areas outside of the in-demand downtown core, but still in highly walkable/bikeable communities with access to the transit network, such that parking can be unbundled from the unit.

Changes to the zoning bylaw may help to promote affordable micro-suites. Specifically, the open- and common-space requirements may instead be based on unit area as opposed to the number of units, and creative solutions for parking may help reduce off-street parking requirements for micro-suite units in walkable communities close to the transit network. Furthermore, the 20-unit cut-off in the Growing Up Guidelines may be relaxed to allow larger fully micro-suite developments offering improved affordability, improved environmental sustainability, and other co-benefits.

<sup>302</sup> For example, see the UBC Nano Building. Accessed online Oct 2019: [vancouver.housing.ubc.ca/rooms/nano/](http://vancouver.housing.ubc.ca/rooms/nano/). Also see Case Study 6, which outlines this approach in San Francisco.

## 9.5 Other Opportunities Within the City

Additional opportunities for micro-suites within the City are summarized below.

- The City is home to 4 colleges and 4 universities. Dedicated off-campus student housing is an additional opportunity for micro-suites. It may relieve the pressure on rentals that could be used by families, and also help build knowledge around this new housing form.<sup>302</sup>
- Non-market community housing is being renewed across the City and micro-suites have potential to house more individuals for lower costs, and in a limited area.
- The City is considering opportunities to add gentle density and promote housing diversity in Neighbourhoods within the City and there are different micro-suite form factors that may blend in well with the existing character of neighbourhoods. However, both the Seattle and Vancouver experience (regarding modular housing for Vancouver) suggest that this would be met with some level of community opposition. Care should be taken to ensure that concerns of community members are addressed.
- Micro-suites are particularly well-suited to refurbishment of SRO hotels within the City although measures are required to ensure that the refurbishment is not negatively impacting affordability.<sup>303</sup>
- As a country, Canada has aggressive targets for reducing greenhouse gas emission to mitigate the impacts of the climate emergency, Micro-suites are inherently more energy efficient than other housing forms and could an important approach for promoting the sustainability of new developments.
- As the City continues with initiatives to address homelessness, new modular micro-suite developments may be a useful tool for providing immediate housing relief to vulnerable individuals.

<sup>303</sup> The conversion of Toronto SROs into higher-end units is discussed in: Alexis Mulvenna. SRO: From Single Room Occupancy to Standing Room Only. The Public Policy & Governance Review. November 4, 2014. Accessed online 06/06/2019: [ppgreview.ca/2014/11/04/sro-from-single-room-occupancy-to-standing-room-only/](http://ppgreview.ca/2014/11/04/sro-from-single-room-occupancy-to-standing-room-only/)

## 10 Summary and Conclusion

### 10.1 Overview

Housing costs in Toronto, and many other Canadian jurisdictions, is approaching record levels and urgent action is needed. The concept of “micro-housing” has rapidly grown in popularity across North America in recent years and may provide a cost-effective housing alternative for the growing demographics of people living alone and couples without children.

This desktop study focused on micro-suites in multi-unit buildings. A micro-suite is “a newly constructed housing unit that contains a private bathroom and kitchen or kitchenette, but that is significantly smaller than a standard studio in a given city.” In Toronto, that means units on the scale of 300 ft<sup>2</sup> and smaller. Micro-suites may better **utilize existing space**, allow for a **greater density** of dwellings, and may be **more affordable** than conventional housing options. They also promote **environmental sustainability** by their inherent energy efficiency, decreasing carbon emissions in response to the climate emergency.

While it is not for everyone, or every stage of life, demand for micro-suites elsewhere has been high. Many are happy to replace “space” with “place,” and the concept has been embraced across different age and income groups by singles and couples looking for independent, clean, safe and affordable housing with easy access to city amenities. In fact, **the limited available research on existing micro-suites shows levels of tenant satisfaction that are comparable to conventional units**. However, while Toronto has permitted micro-suites, it has not embraced the concept to the same level as other jurisdictions.

This study evaluated barriers and opportunities associated with micro-suite deployment in Toronto, and other Canadian cities by extension. It proceeded through a review of planning, policy, and code documents; a literature review and jurisdictional scan, including relevant case studies; and a limited series of consultations with relevant stakeholders.

### 10.2 Policy Context

Housing policy across all levels of government echoes common themes. Interventions are needed to improve affordability, improve the supply of rental housing, safeguard and expand the current stock of community housing, improve environmental sustainability, encourage a range of different housing types, ensure housing is an integral part of complete communities, guide intensification and density growth in key areas, and promote innovation. Micro-suites are not specifically identified in any of the main policy documents, but it is an innovative housing solution that could directly address these issues.

Several opportunities for micro-suites emerged from the policy review. At the **federal** level, the National Housing Strategy has provided funding to at least four micro-housing projects and there are various initiatives from which micro-suite developments could benefit. The NHS Solutions Lab and Demonstration Initiative are further opportunities to study micro-suites and build knowledge.

At the **provincial** level, the Community Housing Renewal Strategy highlights new commitments to increase the supply and appropriate mix of affordable and adequate housing. Micro-suites have been used in different North American jurisdictions (including in Hamilton, ON) as a cost-effective non-market community housing option.

At the **municipal** level, new opportunities are emerging to increase the mix of housing in areas of the City traditionally zoned for detached and semi-detached housing (informally termed the “Yellow Belt”) and there are micro-suite form factors that could integrate well into these neighbourhoods. Various other initiatives exist to accelerate the development of affordable housing spaces – which could include micro-suites.

### 10.3 Literature Search and Jurisdictional Scan

It's important to look to other jurisdictions for transferrable lessons. This study considered Seattle, New York City, San Francisco, Boston and British Columbia.

In the jurisdictions considered, there has been high demand for micro-suites, both from tenants and developers. Micro-suites have emerged intentionally from government programs, but also spontaneously without direct government support. They have been used as non-market community housing, supportive housing for vulnerable demographics, secured market rentals, and market ownership units. They have housed seniors, students, and working professionals across a range of age and income groups.

It is clear that most jurisdictions are still in the learning phase regarding how micro-suites best integrate with their cityscape. The greatest barriers have to do with newness and the resulting uncertainty around this housing form. For example, a common concern is the well-being of tenants. Community and market impacts, both positive and negative, are not fully known.

However, it's important to note that **the design principles which foster livability and well-being are well-known and have been implemented in micro-suite developments that serve as positive examples – including examples in a cold Canadian climate.** They have also been identified in formal design guidelines.

A key issue that any jurisdictions must resolve is the fact that "micro" does not necessarily imply "affordable." In fact, simply developing micro-suites with no other measures to ensure affordability could result in units that are no more affordable (or only marginally so) than apartments already available on the market.

There are at least three approaches to ensuring affordability identified in the jurisdictional scan: (1) incorporate them in non-market community housing; (2) make their development contingent on housing agreements that guarantee below market rents; (3) modular construction techniques; and (4) make them very small.

It is also important to note how regulatory requirements for building amenities like parking, open-space, common-space, and unit mix, may impact affordability – and there have been different approaches across the jurisdictions to adapt regulations to promote highly livable and affordable micro-suites that meet the needs of tenants and local government.

### 10.4 Specific Policy Measures and Initiatives

The different jurisdictions considered within this report adopted different policy measures and initiatives to support the deployment of micro-suites at different scales, and different purposes, within their cityscapes. Notable measures include:

- The Government of BC provided \$291 million, starting in 2017, to generate 2,000 temporary modular housing units (typically sized 250 to 320 ft<sup>2</sup>) to provide immediate housing relief for vulnerable individuals. The modular housing units were arranged to form low-rise multi-unit buildings on vacant or under-utilized government land.
- The SRO Renewal Initiative from The Government of BC involved the purchase and renovation of 13 single-room occupancy (SRO) hotels in Vancouver for the purpose of providing community housing for 900 individuals. Buildings were purchased from 2007 to 2009 and renovations completed in 2017. This was a \$147 million investment from the Province, with an additional \$29.1 million from the Federal Government.
- The Government of BC waived development cost charges (DCCs) for the construction of units less than 29 m<sup>2</sup> (313 ft<sup>2</sup>) – what they call Micro Dwelling Units (MDUs). DCCs are used by municipalities to offset the capital cost of providing city infrastructure, like roads, sewers, and water, to new developments.
- The minimum area of dwelling units for most of Vancouver is 398 ft<sup>2</sup>. However, starting in 2015, the City has been permitting MDUs as small as 250 ft<sup>2</sup>, with conditions, in the Downtown Eastside as a pilot.
- The two-year Compact Living Pilot in Boston was announced in October 2018. Eligible developments may incorporate units that are smaller than the current city-mandated restrictions. The pilot is notable for its unique approach to transportation demand management options aside from off-street parking.
- The adAPT NYC Competition run by New York City in 2012/2013 considered designs for a multi-unit micro-suite building submitted from different design firms. Mayoral overrides waived the 400 ft<sup>2</sup> minimum area requirement to construct Carmel Place, having 55 units averaging 286 ft<sup>2</sup>. More recently, the Zoning for Quality and Affordability amendment relaxed the 400 ft<sup>2</sup> requirement and instead focuses on density factors. This allows micro-suites in developments with a mix of unit sizes.
- The San Francisco Building code allows units as small as 220 ft<sup>2</sup> in addition to closets and bathrooms. In 2012, the San Francisco Building Code was amended to allow market units with a *total area* (including closets, living space, bathroom, etc.) as small as 220 ft<sup>2</sup>. This began as a trial with the City stating they would allow 375 units under the new regulation, reviewing the results after 325 were constructed.

## 10.5 Micro-suites in the Toronto Context

The most significant barrier in other jurisdictions – restrictive minimum area requirements – are not a barrier in Toronto. Without this barrier present within the City, several new market-ownership buildings have incorporated micro-suites.

Sale price data shows potential as a more affordable option for owner-occupants but when rented on the secondary market (as they often are), affordability is diminished or lost. A limited analysis showed that micro-suite units can be rented at rates on par with conventional studio rentals in the City.

Recent market and demographic data shows that the City currently has an adequate supply of unit types serving single persons and couples without children. Moving forward, as the City population grows, and as these demographics grow larger in proportion, there is an opportunity for affordable micro-suites to occupy an increasing share of the studio and 1-bedroom mix. However, if micro-suites are left to the secondary rental market where they currently have been implemented, that opportunity may not be fully realized.

**A potential solution may lie in adopting policies that encourage an appropriate level of affordable micro-suite deployment in purpose-built rentals with rental rates agreed upon in housing agreements.**

Based on the existing examples, the best opportunities for promoting affordability may lie in areas that are outside of the in-demand downtown core, but still in highly walkable/bikeable communities with access to the transit network.

Changes to the zoning bylaw may help to further promote affordability in micro-suites. Specifically, the open- and common-space requirements may instead be based on unit area as opposed to the number of units, and creative solutions for parking may help reduce off-street parking requirements for micro-suite units in walkable communities close to the transit network. Furthermore, the 20-unit cut-off in the Growing Up Guidelines may be relaxed to allow larger fully micro-suite developments offering improved affordability and environmental sustainability.

## 10.6 Other Opportunities Within the City

Additional opportunities for micro-suites within the City are summarized below.

- The City is home to 4 colleges and 4 universities. Dedicated off-campus student housing is an additional opportunity for micro-suites. It may relieve the pressure on rentals that could be used by families, and also help build knowledge around this new housing form.
- Non-market community housing is being renewed across the City and micro-suites have potential to house more individuals for lower costs, and in a limited area.
- The City is considering opportunities to add gentle density and promote housing diversity in Neighbourhoods within the City and there are different micro-suite form factors that may blend in well with the existing character of neighbourhoods. However, both the Seattle and Vancouver experience (regarding modular housing for Vancouver) suggest that this would be met with some level of community opposition. Care should be taken to ensure that concerns of community members are addressed.
- Micro-suites are particularly well-suited to refurbishment of SRO hotels within the City, although measures are required to ensure that the refurbishment is not negatively impacting affordability.
- As a country, Canada has aggressive targets for reducing greenhouse gas emission to mitigate the impacts of the climate emergency, Micro-suites are inherently more energy efficient than other housing forms and could an important approach for promoting the sustainability of new developments.
- As the City continues with initiatives to address homelessness, new modular micro-suite developments may be a useful tool for providing immediate housing relief to vulnerable individuals. Toronto is already implementing this solution.

## 10.7 Next Steps

Broadly, the most important next steps for Toronto, or any Canadian city interested in micro-suites, are as follows:

1. **Building knowledge** through further scientific study on the following topics can alleviate concerns and inform effective planning:
  - a. tenant experience in existing Ontario micro-suites
  - b. rental market and community impacts
  - c. impacts of common and open space requirements on *both* tenant well-being and affordability
  - d. carbon emission reduction benefits
2. **Conduct micro-suite pilots and build capacity** for in buildings other than high- and mid-rise market-ownership condominiums. Following the approaches of other jurisdictions, it's possible to:
  - a. start with low-hanging fruit opportunities like community housing, off-campus student housing, and immediate housing relief for vulnerable populations
  - b. consider a design competition for a pilot building, a pilot neighbourhood, or pilot a limited number of buildings
3. **Amend regulations and formulate guidelines**, for example:
  - a. consider design guidelines from other jurisdictions
  - b. re-evaluate requirements for parking, unit mix and open/common space for micro-suites
  - c. consider zoning changes to allow micro-suites (or micro-suite pilots) in multi-unit buildings in areas requiring increased housing diversity and affordability
4. **Ensure affordability.** If a broader micro-suite roll-out is encouraged, then measures to ensure affordability would include:
  - a. non-market community housing, housing agreements in secured purpose-built market rentals, modular construction techniques, and very small micro-suites

<sup>304</sup> Quote is from Judy Green, 67, congregate-housing tenant in Seattle. Congregate housing is a form of co-housing where individually-leased units are 140 to 200 ft<sup>2</sup> and several units are serviced by a large communal kitchen. Dominic Holden The Fight Against Small

## 10.8 Final Thoughts

A key lesson is that micro-suites are not a “magic bullet” for housing affordability. Rather, they have potential to be a constructive part of a broader suite of measures aimed at addressing housing issues.

What's ultimately important is that people have clean, safe, independent, and affordable housing, with access to the City amenities they need both to support their health and well-being, as well as that of the City as a whole. These values are echoed in the Official Plan for Toronto which strives for “*affordable housing choices that meet the needs of everyone throughout their life,*” and furthermore, that “*no person pays more than they can afford for shelter*” and that “*innovative implementation solutions are embraced.*”

Micro-suites are surely an innovative housing solution but, for many decision-makers, they initially solicit a negative reaction – after all, the obvious questions is: “*Why would someone choose to live in something so small??*”

The available research tells us that most individuals don't choose it because it is small, but rather, that size is an acceptable compromise given much less desirable housing alternatives: dependence on parents or other family for housing, living with strangers, living in an unsafe and/or unhygienic illegal rooming house, living in a suburb far from work or city amenities, debt, homelessness, long wait times for community housing, etc.

It follows that where micro-suites lack in size, they are able to satisfy the key housing requirements – at least for what is likely to be a notable segment of the population – but conscious effort from the City is needed to realize this potential. As on micro-suite tenant put it:

*“I want you to consider that there are people like me who are happy in a place like this... My unit is lovely, and the building is attractive. I can walk to stores and parks, and I can afford to live there.”<sup>304</sup>*

Apartments. Why Neighborhood Groups Are Uniting to Stop Developers from Building Tiny, Affordable Units. The Stranger. May 8, 2013. Accessed online Oct 2019: [www.thestranger.com/seattle/the-fight-against-small-apartments/Content?oid=16701155](http://www.thestranger.com/seattle/the-fight-against-small-apartments/Content?oid=16701155)

# The Macro View on Micro Units

The Urban Land Institute Multifamily Housing Councils were awarded a ULI Foundation research grant in fall 2013 to evaluate from multiple perspectives the market performance and market acceptance of micro and small units.



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The mission of the Urban Land Institute is to provide leadership in the responsible use of land and in creating and sustaining thriving communities worldwide. ULI is committed to

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- Fostering collaboration within and beyond ULI's membership through mentoring, dialogue, and problem solving;
- Exploring issues of urbanization, conservation, regeneration, land use, capital formation, and sustainable development;
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The mission of the ULI Foundation is to serve as the philanthropic source for the Urban Land Institute. The Foundation's programs raise endowment funds, major gifts, and annual fund monies to support the key initiatives and priorities of the Institute. Philanthropic gifts from ULI members and other funding sources help ensure ULI's future and its mission of providing leadership in the responsible use of land and in creating and sustaining thriving communities worldwide.

The Foundation exists to support the content development and dissemination efforts of the Urban Land Institute and to educate the public—and those making decisions on behalf of the public—about responsible land use practice and patterns. Whether creating scholarship opportunities for worthy students, publishing original research on critical land use issues, or convening decision makers to discuss current industry developments, the ULI Foundation enables members to make a visible difference in communities around the world—and in the lives of countless individuals within those communities. The ULI Foundation has benefited from the generous philanthropy of many donors, who see in their giving an opportunity to provide for others through an organization that has meant so much in their own lives and careers.

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# Contents

- Executive Summary . . . . . 4**
  - Definition of *Micro Unit*. . . . . 5
  - Approach . . . . . 6
- Research Partners . . . . . 7**
- Historical Market Performance . . . . . 8**
  - Product Characteristics . . . . . 8
  - Occupancy Performance . . . . . 10
  - Rental-Rate Performance . . . . . 11
  - Performance of Properties with Units Less Than 500 Square Feet . . . . . 12
  - Key Findings . . . . . 15
- Consumer Feedback . . . . . 16**
  - Participants . . . . . 16
  - Survey Results . . . . . 17
  - Key Findings . . . . . 20
- Best Practices and Lessons Learned . . . . . 22**
  - Target Market Audiences . . . . . 22
  - Purchase and Rent Motivations . . . . . 24
  - Selling Proposition . . . . . 24
  - Ideal Size . . . . . 25
  - Micro-Unit Solutions . . . . . 25
  - Amenity and Gathering-Space Trends . . . . . 26
  - General Design Considerations . . . . . 28
  - Kitchen Design . . . . . 28
  - What’s Next—Micro Suites? . . . . . 29
  - Location, Location, Location . . . . . 30
  - Marketing and Branding . . . . . 31
  - Cautious Capital . . . . . 31
  - Case Study Projects . . . . . 32
  - Key Findings . . . . . 35
- Conclusion . . . . . 37**
- Research Committee Members . . . . . 38**
- Appendix . . . . . 40**



# Executive Summary

A common perception exists that unit sizes in new apartments have been shrinking as developers seek higher density and higher revenue per square foot to offset rising land value and construction costs and to hold monthly rent at an affordable level relative to income. The ultimate incarnation of this trend has been the introduction—or the reintroduction—of very small units, often referred to as *micro units*. These very small (by traditional standards) apartments, leasing at approximately 20 percent to 30 percent lower monthly rent than conventional units, yet at very high value ratios (rent per square foot), have been offered or are being considered in urban and urbanizing locales, particularly high-density, expensive metropolitan markets such as Boston, New York, San Francisco, Seattle, and Washington, D.C. This research report explores this renewed trend in the United States and seeks to answer the following key questions:

- What exactly is a micro unit?
- How have smaller and micro-unit rental apartments performed in the marketplace compared with larger, more conventional apartments?
- Does the higher per square foot rent justify the higher construction cost?
- What are some of the examples across the country where micro units have been successfully developed and operated?
- What are the critical success factors and lessons learned from developers, owners, operators, and design professionals that have experience with this new breed of micro-unit community?
- What has been the experience of residents who have actually lived in one of these tiny apart-

ments, what do they like and dislike, and what motivated them to consider a micro unit in the first place?

- What would motivate potential renters of conventional apartments to live in a smaller unit?
- Based on a compilation of all of the above, what is the likely future for micro units; is this a passing fad or a growing trend?

To answer these and other questions, the research team for this report analyzed hard data to understand the performance of smaller and micro units in the marketplace. The team also conducted consumer research with residents of micro units to understand their experience and satisfaction levels compared with occupants of conventional units. Finally, the team compiled case studies of micro-unit rental apartment communities and conducted a series of interviews with industry experts to identify best practices and lessons learned. The ultimate objective of this research is to gather and share innovative ideas that can contribute to the successful development of micro-unit communities in the future.

Some of the key findings, which the report provides in greater detail, follow:

- Although *micro unit* has no standard definition, a working definition is a small studio apartment, typically less than 350 square feet, with a fully functioning and accessibility compliant kitchen and bathroom. Under this definition, a 160-square-foot single-room-occupancy (SRO) unit that relies upon communal kitchen or bathroom facilities does not qualify as a true micro unit.
- Smaller and micro units outperform conventional units in the marketplace—they achieve higher occupancy rates and garner significant rental-rate premiums (rent per square foot) compared with conventional units. However, the stock of very small units is still quite limited, and it is difficult to know whether the performance of these smaller units is driven by their relative scarcity or whether significant pent-up demand for micro units actually exists.
- Both the consumer research and the case studies indicate that a segment of renters is indeed interested in the micro-unit concept; nearly a quarter of renters in conventional apartments indicate they would be interested or very interested in renting a micro unit. Depending upon one's perspective,

either this speaks to a potentially huge untapped market, or it remains a niche market.

