

Housing Committee Meeting Minutes
Tuesday September 1, 2009
5:00 p.m. City Hall – Room 209

Attending: Councilor David Marshall, Chair, Councilor Kevin Donoghue, Councilor John Coyne, T.J. Martzial, HNS Division Director, Amy Grommes Pulaski, HCD Program Manager

Item 1. Approve Minutes of August 4, 2009

Chair Marshall called the meeting to order. Councilor Donoghue motioned to approve the Housing Committee minutes of August 4, 2009, Chair Marshall seconded; the motion passed unanimously.

Item 2. Condominium Conversion Fees

During the last Housing Committee meeting, the City of Burlington, Vermont's condominium conversion 4% fee ordinance was circulated as an example of the type of ordinance Portland might want to consider adopting. T.J. Martzial said he had spoken with the city attorney from Burlington, whose opinion was that the ordinance was not functional. In the 22 years since the ordinance has been adopted, the city has collected no money. Burlington is facing a lawsuit; the attorney has concerns that the fees appear to be punitive. The fees could not be connected to the cost of affordable housing for displaced tenants. The attorney was not confident that Burlington would win the lawsuit. He said that maybe in a larger market, the 4% conversion fee would work, but Burlington is just half the size of Portland. Their ordinance was modeled after the one in Washington, D.C., which appears to be working fine. He said a fee smaller than 4% might not be so painful.

T.J. said that Ann Freeman, Corporation Counsel, drafted an ordinance with a 1% conversion fee for Portland. She said that she thought that Section F could be better defined, i.e. what is the fee for and why. It is not clear.

Councilor Donoghue asked whether the fee should be proportionate to the impact on displaced tenants rather than on the rental unit market – what are the costs and benefits to that tenant? T.J. said that Portland's current condo conversion ordinance has very good protections for displaced tenants.

Councilor Donoghue asked if there was a sense among attorneys that the fee needs to be proportionate to the impact on the displaced tenants rather than the negative social impact of condo conversions. He said he feels okay taking the heat for that. He thinks the condo conversion fee is too low, and wants to move toward a higher fee. He said the Burlington ordinance seems innovative but an exorbitant 4% fee based on sales price does not bear relation to the cost of replacement. He wants to better quantify costs associated with displaced tenants and compare it to the fee structure.

Councilor Coyne asked how many rental units there are in the City, compared to condominiums and compared to home ownership. T.J. did not have that information with him. He said that 2004/2006 was the year that condo conversions spiked. There were 170-180 a year during that period. There have been no conversions in 2009. The current fee is \$150.00 for the first unit converted and \$75.00 for each

additional unit. Councilor Coyne said the fees seemed punitive. He asked about the issues that displaced tenants face.

T.J. Martzial said that the main protection for tenants in Portland's condo conversion ordinance is the amount of notice that landlords are required to give their tenants. Amy Grommes Pulaski said that if the tenant has lived in the unit for three or more years, there could be 24-36 months notice, and the tenant would have first right of refusal for purchasing the unit. There are also relocation costs of up to \$1,000.00. T. J. noted that if the landlord sold the building, he could give a 30 day notice to tenants at will, but if he is converting to condos and selling them, the notice would be considerably longer. He said that the current tenant has some protection but when he or she moves into the rental market again, the number of available units may be tighter if conversions are running rampant as in 2005/06.

Councilor Coyne asked for the definition of affordable. Amy Grommes Pulaski answered that when using federal subsidies, affordable generally means 30% of gross income. HUD's Fair Market Rents for Portland are \$804 for a one bedroom apartment, \$1,042 for a two bedroom apartment, and \$1,300 for a three bedroom apartment. These figures include all utilities.

Councilor Donoghue said it was important to ask how quickly we are replacing rental units. Units that are converted to condos generate a \$150 fee to the City, while it takes about \$100,000 in Federal funds to build a new unit. T.J. said that from 2000 to 2008, around 800 new subsidized units were built in the City. 688 units were converted to condos.

