

A ROBUST HOUSING IMPACT FEE

AN ESSENTIAL PART OF THE OAKLAND HOUSING EQUITY ROAD MAP

A robust housing impact fee, while it is only one step in addressing the housing crisis, is a matter of life or death, a matter of being homeless or having a safe place to live, a matter of determining who stays in Oakland and who is forced to leave.

- AH Resident

**Delivered by residents of affordable housing and
the people of Oakland**

**Delivered to Mayor Schaaf and the Members of Oakland
Council on November 19th, 2015**

Prepared by:

Oakland Community Investment Alliance

The Oakland Community Investment Alliance is composed of the Alliance of Californians for Community Empowerment (ACCE), the East Bay Alliance for a Sustainable Economy (EBASE), East Bay Housing Organizations (EBHO), Greenbelt Alliance, Public Advocates, and TransForm

DEVELOPMENT IS HAPPENING IN OAKLAND

“...with growing demand for housing and office space and 30 percent lower building costs than San Francisco, Oakland is seeing a tremendous amount of construction activity, despite the high crime rate. More than 1,000 residences are expected to be completed by the end of this year, and more than 11,000 more units are in the pipeline. In addition, commercial, mixed-use, and hotel projects, as well as entire multiuse districts, are underway or in the planning stage.”

-Urban Land Magazine, October 2nd, 2015

SUMMARY OF OUR PRIORITIES:

A robust housing fee, comparable to neighboring cities, must be implemented in 2016 and include as much of the pipeline as possible.

The full nexus and economic feasibility study needs to be released by December 4th to the public so that there can be informed public participation.

Housing Impact Fee Policy Priorities

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SUMMARY STATEMENT

We want a city-wide housing impact fee that applies to as many projects as possible as quickly as possible at a level that will get us a significant amount of new affordable housing.

Contribution Amount

The City should set its housing impact fee comparable to neighboring jurisdictions (Emeryville and Berkeley are at \$20,000 and considering an increase of between \$28,000 and \$34,000).

Share of Fee for Housing

The Housing Fee should be the major part of any package of fees on new housing development.

Timing of the Fee

All projects in the Oakland Development Pipeline (“Approved Projects”, under review, and pre-

application) should be covered immediately by the impact fee unless they have obtained “vested development rights.”

The City needs to maximize the funding it generates for affordable housing. The development community has long been on notice that this fee is coming. That’s why the nexus study was included in Specific Plans adopted in mid-2014 and later. The City Council has already determined the fee should apply to any projects whose planning approvals are extended past their original expiration date. This should also apply to any new projects – especially projects in the current and future Specific Plan areas (Broadway-Valdez, Lake Merritt BART, West Oakland, Coliseum, and Downtown).

Projects Subject to the Fee

The Housing Fee should apply to all projects that have 5 or more units. Smaller 1-4 unit properties could be exempted.

As nexus studies demonstrate, all new market-rate housing projects will increase the need for affordable housing. The cost of dealing with that impact should be shared by all projects, not just the largest ones.

Geography/Neighborhoods

The Housing Impact Fee should be applied City-wide.

When the City was preparing Specific Plans, it refused to establish affordable housing requirements for individual areas, and argued that affordable housing requirements needed to be established on a citywide basis.

Implementation

The actual housing fee ordinance and any implementing regulations should be developed by staff in the Housing & Community Development Department.

The impact fee won’t be administered by Planning – it will be assessed by the Building Department when projects apply for a building permit, long after Planning has finished its review of a new project. This is essentially a housing policy issue and should be developed by the housing staff. There is precedent for this – the existing Jobs/Housing Commercial Impact Fee was drafted by the housing staff (and the City Attorney’s Office) as were the implementing regulations. The same approach should be used for a new Housing Impact Fee on residential developments.

OCIA RESPONSE TO THE DRAFT NEXUS STUDY PRESENTATION

The Planning Department of the City of Oakland posted a PowerPoint presentation on its website on November 6th, 2015 that presents conclusions and forecasts to develop policy without providing full analysis, assumptions or the data sources. **Without having access to the full nexus analysis and the full feasibility study, it's not possible to have a responsible conversation about how to craft a workable fee program.** In the following memo, we outline the flawed process, missing information, and assumptions in the nexus study power point.

RECOMMENDATION

To remedy the lack of public information regarding the full nexus study and feasibility analysis, we urge the City to provide the full nexus and economic feasibility study to the stakeholder group and to the public at least two weeks before presenting the findings or policy options to the Community and Economic Development Committee (currently scheduled for December 15). Providing the full study well ahead of the CED Committee meeting will allow for the stakeholder group and the public to provide thorough comments and raise any concerns about the nexus study analysis before policy recommendations are presented to City Council.

FLAWED PROCESS

EBHO is not aware of another city where policy alternatives have been discussed before the full study was available. This means that Oakland's housing mitigation fee process is **far less transparent than many neighboring cities**. For example, in Berkeley, the full nexus study for updating the city's affordable housing mitigation fee was made available in full this past July 2015.

By failing to provide sufficient information on the nexus study and feasibility analysis, the City disempowers its own community stakeholder group.

Members of the Impact Fee stakeholder group did not receive the study in advance as expected. According to City staff, the studies won't be available until "early 2016," yet the stakeholder group is being asked to formulate recommendations by November 19. Furthermore, they did not receive the PowerPoint presentation until their first of only three meetings together, and, that information is deeply incomplete.

MISSING INFORMATION

With the limited information the nexus study PowerPoint provides, EBHO has identified the following issues:

- **Lack of alignment with fees in neighboring East Bay Cities.** Recent feasibility studies in neighboring Emeryville and Berkeley have demonstrated that projects are feasible even with fees in excess of \$20,000 per unit. Other cities have also demonstrated a higher nexus (maximum legally justified fee) than what is presented here. We have some of the highest rents and rent increases of any city, and construction costs are relatively comparable for similar construction types. Why is Oakland so different?
- **The City has presented data on housing completions to date, but not on housing starts.** There are roughly 1,000 units of housing currently under construction. Two-thirds are market-rate. The City should provide a full list of projects under construction and projects with pending applications for building permits – separate from pipeline projects that haven’t yet applied for permits. If housing is already under construction, then the need to “prove the market in Oakland” may already have been met.
- **The land costs used for the feasibility analysis (such as the costs in Table 1) are inconsistent with recent City appraisals.** The “base case” feasibility analysis has unusually high land prices given recent experience. In particular, the costs are far in excess of what the City has said land is worth based on appraisals of two City-owned high rise sites – the E 12th Remainder Site and the Strada development site at 11th and Clay. Why is the feasibility analysis using land costs far in excess of what the City’s most recent appraisals say the land is worth?
- **Assumptions about parking are overly conservative.** The City has already established lower parking requirements in the Lake Merritt, Broadway-Valdez and Central Business District areas and is contemplating further reductions, yet the feasibility study assumes 1:1 parking ratios even where the existing requirements are much lower.
- **Unwarranted assumptions without justification.** The study says that developer and investor rates of return need to be significantly higher than elsewhere in the Bay Area. In light of Oakland’s growing strength as a multifamily rental market, this assumption seems unwarranted without further justification and documentation.