- The appeal of micro units is largely about economics, but place and privacy are all part of the equation. Most respondents interested in micro units are willing to consider them in exchange for a lower monthly rent (approximately 20 percent to 30 percent below that of a conventionally sized unit), a highly desirable (typically authentic, urban/urbanizing, walkable, trendy) location, and the ability to live alone.
- The target market profile for micro units is predominantly young professional singles, typically under 30 years of age, with most under 27 years of age, trending slightly more male than female. Secondary segments include some couples and roommates, some older move-down singles, and pied-à-terre users.
- Developing and operating a rental apartment community with micro units are more expensive, but the premium rent per square foot achieved more than makes up for the added cost.
- Developers and design professionals have come up with a number of creative solutions that ensure micro units are compliant with Fair Housing Amendment Act and accessibility requirements, livable, and actually feel larger than they really are. Such items include flexible furniture systems, high ceilings (more than nine feet), oversized windows, built-in storage, gadget walls, and movable kitchen islands.
- Rental apartment communities with micro units also emphasize what is outside the confines of the unit itself. Developers tend to offer an extensive array of amenities, intimate gathering spaces, and services to residents that enable them to experience community outside their micro unit.
- A definite shift has taken place toward a greater mix of smaller studio and one-bedroom apartments, and micro units are a growing trend across the country with a number of communities under construction and many more in the planning stages. However, to hedge their bets, some savvy developers are building in the flexibility to convert side-by-side micro units back into conventional one- and two-bedroom units, just in case the concept is a flash in the pan.

## Definition of Micro Unit

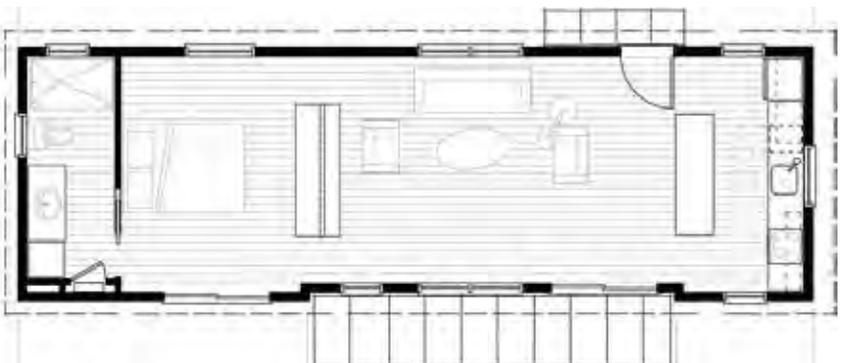
What exactly qualifies as a micro unit? A micro unit might be 300 square feet in New York City or 500 square feet in Dallas. This study learned that no standard definition exists. A micro unit is a somewhat ambiguous term that covers anything from a relatively small studio or one-bedroom apartment to a short-term lease, SRO unit with communal kitchen and common room areas. In fact, many in the industry are moving away from branding their units as *micro* because the term has begun to arouse negative connotations associated with higher density, overcrowding, and transient populations.

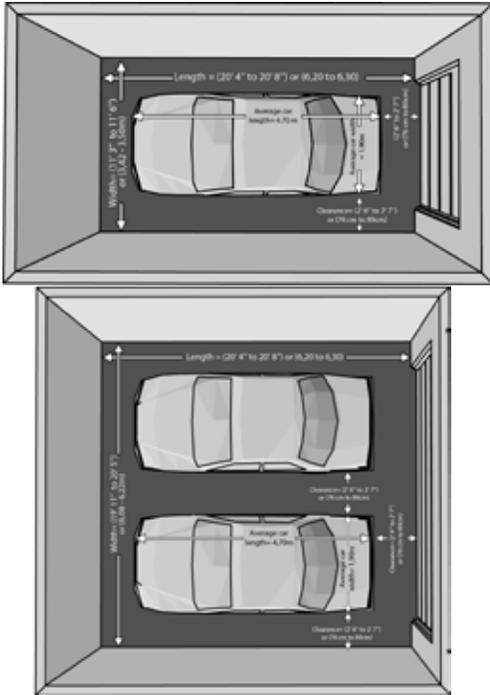
In New York City and Philadelphia, the minimum size requirement for a new dwelling unit is 400 square feet. However, former New York City mayor Bloomberg waived this requirement for the adAPT NYC competition, which defined micro apartments as studio apartments that range between 275 and 300 square feet and include fully functioning kitchens and accessible bathrooms. In the city of San Francisco, new legislation was passed allowing apartments as small as 220 square feet, so long as 70 square feet of this space is allocated to a bathroom and kitchen.

In the District of Columbia, the minimum size for an apartment is also 220 square feet but with no prescription regarding allocation of space within the unit. In Boston, the minimum size for a dwelling unit

**The size of what qualifies as a micro unit is determined by the market in which it exists. An average micro unit on the East and West Coasts, such as those proposed in the adAPT NYC competition, can be around 300 square feet (top), but in some Midwestern and Texas markets, units, such as those designed by Urban Studio, can range between 400 and 500 square feet (bottom).**

CURBED NY "MICRO DWELLINGS" (TOP); IDEABOX (BOTTOM)





**In another perspective, micro units are larger than a one-car garage but smaller than a two-car garage.**

DECOSOUP

is 450 square feet within one mile of public transit, but again this requirement was waived for a demonstration project in the Innovation District to allow development of smaller units. In some Midwestern and Texas markets, units ranging between 400 and 500 square feet are described as micro units. Seattle and Portland have no minimum size requirements, which probably explains why these markets are two of the best examples of cities demonstrating a tremendous amount of experimentation with very small units, including a wide range of communities offering SROs and micro units.

Thus, the concept of micro units is to some degree relative to the market in which they exist. For the purposes of this research effort, a distinction was made between SRO units and micro-unit apartments with fully functioning kitchens and bathrooms. Although some trading range probably exists in the square footage depending upon the market, a good definition of a micro unit is a purpose-built, typically urban, small studio or one-bedroom using efficient design to appear larger than it is and ranging in size from as little as 280 square feet up to as much as 450 square feet (which roughly equates to 20 percent to 30 percent smaller than conventional studios in a given market). Many micro units under 350 square feet feature built-in storage units and flexible furniture systems (e.g., Murphy beds, hideaway kitchen modules, convertible tables, and so on) to make these smaller spaces work.

To put the size of a micro unit into perspective, a 300-square-foot micro-unit studio apartment is slightly larger than a one-car garage but considerably smaller than a two-car garage.

## Approach

This study evaluates the market performance and market acceptance of small and micro units from multiple perspectives, including the following:

- **Market performance**—MPF Research, a division of RealPage Inc., took a data-driven look at performance metrics of small and micro units (as available), including rents, value ratios, and occupancy, compared to conventionally sized units. This analysis examined key characteristics of apartments completed during 2012–2013 in significant construction centers across the United States, documenting the evolution of typical unit size and mix compared to the product built previously. In addition, variations in occupancy and rent achievement performance are compared across unit size and floor plan categories to determine whether small units (not just micro units) have outperformed or underperformed other unit types in occupancy and rent rate premiums.
- **Consumer research**—Kingsley Associates conducted the apartment resident survey portion of this research to ascertain attitudes toward smaller and micro units by both conventional apartment renters and current micro-unit renters. The survey examined what interior, common area and neighborhood amenities, and locational conveniences would drive residents' decisions to rent a small or micro unit over other options; what amenities actually matter most to consumers when making the choice of where and what to rent; and what tradeoffs they would be willing to make in deciding to rent a small or micro unit.
- **Best practices and lessons learned**—RCLCO (Robert Charles Lesser & Co.) interviewed ULI Multifamily Council member participants and other developers, operators, and design professionals to obtain feedback on their experience and innovative ideas (both tested or under consideration) regarding micro units to shape and inform the debate. This input was also used to shape the survey instrument used in the consumer research component of this report previously described. RCLCO also conducted a series of case studies of existing rental apartment communities that had micro units. From this effort, RCLCO prepared a summary of best practices and lessons learned with smaller and micro units, including unit features and finishes, community amenities and services, locational characteristics, operating experience, and construction and operational costs.



# Research Partners

The Multifamily Research Committee enlisted the services of MPF Research, Kingsley Associates, and RCLCO as research partners for this project. A brief corporate biography of each of these partners follows.

## MPF

A division of RealPage, MPF Research has been providing apartment market trends and objective insights to the multifamily industry since 1961. With exclusive access to a completely unique data source and a solid foundation of sound statistical methodologies, MPF Research publishes 72 individual apartment market reports covering the top 100 markets nationally. MPF is relied upon to formulate and fine-tune business strategies in a variety of multifamily industry specialties, including investment, operations, and development. Visit the company website at [www.realpage.com/mpf-research](http://www.realpage.com/mpf-research) for additional information.

## Kingsley Associates

Since 1985, real estate leaders have turned to Kingsley Associates to maximize their portfolio and organizational performance. With a depth and breadth of insight unmatched in the industry, Kingsley Associates is a leader in resident and tenant satisfaction surveys, client perception studies, employee engagement surveys, strategic consulting, and operations benchmarking. Learn more at [www.kingsleyassociates.com](http://www.kingsleyassociates.com).

## RCLCO

Since its founding in 1967, RCLCO has been at the leading edge of real estate trends and issues, offering strategic guidance that is market-driven, analytically based, and financially sound. RCLCO's multidisciplinary team combines real-world experience with the analytical underpinnings drawn from thousands of consulting engagements and proprietary research to develop and implement plans that strengthen our clients' position in their markets, at every point in the market cycle. Visit the company website at [www.rclco.com](http://www.rclco.com) for additional information.

# Historical Market Performance

totalled some 90,000 units in more than 400 properties, representing 41 percent of all units delivered in 2012–2013 in these 35 metros.)

To understand how product design has evolved, MPF compared characteristics of the newest generation of apartments with (a) those of properties built a decade earlier, in 2002–2003 (based on 920 properties with 220,000 units), and (b) those built in 2008–2009 (950 properties with 232,000 units), which represent the tail end of the last development cycle before the Great Recession briefly brought construction of conventional market-rate apartments to a virtual standstill. (All figures in this section are courtesy of MPF Research, Real Page Inc.)

## Product Characteristics

Confirming the general perception that exists in the industry, typical unit size has been shrinking. This shift is not as pronounced as some might think and, as discussed later, the key driver behind shrinking average unit size does not necessarily align with conventional wisdom.

The average unit size for the nation's 2012–2013 completions registers at 950 square feet, which is almost 50 square feet less than the norms recorded in 2002–2003 (995 square feet) and 2008–2009 (998 square feet).

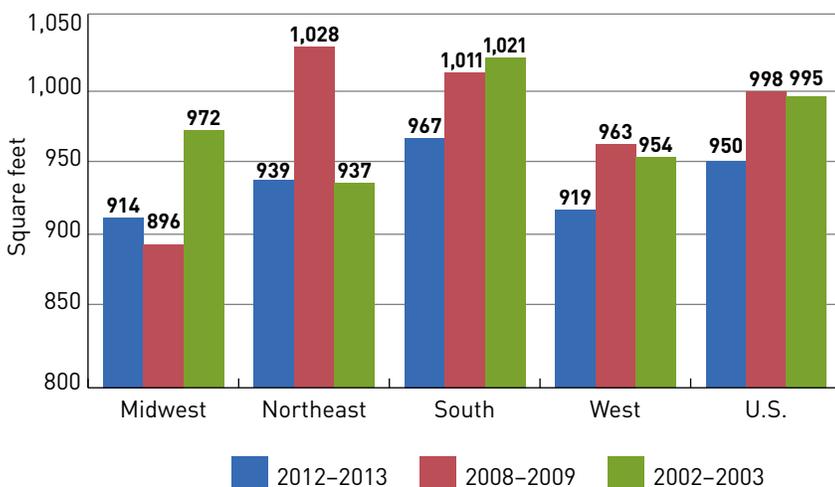
Metros in the South and West regions of the United States accounted for the biggest portions of supply completed in each period examined and most clearly illustrate the general trend toward smaller average unit size. Apartments built in the South during 2012–2013 average 967 square feet, compared with norms of 1,021 square feet for the 2002–2003 deliveries and 1,011 square feet for 2008–2009 completions. In the West, average unit size is down to 919 square feet, falling from norms of 954 square feet in the 2002–2003 stock and 963 square feet in 2008–2009's new supply.

With less new product delivered across the Midwest and Northeast regions, the evolution of average unit size there is less clear-cut. In the Midwest, average size for the most recent round of completions comes in at 914 square feet, smaller than the 2002–2003 deliveries but a little bigger than in 2008–2009 additions. In the Northeast, unit size for 2012–2013 deliveries averages 939 square feet, virtually unchanged from the 2002–2003 standard but down drastically

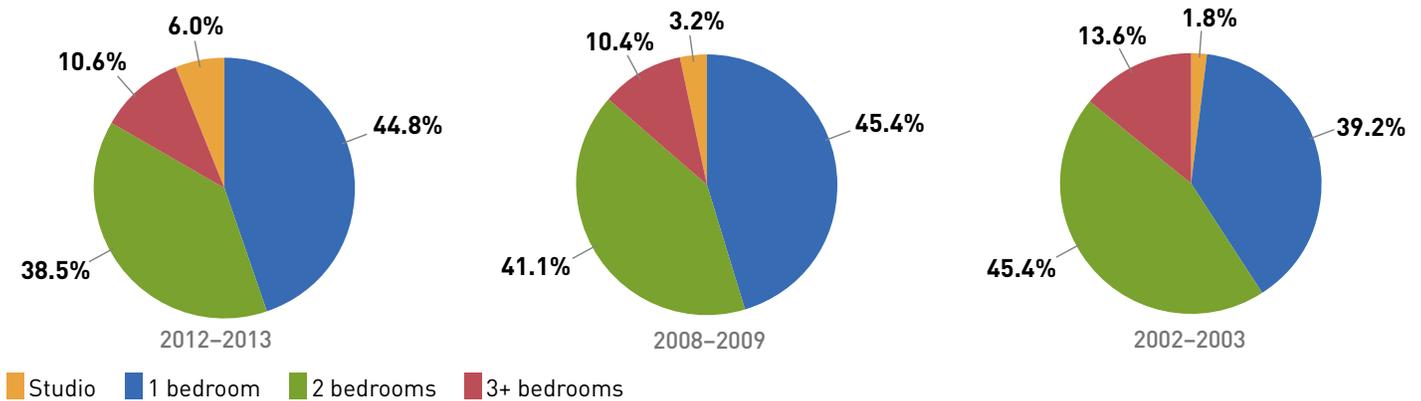
To assess the market response to very small, or micro, units, MPF Research examined key characteristics of apartments completed during 2012–2013 in significant construction centers across the United States and documented the evolution of typical unit size and mix compared to the product built in previous cycles. MPF also identified patterns in occupancy and rent achievement across unit size and floor plan categories.

The properties studied were located in the 35 metropolitan areas where U.S. deliveries were concentrated in 2012–2013; these metros accounted for 82 percent of all apartment product built in the nation's 100 biggest markets during this two-year period. (The specific communities included in the analysis

**Average Unit Size by Region (Three Development Cycles)**



## Bedroom Type by Development Cycle, United States



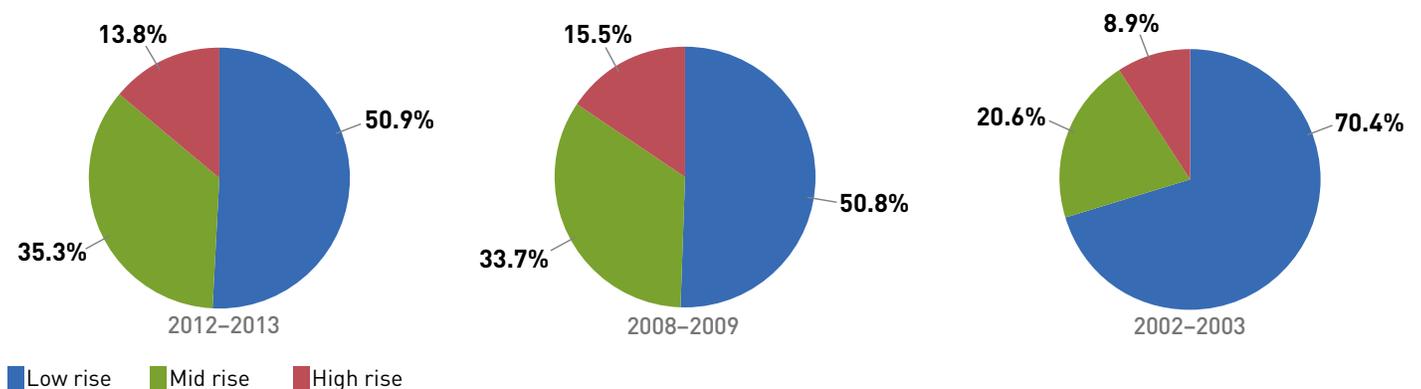
from the figure recorded in 2008–2009. The very large units built in the Northeast during 2008–2009 appear out of line with other point-in-time readings, perhaps influenced by the possibility of sale as condominiums.

The dominant influence behind the general trend toward smaller average unit size is a shift in the mix of unit types. Studio and one-bedroom units account for 50.9 percent of the 2012–2013 completions, marginally higher than 2008–2009’s 48.6 percent share but up drastically from 2002–2003’s norm of 41.0 percent. Clearly driving the move toward more studio and one-bedroom units, the share of 2012–2013’s new supply in urban core settings—downtown or downtown-adjacent locales—is significantly higher than the urban core’s share in 2008–2009 or 2002–2003. Because singles living alone and couples or roommate households dominate the apartment-resident base in the typical urban core environment, building product that features more studio and one-bedroom units simply makes sense.

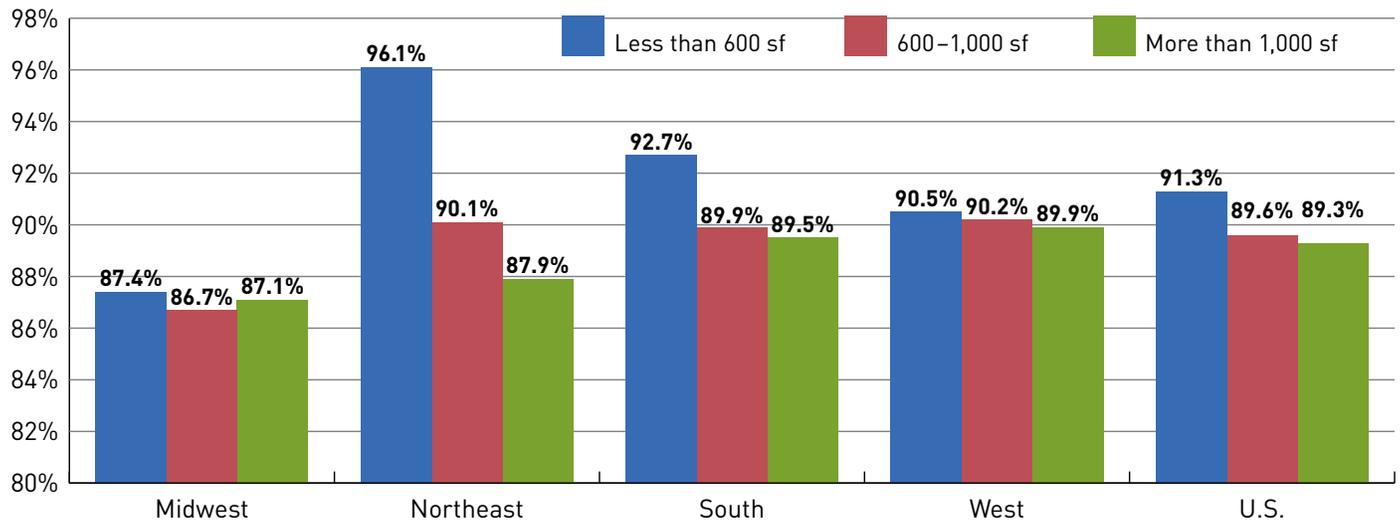
Over the course of the past decade, the share of deliveries in two-bedroom configuration has declined to 38.5 percent from 45.4 percent. And for units with three or more bedrooms, 2012–2013 completions came in at 10.6 percent of the additions, down from 13.6 percent ten years earlier.

The shift in unit-type emphasis will be interesting to watch over the next phase of the current development cycle. While near-term completions of urban core properties will continue to be disproportionately heavy relative to the historical norm, the suburbs are increasingly seeing recent starts and thus anticipate 2015–2016 completions. However, the jump in suburban construction does not necessarily translate to a shift back toward larger units. New suburban product in this cycle also tends to be focused in higher-density neighborhoods that are hubs for employment, transportation, or entertainment. Thus, a sizable percentage of studio and one-bedroom units is appropriate for this style of suburban project. In addition, developers are not surprisingly backing away from units with three or

## Building Type by Development Cycle, United States



## Occupancy by Unit Size (2012–2013 Development Cycle), United States



more bedrooms to an even greater degree in suburban settings, ceding families with children to the single-family-home rental sector.

