RON GALPERIN
CONTROLLER

January 23, 2017

Honorable Eric Garcetti, Mayor
Honorable Michael Feuer, City Attorney
Honorable Members of the Los Angeles City Council
All Angelenos

Re: Audit of Income-Restricted Affordable Housing Units in Los Angeles: ***A Review of the City's Density Bonus Program and Overall Oversight***

How do we create more affordable housing[1] in Los Angeles? That is one of the most fundamental questions our City faces as it seeks to achieve a lofty goal of having 100,000 new units built by 2021, of which 15,000 would, hopefully, be deemed affordable.

The City has a number of policies and programs that aim to help the City achieve its goal -- among them our density bonus program[2], which is a tool used to incentivize developers to include very low, low, and moderate income housing units in their new developments. The program offers density bonuses and other incentives, such as reduced parking requirements, in exchange for a certain percentage of on-site affordable housing. Landlords utilizing the program enter into covenants recorded against title to the property that restrict the rent on the units for 55 years.[3]

But, just how effective has the density bonus program overseen by the City's Housing and Community Investment Dept. (HCID) been in achieving the construction of new income-restricted affordable units -- particularly in buildings with primarily market rate housing? How many income-restricted units were created through the program in affordable housing projects? And, how effective has the City been in monitoring and overseeing income-restricted units generally across the City?

To answer these questions, my office is today releasing an audit entitled: Income-Restricted Affordable Housing Units in Los Angeles: *A Review of the City's Density Bonus Program and Overall Oversight.*

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[1] *For purpose of the report, and this letter, affordable housing refers to income restricted units monitored only by HCID, and excludes HACLA-overseen projects and units.*

[2] *State Law has permitted density bonuses since 1979, and since the passage of Senate Bill 1818 in 2004, CA has mandated cities offer them. Los Angeles adopted a density bonus ordinance in 2008.*

[3] *The time period for rent restriction of density bonus units was changed from 30 years to 55 years pursuant to AB 2222, signed by Governor Brown on September 2014.*

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Density Bonus Law Has Not Lived Up to Its Potential

We found that 21 percent of new multi-family projects, of five units or more, built between 2008 and 2014 (169 of 790 projects) utilized some aspect of the density bonus program -- resulting in 4,463 units designated as affordable. However, just 329 of these units were created in market-rate projects throughout the City -- an arguably minimal impact when considering our overall affordable housing needs. While the Dept. of City Planning and HCID have reported higher numbers, we sought to zero in on actually completed projects and on actual units that can be attributed to the density bonus program. The data highlights the modest impact the density bonus program had on creating affordable housing in market rate projects. The results suggests that incentives may not be of enough value for market rate developers and that the cumbersome process serves as a further disincentive.

The City's Monitoring Program

Our audit also examined oversight and monitoring[4] of City's overall stock of 28,482 income-restricted units overseen by HCID. This includes density bonus units, Section 8 units, Community Redevelopment Agency project units, and other income-restricted units. The Controller's Office has mapped the locations of all such units, and can be found at www.lacontroller.org/geopanel_la. While we found reasonably adequate monitoring and a 93 percent compliance rate, better oversight tools are needed to deal with conditions we found of some owners collecting more rent than allowed and some tenants exceeding income guidelines.

Based on a thorough analysis of information available for 2014, we found the following:

- For 1,482 units (5.2%) -- landlords charged higher rents to tenants than allowable under covenants to which landlords agreed. When such circumstances are identified, HCID's contractor is charged with sending letters to owners demanding remediation.
- For 464 units (1.6%) -- tenant earnings exceeded program guidelines. In more than two-thirds of such instances, tenants reported incomes that exceeded limits by at least $5,000 per year and, in one case, by $149,000.
- For 1,056 units (3.7%) -- no one verified tenant incomes when tenants moved in.
- For 1,181 tenants, no income was reported at all.

Recommendations

To achieve better results, our auditors recommend that the City should:

- Set a target for how many affordable density bonus units it seeks to achieve in the coming years;
- Consider revising the density bonus ordinance to review the percentage set-asides and the "on-menu" and "off-menu" incentives;
- HCID should work with its contractor to better report on compliance status for each unit monitored, and better institutionalize and document policies and procedures.
- Request a legal opinion for options the City has in developing policies to transition over-income tenants out of income-restricted units.

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[4] *HCID contracts with Urban Futures Inc. to conduct monitoring.*

Furthermore, I encourage the Dept. of City Planning and policy makers to explore:

- Create additional incentives that could be offered through the density bonus program. This might include additional density or permitting micro units;
- Streamline processes to enhance the experience and attractiveness of the density bonus program. This might include modifications to the current process of site plan review and expedited processing of Environmental Impact Reports;
- Conduct a legal analysis of what opportunities might exist, within the density bonus program, to allow market-rate developers to create income-restricted units off-site -- or to pay equivalent values into a fund which would build income-restricted units throughout Los Angeles.
- Review how Area Median Income (AMI) levels are defined for the purpose of the density bonus program.[5] Holding income levels to a more stringent standard than prescribed in State law is arguably preventing the City from optimizing the number of affordable units built in new developments. If the optional higher rent levels were permitted, we may be able to incentivize more developers to provide the nearly double amount of low-income units; and
- Expedite updates to the City's density bonus program pursuant to changes to California law that took effect Jan. 1, 2017. On September 28, 2016, Governor Brown signed AB 2501, AB 2556, AB 2442, and AB 1934 which amended the State Density Bonus Law. The Dept. of City Planning reports it is currently updating the City Ordinance to reflect the changes in the law. In addition, ordinance amendments will need to acknowledge AB 2280 (2008).

