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(213) 978-1300

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200 N. Spring Street, Room 525
Los Angeles, CA 90012-4801
(213) 978-1271

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September 8, 2023

Los Angeles City Council
c/ o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Attention: PLUM Committee

Dear Honorable Members:

REPORT ON AFFORDABLE HOUSING IN-LIEU FEE PLACEMENT IN HOUSING TRUST FUNDS FOR THE DOWNTOWN COMMUNITY PLAN, AMENDING MOTION 54E, ITEM 4; CF-22-0617-Sx

On May 3, 2023, the City Council approved the Downtown Los Angeles (DTLA) Community Plan Update. The approval included an [amending motion](#) (Motion 54E) that was introduced by Councilmember Hernandez (Council District 1) and was approved by City Council. The motion directed Los Angeles City Planning, in consultation with the City Attorney, to prepare a report with recommendations within 60 on the potential impacts of placing the payment of the Inclusionary Housing Program in-lieu fee in a Downtown Affordable Housing Trust Fund vs. the Citywide Affordable Housing Trust Fund. The following report provides background information and describes the regulations that were recommended/modified by the various decision-making bodies during their consideration of the Downtown Community Plan.

Background

The City Planning Commission (CPC) recommended approval of the Downtown Los Angeles Community Plan (the Downtown Plan) at its meeting that took place on September 23, 2021. Included within the CPC's recommended draft of the Downtown Plan was the Downtown Community Plan Implementation Overlay (CPIO) District. This CPIO District established the Downtown Community Benefits Program, a tiered base-bonus system that provides floor area and other development incentives for projects that provide affordable housing units onsite, or by

paying an in-lieu fee. At that time, a draft ordinance to create the Downtown Affordable Housing Trust Fund was proposed for the purposes of receiving in-lieu payments and disbursing monies to address the affordable housing needs of Downtown Los Angeles. Money in this account was to be used exclusively for the housing needs within the Downtown Community Plan Area, for the development and preservation of affordable housing. The Downtown Affordable Housing Trust Fund was proposed to mirror the procedures and eligible disbursement activities of the Citywide Affordable Housing Trust Fund, but disbursements would have been limited to the Downtown Community Plan area.

Following CPC approval of the Downtown Plan, Council District 14 requested analysis of an inclusionary housing system that would mandate the provision of affordable housing units for projects that are not seeking development incentives. This request resulted in the development of an inclusionary housing mandate for all residential projects, with development incentives for projects that provide increased amounts of affordable housing (i.e. a graduated inclusionary housing system).

In adopting the Downtown Community Plan in May 2023, City Council established the graduated inclusionary system, and established that any in-lieu payments made under either the inclusionary mandate, or the Community Benefits Program, would be deposited into the Citywide Affordable Housing Trust Fund. This was done to align implementation procedures for projects that may or may not utilize the Community Benefits Program, and to prevent projects using the Community Benefits Program from splitting the payments between the Citywide Affordable Housing Trust Fund and the Downtown Affordable Housing Trust Fund. An ordinance to establish the Downtown Affordable Housing Trust Fund was nevertheless included within the Council's various actions when the Downtown plan was adopted, however there is no process by which funds would be deposited into that trust fund.

Discussion

Without the modification to the in-lieu payment procedure, housing projects utilizing the Community Benefits Program would be required to split affordable housing in-lieu payments between two funds, the Citywide Affordable Housing Trust Fund and the Downtown Community Plan Trust Fund. This can reduce the ability to leverage resources effectively, especially with respect to the geographically isolated Downtown Trust Fund.

Table 1 below shows an example of how in-lieu payments from a typical housing project would be split between the two trust funds. A housing project using its base FAR would meet the inclusionary obligation by including 11 units of affordable for Extremely-Low Income (ELI) households or pay a fee of \$6,787,225 in-lieu of providing them on-site. Pursuant to City Council approval, this inclusionary in-lieu fee would go to the Citywide Affordable Housing Trust Fund. If this project utilizes the full Bonus FAR, it would be obligated to build two additional ELI units on site. If the project chooses to pay a fee instead of providing them on site, it would be in the amount of \$763,563. Dividing the payments would result in smaller amounts allocated to each

fund, limiting the scale and impact of the initiatives they support. Additionally, the cost of administering the trust fund can further reduce the resources in the trust fund and can hinder the ability to provide significant resources for developing affordable housing projects or implementing supportive programs.

Table 1: Example of a housing project and in-lieu payments

Lot Area	30,000 sf
Base FAR/ Bonus FAR	3/6
Maximum floor area (base+bonus)	180,000 sf
Total No. of units (1 BR)	258 units
Base floor area	90,000 sf
No. of units within the Base FAR (1 BR)	128 units
Inclusionary Obligation (8% ELI)	11 units
Optional in-lieu fee* Citywide Housing Trust Fund	\$ 6,787,225
Base + 40% Bonus floor area	126,000 sf
No.of units (1 BR)	11 units
Remaining floor area beyond the 40% Bonus floor area (180,000 sf - 126,000 sf)	54,000
No. of units (1 BR)	78 units
Affordable # of units (1.5% of 78)	2 units
Optional in-lieu fee* Downtown Housing Trust Fund	\$ 763,563

* The in-lieu fee amount specified in Measure JJJ is equal to 1.1 times the number of affordable units that the developer would otherwise be required to provide, multiplied by the applicable "affordability gap." Per the 2022 In-lieu Fee Study for Measure JJJ, the affordability gap for a 1-bedroom Extremely-Low Income unit is \$ 599,881.

Moreover, historically, projects subject to measure JJJ have chosen to build units on-site rather than pay the in-lieu fee. To date there have been a total of 56 projects subject to Measure JJJ, and none of these projects have elected to pay the in-lieu fee to Citywide Affordable Housing Trust Fund. The in-lieu fee of providing affordable housing units under the Downtown Plan is the same as the fee outlined in Measure JJJ, and is designed to be higher than the cost of building a unit on-site. Therefore, the preference to build onsite is likely to continue under the Downtown Plan, and result in very few projects paying into the trust fund.

Redirecting future affordable housing in-lieu payments from the Downtown Local Affordable Housing Incentive Program to the Citywide Affordable Housing Trust Fund will create consistent

implementation across the City and will ensure the maximum impact of affordable housing initiatives.

The implementation of graduated inclusionary in-lieu payment procedures in the new Zoning Code enables consistent application throughout different Community Plan areas. However, the difficulties in predicting future fund generation and the potential uncertainty regarding substantial fund availability highlight the importance of avoiding the establishment of separate smaller trust funds in each Community Plan. Such a move could further diminish the funds allocated to affordable housing, emphasizing the need for careful consideration in this regard.

Recommendation

Overall, splitting affordable housing in-lieu payments between two funds can dilute their effectiveness by reducing the scale of investment, introducing administrative complexities, and limiting the ability to leverage resources efficiently. A straightforward method to spend on affordable housing, as the system is set up to prioritize on-site units, with setting clear expectations for the life of the Plan offers certainty to both community members and developers. To ensure the maximum impact of affordable housing initiatives, it is crucial to consider the concentration and strategic allocation of these funds.

The City Council has already established that all affordable housing in-lieu fee payments under the Downtown plan's inclusionary housing system, and its Community Benefits Program be deposited to the Citywide Affordable Housing Trust Fund, and no further action is needed. Therefore, this City Council should direct that the City Attorney set aside the Downtown Affordable Housing Trust Fund ordinance that was approved by City Council and referred to the City Attorney for finalization.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning



Shana MM Bonstin
Deputy Director

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