Illustrating that current development is focused on high-density urban core settings or medium- to high-density suburban hubs, the share of deliveries found in mid-rise and high-rise buildings has surged during the past decade. (MPF Research defines high-rise projects as those with seven or more stories. For mid-rise buildings the height is four to six stories, with low-rise properties totaling one to three floors.) Mid- and high-rise buildings account for 49.1 percent of 2012–2013’s completions—two-thirds higher than the 29.6 percent share a decade earlier. The shift toward higher density was already occurring by the end of the building cycle that ran from the late 1990s through 2009, as the mid- or high-rise share of 2008–2009 product almost matched the most recent wave of new supply.

Perhaps surprising is that the industry is reducing average unit size by increasing the mix of smaller studio and one-bedroom units, rather than by decreasing floor plan sizes. The typical one-bedroom unit is shrinking today, but the shift is not drastic. The average size for a one-bedroom apartment in 2012–2013 completions is 763 square feet, compared with 779 square feet a decade ago and 800 square feet on average in 2008–2009. Average unit sizes for studios (now at 545 square feet) and two-bedroom units (now at 1,104 square feet) do not show any distinct trend across the three periods studied.

In contrast, units with three or more bedrooms are getting larger. The average three-bedroom unit is now 1,410 square feet, increasing from 1,377 square feet in 2008–2009 and 1,329 square feet in 2002–2003, perhaps targeting a growing number of downsizing baby boomers.

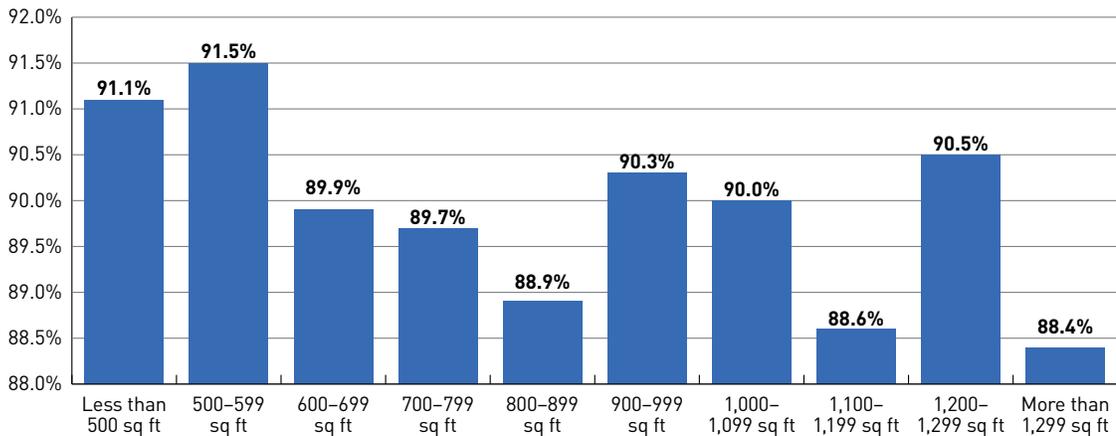
## Occupancy Performance

In general, smaller units enjoy higher overall occupancy rates.

Small units with less than 600 square feet were the top occupancy performers in recently finished developments as of early 2014. These units reported noticeably higher occupancy (91.3 percent) than the 89.6 percent rate for mid-sized units from 600 to 1,000 square feet and the 89.3 percent in large units of more than 1,000 square feet.

Although early 2014 occupancy was strongest in the small-unit segment across every part of the country, the premium did not reach meaningful levels in the West or Midwest. The biggest premium registered in the Northeast, where occupancy in small units outperformed mid-sized units by 600 basis points and large units by 820 basis points. Important to remember, however, is that those units in the Northeast do not account for a large share of the nation’s total stock added in 2012–2013. More significant in boosting the country’s overall occupancy premium for smaller units, then, was the advantage for these units in the construction-heavy southern region. Small units built in the South

## Occupancy by Detailed Unit Size (2012–2013 Development Cycle), United States



during 2012–2013 were 92.7 percent full as of early 2014. That performance topped the occupancy rate for the region’s mid-sized units by 380 basis points and surpassed the occupancy norm for large units by 420 basis points.

In more fine-grained unit-size categories, the most significant premiums registered among units smaller than 500 square feet (91.1 percent occupied), in the 500- to 599-square-foot range (91.5 percent occupied), in the 900- to 999-square-foot segment (90.1 percent occupied), the 1,000- to 1,099-square-foot range (90.0 percent occupied), and the 1,200- to 1,299-square-foot category (90.5 percent occupied).

It is perhaps tempting to make pronouncements regarding popularity of units in various size segments based on those occupancy rates. In particular, on the surface the smallest units seem to be the rock stars. In fact, however, a strong relationship tends to exist between occupancy performance and the absolute number of units in that unit-size segment: the fewer the number of units built in any category, the higher the occupancy rate in that niche. For example, units of less than 500 square feet represent only 2.7 percent of the 2012–2013 completions studied, and the 500- to 599-square-foot segment is just 5.2 percent of the spectrum.

If a particular size niche is an outperformer for occupancy, it is the 1,000- to 1,099-square-foot category, given that segment constitutes a comparatively hefty 14.0 percent of the entire stock studied. This product may appeal to roommates who are also seeking affordable monthly rent (just as very small units offer smaller monthly rents).

## Rental-Rate Performance

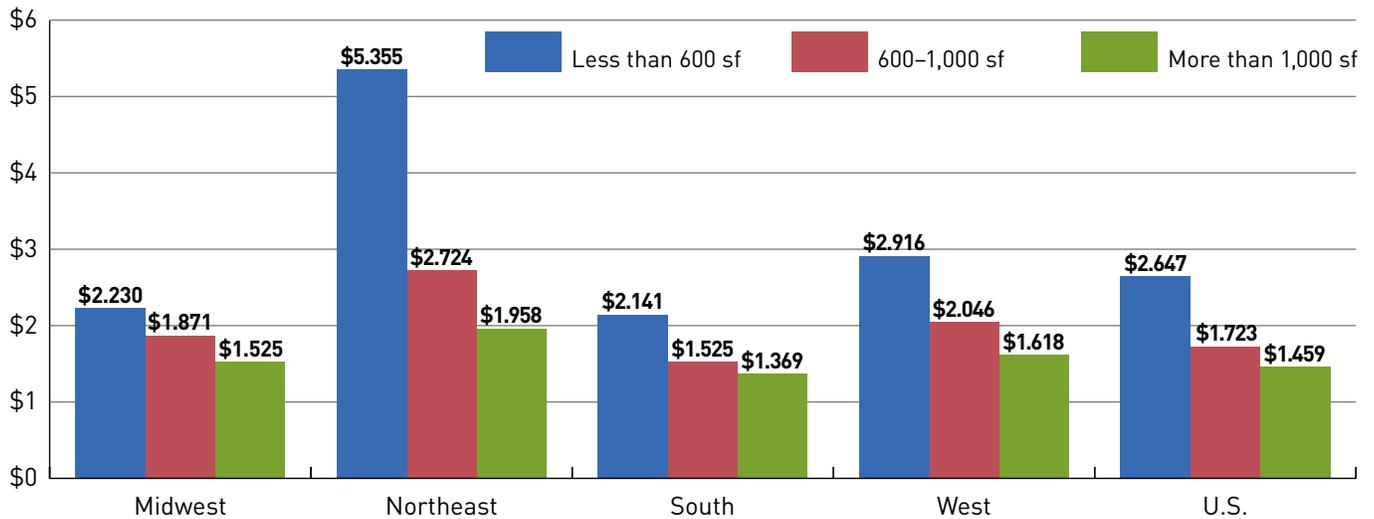
Communities completed in 2012–2013 achieved effective rents for new leases of \$1.684 per square foot as of early 2014. This pricing represented an 11 percent premium over rates of \$1.576 per square foot for the 2008–2009 vintage stock and a 22 percent premium over pricing of \$1.383 per square foot for the inventory built in 2002–2003.

The smaller unit size of the newest product would typically achieve higher rent per square foot, explaining a portion of these premiums in average rent per square foot. However, the current pricing premium for 2012–2013 vintage units of less than 600 square feet is especially sizable. Typical rents of \$2.647 in these small units top the rates of units in the 600- to 1,000-square-foot category by 54 percent and exceed the pricing of units of more than 1,000 square feet by 81 percent.

The most notable pricing premium for small units is seen in the Northeast region. In that part of the country, square-foot pricing for units below 600 square feet tops the rates for mid-sized units by 97 percent and surpasses large-unit rents by 174 percent. Again, the inventory of new units in the Northeast (and in the Midwest) is fairly small and vulnerable to big variation when making comparisons.

More statistically significant, then, are the premiums seen in the South and West, which have many more new-generation projects. In the South, units less than 600 square feet achieve price premiums of 40 percent over mid-sized units and 56 percent over large units. In the West, price premiums for

## Rent per Square Foot by Unit Size (2012–2013 Development Cycle)



small units reach 43 percent over their mid-sized counterparts and a whopping 80 percent over the large units.

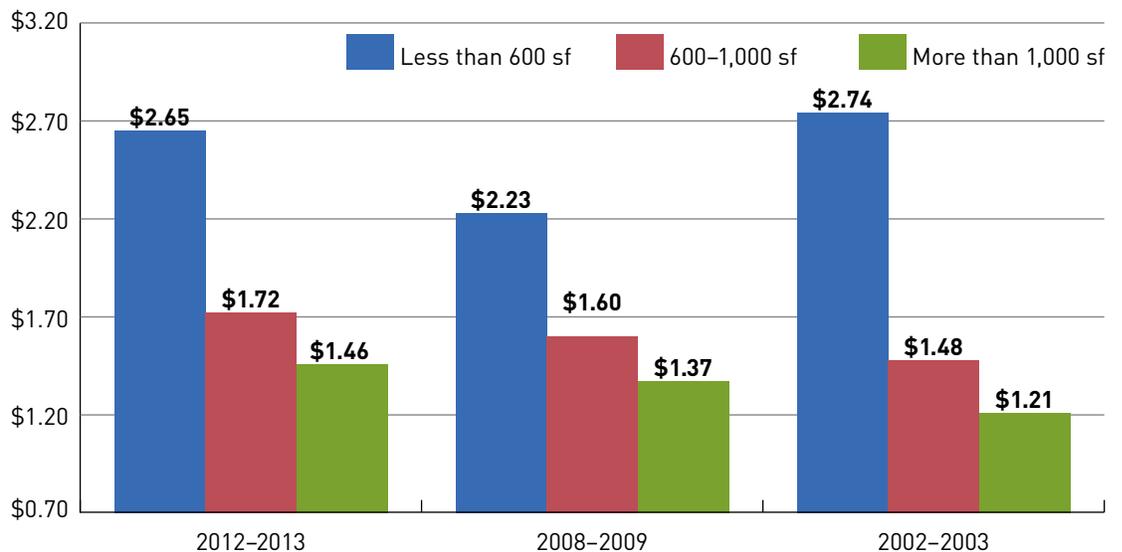
By comparison to earlier completions, the small-unit premium is substantial in the 2008–2009 stock but not as big as in the newest units. In contrast, small units from 2002–2003 command gigantic price premiums over larger models. On the surface, these decade-old small units are getting rents that exceed pricing for the newest small units as well as those from 2008–2009. The reason behind those huge rents for small units built in 2002–2003 lies in geography. An outsized share of the tiny units from

2002–2003 are found in the Northeast generally and New York specifically, where pricing is higher relative to other locales across the country.

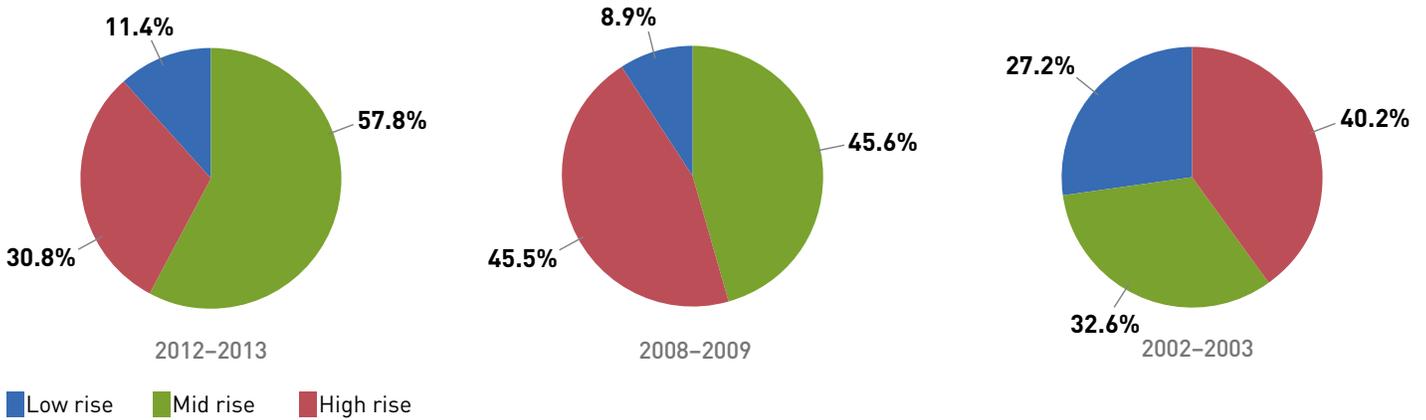
## Performance of Properties with Units Less Than 500 Square Feet

Digging deeper into the performance of the smallest units now offered in the U.S. apartment market, MPF Research specifically analyzed properties completed in 2012–2013 with at least some units of sizes less than 500 square feet.

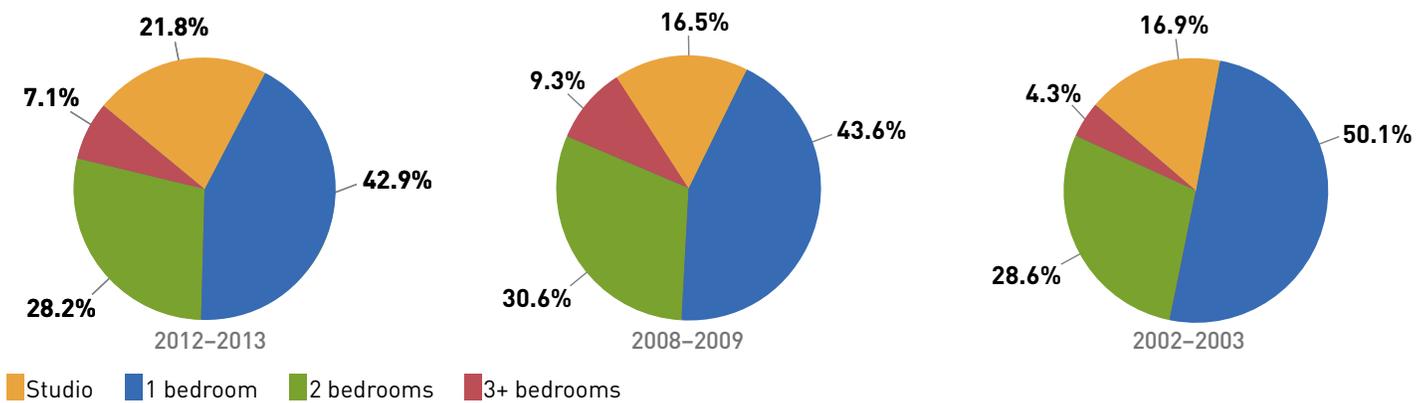
## Rent per Square Foot by Unit Size (Three Development Cycles), United States



## Building Type with Units Less Than 500 Square Feet by Development Cycle, United States



## Unit Type with Less Than 500 Square Feet by Development Cycle, United States



Not surprisingly, these units are found almost exclusively in urban core settings. Nine times out of ten, these very small units are found in mid-rise and high-rise buildings, rather than in low-density communities. The exception is that almost 30 percent of the 2002-2003 buildings with ultra-small units were low rise in design.

The properties that include any units with less than 500 square feet not surprisingly have overall unit mixes that are comparatively heavy on studio and one-bedroom floor plans. Studio and one-bedroom units constitute 64.7 percent of the total selection in the 2012-2013 inventory, 60.1 percent in the 2008-2009 stock, and 67.1 percent in the 2002-2003 mix.

In these 2012-2013 completions that have apartments under 500 square feet in size, small units are the top occupancy performers. Units that meet the broader "small" designation of less than 600 square feet were 90.3 percent occupied as of early 2014, compared with occupancy rates of 88.1 percent in

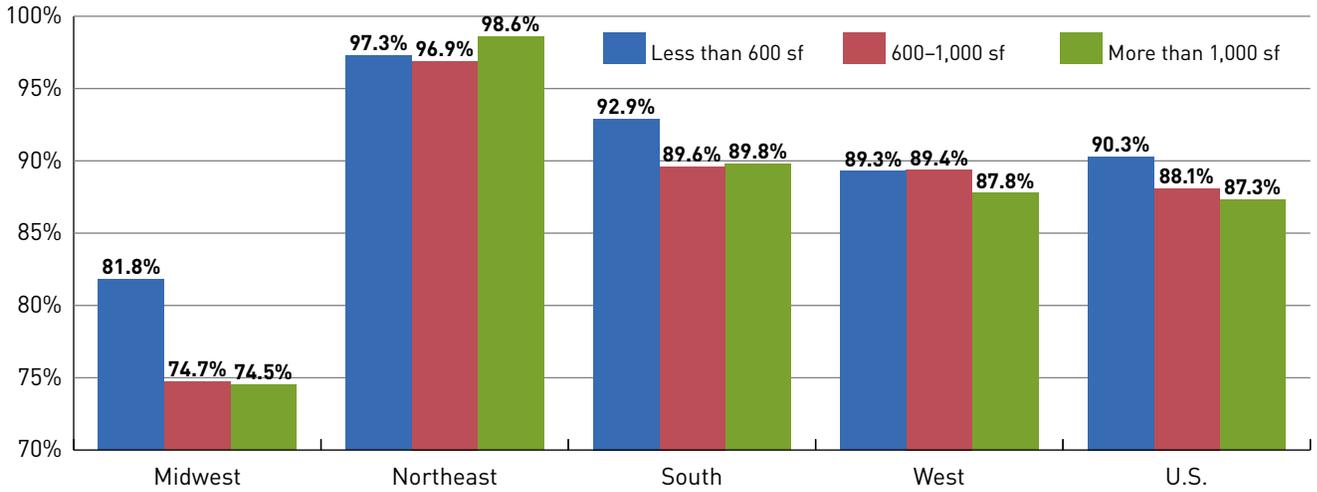
the mid-sized units of 600 to 1,000 square feet and 87.3 percent in the large units of more than 1,000 square feet.

The early 2014 occupancy premium for small units registered primarily in the South and Midwest regions, with minimal differences in occupancy by unit size posted across the Northeast and the West.

In developments that offer very small units, these sub-500-square-foot models ranked among the top achievers as of early 2014. Not only were these ultra-small units 91.1 percent occupied, but they also comprise a significant 19.8 percent of the total mix in this sample set. For slightly larger units of 500 to 599 square feet, early 2014 occupancy was 88.9 percent, with that segment accounting for 11.2 percent of the total mix.

A comparable occupancy level (91.1 percent) was also seen in units of 900 to 999 square feet, with marginally smaller or larger models also more than 89 percent full. Units of 800 to 899 square feet ac-

**Occupancy by Unit Size for Properties with Units Less Than 500 Square Feet (2012–2013 Development Cycle), United States**



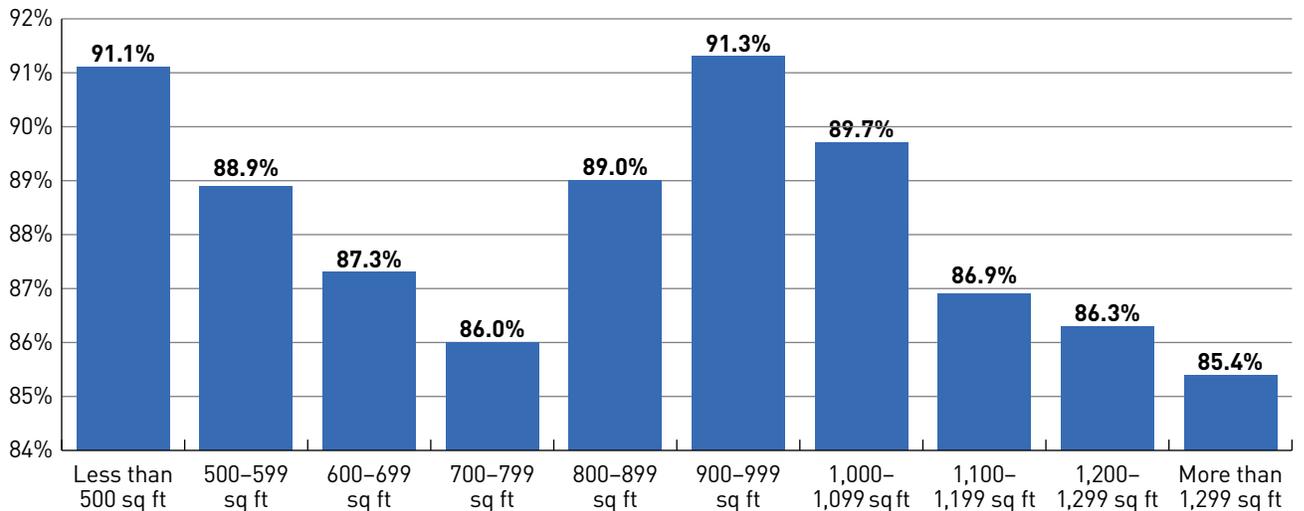
counted for 12.3 percent of this product mix, making the comparatively high occupancy in those units meaningful. However, solid occupancy in units of 900 to 999 square feet and 1,000 to 1,099 square feet likely in part reflected how few of those apartments are offered.