T.J. said that a landlord could let a lease expire and then give a tenant 30 days notice to vacate. This would be legal. Then the landlord could file for condo conversion and not have to deal with relocation expenses or extended notices for tenants. Councilor Donoghue asked how many payments to tenants had been made under the current ordinance. T.J. responded that he didn't think these payouts are monitored by the City, they are between the tenant and the landlord. Amy said that the Inspections Office does track when tenants receive their notices. T.J. said the relocation expenses usually come out of the landlord's pocket, or as Chair Marshall noted, they come from profits from the sale of the condos.

Chair Marshall said the Burlington ordinance was not necessarily the road to go. He recommended forward this to the Finance Committee to consider it as part of the budget for next year. Councilor Donoghue agreed. He recommended adjusting the fee by a dollar amount rather than as a percentage, but felt it should be more than a thousand dollars. Chair Marshall said he thought the Housing Committee has taken this as far as they can.

Councilor Coyne asked what the funds could be used for. T.J. said it is important that including fees in the ordinance needs to be coupled with where the funds will go. Maybe the funds could be used to develop affordable housing, supplementing other funding. The ordinance needs to be very specific in defining the problems created by the loss of rental units. The funds will need to be targeted. Municipal law says fees need to reflect the cost of the service. Councilor Donoghue called it the rational nexus.

Councilor Coyne said it didn't really look like the City had lost any rental units according to the figures given earlier. T.J. said it is not known if the lost units were affordable units.

Councilor Donoghue said Portland has pitiful rental inspections. He asked how much we spend on inspections through CDBG. Amy said \$70,000 funds one and a half inspectors in East Bayside. Councilor Donoghue mentioned the Rental Inspection Program that was proposed a few years ago. Landlords would be assessed a fee and have their units subject to periodic inspections. The initiative did not succeed. He moved that they recommend to the Finance Committee that condo conversion fees be raised to help fund rental inspections. Chair Marshall asked if there was perhaps something simpler. Councilor Donoghue did not want the fees to go into the general fund. T.J. said that targeting the fees may improve its chances of passing. Chair Marshall asked for public comment. There was none.

Councilor Coyne said perhaps they could widen the scope of inspection to other areas. Councilor Donoghue said that fees vary but so does the ability to spend CDBG funds. Amy asked if he was thinking about expanding the inspection program or creating a new one.

Regarding upcoming meetings: T.J. said that in October, the Housing Committee would revisit tax acquired residential properties. The Tax Acquired Property Committee will meet prior to then. They intend to rehab and sell the properties confirmed as vacant and tax-acquired. The Land Bank had expressed interest but there are wetland issues. On September 30, Beckett Green is headed for the CDC meeting agenda.

Chair Marshall said they may need to discuss property at 660 Congress Street, owned by Roxanne Quimby. She wants to make the six units on the second floor into artist space. Removing these units from rental stock would be subject to the Housing Replacement Ordinance (HRO). The Council will vote on whether this is a "project of special merit", which would exempt her from paying \$300,000 into the Housing Replacement Fund. Councilor Marshall said that Ms. Quimby would be rehabbing an historic building, and would pay taxes on the property even though it would have nonprofit status, according to a source who works with her. He feels it would have a positive effect on that area of Congress Street. He noted that Ms. Quimby is not asking for financial assistance from the City.

Councilor Coyne asked what happens when there is a dispute between a tenant and a landlord regarding conditions. He said he had entered an apartment at 387 Cumberland Ave. during the course of his job. He could not believe the conditions that the tenants were living in. He is a "mandatory reporter" as part of his job. Amy said that currently inspections are complaint driven, that a report would trigger an inspection of the premises. She said that most calls to City Hall regarding tenant/landlord issues were handled by her.

Chair Marshall moved to adjourn, Councilor Donoghue seconded.

Meeting adjourned.

Next scheduled meeting is October 6, 2009