Among 2012–2013 completions that include units less than 500 square feet in size, early 2014 effective rents for new leases averaged \$2.989 per square foot in the units meeting the small designation (under 600 square feet). That’s a 25 percent premium over the

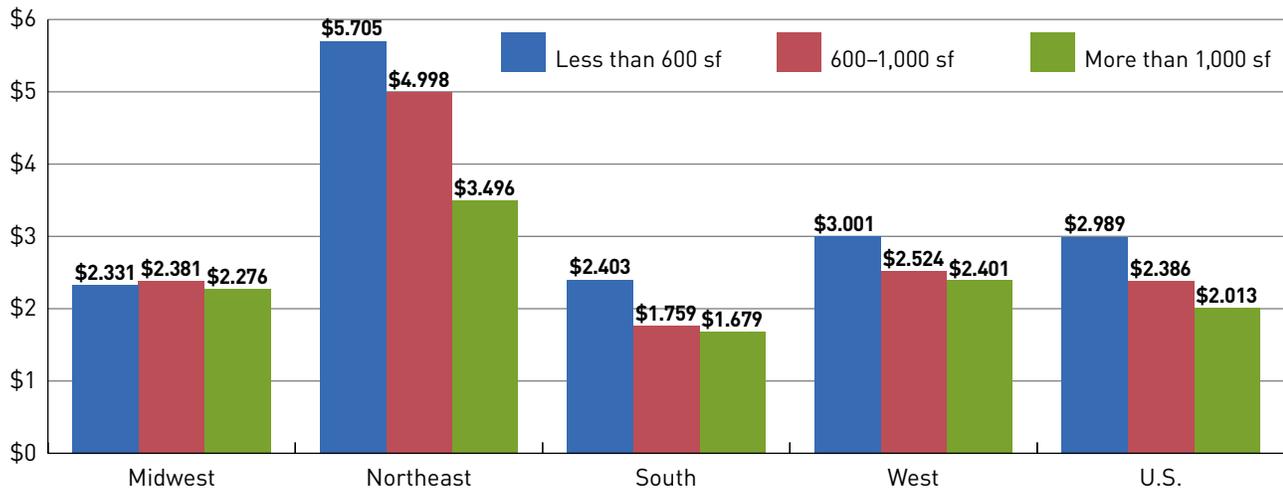
square-foot rates for mid-sized units of 600 to 1,000 square feet and a 48 percent premium over the pricing for large units of more than 1,000 square feet.

Interestingly, the price premium for small units is less pronounced within properties that emphasize this option than is the premium for small units over the total marketplace. That is a logical result because, generally, the greater the inventory of any unit type within a given property, the greater the number of units that have to be leased and, in turn, the less aggressive an operator can be on pricing.

**Occupancy by Unit Size for 2012–2013 Properties Including Units Less Than 500 Square Feet, United States**



## Rent per Square Foot by Unit Size for Properties with Units Less Than 500 Square Feet (2012–2013 Development Cycle), United States



### Key Findings

Among the key findings from the historical data are the following:

- In properties built during the 2012–2013 time frame, average unit size (950 square feet) is down nearly 50 square feet from the average recorded in the previous cycle (both early in that cycle and late in the cycle).
- Although a tendency exists toward slight downsizing of units in one-bedroom configuration, the real driving force behind the smaller overall average unit size is a shift in the mix of floor plans offered, with more studio and one-bedroom units and fewer two-bedroom units and apartments with three or more bedrooms. The shift in unit mix corresponds to a greater share of development occurring in urban settings, where household size is smaller.
- A review of historical data reveals that 2012–2013 completions featuring units less than 500 square feet are concentrated in mid-rise or high-rise buildings in urban core settings. Among properties that offer very small units, those specific

units tend to be the top-performing floor plans in the individual communities. However, the more small units in the mix at an individual property, the smaller the performance premium is for those units.

- The smallest units offered in the current generation of product tend to achieve the strongest occupancy levels and significant rent (per square foot) premiums over larger floor plans. Small units thus appear underrepresented in the inventory relative to demand potential. However, the total stock of units under 600 square feet that has been introduced is very limited, making up less than 8 percent of the current apartment development cycle’s total supply. Very small, or micro, units constitute less than 3 percent of the 2012–2013 deliveries. Given this limited number of units, it is difficult to derive from available data the viability of moving this product type beyond niche status.

In the following section, Kingsley Associates has conducted extensive consumer research that examines and documents consumer sentiment toward micro units.



# Consumer Feedback

**K**ingsley Associates conducted consumer research to explore satisfaction with, and attitudes and preferences toward, micro units. The specific goal of the assessment was twofold: first, to identify potential renters' attitudes and impressions toward small and micro units as well as factors influencing the rental decision; and second, to gauge current micro-unit renters' opinions regarding their living experience and initial leasing decisions.

## Participants

Two surveys were administered via e-mail to the two respondent groups of potential and current micro-unit renters.

The first group of respondents was identified as potential renters. They are conventional apartment renters who are not currently living in a micro unit. With the permission of the apartment owner or operator, the residents were sent invitations to participate in the online survey on January 22, 2014, and were able to respond through February 18, 2014. Kingsley Associates distributed surveys to more than 37,000 conventional-unit renters across 180 apartment communities nationally and received 3,407 responses for a response rate of 9 percent.

Potential renter survey participants provided feedback in the following general survey areas:

- Initial micro-unit interest;
- Decision factors;
- Amenities (neighborhood, community, and in unit); and
- Demographics.

For the purposes of gauging potential renter interest in micro units, a simplified unit description was used along with the same image of a micro-unit plan shown in previous images.

Micro-unit apartments are a new type of residential community designed to provide small but affordable housing in urban areas. These units are typically 20 percent to 30 percent smaller than a conventional studio apartment and feature compact kitchens and bathrooms. Innovative installations such as customizable space partitions and convertible furniture are frequently used to maximize space efficiency.

Living in a micro-unit apartment generally includes having a single-occupancy unit at a lower cost than comparable studio apartments in the same neighborhood. To compensate for the smaller unit size, micro-unit apartments tend to have a stronger emphasis on shared communal areas in lobbies, hallways, and rooftops.

The second group of respondents was micro-unit renters. They are apartment renters currently living in a micro unit. With the apartment owner's or operator's permission, invitations were sent to participate in a separate online survey beginning February 28, 2014, to which they could respond through May 29, 2014. Because micro units are an emerging product type, the accessibility of micro-unit renters for research is limited. Kingsley Associates distributed 422 surveys to micro-unit renters across five different apartment communities identified in partnership with the ULI Multifamily Research Committee. Of these surveys, 110 responses were received for a response rate of 26 percent. Although more micro-unit communities are under construction, these properties were unavailable to survey at the time of publishing.

Micro-unit renter respondents answered questions on the following topics:

- Satisfaction with micro-unit living experience;
- Initial leasing decision, including amenities factors;
- Micro-unit lifestyle and use;
- Renewal intentions; and
- Demographics.

## Survey Results

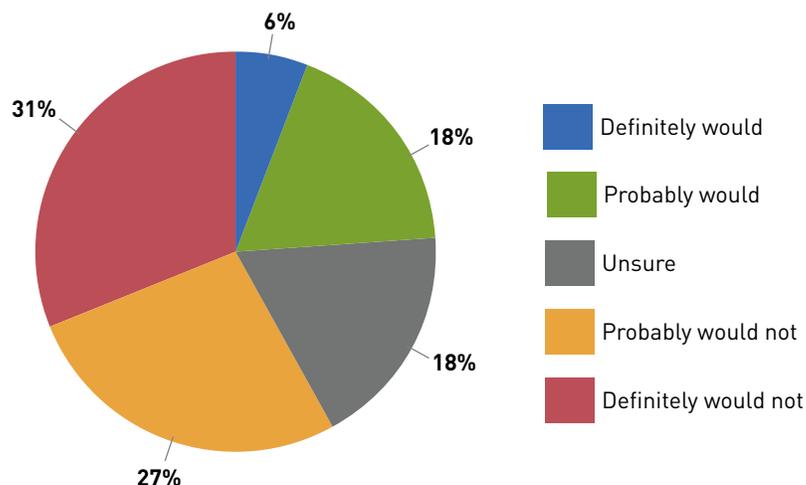
The complete findings of both surveys are included in the appendix of this report. The following are highlights of some of the key findings and results from the research. In addition, where appropriate, the findings from micro-unit renter responses are compared to the Kingsley Index<sup>SM</sup> for contrast to conventional-renter satisfaction levels and opinions. The Kingsley Index is a proprietary real estate tenant and resident opinion database that includes a multifamily index of data from more than 100 companies, including seven of the ten largest apartment managers. (All figures in this section are courtesy of Kingsley Associates.)

### Potential-Renter Results

Results from the survey of potential micro-unit renters currently living in conventional units revealed that the majority of respondents (58 percent) were probably or definitely not interested in renting micro units, with 18 percent unsure and 24 percent probably or definitely interested. Those uninterested in a micro unit most frequently cited lack of a separate bedroom (75 percent), less storage space (63 percent), and less living or dining space (60 percent) as the reasons for their disinterest. Interestingly, similar questions were asked of current micro-unit renters regarding their initial leasing decision. A majority of the current micro-unit renters (82 percent) were not intentionally looking for a micro unit.

Consumer feedback from best practices research (in the following chapter) confirms survey responses received. When focusing on the potentially interested group, age, income, and living situation emerge

### Conventional-Renter Interest in Renting a Micro Unit



as the top indicators of micro-unit interest. For example, 47 percent of respondents who are single, under 34 years of age, living with roommates, and earning less than \$40,000 indicated they would consider renting a micro unit, which is twice the rate of interest for the entire conventional-unit respondent pool. (Please see the appendix for a detailed breakdown based on each category.) More generally, the demographic characteristics of the interested potential-resident group show that males are slightly more interested than females (26 percent versus 23 percent), single persons living with roommates (40 percent) are most interested (with singles living alone the next most favorable reading at 27 percent), and those under 25 years of age (34 percent) are the most interested age group.

Which perceived attributes of a micro unit are most appealing to potential renters? The survey revealed that the primary reasons potential renters would

### Micro-Unit over Conventional-Unit Trade-off

I would choose a micro unit over a conventional-size apartment unit in exchange for:

Ranking areas	1st- or 2nd-rank mentions	1st-rank mentions
Lower rent compared with conventional studios	73%	53%
Desired location/neighborhood	44%	23%
Reduced utility costs	35%	7%
Ability to live alone (i.e., without roommates)	28%	12%
Shorter commute to work	19%	8%
Minimal apartment upkeep, cleaning, etc.	10%	3%
Neighbors with a similar lifestyle	8%	3%
More community amenities/shared spaces	7%	2%
Proximity to public transportation	6%	3%

## Importance of Amenities in Rental Consideration

Neighborhood amenities	Percent 4s and 5s
Grocery store	88%
Restaurants/bars	68%
Gym	56%
Entertainment	53%
Retail centers	52%
Cafés	49%
Recreation	46%
Public transit	41%

Community amenities	Percent 4s and 5s
Laundry room	83%
Assigned parking	72%
Visitor parking	72%
Fitness center	70%
Roof/outdoor space	62%
Pool	56%
Living room area on each floor	43%
Grill	43%
Business center	30%
Pet services	29%
Central lounge	26%
Bike rack	23%
Cinema room	20%
Communal kitchen	19%
Car rental	14%

Unit amenities	Percent 4s and 5s
Washer and dryer	86%
Built-in closet/drawers	82%
Storage space	81%
Full-size refrigerator	77%
Full-size kitchen sink	75%
Four-burner stove	75%
Dishwasher	71%
Bathtub	61%
Space partitions	53%
High ceilings (9 feet+)	49%
Oversized windows	49%
Flat-screen television	42%
Juliet balcony	41%

Note: Importance ranked on a scale of 1 (least) to 5 (most) important.

choose a micro unit over a conventional-size unit are lower rent (and utility costs), desired location, and ability to live alone.

Regarding cost, respondents largely expect micro-unit rent to be 21 percent to 30 percent lower than for a comparable studio. This is not too far from the 25 percent to 30 percent rent reduction obtained from the best practices effort in the next section, as well as in line with the original micro-unit definition. As to which micro-unit qualities made potential renters most hesitant, the wide majority cited the perceived lack of storage.

With reduced unit space, surrounding amenities are an especially important consideration for potential micro-unit renters. Conventional-unit respondents assessed the importance of various types of amenities (neighborhood, community, and in unit) that would matter most to them if living in a micro unit. Across all the different types of amenities, the following were rated as important by over 80 percent of respondents: proximity to a grocery store, in-unit washer and dryer or community laundry room, and in-unit storage space (such as built-in closets and drawers).

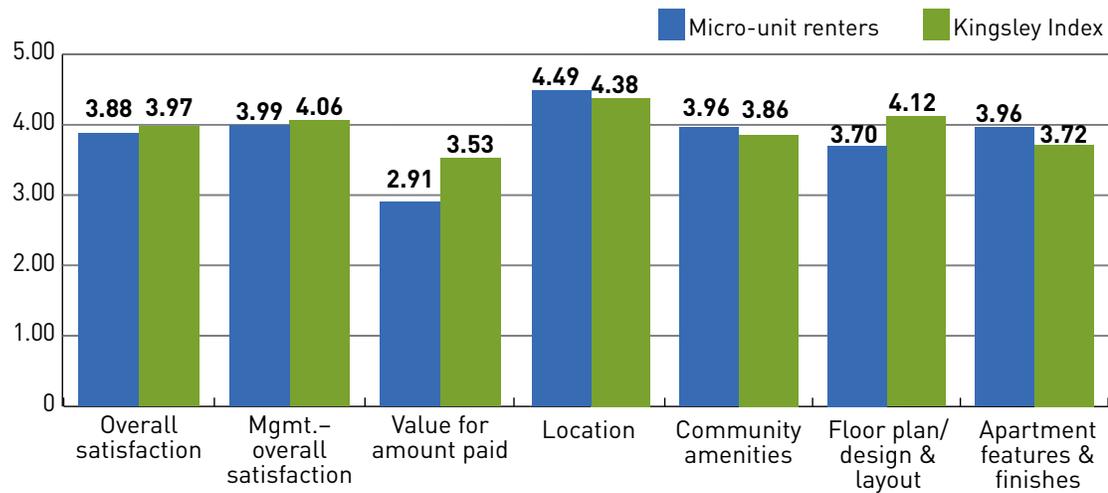
Surprisingly, regarding in-unit furnishings, only 30 percent of respondents reported they would be interested in a fully furnished unit, though 55 percent would be interested in multifunctional furniture (e.g., a bed that converts to a table or a couch that converts to a bed). Perhaps market participants should strike a balance between providing well-designed multifunctional furniture without fully furnishing the unit.

## Results for Micro-Unit Renters

As previously mentioned, the micro unit is an emerging product type. The accessibility of micro-unit renters for research was extremely limited. Given the relatively small data set of micro-unit renter responses (110 responses from five communities), these results may not be nationally representative. Nonetheless, the response rate for the micro-unit renters was high compared with that of the conventional-unit renters.

The survey distributed to micro-unit residents aimed to measure satisfaction levels with the current living experience as well as their decision-making process and resident lifestyles. The majority of the micro-unit renters were not specifically looking for micro units in

## Micro-Unit-Renter Satisfaction Scores



their search. Once they become micro-unit residents, their overall satisfaction levels are similar to those of conventional renters or trail only slightly. This information was evident when the micro-unit satisfaction results were compared to the Kingsley Index. Dissecting the data further, micro-unit renters are more satisfied than conventional renters with community location, amenities, and unit features and fixtures. However, they rate the perceived value for amount paid and satisfaction with unit floor plan and layout considerably lower than renters of conventional units. This result leaves room for market participants to improve on space layout.

Going back to micro-unit renters' initial leasing decision processes, the survey results suggest location-related factors, including proximity to work and school, neighborhood amenities, and public transportation, are key, as are price and the ability to live alone. All of these responses are not only similar to potential renters' decision processes but are also in concurrence with current developer practice.

Market participants have indicated that occupants of micro units tend to stay for relatively short periods. This hypothesis was tested by asking micro-unit renters about future renewal intentions as well as purchase interest and likelihood of recommending micro-unit communities. The survey revealed that micro-unit renters generally indicate a lower likelihood of renewal than conventional renters do, with 41 percent of micro-unit respondents indicating likely renewal, compared with 57 percent in the Kingsley Index. The significantly lower renewal rate

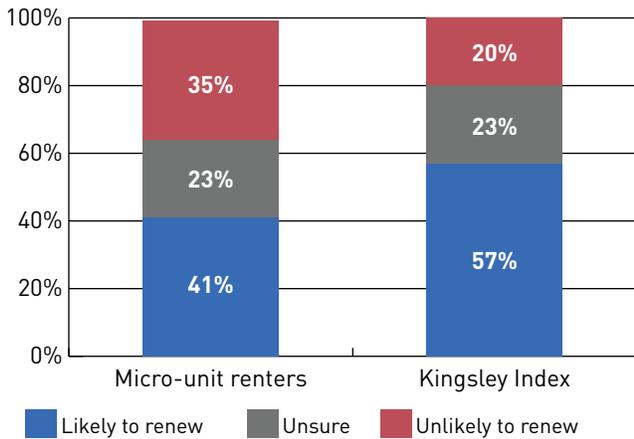
can potentially translate into higher operating cost, as has been witnessed in historical performance.

To further explore the renewal decision, Kingsley Associates analyzed the decision factors cited by each renewal group: unlikely, unsure, and likely. For micro-unit residents who indicated they were unlikely or unsure of their renewal decision, price was the primary decision factor, followed by space

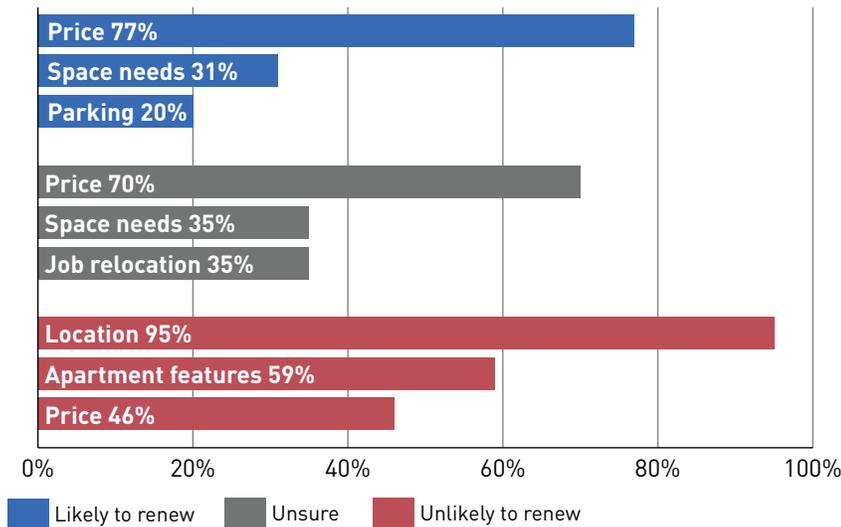
## Micro-Unit Renters' Priorities in Initial Lease Decision

Lease decision factors	Percent 4s and 5s
Location	97%
Price	86%
Proximity to work/school	78%
Proximity to neighborhood amenities	73%
Ability to live alone	71%
Proximity to public transportation	62%
Internet/wifi services	54%
Quality of finishes	52%
Floor plan/layout	42%
Assigned parking	32%
Common areas/amenities	32%
Sustainability practices	29%
Sense of community	27%
Pets allowed	26%
In-unit storage	25%
Visitor parking	21%
Neighbors with similar lifestyles	20%

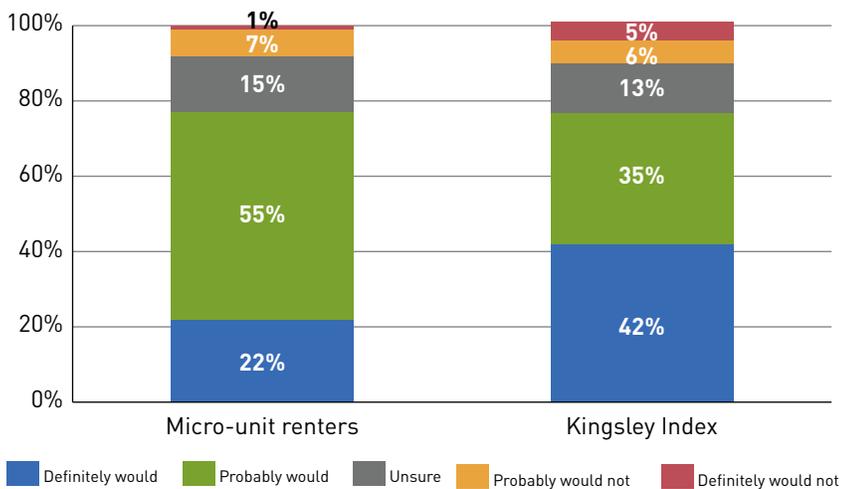
### Micro-Unit Renewal Intentions vs. Conventional-Renter Benchmark



### Top Renewal Decision Factors by Renewal Intention



### Micro-Unit Recommendation vs. Conventional-Renter Benchmark



needs. Underscoring the previously mentioned attractiveness of micro-unit locations, almost all residents likely to renew cited location as a decision factor (95 percent). Micro-unit renters likely to renew are also positively influenced by the apartment features.

While micro-unit respondents' likelihood of renewal fell below the traditional renter average, likely recommendation was comparable, with 77 percent of respondents indicating they would probably or definitely recommend a micro unit to a peer with a similar lifestyle. Whereas 77 percent of conventional renters in the Kingsley Index are also likely to recommend their communities, the proportion that definitely would recommend (42 percent) is notably higher than for micro-unit respondents (22 percent). When asked about the prospect of owning a micro unit, over one-third of micro-unit renters (37 percent) indicated they would consider purchasing their micro unit (or a similar unit), if available for sale.

## Key Findings

The following is a summary of key consumer survey findings:

### Conventional Renters

- Interest: 24 percent of conventional-unit renters indicated they would be interested or very interested in renting a micro unit.
- Trade-offs: Respondents interested in renting a micro unit would be most likely to pick a micro unit over a conventional-size unit in exchange for lower rent, desired location, and ability to live alone.
- Rent expectations: A large margin of respondents expect micro-unit rent to be 21 percent to 30 percent less than that of a comparable studio.
- Decision factors:
  - Most appealing: lower rent; and
  - Greatest hesitancy: lack of storage.
- Most important amenities:
  - Grocery store nearby; and
  - Washer and dryer in unit.

## Micro-Unit Renters

- Lease decision: Nearly all respondents (97 percent) indicated location was a top priority in choosing a micro unit.
- Renewal decision: Fewer micro-unit renters are likely to renew their lease than conventional-unit renters, 41 percent and 57 percent, respectively.

—Top-cited factors for those likely to renew: location and apartment features; and

—Top-cited factors for those unlikely to renew: price and space needs.

- Purchase interest: 37 percent of respondents would be interested in purchasing their micro unit or a similar unit if for sale.

In the following section, RCLCO examines best practices and lessons learned from ULI Multifamily Council member participants and other developers, operators, and design professionals that have experience with micro units.



# Best Practices and Lessons Learned

To understand who the market audiences are for small units and micro units and how they may differ from residents in conventional units in the market, RCLCO (Robert Charles Lesser & Co.) prepared case studies of selected rental apartment communities that include micro units and conducted a series of interviews with developers, owners, operators, and design professionals regarding their experience with micro units. RCLCO identified 30 existing communities across the country that include micro units as all or part of their unit mix, with a total of nearly 1,700 micro units. In addition, 18 communities as of the writing of this report are either under construction or planned that will add approximately 1,850 new micro units to the inventory.

Relatively few rental apartments are purpose built entirely with very small units. Less than one-half of the existing communities identified previously have 80 percent or more of their mix represented by micro units. However, many of the communities under construction and proposed are mostly if not entirely micro units, illustrating that this is a growing national trend.

Although micro-unit communities are popping up all over the country, they have generated considerable controversy in some markets. For example, in Seattle, SRO and micro-unit rental communities have been introduced into several established neighborhoods with predominantly single-family detached

homes. Detractors complain about the strain these communities put on parking in the neighborhood and the density of these types of communities that are, while permissible, often out of character with the existing housing stock. Moreover, they contend that micro-unit communities, particularly those structured with short-term leases, attract an undesirable, transient population. In southern California, a new rental apartment complex, the Eleve, was delivered with units averaging only 425 square feet. The community was met with such public backlash that the city of Glendale soon thereafter raised its minimum residential unit size to 600 square feet to preclude another micro-unit project being built within the city limits.

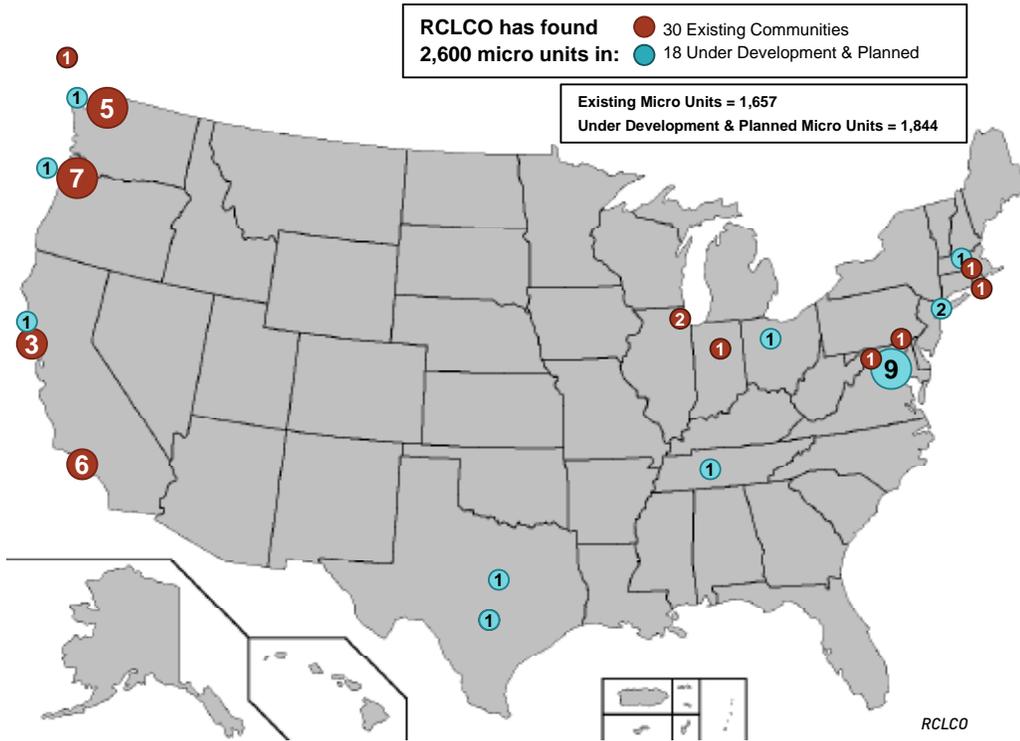
Through case study research and interviews with market participants with experience with micro units, this study has identified the following critical success factors and considerations for anyone contemplating development of or investment in a community with these very small units.

## Target Market Audiences

The vast majority of residents who choose micro units are young professional singles. They are typically first-time renters who have not accumulated much “stuff” yet and are, therefore, completely comfortable with limited space. Many consider these units “launch pads” for new careers and lives in a new city or place. Micro-unit occupants are described as social animals, but ones who do not want or need to socialize in their units. Some couples occupy micro units, but singles are the norm. Some older individuals are looking for a part-time residence near family, and some use a micro unit as an in-town pied-à-terre, or crash or party pad, but this is only a small segment.

Market participants indicated that micro-unit occupants trend slightly more male than female, presumably because women are generally more interested in and tolerant of roommates. Micro-unit renters don’t tend to remain long in their unit: they stay only one or two years and then graduate to a larger unit. Often the consumer is a parent of children with “delayed-onset-adult syndrome.” Micro units seem to appeal to young renters in the tech and new media industries, though this may be a function of the markets in which many of the existing micro-unit communities have been built. This

## Location of Micro-Unit Communities



possibility was later confirmed by the consumer feedback survey described in the previous chapter.

Perhaps not coincidentally, the rise in micro units has corresponded with an increase in millennials (or generation Y) entering the workforce and beginning to form households—the vast majority of whom rent in their early 20s. Examining some key gen-Y trends sheds light on why micro units are appealing to this generation. First, generation Y is highly mobile and tends to move frequently to follow opportunities and jobs. Many millennials choose where they want to live first and then look for a job. This generation has demonstrated a renewed interest in urban and urbanizing “authentic” locations—transit-rich locations are a plus, but walkable is a must. The Great Recession has had a disproportionately large impact on millennials, with unemployment among the under-30 set nearly double that of older members of the labor force. Gen-Yers have significantly lower incomes and much higher student loan debt loads, and therefore less disposable income to spend on things like expensive apartments. All of this has contributed to delayed household formation and delayed marriage among members of the millennial generation. Many of these same factors are what make micro units so attractive.

As an example, a community in Chicago converted a hotel into a rental apartment complex and kept a small portion of the mix as essentially hotel rooms in the 300-square-foot range. These units have performed extremely well and have attracted nurses, medical residents, and interns from the nearby Northwestern University medical campus. Nurses and aspiring doctors don’t spend much time in their apartments, so micro units are a perfect solution. The developer of this community wishes in retrospect that it had included many more micro units in the mix. Patrick Kennedy of Panoramic, who has conducted research on micro units, has built one small community and currently has a 160-unit all micro-unit community under construction in San Francisco. He describes four key trends that are increasing the appeal of micro units:

- Delayed household formation and/or post-collegiate odyssey;
- An increase in single-person households;
- A decrease in car ownership, particularly among millennials; and
- Younger households with less accumulated stuff and a growing “sharing economy.”

## Purchase and Rent Motivations

In a separate survey that was conducted of 400 residents regarding purchase motivations, location ranked number one—locations that were walkable, not necessarily transit accessible—but “authentic” neighborhoods were valued most. Most respondents reported a willingness to trade size of unit in exchange for amenities (both community and neighborhood), but only for the locations that met the number-one location criterion. Price was not the primary factor, but cost ranked very high as a purchase motivation. (Figures for this section are courtesy of RCLCO.)

Based on the interviews, three closely interconnected “purchase motivations” have become apparent as driving the interest in micro units. The most important factor seems to be the desire among a growing segment of—particularly young—renters to live in walkable, trendy locations, primarily in the urban core of relatively expensive apartment markets. Next is economics and the willingness of renters to trade off a much smaller unit for less absolute rent in these highly desirable urban locations. Finally, the desire to live alone is the primary motivator that draws residents to the micro-unit concept. The consumer is often a parent who is paying rent for “delayed-adult-onset-syndrome” children. Micro units are competing with the private-bedroom underground market.

Closely related to square footage reduction, the “sweet spot” where potential residents seem to choose micro units over conventional studio and one-bedroom apartments is when micro units are positioned with absolute monthly rents that are approximately 25 percent to 30 percent below rents of conventional units, controlling for other factors (e.g., location, age, unit features), and are in line with or below the cost to share a larger apartment with one or more roommates. This seems to be the point at which a segment of the market is willing to trade off

### Unit-Size Comparison and Rent

	Size	Rent
Micro-unit studio	300 sq ft	\$1,500
Conventional studio	500 sq ft	\$2,000
One bedroom	650 sq ft	\$2,400
Two bedroom and roommate	500 sq ft	\$1,700

### Rent Comparison

	Conventional studio	Micro-unit studio
Size	500 square foot	300 square foot
Sticker price	\$2,000	\$1,500
Rent per square foot	\$4.00	\$5.00

considerably less space for lower rent in a well-located, highly amenitized community. Few apartment residents think in terms of value ratio (cost per square foot per month) but rather think about their monthly rent cost. The hypothetical example in the table illustrates this positioning paradigm.

Although less powerful than the “lower” monthly rental rate, other important selling propositions for those marketing micro units include very low utility costs compared with conventional apartments—sometimes as low as only \$15 per month. Another important message is the ease of moving into a micro-unit apartment, particularly those that come with built-in furniture systems. All a resident needs to move in is a small couch and a suitcase. Flexible lease terms that accompany some micro-unit communities and many SRO developments are also an attractive selling point for footloose millennials.

## Selling Proposition

The selling proposition to developers, owners, and operators is all about the economics. Achieving higher density often translates into higher yields. From a construction standpoint, building a micro-unit community costs approximately 5 percent to 10 percent more per square foot because of the relatively fixed cost associated with building a kitchen and a bathroom, which is generally the same for a micro unit as for a conventional apartment. However, the typically 25 percent higher value ratio that can be achieved for these units reportedly more than compensates for the higher construction cost.

Managers of communities with micro units report slightly higher operating expense per square foot, perhaps an additional \$5 per square foot higher annually, because a building with a high percentage of very small units tends to generate more trash per square foot than a similar-sized conventional project. Yet again, these same operators report that the higher value ratios more than compensate

for the increased operating cost per square foot. Although identifying good case study analogs to test the financial implications of delivering micro units has been a challenge, one developer interviewed for this research estimated that this higher cost and higher revenue dynamic per square foot adds an additional 100 basis points to the going-in yield for a micro-unit development compared to a conventional rental apartment deal.

## Ideal Size

In an attempt to understand what constitutes the ideal size for a micro unit, one developer interviewed for this effort revealed that it had conducted some primary consumer research on the subject. The developer created a series of micro-unit mock-ups and had a graduate student live in the units and provide feedback on what worked and what did not. Based on this research, this developer determined that a micro unit with less than 200 square feet was too small, that a unit with 375 square feet was too large, and that something in the 275- to 300-square-foot range was optimal for a “one person plus dog” household. This research also revealed the need to have flexible furniture systems and adequate storage for units this small to be workable.

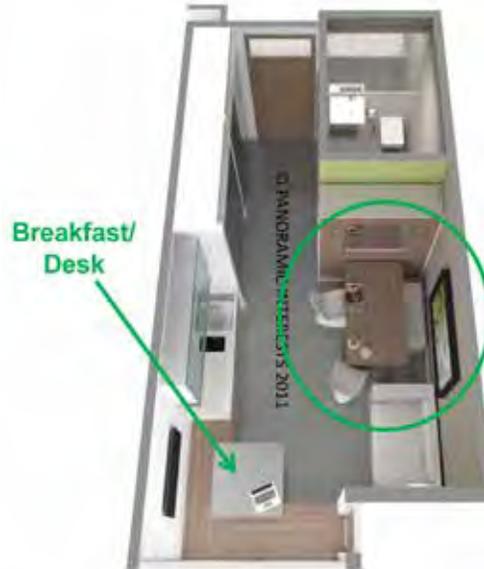
Some design professionals interviewed for this research effort seriously questioned the ability to produce units compliant with the Fair Housing Amendments Act (FHAA) at under 300 square feet. If a hallway and a bathroom alone account for 150 square feet, then not much room is left for a kitchen, closet, and living room/bedroom. Some skeptical of sub-300-square-foot units believed that 350 square feet is a much more reasonable amount of space to create a truly compliant unit and that something in the 375- to 400-square-foot range would be much more marketable and could be accomplished without the need and expense of built-in furniture systems.

Despite this feedback, this survey found a number of examples of micro units across the country that were smaller than 300 square feet. A preliminary review of selected sub-350-square-foot micro units indicates that they are indeed FHAA compliant.

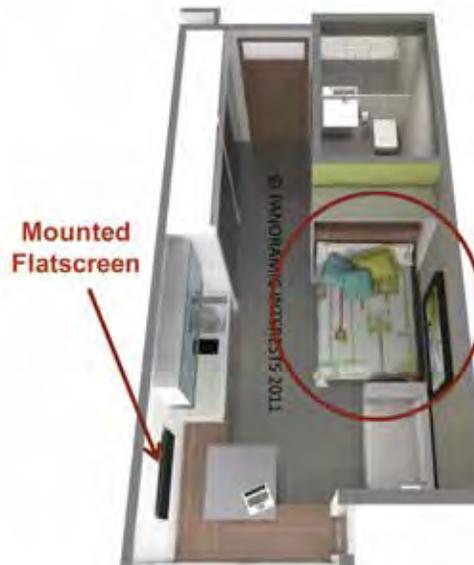
## Micro-Unit Solutions

Most micro units in the sub-300-square-foot range cannot accommodate standard-sized furniture,

**DAY**



**NIGHT**



The Panoramic, San Francisco, California, uses 3D renderings on the website to provide context of micro-unit function and livability.

PATRICK KENNEDY, PANORAMIC INTERESTS

Patrick Kennedy in a micro unit. The image illustrates the flat-screen TV mounted on a tilting arm, which greatly enhanced the functionality of the unit and served to teach residents how to live in their units and how to set up the furniture layout.

PATRICK KENNEDY, PANORAMIC INTERESTS

appliances, or cabinets, and developers have turned to manufacturers that have more typically provided furniture for smaller living spaces in trailers, boats, and mobile homes. One of the key impediments to making micro units smaller and more efficient is that all major U.S. suppliers make systems and appliances that are too big, including heating, ventilation, and air-conditioning systems, kitchen appliances, and cabinets. Many offer good-quality smaller products overseas, but these are not typically available in the United States, and often these appliances do not carry the important Underwriters Laboratory certification or are designed for 240-volt and not U.S. 120-volt electrical capacity. Many U.S. consumers are turned off by European and Asian brand appliances that are sufficiently compact but lack acceptable performance standards (e.g., all-in-one washer-dryers). One developer interviewed for this report wanted to provide smaller kitchen

appliances but had to go commercial, and the cost of this option made no sense. This research has certainly surfaced the need to urge U.S. manufacturers to make smaller appliances, cabinets, and furniture that can be used in micro units.

Some developers and design professionals cited built-in furniture systems as essential in promoting the livability of micro units. These include modern versions of the old Murphy-bed system, typically with a queen-sized bed that easily converts to dining or desk area; bench seating in window nooks; and, in one case, a flat-screen TV mounted on an articulating arm. Convertible, built-in furniture promotes livability and versatility, and it helps show residents how to live in these small spaces.

Furniture systems come with high cost (anywhere from \$4,000 to \$12,000) but can be amortized and embedded in the unit rent at a reasonable price (say an extra \$40 to \$200 per month).

In addition to furniture and storage solutions, creative design ideas are being used in an attempt to reduce unit size while at the same time making them FHAA compliant. One such solution is the use of a wall-hung vanity with no cabinet below in a bathroom, which allows the space allocated to a bathroom to be reduced yet keeps it accessible. Or, as one developer has illustrated (see image top right, page 27), including a “gadget” wall instead of a closet eliminates the need to clear 24 feet of a drywall closet at the entrance of the unit, again allowing the unit width to be reduced.

**Updated versions of the vintage Murphy-bed system are added amenities to the functional living-space of a micro unit.**

*RESOURCE FURNITURE*



## Amenity and Gathering-Space Trends

Rental apartment communities with micro units are enticing prospective residents to accept much smaller apartment footprints by offering an extensive array of amenities. What happens outside the walls of one’s apartment is just as important, if not more so, than what goes on inside. Therefore, in addition to the usual lineup of fitness amenities, pool, cyber café, and so on, large landscaped outdoor space is key. A number of micro-unit communities have extensive rooftop amenities that include fitness centers with fabulous views, fire pits, gas grills, catering kitchens, pools with private cabanas, and evening movies projected on large screens or walls.



**AVA Somerville, in Somerville, Massachusetts, features unique amenities like customizable closets and retractable walls in select floor plans.**  
*AVALON COMMUNITIES*

**The Harper on 14th Street, N.W., in Washington, D.C., includes a “movable” kitchen island. Because the island is not technically fixed in place, it did not count against FHAA clear passageway requirements, and the width of the unit could be reduced accordingly.**  
*KEENER MANAGEMENT*

Bigger is not necessarily better, and many communities are moving toward a wider variety of smaller amenity spaces that are laced throughout the building. The intent is to create a series of multiple smaller amenity or gathering spaces that enable residents to socialize, work, and gather outside their individual units. Most have some type of a clubroom or cyber café, but it is no longer the focus of the amenity space. The traditional business center is

disappearing in favor of “benching”—large communal tables with Wi-Fi like those found these days at Starbucks. Here, young millennials can “gather alone” and text.

Bikes are increasingly replacing cars in micro-unit communities as many more millennials are either “car-lite” or carless. Communities are going beyond just being pet-friendly; they are becoming pet-centric, with grooming stations; pet walk and park



**LINK Apartments, Seattle, Washington.**  
*HARBOR PROPERTIES*

**Ace Hotel, New York, New York.**  
*DOUGLAS LYLE THOMPSON*

**Under-couch storage.**  
ERIC ROTH, PURE HOME



areas; pet sitting, pet walking, and pet play-date services. This survey learned of one community that is combining the pet and sharing economies and taking pet-centric to the next level by offering a community dog that can be borrowed for a short time!

For many of the communities that are situated in highly desirable, walkable mixed-use environments, developers are able to scale down their amenity offerings to some degree because the neighborhood itself is the primary attraction. For example, lobbies in some locations are going the way of boutique hotels and are getting smaller. However, in pioneering locations or in underserved retail markets, developers are finding they have to overcompensate for the lack of neighborhood amenities and are including an extensive array of features, sometimes even a convenience or mini-mart retail component just for residents.

In some larger micro-unit communities, developers are adding gathering spaces on individual floors to provide residents with a “living room” outside their units.

All amenities should be verified against consumer expectations in a given market.

## General Design Considerations

Storage is critical to making micro units livable. It is definitely one of the top criteria for considering a micro unit. Short of providing fully furnished units, look for opportunities to provide built-in seating with storage below. Use the plenum above the bathroom for additional storage, and don’t hesitate to go vertical with shelving. Providing a built-in armoire removes the need for residents to bring large furniture storage solutions with them.

Interviews with developers and design professionals revealed other innovative ideas that were tried to make micro units successful but turned out to be unsuccessful. One such “don’t” was experimenting with a bathroom and shower combination, similar to what one might find on a boat or an RV. This saved a considerable amount of space but was overwhelmingly rejected by focus group participants.

Soundproofing in a community with micro units is critical—even more so given the higher density than in a conventional apartment.

Light, air, and volume can compensate for smaller size of micro units. Volume creates the illusion of additional space, so building with ceiling heights of nine feet or more is essential. In addition, the use of oversized (six to eight feet high) operable windows is critical to bring light and air into the units. Balconies are too expensive to build, but Juliet balconies work just fine and they allow residents to open their units to the outdoors. Bay windows also provide more light to the unit and can be an extra seating area.

## Kitchen Design

The design and configuration of kitchens in micro units have received a lot of attention. Developers and design professionals have wrestled and experimented with what is essential, what is nice to have but not necessary, and what to avoid. Some of the feedback from developer interviews has shed light on the dos and don’ts of kitchen design in micro units.

The consumer survey indicates that it is true that occupants of micro units do not cook often, but experiments with reduced-size appliances, smaller sinks, and space-saving washer-dryer appliances from European and Asian manufacturers have not tested well with American audiences. Micro units need to supply smaller, but still full-size appliances (i.e., a full-height 24-inch refrigerator) because



**The Harriet, San Francisco, California (left), and the Wharf, Washington, D.C. (below), each illustrate the importance of natural lighting to amplify the space.**

*PATRICK KENNEDY, PANORAMIC INTERESTS (LEFT); PN HOFFMAN (BELOW)*

residents do not like small, under-countertop refrigerator units like those found in hotel suites. A micro unit has to have a full-size 30-inch sink; attempts to use smaller fixtures did not appeal to renters and can create potential conflicts with accessibility requirements. Having a small cooktop is important, but including an oven is not necessary as long as the kitchen has a combination convection and microwave oven. But don't put the microwave under the countertop, because this did not test well. Many communities that have micro units and smaller studio units include an 18-inch dishwasher and a small stacked washer-dryer, but this amenity varies by market, and dishwashers and in-unit laundry appliances may be possible to eliminate in some instances. Although no magic formula exists, most respondents indicated that a linear kitchen ranging between five and eight feet in length is ideal.

Some developers are experimenting with prefabricated and modular kitchens and baths that are trucked onto the construction site and "plugged in" to the units. However, the jury is still out on this technique, as there is a lack of consensus among developers on whether or not these units save time and money.



## What's Next—Micro Suites?

The next evolution of the micro-unit concept is currently under construction in San Francisco. Panoramic is building a 160-unit community in the SoMa district that will offer a mix of micro-unit studios and three-bedroom, two-bath "micro suites" that are approximately 700 square feet in size. That is 233 square feet per occupant—assuming only one person per bedroom—with five people that is 140 square feet per person. Cozy. These units will have no formal dining or living room but will have a kitchen. The unique selling proposition of the micro suite

**Modular kitchens are useful to the consumer, but developers are on the fence about the marginal impact to the bottom line.**

RESOURCE FURNITURE



over a micro unit is that the tenants enjoy the same benefits of lower absolute rent, and the developer is able to leverage the fixed cost of a kitchen and bathrooms over more bedrooms compared with a studio. As in a professional dorm, the developer plans to offer a roommate matching service, housekeeping will be embedded in the rent, and the developer will maintain rent protection insurance, which provides roommates with a two-month "abandonment grace period" for \$20 per month.

**Side-by-side units.**

RCLCO

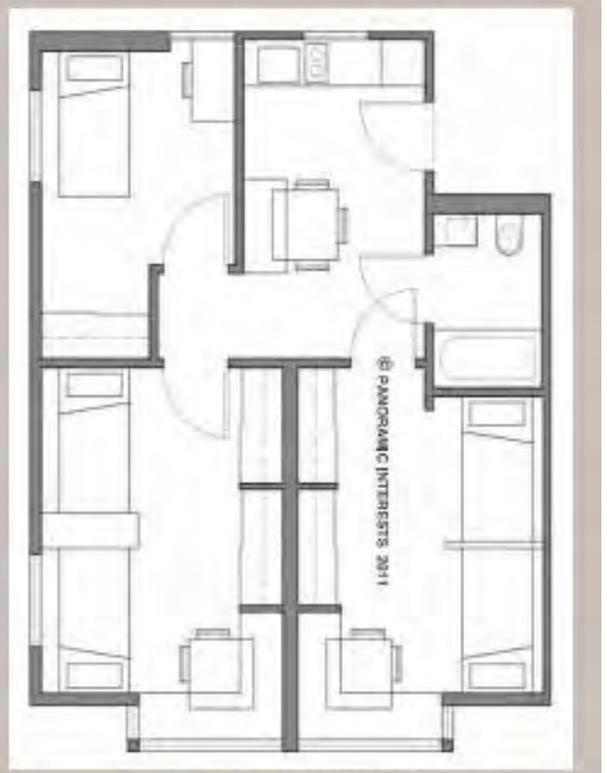


According to the developer, one of the advantages of the micro suites is that these units are a good solution for corners of buildings that are typically difficult to access with micro units alone.

Some developers who are concerned that the trend toward tiny units may be just a fad are mitigating this risk by designing units, bearing walls, and utilities and systems so that micro units sitting side-by-side can easily be combined at a later date into conventional one-bedroom and two-bedroom units.

## Location, Location, Location

Some of those interviewed for this effort hypothesize that the "affordable" price positioning advantage afforded by micro units would be a compelling proposition anywhere. If one could offer smaller units at a 25 percent to 30 percent discount relative to the existing inventory of conventional units, the concept would be equally as viable in suburban and lower-density locations as it would be in expensive urban locations. However, one operator active in southern California found that it had to temper expectations regarding how small it could make units because it was competing in submarkets that generally had older, much larger, and yet still relatively affordable units. Most of the respondents were convinced that micro units were most likely to succeed in high-density, expensive urban and urbanizing coastal markets.



## Marketing and Branding

The term *micro unit* has a negative connotation in the marketplace among some consumers, communities, and jurisdictions. A number of developers and operators are attempting to rebrand micro units with more progressive labels. Suggested rebranding ideas include the following:

- Innovation units;
- Nano unit;
- Launch pad;
- Urban flats; and
- Fun unit.

Developer and operator Keener Squire in Washington, D.C., recently completed the Harper rental apartment community with 144 units, including small studios and junior one-bedroom units with as few as 350 square feet. Keener Squire is currently building another micro-unit community, the Drake, with 218 units that will average 419 square feet. The company makes no mention of micro units in any of its presentations or marketing material—they are just apartments in a great location.



**The Panoramic, San Francisco, California, offers a mixture of units and “suites” that can be converted later into conventional units.**

*PATRICK KENNEDY, PANORAMIC INTERESTS*

This community is also trying to simplify the leasing process and differentiate itself from other new communities in the marketplace by including all utilities in the monthly rent.

## Cautious Capital

Most institutional capital does not have experience with micro-unit developments and has generally shied away from taking the risk or required a much higher return to compensate for the perceived

At the Harper, you will find no mention of unit size on the website, and you will be hard pressed to get the leasing staff to offer information on how big (or small) the units are.

KEENER MANAGEMENT



increased risk profile associated with these types of developments. The Panoramic micro-unit/suite development in San Francisco previously mentioned was able to secure a \$50 million construction loan in 2013. However, one-half the units in this development had been preleased to the California College of the Arts, and it is unknown whether funds would have been forthcoming had this development truly been a 100 percent “spec” market-rate rental. How-

**Factory 63, Boston, Massachusetts.**  
GERDING EDLEN



### The Harper Savings Features

- Security deposit—none
- Amenity fee—none
- All electric—included in rent
- Trash removal—included in rent
- Water and sewer—included in rent
- Hot water—included in rent
- Personal storage space—included in rent

ever, this caution may be fading as the market gains more experience with micro-unit developments. Reportedly, Hoffman-Madison recently secured financing from a Canadian pension fund manager for a large mixed-use residential and commercial project in Washington, D.C., the Wharf, which will include 330 rental units in the first phase, approximately 170 of which will be micro-unit studios ranging in size from 330 to 360 square feet.

### Case Study Projects

These are a few of the case study communities that contributed to the best practices and lessons learned.

#### Factory 63, Boston, Massachusetts

Located in Boston’s newly minted “Innovation District,” this community includes 38 units in a converted shoe factory, 23 of which are dubbed “innovation” micro-studio units. The units range in size from 368 to 504 square feet and have lease rates ranging between \$1,699 and \$2,450 per month, which translates into value ratios of \$4.62 to \$4.86 per





## The Flats, Chicago, Illinois

This community by Cedar Street Development is a converted hotel located immediately adjacent to Northwestern University's medical campus near Navy Pier just north of the Loop. The community includes 350 units, of which approximately 15 percent are micro units—essentially the existing hotel rooms converted to apartments. These micro studios range in size from 275 to 350 square feet and start at \$900-plus per month. According to the owner/operator, micro units have been very successful by appealing to medical residents, nurses, and university hospital staff, and the developer wishes it had had the guts to convert more of the hotel rooms into micro suites. According to the website, the Flats offers high-quality, amenity-rich, authentic environments at approachable rents, always.



**Flats Chicago, Chicago, Illinois.**

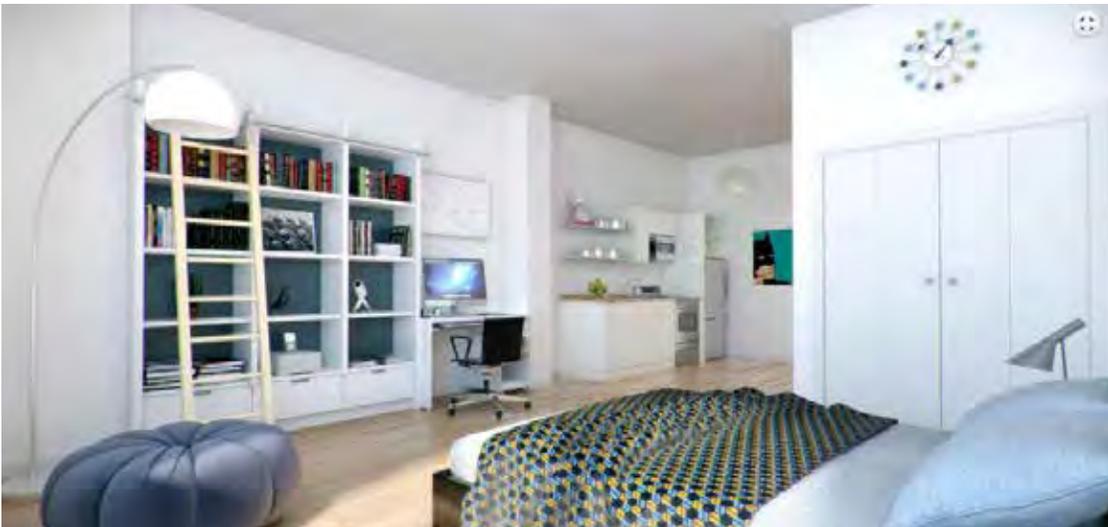
*FLATS CHICAGO*

square foot per month. Each resident gets a nine-square-foot storage cube in the basement included in the rent. This community reportedly leased up in two weeks and now regularly sports a waiting list sign-up sheet on its web portal.

## Lofts at 7, San Francisco, California

This community by the Dolmen Property Group is a converted local television broadcasting facility with 88 micro units that range in size from 275 to 530 square feet and include a mix of studios and loft-style units. Rents range between \$1,550 and \$2,350 per month, which translates into a value ratio range of between \$4.43 and \$5.64 per square foot per month.

Despite its relatively small unit count, this community has an extensive 6,500-square-foot landscaped roof deck with an outdoor cinema, an open-air sun-deck with grills and a fire pit, and a fitness center with city views.



**The Lofts at 7, San Francisco, California.**

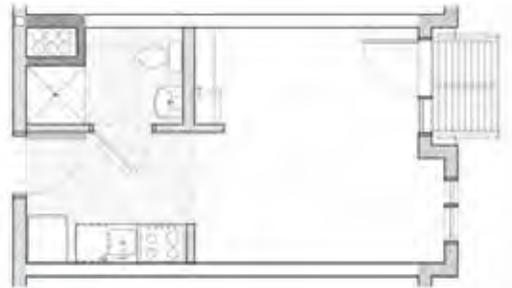
*DOLMEN PROPERTY GROUP*

## Micro Lofts at the Arcade Providence, Providence, Rhode Island

The community is another adaptive use—of one of the nation’s oldest indoor shopping malls. Developed by Evan Granoff and designed by Northeast Collaborative Architects, this complex features retail tenants on the lower floor and 48 micro units on two upper floors. Micro-unit junior one-bedrooms range in size from 225 to 450 square feet and feature full bathrooms, built-in beds, seating, and storage, as well as kitchens equipped with refrigerators, sinks, dishwashers, and microwave ovens. When residents need more space than their individual units offer, they can take advantage of a game room, a TV room, and porches. Other common amenities including on-site laundry facilities, bike storage, locked basement storage units, and a parking garage across the street.

### Micro Lofts at the Arcade Providence, Providence, Rhode Island

BEN JACOBSEN/COURTESY NORTH-EAST COLLABORATIVE ARCHITECTS



bustin studio

ekoHAUS  
freedom center

ekoHAUS Freedom Center, Portland, Oregon.  
WDC PROPERTIES

## ekoHAUS Freedom Center, Portland, Oregon

This community by WDC is one of the few new-construction, purpose-built micro-unit communities. The development consists of 150 micro units in a mid-rise building. Units range in size from 267- to 385-square-foot studios and rent for \$895 to \$1,550 per month, or \$3.35 to \$4.03 per square foot per month. Key marketing messages for this community include the following:

- “Live urban in Portland”;
- “Low-impact floor plans”; and
- “Eco-friendly living.”





**My Micro NY, New York, New York.**  
LEDAEAN.COM

## My Micro NY, Kips Bay, New York

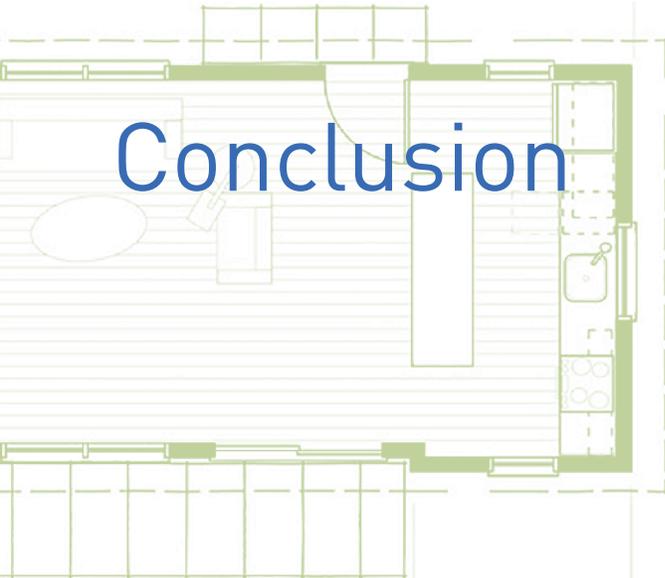
The community is the result of a design competition in New York City for which Mayor Bloomberg waived the city's minimum unit size requirement for a demonstration project to help promote the development of affordable housing within the city. This community will include 55 micro-unit studios that range in size from 250 to 370 square feet. Approximately 40 percent of the units will be below-market affordable housing with rents targeting household earnings at 80 percent of area median income. The remaining 60 percent of the units will be market rate with rents starting at \$1,900 per month, which compares with rents at conventional studios in the \$2,500 to \$2,700 per month range. These units will be entirely modular and will be constructed off site in a factory setting and assembled on site.

## Key Findings

Approximately 30 rental apartment communities with nearly 1,700 micro units were identified as part of this research effort. In addition, 18 communities under construction or planned and proposed will include approximately 1,800 micro units.

- The target market audience for micro units is predominantly young professional singles. Secondary segments include younger couples, older move-down singles, and some pied-à-terre users. Micro-unit dwellers trend slightly more male.
- The most important, and interrelated, factors driving the interest in micro units include the following:
  - The desire of younger residents to live in walkable, hip locations, primarily in the urban core of relatively expensive apartment markets;
  - The willingness to trade off a much smaller unit for a lower absolute monthly rental payment in these highly desirable locations; and
  - The desire to live alone.
- The “sweet spot” where renters seem to choose micro units over conventional studios, one-bedroom apartments, or roommates is when micro-unit rents are positioned approximately 25 percent to 30 percent below conventional units.
- Developers and operators acknowledge that both building and operating rental apartment communities with a high percentage of micro units are more expensive, but the increased rent per square foot more than compensates for this added cost.
- Some interviewed for this research expressed doubts that it is possible to produce sub-300-square-foot micro units that are accessible; however, a cursory review of selected micro-unit floor plans in that category indicates that this is, indeed, possible.

- It may be necessary to include built-in and/or flexible furniture systems and storage to make sub-300-square-foot micro units functional.
- Design dos and don'ts include the following:
  - Smaller, but still full-sized kitchen fixtures and appliances are more acceptable to renters than some of the compact or dual-function European or Asian versions (e.g., include a 30-inch sink, 24-inch full-height refrigerator, small stacked washer-dryer).
  - Some question exists whether it is necessary to include a dishwasher or a washer-dryer appliance; this may vary by market.
  - A linear kitchen ranging between five and eight feet in length is ideal.
  - Storage is critical to making micro units livable, including built-in seating with storage below, storage above a bathroom plenum, built-in armoire furniture, vertical shelving, and so on.
  - Tall ceiling heights of more than nine feet create a sense of volume and can counteract the small square footage of micro units.
- Light and air are critical to making micro units feel bigger than they are. Use six- to eight-foot tall windows. Bay windows also provide light and extra seating in a micro unit.
- Build in flexibility to convert side-by-side micro units into conventional one-bedroom and two-bedroom units in the event the trend reverses.
- Provide extensive amenity space in the community to compensate for the lack of space in the units. Typical community amenities include the normal lineup of fitness, pool, and cyber café, but also incorporate extensive roof-top amenities, fire pits, catering kitchens, and the like.
- Provide additional “living room” spaces on each floor to serve as a gathering and entertaining space for residents outside their units.
- Taking the micro-unit concept to the next level, a developer in San Francisco is building a new community with a combination of micro-unit studios and two-bedroom micro suites that are approximately 700 square feet, or 233 square feet per occupant.



# Conclusion

**M**icro units have generated considerable interest and some controversy in the real estate community in the past several years. This research illustrates that the migration toward smaller average unit size, based on a shift in mix to studio and one-bedroom units, and the number of rental apartment communities offering micro units are a growing trend. Whether this turns out to be a lasting phenomenon or a passing fad, micro units have renewed the focus on efficient layouts and innovative design solutions. Many of these smaller units are designed and configured to feel larger to potential renters than older conventional units by virtue of higher ceiling heights, larger windows, built-in storage, and in some cases, flexible furniture systems. The evidence from the market indicates that smaller units tend to outperform conventional units;

they tend to have higher occupancy and achieve significant rent premiums. Still unclear is whether this performance is driven by the relatively limited supply of these smaller units on the market, or whether a sizable, and perhaps untapped, segment of renters is willing to make the tradeoff and pay considerably more per square foot rent in exchange for highly desirable locations, better community amenities, the ability to forgo a roommate—or perhaps some combination of these factors. The consumer research indicates that, from the renter’s perspective, the micro-unit strategy that offers a lower monthly rent “sticker price” compared with conventional units is a compelling proposition. But it is also clear from the research that micro units are not for everyone and that micro units may not be the solution for every location.

The goal of this effort has not been to find conclusive answers to these questions, but rather to shed light on the key issues, challenges, and some of the solutions that market participants have experienced and experimented with to date in dealing with micro units. The real estate industry needs to investigate this issue further and continue to monitor the successes and challenges that this unique rental apartment product presents, including the risk/reward profile and long-term market viability of micro units. We thank those who have participated in this study, and we hope this report provides an objective background for future micro-unit developments as those of us in the industry collectively and individually seek solutions that best suit the markets we serve.

# Research Committee Members

## Bill Whitlow

*Committee Chair  
Terra Search Partners  
San Francisco, California*

Bill Whitlow's 25-year tenure in the real estate industry provides the team with deep insights and industry and functional context across a broad spectrum of areas, including finance and capital markets, investment strategy, asset and property management, development, and leasing. During his career, Whitlow has held senior positions at firms such as Venture Corporation, Studley, Arthur Andersen, PricewaterhouseCoopers, and Aetna Realty Investors, where he has executed more than \$3 billion in debt and equity transactions and has provided capital markets, strategic management consulting to clients on projects and portfolios valued in excess of \$6 billion. Whitlow's experience includes the leadership of three property management companies. He also has deep expertise in capital raising, strategic and operational advice, and client relations.

Whitlow is an active supporter of Project Open Hand, AIDS Foundation, Sacred Heart Schools, Urban Land Institute, and other charitable organizations. He is a past board member of the San Francisco Bay Area YMCA, the San Jose chapter of the American Red Cross, and the Silicon Valley Roundtable Executive Board of the University of Illinois Foundation.

He holds a master's of management from the J.L. Kellogg Graduate School of Management and a master's of architecture from the University of Illinois.

## Charles Hewlett

*RCLCO  
Bethesda, Maryland*

Charles Hewlett has more than 25 years of experience in real estate and has consulted on a broad spectrum of commercial and residential properties in most major metropolitan regions in the country. Before joining RCLCO, he was president of Lofty Builders Inc., a real estate service company concentrating in renovation, rehabilitation, and management of investment real estate properties in the Boston metropolitan area.

A graduate of Brown University in Providence, Rhode Island, Hewlett has conducted training seminars on the methodology for metropolitan-development trend analysis for regional branch offices of major national commercial developers. He is also a frequent speaker and ULI panelist, including the redevelopment of the Southeast Federal Center in Washington, D.C., and Atlantic City in Norfolk, Virginia. Hewlett has written articles published in the *Corridor Business Journal*, *Urban Land Digest*, and publications of the National Multi Housing Council.

## Teresa Ruiz

*SB Architects  
San Francisco, California*

Teresa Ruiz joined SB Architects with over 15 years of architectural experience and a focus on multi-family and residential projects. At SB Architects, she is responsible for advancing the firm's multifamily practice in the Bay Area, nationally, and internationally. In her prior role at BAR Architects, Ruiz was responsible for multifamily and mixed-use projects totaling over 3 million square feet and built work with construction costs totaling more than \$300 million. Her past projects have received numerous national awards including the ULI Jack Kemp Workforce Housing Award. Teresa was recognized in 2012 as a winner of ENR California's Top 20 under 40.

Ruiz is a hands-on architect whose interests and areas of responsibility go far beyond that of the typical architect. She is immersed in evaluating best practices as they relate to the design efficiency, performance, scheduling, and optimization of the design team and of her projects. She works closely with the development team to ensure that goals are aligned and that development objectives are met or exceeded.

Ruiz's interest in home design led her to volunteering for Habitat for Humanity, both in hands-on construction work and in providing design services. Throughout the past two decades, she also volunteered for Christmas in April, now known as Rebuilding Together. She is fluent in English, Chinese, and Spanish—something that came in handy during her volunteering as an architect-in-residence/instructor with Leap . . . Imagination in Learning in the San Francisco Public School District in 1998. Ruiz received her undergraduate degree in Architecture from the University of California, Berkeley, and master of architecture from the University of Oregon.

## Ron Witten

*Witten Advisors*  
*Dallas, Texas*

Beginning at MPF Research in 1973, Ron Witten has spent a career studying and understanding the economic, demographic, and housing market forces shaping apartment market performance. President from 1978 through 2000, Witten led MPF as the firm became a national leader in apartment market data and market analysis for the nation's leading apartment companies. In July 1999, MPF became a wholly owned subsidiary of RealPage Inc., the leading provider of property management software to the apartment industry. He continued as president of MPF before forming Witten Advisors in January 2001.

Witten has been a frequent speaker on market conditions as well as emerging demographic forces shaping apartment markets, addressing meetings sponsored by organizations including the National Multi Housing Council (NMHC), the Urban Land Institute, the National Association of Home Builders' Multifamily Leadership Board, the National Apartment Association, and NAREIT. He routinely lectures on real estate markets at Southern Methodist University.

Witten wrote the chapter on market analysis in ULI's *Multifamily Housing Development Handbook* and cowrote ULI's *Real Estate Market Analysis* text as well as books on real estate markets and investment strategies. He currently serves as a director of Behringer Harvard REIT I Inc. as well as Apartment Life, a nonprofit that helps build a sense of community in apartment properties to reduce turnover and enhance resident satisfaction.

He has been active in the Urban Land Institute where he is past chair of both the silver and gold flights of the Multi-Family Council. He now serves as a member of the NMHC's Research Roundtable, and he wrote NMHC's quarterly *Market Trends* newsletter in its initial years of publication.

Witten received a BBA in marketing from Texas Tech University and has completed graduate classes in statistics and economics at Southern Methodist University.

# Appendix

Micro-Unit Interest and Trade-offs Unless otherwise stated, percentage of responses ranked among top three trade-offs	Micro-Unit Interest		Rank of Trade-offs to Conventional Apartment								
	Micro-unit interest (% interested/very interested)	Rent expectation vs. studio (30% or greater discount)	Ability to live alone (without roommates)	Desired location/neighborhood	Lower rent compared with conventional studios	Minimal apartment upkeep, cleaning, etc.	More community amenities/shared spaces	Neighbors with similar lifestyles	Proximity to public transportation	Reduced utilities cost	Shorter commute to work
Conventional renters	24%	34%	40%	65%	84%	22%	15%	15%	12%	57%	33%
<b>Age Range</b>											
Under 25	34%	31%	49%	56%	84%	21%	12%	13%	12%	58%	31%
25–34	25%	31%	42%	65%	87%	20%	15%	11%	11%	59%	38%
35–44	20%	33%	35%	71%	80%	23%	17%	19%	11%	50%	39%
45–54	24%	37%	36%	66%	82%	18%	12%	18%	11%	60%	30%
55–64	25%	44%	31%	62%	86%	30%	16%	16%	16%	58%	24%
65+	19%	37%	48%	69%	82%	37%	18%	24%	20%	49%	14%
<b>Apartment Floor Plan</b>											
Studio/efficiency	44%	32%	53%	63%	85%	24%	16%	6%	22%	54%	29%
1 bedroom	26%	33%	35%	66%	84%	22%	13%	15%	13%	58%	35%
2 bedroom	21%	34%	42%	63%	85%	20%	16%	18%	10%	56%	35%
3 bedroom	23%	41%	49%	67%	81%	27%	23%	15%	10%	58%	22%
Other	15%	54%	45%	69%	92%	27%	9%	10%	30%	55%	20%
<b>Living Arrangement</b>											
Single living alone	27%	34%	41%	67%	84%	22%	13%	14%	10%	54%	32%
Single with children	20%	35%	27%	62%	89%	27%	11%	11%	14%	64%	33%
Spouse/partner	18%	32%	25%	66%	81%	27%	19%	16%	17%	54%	45%
Spouse/partner with children	17%	33%	36%	74%	78%	19%	22%	24%	10%	66%	35%
Living with roommate	40%	39%	59%	57%	87%	16%	14%	14%	14%	54%	26%
<b>Gender</b>											
Male	24%	34%	39%	65%	83%	27%	15%	16%	11%	57%	36%
Female	23%	34%	41%	65%	85%	18%	15%	14%	13%	57%	32%
<b>Annual Household Income</b>											
Less than \$25,000	34%	42%	53%	41%	89%	27%	6%	11%	10%	66%	32%
\$26,000–\$40,000	29%	38%	45%	65%	86%	14%	14%	15%	8%	65%	30%
\$41,000–\$50,000	27%	29%	34%	66%	86%	21%	19%	14%	7%	64%	31%
\$51,000–\$74,000	25%	31%	44%	63%	84%	21%	15%	17%	11%	57%	31%
\$75,000–\$100,000	24%	36%	38%	70%	83%	22%	18%	9%	13%	54%	34%
\$101,000–\$150,000	21%	30%	33%	68%	76%	20%	15%	21%	22%	45%	44%
More than \$150,000	14%	33%	25%	76%	79%	37%	18%	11%	17%	33%	47%
<b>Primary Method of Transportation</b>											
Bicycle	24%	35%	40%	66%	84%	23%	14%	16%	7%	59%	33%
Car	24%	33%	40%	61%	82%	12%	18%	11%	42%	40%	36%
Other	43%	43%	50%	43%	71%	33%	8%	8%	29%	46%	29%
Public transit	22%	29%	33%	71%	89%	24%	18%	9%	23%	38%	41%
Walking	13%	43%	50%	50%	100%	17%	0%	50%	25%	80%	0%
<b>Car Ownership</b>											
No	24%	35%	39%	66%	84%	23%	15%	16%	9%	58%	34%
Use a shared-car service	27%	25%	45%	70%	79%	22%	11%	7%	30%	32%	24%
Yes	31%	33%	48%	55%	86%	17%	15%	11%	33%	54%	33%
<b>Pet Ownership</b>											
No pets	26%	35%	41%	66%	83%	22%	15%	16%	13%	57%	33%
Dog(s)	23%	33%	39%	65%	85%	23%	14%	13%	11%	58%	35%
Cat(s)	19%	34%	38%	61%	84%	24%	12%	10%	13%	52%	31%
Other	32%	40%	38%	43%	97%	18%	8%	12%	8%	53%	34%
<b>Primary Occupation</b>											
Accounting	22%	19%	35%	58%	89%	5%	14%	20%	15%	54%	48%
Banking/finance	29%	36%	50%	61%	78%	21%	20%	20%	16%	59%	39%
Construction/engineering/architecture	24%	30%	44%	71%	85%	19%	13%	13%	7%	55%	47%
Consulting	18%	42%	50%	86%	73%	13%	27%	20%	17%	48%	17%
Defense	37%	37%	38%	63%	63%	53%	0%	40%	33%	56%	55%
Education/training	25%	35%	39%	62%	87%	24%	10%	20%	9%	58%	25%
Energy	24%	45%	20%	67%	60%	33%	17%	33%	29%	78%	29%
Entertainment/media	26%	30%	37%	69%	95%	16%	21%	14%	22%	44%	29%
Food/beverage/hospitality	28%	35%	44%	66%	84%	20%	21%	13%	8%	65%	23%
Government	26%	35%	37%	67%	83%	13%	13%	15%	14%	58%	39%
Insurance	27%	24%	38%	65%	84%	20%	25%	27%	0%	61%	56%
Legal	13%	35%	30%	80%	83%	21%	4%	9%	9%	48%	28%
Medical/biotech	21%	35%	43%	65%	90%	17%	8%	12%	6%	57%	32%
Nonprofit or religious	24%	38%	38%	83%	77%	17%	14%	5%	21%	54%	24%
Real estate	21%	15%	24%	77%	76%	25%	33%	17%	6%	58%	42%
Retail	26%	37%	44%	52%	88%	23%	13%	13%	18%	67%	27%
Student	33%	31%	65%	60%	72%	30%	20%	11%	13%	46%	36%
Technology	22%	30%	33%	61%	84%	27%	14%	11%	16%	56%	44%
Telecommunications	23%	36%	29%	47%	95%	35%	31%	0%	15%	68%	43%
Transportation	33%	39%	39%	54%	87%	33%	33%	21%	6%	55%	5%
Other	25%	38%	34%	63%	84%	23%	9%	15%	13%	59%	30%

Reasons Not Interested in Micro Unit Percentage of responses	Reasons Not Interested in Micro Unit						
	Compact bathroom	Compact kitchen	Expecting need for more space	Lack of separate bedroom	Less living/dining space	Less space to host guests	Less storage space
Conventional renters	37%	43%	19%	75%	60%	56%	63%
<b>Age Range</b>							
Under 25	31%	41%	14%	76%	53%	60%	57%
25-34	39%	44%	20%	76%	63%	53%	63%
35-44	35%	38%	16%	74%	57%	50%	59%
45-54	37%	44%	22%	73%	62%	60%	62%
55-64	39%	41%	14%	81%	61%	55%	71%
65+	42%	45%	16%	79%	60%	45%	65%
<b>Apartment Floor Plan</b>							
Studio/efficiency	30%	32%	18%	51%	61%	54%	56%
1 bedroom	37%	42%	16%	77%	58%	55%	63%
2 bedroom	37%	43%	20%	75%	62%	56%	62%
3 bedroom	44%	45%	22%	76%	65%	63%	62%
Other	38%	46%	33%	75%	50%	46%	58%
<b>Living Arrangement</b>							
Single living alone	38%	41%	13%	76%	60%	56%	64%
Single with children	38%	43%	26%	77%	61%	49%	52%
Spouse/partner	39%	49%	22%	74%	60%	57%	66%
Spouse/partner with children	33%	38%	26%	74%	64%	55%	57%
Living with roommate	32%	35%	19%	74%	55%	57%	68%
<b>Gender</b>							
Male	37%	42%	18%	75%	63%	58%	60%
Female	37%	43%	19%	76%	58%	54%	64%
<b>Annual Household Income</b>							
Less than \$25,000	39%	40%	20%	80%	55%	51%	58%
\$26,000-\$40,000	36%	40%	22%	73%	60%	50%	58%
\$41,000-\$50,000	32%	40%	20%	77%	60%	54%	59%
\$51,000-\$74,000	39%	46%	18%	75%	61%	54%	60%
\$75,000-\$100,000	34%	41%	20%	71%	59%	57%	63%
\$101,000-\$150,000	41%	43%	19%	78%	63%	64%	70%
More than \$150,000	39%	43%	19%	74%	59%	54%	62%
<b>Primary Method of Transportation</b>							
Bicycle	38%	43%	19%	76%	62%	56%	63%
Car	37%	38%	15%	69%	53%	53%	61%
Other	22%	22%	22%	67%	22%	78%	56%
Public transit	34%	39%	15%	73%	56%	48%	63%
Walking	50%	50%	19%	63%	50%	50%	50%
<b>Car Ownership</b>							
No	38%	43%	19%	76%	61%	56%	62%
Use a shared-car service	34%	44%	20%	73%	56%	59%	63%
Yes	37%	35%	17%	72%	58%	54%	61%
<b>Pet Ownership</b>							
No pets	37%	42%	19%	74%	62%	56%	61%
Dog(s)	39%	44%	21%	76%	58%	57%	63%
Cat(s)	36%	45%	18%	80%	59%	51%	70%
Other	43%	51%	29%	86%	57%	71%	74%
<b>Primary Occupation</b>							
Accounting	35%	41%	17%	83%	65%	61%	61%
Banking/finance	40%	46%	21%	73%	62%	57%	61%
Construction/engineering/architecture	38%	43%	15%	73%	59%	58%	65%
Consulting	37%	42%	16%	75%	66%	63%	60%
Defense	52%	52%	17%	83%	74%	70%	52%
Education/training	36%	39%	9%	78%	56%	46%	65%
Energy	43%	48%	14%	76%	67%	62%	57%
Entertainment/media	41%	40%	19%	70%	57%	54%	63%
Food/beverage/hospitality	32%	41%	17%	68%	68%	59%	67%
Government	37%	44%	24%	72%	63%	61%	66%
Insurance	40%	40%	19%	83%	60%	52%	60%
Legal	42%	48%	16%	75%	65%	53%	59%
Medical/biotech	33%	41%	19%	74%	57%	51%	61%
Nonprofit or religious	29%	35%	32%	71%	47%	50%	44%
Real estate	31%	35%	19%	67%	54%	48%	54%
Retail	45%	49%	18%	75%	72%	55%	65%
Student	48%	49%	22%	86%	60%	65%	75%
Technology	31%	38%	16%	76%	58%	59%	63%
Telecommunications	34%	38%	16%	81%	56%	44%	34%
Transportation	40%	47%	30%	87%	63%	60%	63%
Other	40%	45%	23%	76%	58%	54%	67%

Hesitancy Regarding Micro Unit Percentage hesitant/very hesitant	Hesitancy Regarding Micro Unit					
	Compact bathroom	Compact kitchen	Lack of separate bedroom	Less living/dining space	Less space to host guests	Less storage space
Conventional renters	20%	25%	44%	20%	30%	50%
<b>Age Range</b>						
Under 25	21%	33%	45%	18%	36%	47%
25–34	21%	29%	47%	22%	33%	49%
35–44	20%	21%	44%	20%	26%	53%
45–54	15%	17%	41%	15%	22%	48%
55–64	16%	18%	39%	24%	27%	48%
65+	21%	23%	41%	25%	37%	66%
<b>Apartment Floor Plan</b>						
Studio/efficiency	17%	27%	23%	17%	25%	46%
1 bedroom	19%	26%	46%	21%	30%	52%
2 bedroom	21%	24%	45%	20%	33%	49%
3 bedroom	18%	22%	51%	19%	19%	42%
Other	15%	0%	43%	8%	23%	62%
<b>Living Arrangement</b>						
Single living alone	19%	25%	47%	22%	30%	53%
Single with children	21%	17%	46%	21%	31%	46%
Spouse/partner	21%	29%	37%	17%	29%	51%
Spouse/partner with children	20%	24%	45%	22%	22%	39%
Living with roommate	18%	24%	41%	17%	33%	48%
<b>Gender</b>						
Male	14%	19%	42%	18%	29%	43%
Female	24%	29%	45%	22%	31%	55%
<b>Annual Household Income</b>						
Less than \$25,000	19%	23%	40%	23%	27%	44%
\$26,000–\$40,000	22%	26%	48%	20%	33%	48%
\$41,000–\$50,000	22%	25%	49%	24%	33%	60%
\$51,000–\$74,000	20%	29%	45%	18%	31%	48%
\$75,000–\$100,000	13%	23%	41%	18%	30%	51%
\$101,000–\$150,000	18%	23%	36%	20%	28%	53%
More than \$150,000	21%	18%	42%	21%	26%	42%
<b>Primary Method of Transportation</b>						
Bicycle	20%	24%	44%	20%	29%	50%
Car	18%	29%	41%	23%	38%	51%
Other	7%	36%	36%	8%	36%	29%
Public transit	20%	22%	42%	22%	25%	49%
Walking	29%	33%	43%	50%	33%	86%
<b>Car Ownership</b>						
No	20%	25%	44%	20%	30%	51%
Use a shared-car service	14%	20%	37%	29%	31%	57%
Yes	20%	23%	43%	20%	31%	42%
<b>Pet Ownership</b>						
No pets	20%	25%	42%	20%	30%	48%
Dog(s)	18%	24%	44%	18%	30%	52%
Cat(s)	19%	25%	48%	22%	31%	59%
Other	10%	27%	40%	13%	23%	53%
<b>Primary Occupation</b>						
Accounting	14%	24%	37%	17%	27%	45%
Banking/finance	24%	20%	37%	24%	25%	46%
Construction/engineering/architecture	17%	20%	53%	19%	33%	54%
Consulting	26%	31%	38%	21%	31%	44%
Defense	6%	18%	47%	6%	24%	44%
Education/training	23%	36%	41%	26%	43%	58%
Energy	8%	42%	50%	17%	50%	42%
Entertainment/media	13%	30%	33%	22%	36%	59%
Food/beverage/hospitality	23%	26%	49%	21%	27%	49%
Government	12%	23%	45%	24%	27%	49%
Insurance	29%	24%	38%	15%	29%	60%
Legal	15%	22%	48%	26%	33%	48%
Medical/biotech	25%	28%	54%	24%	30%	54%
Nonprofit or religious	23%	19%	44%	13%	58%	58%
Real estate	15%	25%	38%	10%	22%	44%
Retail	20%	21%	32%	15%	23%	41%
Student	25%	21%	42%	16%	39%	48%
Technology	18%	29%	41%	19%	27%	45%
Telecommunications	15%	21%	57%	19%	19%	57%
Transportation	12%	20%	54%	24%	28%	44%
Other	19%	18%	41%	19%	21%	49%

Importance of Factors in Micro-Unit Rental Decision Percentage important/very important	Neighborhood Amenities							
	Cafés	Entertainment	Grocery store	Gym	Public transit	Recreation	Restaurant/bars	Retail centers
Conventional renters	49%	53%	88%	56%	41%	46%	68%	52%
<b>Age Range</b>								
Under 25	46%	57%	92%	70%	40%	38%	73%	44%
25–34	52%	60%	88%	64%	42%	49%	72%	49%
35–44	49%	56%	88%	53%	42%	51%	69%	58%
45–54	45%	45%	88%	53%	37%	46%	61%	52%
55–64	49%	35%	85%	41%	38%	38%	61%	52%
65+	53%	42%	84%	29%	46%	40%	61%	71%
<b>Apartment Floor Plan</b>								
Studio/efficiency	65%	52%	90%	64%	66%	48%	73%	40%
1 bedroom	49%	54%	87%	55%	38%	44%	69%	53%
2 bedroom	46%	49%	87%	55%	38%	46%	65%	52%
3 bedroom	45%	60%	95%	60%	42%	46%	69%	58%
Other	58%	75%	67%	58%	25%	67%	75%	82%
<b>Living Arrangement</b>								
Single living alone	51%	52%	87%	55%	36%	44%	67%	54%
Single with children	37%	39%	86%	46%	39%	42%	55%	53%
Spouse/partner	57%	57%	90%	57%	49%	47%	74%	54%
Spouse/partner with children	33%	52%	85%	55%	42%	56%	58%	54%
Living with roommate	48%	58%	92%	66%	46%	47%	75%	46%
<b>Gender</b>								
Male	48%	54%	85%	56%	38%	47%	68%	47%
Female	49%	51%	90%	56%	42%	45%	67%	56%
<b>Annual Household Income</b>								
Less than \$25,000	39%	52%	88%	54%	39%	40%	59%	41%
\$26,000–\$40,000	39%	50%	87%	47%	38%	39%	62%	48%
\$41,000–\$50,000	48%	50%	87%	53%	32%	45%	66%	54%
\$51,000–\$74,000	48%	50%	89%	60%	35%	44%	67%	55%
\$75,000–\$100,000	58%	64%	90%	65%	46%	53%	76%	60%
\$101,000–\$150,000	60%	56%	87%	55%	50%	52%	76%	52%
More than \$150,000	67%	52%	83%	70%	54%	54%	77%	45%
<b>Primary Method of Transportation</b>								
Bicycle	48%	54%	87%	56%	33%	47%	67%	53%
Car	60%	53%	96%	68%	99%	44%	73%	45%
Other	43%	36%	100%	43%	64%	50%	79%	36%
Public transit	64%	42%	88%	57%	75%	39%	68%	41%
Walking	29%	29%	71%	14%	43%	29%	43%	71%
<b>Car Ownership</b>								
No	49%	53%	88%	56%	34%	44%	68%	52%
Use a shared-car service	72%	53%	97%	63%	94%	48%	84%	50%
Yes	49%	48%	88%	60%	74%	41%	67%	52%
<b>Pet Ownership</b>								
No pets	47%	52%	87%	59%	41%	45%	67%	51%
Dog(s)	51%	55%	90%	51%	38%	50%	69%	51%
Cat(s)	59%	59%	96%	49%	41%	42%	72%	63%
Other	37%	43%	80%	55%	47%	59%	70%	53%
<b>Primary Occupation</b>								
Accounting	44%	50%	82%	41%	36%	39%	75%	44%
Banking/finance	49%	52%	91%	61%	52%	49%	74%	52%
Construction/engineering/architecture	43%	51%	84%	55%	34%	50%	70%	45%
Consulting	63%	51%	88%	77%	65%	65%	71%	34%
Defense	56%	56%	69%	41%	41%	29%	78%	61%
Education/training	45%	47%	87%	55%	35%	47%	58%	53%
Energy	55%	55%	91%	64%	45%	82%	73%	27%
Entertainment/media	55%	67%	91%	63%	52%	58%	79%	61%
Food/beverage/hospitality	41%	49%	89%	50%	27%	35%	61%	49%
Government	48%	53%	92%	61%	47%	46%	70%	56%
Insurance	42%	53%	84%	53%	16%	53%	84%	58%
Legal	65%	50%	87%	48%	39%	48%	82%	52%
Medical/biotech	52%	56%	87%	61%	40%	47%	65%	61%
Nonprofit or religious	59%	55%	86%	43%	52%	48%	79%	59%
Real estate	72%	71%	97%	69%	41%	63%	84%	78%
Retail	46%	49%	79%	45%	46%	33%	60%	51%
Student	45%	49%	85%	67%	48%	42%	65%	39%
Technology	55%	52%	90%	59%	42%	42%	65%	42%
Telecommunications	45%	40%	90%	45%	45%	47%	60%	55%
Transportation	25%	48%	92%	50%	25%	40%	67%	54%
Other	48%	54%	89%	52%	35%	44%	65%	55%

Importance of Factors in Micro-Unit Rental Decision Percentage important/very important	On-site Amenities														
	Assigned parking	Visitor parking	Bike rack	Business center	Car rental	Central lounge	Cinema room	Communal kitchen	Fitness center	Grill	Laundry room	Living room area on each floor	Pet services	Pool	Roof/outdoor space
Conventional renters	72%	72%	23%	30%	14%	26%	20%	19%	70%	43%	83%	43%	29%	56%	62%
<b>Age Range</b>															
Under 25	55%	69%	17%	27%	10%	19%	20%	14%	74%	33%	85%	35%	28%	55%	64%
25-34	67%	72%	26%	28%	13%	29%	23%	22%	81%	50%	83%	44%	31%	57%	68%
35-44	75%	70%	23%	33%	18%	26%	19%	19%	68%	44%	80%	42%	28%	56%	63%
45-54	77%	73%	29%	27%	11%	22%	15%	13%	63%	39%	83%	43%	24%	59%	55%
55-64	85%	76%	19%	42%	18%	26%	24%	19%	57%	42%	88%	47%	31%	50%	56%
65+	83%	72%	11%	28%	9%	34%	21%	30%	33%	28%	81%	46%	25%	47%	59%
<b>Apartment Floor Plan</b>															
Studio/efficiency	56%	53%	31%	25%	19%	33%	17%	16%	82%	45%	91%	33%	29%	49%	68%
1 bedroom	73%	73%	22%	28%	13%	25%	18%	17%	69%	40%	83%	41%	28%	53%	62%
2 bedroom	71%	74%	23%	32%	13%	26%	22%	21%	67%	45%	81%	45%	27%	59%	61%
3 bedroom	82%	79%	22%	34%	12%	25%	31%	22%	67%	48%	85%	52%	42%	68%	65%
Other	92%	92%	17%	55%	25%	58%	58%	33%	91%	58%	91%	64%	50%	75%	67%
<b>Living Arrangement</b>															
Single living alone	72%	73%	21%	28%	13%	24%	18%	18%	69%	38%	82%	40%	25%	51%	61%
Single with children	82%	82%	20%	35%	12%	24%	19%	21%	57%	40%	80%	53%	24%	66%	57%
Spouse/partner	71%	66%	29%	33%	16%	28%	20%	21%	73%	48%	87%	47%	38%	55%	67%
Spouse/partner with children	72%	68%	29%	38%	21%	29%	28%	25%	73%	56%	81%	54%	29%	65%	52%
Living with roommate	63%	73%	24%	30%	13%	30%	24%	17%	74%	47%	86%	38%	33%	62%	68%
<b>Gender</b>															
Male	71%	69%	25%	27%	14%	23%	19%	19%	70%	43%	81%	39%	21%	53%	60%
Female	72%	74%	22%	33%	13%	28%	22%	20%	69%	43%	84%	45%	34%	58%	63%
<b>Annual Household Income</b>															
Less than \$25,000	66%	72%	19%	30%	11%	18%	18%	12%	67%	32%	83%	39%	34%	60%	62%
\$26,000-\$40,000	70%	76%	17%	35%	12%	23%	22%	17%	61%	39%	78%	42%	28%	58%	58%
\$41,000-\$50,000	68%	77%	22%	29%	11%	24%	23%	18%	72%	46%	80%	49%	34%	62%	62%
\$51,000-\$74,000	75%	74%	21%	27%	14%	25%	20%	21%	70%	41%	83%	42%	26%	54%	58%
\$75,000-\$100,000	76%	73%	22%	32%	12%	29%	19%	20%	74%	47%	88%	45%	25%	56%	62%
\$101,000-\$150,000	68%	67%	31%	24%	21%	31%	18%	26%	72%	51%	89%	36%	32%	49%	70%
More than \$150,000	70%	54%	38%	34%	18%	37%	26%	20%	78%	50%	88%	43%	23%	49%	70%
<b>Primary Method of Transportation</b>															
Bicycle	77%	76%	21%	30%	11%	23%	20%	19%	69%	43%	82%	44%	29%	58%	60%
Car	30%	39%	34%	32%	31%	47%	24%	26%	80%	41%	93%	40%	27%	39%	72%
Other	31%	64%	86%	29%	43%	14%	7%	21%	71%	50%	71%	23%	43%	54%	86%
Public transit	36%	45%	27%	41%	32%	39%	18%	12%	70%	33%	86%	33%	23%	47%	74%
Walking	71%	83%	14%	0%	14%	14%	14%	14%	17%	29%	67%	33%	14%	14%	29%
<b>Car Ownership</b>															
No	77%	77%	22%	29%	10%	24%	20%	19%	70%	44%	83%	43%	30%	58%	62%
Use a shared-car service	15%	30%	59%	50%	81%	58%	19%	29%	88%	59%	94%	42%	28%	55%	79%
Yes	39%	41%	30%	37%	22%	35%	24%	19%	67%	37%	83%	40%	25%	42%	66%
<b>Pet Ownership</b>															
No pets	70%	71%	24%	32%	15%	28%	20%	19%	70%	41%	82%	41%	14%	53%	58%
Dog(s)	77%	76%	23%	26%	10%	22%	24%	17%	71%	49%	86%	47%	72%	67%	72%
Cat(s)	72%	72%	27%	29%	12%	23%	23%	23%	64%	47%	87%	49%	38%	58%	69%
Other	61%	62%	24%	18%	7%	21%	24%	32%	57%	38%	79%	48%	57%	54%	55%
<b>Primary Occupation</b>															
Accounting	82%	81%	18%	37%	4%	18%	4%	11%	68%	36%	79%	43%	18%	74%	61%
Banking/finance	65%	60%	21%	32%	9%	30%	27%	18%	62%	45%	87%	39%	24%	61%	64%
Construction/engineering/architecture	72%	71%	19%	24%	7%	15%	19%	20%	73%	43%	84%	40%	26%	51%	64%
Consulting	71%	67%	30%	35%	15%	50%	21%	29%	91%	50%	94%	56%	32%	64%	68%
Defense	94%	89%	25%	24%	18%	17%	22%	24%	53%	39%	76%	31%	41%	44%	47%
Education/training	65%	78%	19%	31%	11%	25%	11%	11%	73%	42%	81%	41%	28%	47%	62%
Energy	64%	55%	55%	45%	36%	40%	27%	30%	64%	45%	73%	45%	18%	64%	91%
Entertainment/media	70%	73%	12%	31%	9%	19%	27%	18%	76%	40%	94%	45%	18%	64%	82%
Food/beverage/hospitality	72%	78%	17%	24%	13%	20%	16%	13%	65%	42%	81%	42%	26%	65%	58%
Government	72%	76%	21%	33%	15%	31%	26%	26%	69%	37%	85%	52%	28%	49%	62%
Insurance	84%	74%	33%	21%	16%	26%	0%	16%	79%	53%	79%	47%	26%	72%	61%
Legal	65%	74%	17%	4%	9%	26%	13%	22%	68%	50%	78%	24%	35%	48%	61%
Medical/biotech	75%	73%	27%	34%	15%	28%	22%	18%	69%	50%	80%	43%	31%	64%	67%
Nonprofit or religious	57%	72%	31%	32%	20%	34%	21%	25%	62%	43%	93%	48%	38%	72%	69%
Real estate	74%	71%	29%	58%	16%	45%	26%	42%	90%	65%	90%	52%	26%	65%	77%
Retail	59%	66%	13%	22%	17%	17%	21%	12%	71%	29%	89%	40%	35%	49%	55%
Student	61%	64%	28%	37%	17%	28%	28%	19%	79%	38%	76%	37%	29%	51%	62%
Technology	77%	72%	25%	22%	15%	24%	16%	20%	73%	39%	82%	41%	26%	48%	53%
Telecommunications	90%	75%	35%	30%	15%	25%	25%	25%	85%	58%	90%	50%	25%	63%	70%
Transportation	76%	68%	18%	24%	12%	28%	13%	8%	58%	42%	76%	36%	22%	58%	62%
Other	75%	73%	25%	35%	14%	24%	27%	21%	59%	44%	82%	43%	33%	53%	56%

Importance of Factors in Micro-Unit Rental Decision Percentage important/very important	Unit Features												
	Bathtub	Built-in closet/drawers	Dishwasher	Flat-screen TV	Four-burner stove	Full-size kitchen sink	Full-size refrigerator	High ceilings (nine feet+)	Juliet balcony	Oversized windows	Space partitions	Storage space	Washer and dryer
Conventional renters	61%	82%	71%	42%	75%	75%	77%	49%	41%	49%	53%	81%	86%
<b>Age Range</b>													
Under 25	56%	80%	65%	32%	73%	75%	81%	42%	25%	45%	47%	77%	82%
25-34	58%	83%	75%	38%	79%	76%	76%	51%	41%	48%	55%	76%	84%
35-44	63%	83%	71%	42%	78%	77%	81%	51%	41%	51%	51%	82%	87%
45-54	63%	83%	63%	44%	65%	67%	72%	47%	48%	45%	54%	83%	88%
55-64	61%	82%	74%	56%	69%	82%	82%	48%	46%	55%	53%	87%	92%
65+	73%	80%	67%	50%	83%	76%	74%	47%	47%	52%	49%	95%	86%
<b>Apartment Floor Plan</b>													
Studio/efficiency	52%	89%	72%	39%	74%	73%	68%	59%	43%	62%	52%	80%	76%
1 bedroom	60%	84%	70%	42%	75%	75%	78%	47%	40%	46%	51%	81%	87%
2 bedroom	62%	79%	69%	41%	73%	74%	78%	49%	41%	49%	54%	80%	87%
3 bedroom	64%	82%	79%	38%	82%	78%	81%	53%	41%	50%	56%	84%	85%
Other	67%	92%	80%	67%	83%	75%	75%	33%	50%	42%	58%	83%	82%
<b>Living Arrangement</b>													
Single living alone	60%	83%	70%	43%	73%	75%	77%	49%	42%	48%	52%	80%	88%
Single with children	72%	78%	74%	39%	76%	76%	83%	45%	44%	43%	56%	79%	87%
Spouse/partner	62%	85%	72%	40%	76%	79%	79%	50%	42%	53%	58%	86%	85%
Spouse/partner with children	66%	80%	70%	55%	78%	73%	79%	49%	36%	47%	47%	73%	85%
Living with roommate	56%	79%	68%	35%	76%	73%	75%	50%	38%	49%	51%	80%	82%
<b>Gender</b>													
Male	55%	80%	68%	44%	70%	71%	75%	50%	38%	45%	46%	75%	81%
Female	64%	84%	71%	39%	78%	78%	79%	48%	44%	51%	58%	84%	89%
<b>Annual Household Income</b>													
Less than \$25,000	74%	80%	67%	38%	74%	80%	81%	44%	39%	40%	46%	76%	84%
\$26,000-\$40,000	73%	81%	67%	39%	80%	79%	83%	49%	42%	47%	52%	82%	87%
\$41,000-\$50,000	62%	81%	70%	41%	80%	78%	77%	48%	39%	49%	54%	85%	90%
\$51,000-\$74,000	57%	82%	71%	41%	71%	69%	75%	46%	39%	44%	49%	77%	84%
\$75,000-\$100,000	65%	84%	70%	44%	80%	77%	80%	50%	49%	52%	59%	86%	86%
\$101,000-\$150,000	51%	84%	74%	44%	72%	73%	70%	49%	34%	52%	57%	76%	82%
More than \$150,000	35%	87%	78%	51%	54%	75%	72%	61%	38%	63%	48%	77%	87%
<b>Primary Method of Transportation</b>													
Bicycle	62%	82%	70%	42%	74%	75%	78%	48%	41%	47%	53%	81%	87%
Car	48%	88%	78%	41%	80%	75%	79%	50%	35%	59%	57%	82%	83%
Other	46%	71%	57%	50%	86%	86%	71%	36%	50%	57%	21%	57%	64%
Public transit	48%	73%	59%	27%	58%	66%	59%	55%	34%	48%	52%	75%	82%
Walking	71%	71%	43%	29%	100%	71%	86%	57%	71%	57%	43%	86%	86%
<b>Car Ownership</b>													
No	62%	82%	70%	42%	75%	76%	78%	49%	41%	48%	53%	81%	87%
Use a shared-car service	39%	94%	70%	25%	81%	82%	67%	58%	45%	81%	67%	91%	79%
Yes	55%	82%	72%	45%	71%	71%	78%	47%	35%	44%	49%	74%	82%
<b>Pet Ownership</b>													
No pets	62%	82%	70%	43%	76%	77%	79%	51%	41%	47%	52%	80%	85%
Dog(s)	58%	83%	74%	42%	72%	72%	75%	48%	42%	52%	52%	80%	89%
Cat(s)	54%	83%	71%	37%	77%	75%	76%	42%	41%	55%	58%	88%	87%
Other	63%	76%	70%	33%	57%	60%	63%	37%	34%	30%	37%	87%	90%
<b>Primary Occupation</b>													
Accounting	70%	82%	71%	43%	71%	71%	81%	52%	39%	43%	39%	82%	86%
Banking/finance	48%	80%	71%	47%	73%	65%	65%	45%	30%	44%	47%	74%	75%
Construction/engineering/architecture	52%	75%	65%	39%	68%	74%	75%	49%	40%	56%	51%	75%	82%
Consulting	62%	86%	80%	46%	88%	83%	86%	57%	49%	55%	53%	69%	83%
Defense	61%	72%	72%	50%	56%	50%	83%	33%	41%	47%	56%	83%	83%
Education/training	60%	80%	64%	34%	81%	76%	80%	45%	39%	44%	55%	80%	86%
Energy	55%	82%	82%	64%	82%	82%	82%	45%	55%	55%	82%	82%	90%
Entertainment/media	64%	91%	82%	42%	88%	79%	76%	50%	47%	67%	61%	94%	97%
Food/beverage/hospitality	73%	83%	73%	45%	83%	80%	86%	46%	40%	45%	54%	79%	90%
Government	62%	86%	74%	43%	72%	72%	76%	52%	49%	49%	62%	86%	86%
Insurance	37%	84%	53%	32%	63%	63%	78%	58%	37%	42%	37%	74%	89%
Legal	65%	83%	74%	35%	81%	78%	78%	52%	45%	50%	61%	96%	91%
Medical/biotech	59%	83%	77%	38%	76%	79%	81%	49%	39%	47%	47%	80%	91%
Nonprofit or religious	62%	97%	73%	55%	66%	70%	60%	41%	41%	57%	50%	90%	93%
Real estate	62%	90%	77%	45%	81%	68%	73%	71%	45%	61%	55%	84%	87%
Retail	75%	88%	60%	30%	77%	80%	79%	56%	35%	32%	54%	80%	81%
Student	67%	81%	65%	44%	72%	74%	78%	43%	38%	50%	46%	69%	85%
Technology	49%	81%	73%	35%	69%	75%	74%	50%	43%	54%	51%	76%	83%
Telecommunications	70%	85%	65%	55%	85%	95%	90%	60%	50%	45%	60%	80%	95%
Transportation	61%	79%	58%	52%	75%	67%	71%	42%	29%	48%	46%	75%	75%
Other	66%	80%	68%	47%	74%	78%	79%	46%	45%	48%	56%	87%	86%

Satisfaction with Micro Unit Mean score	Micro-unit renters	Kingsley Index
Overall satisfaction	3.88	3.97
Renewal intentions	3.05	3.53
Community recommendation	3.90	4.04
Value for amount paid	2.91	3.53
Community management	3.99	4.06
Community amenities	3.96	3.86
Floor plan/design and layout	3.70	4.12
Apartment features and finishes	3.96	3.72
Location	4.49	4.38
Sense of community	3.06	3.80

Renewal Intentions Distribution of responses	Micro-unit renters	Kingsley Index
Definitely would not	13%	9%
Probably would not	22%	11%
Unsure	23%	23%
Probably would	29%	33%
Definitely would	12%	24%

Renewal Decision Factors Percentage responded	Micro-Unit Renters		
	Unlikely to renew	Unsure	Likely to renew
Access to transportation	3%	4%	41%
Apartment features/finishes	20%	17%	59%
Brand reputation	3%	0%	10%
Building upkeep	14%	0%	32%
Community appearance	0%	0%	34%
Community features	6%	9%	37%
Community management	20%	4%	29%
Community's green practices	6%	0%	10%
Home purchase	3%	9%	2%
Length of lease	11%	13%	15%
Location	17%	13%	95%
Overall sense of community	9%	4%	17%
Parking	20%	13%	22%
Pet policy	9%	4%	10%
Quality of community	17%	9%	37%
Relocation/transfer	11%	35%	7%
Rental rate	77%	70%	46%
Security	6%	0%	41%
Space requirements	31%	35%	5%

Importance in Initial Lease Decision Percentage high priority/very high priority	Micro-unit renters
Ability to live alone	71%
Assigned parking	32%
Common areas/amenities	32%
Floor plan/layout	42%
Internet/wi-fi services	54%
In-unit storage	25%
Location	97%
Neighbors with similar lifestyles	20%
Pets allowed	26%
Price	86%
Proximity to neighborhood amenities	73%
Proximity to public transit	62%
Proximity to work/school	78%
Quality of finishes	52%
Sense of community	27%
Sustainability practices	29%
Visitor parking	21%