In Summary

The City's Density Program is not living up to its potential -- but with modifications thereto, along with enhanced oversight by the City of income-restricted affordable housing units, we can -- and must -- improve the availability of housing for all Angelenos.

Respectfully submitted,

Ron Galperin
CITY CONTROLLER

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[5] *The State's Health & Safety Code allows to cities to designate a unit as income when it is to be restricted to tenants with incomes of 30% to 60% of AMI - or "at a level not to exceed 30% of gross income of the household", which permits a higher allowable rent level when incomes are between 60% and 80% AMI. The City of Los Angeles, however, currently takes allows a unit to count as income-restricted only if the unit is set aside for tenants with incomes of 30% to 60% of AMI. The net result of this policy is that almost every market rate density bonus developer chooses to provide very-low income units, which only require approximately HALF the amount of restricted affordable housing units to be provided.*

RON GALPERIN
CONTROLLER

January 23, 2017

Rushmore D. Cervantes, General Manager
Los Angeles Housing and Community Investment Department
1200 W. 7th Street, 9th Floor
Los Angeles, CA 90017

Dear Mr. Cervantes:

Enclosed is the final report entitled, "Income-Restricted Affordable Housing Units in Los Angeles: *A Review of the City's Density Bonus Program and Overall Oversight*." A draft of this report was provided to your Department on June 21, 2016, and we considered your staff's comments in revising the report. A subsequent draft was provided on September 22, 2016 to request your Department's formal response and action plan for the thirteen recommendations addressed to your Department. These are included in Appendix X of the report.

If you have any questions or comments, please contact me at alfred.rodas@lacity.org or (213) 978-7392.

Sincerely,

Alfred Rodas

Alfred Rodas, CPA, CIA, CIG, CIGI
Director of Auditing

Enclosure

cc: Ana Guerrero, Chief of Staff, Office of the Mayor
Brenda Shockley, Deputy Mayor
Richard H. Llewellyn, Interim City Administrative Officer
Sharon Tso, Chief Legislative Analyst
Holly L. Wolcott, City Clerk
Independent City Auditors

City of Los Angeles

RON GALPERIN
CONTROLLER

January 23, 2017

Vince Bertoni, Director of Planning
Department of City Planning
200 North Spring Street, 5th Floor
Los Angeles, CA 90012

Dear Mr. Bertoni:

Enclosed is the final report entitled, "Income-Restricted Affordable Housing Units in Los Angeles: *A Review of the City's Density Bonus Program and Overall Oversight*." A draft of this report was provided to your Department on June 21, 2016 and we considered your staff's comments in revising the report. A subsequent draft was provided on September 22, 2016 to request your Department's formal response and action plan for the three recommendations addressed to your Department. These are included in Appendix X of the report.

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Alfred Rodas, CPA, CIA, CIG, CIGI
Director of Auditing

Enclosure

cc: Ana Guerrero, Chief of Staff, Office of the Mayor
Raymond Chan, Deputy Mayor
Richard H. Llewellyn, Interim City Administrative Officer
Sharon Tso, Chief Legislative Analyst
Holly L. Wolcott, City Clerk
Independent City Auditors

RON GALPERIN
CONTROLLER

January 23, 2017

Frank Bush, General Manager
Department of Building and Safety
201 N. Figueroa Street, Suite 1000
Los Angeles, CA 90012

Dear Mr. Bush:

Enclosed is the final report entitled, "Income-Restricted Affordable Housing Units in Los Angeles: *A Review of the City's Density Bonus Program and Overall Oversight."* A draft of this report was provided to your Department on June 21, 2016 and we considered your staff's comments in revising the report. A subsequent draft was provided on September 22, 2016 to request your Department's formal response and action plan for the four recommendations addressed to your Department. These are included in Appendix X of the report.

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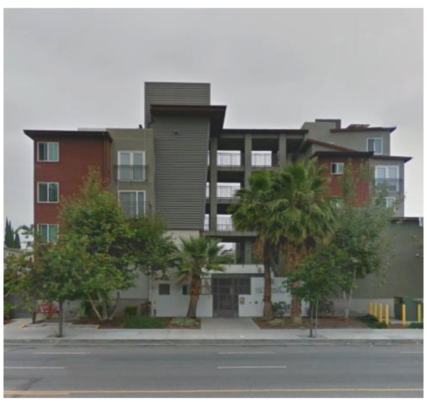
A U D I T



City of Los Angeles

Audit of Income-Restricted Affordable Housing Units in Los Angeles: *A Review of the City's Density Bonus Program and Overall Oversight*

January 23, 2017

RON | GALPERIN
Los Angeles City Controller
LAController.org

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SUMMARY

THE ROLE OF DENSITY BONUSES IN CREATING AFFORDABLE HOUSING

Los Angeles needs more housing – both in the form of market rate units, and affordable units available exclusively to individuals and families with low incomes. Without additional units, housing costs will continue to soar, hurting other sectors of the economy and exacerbating problems such as homelessness.

One tool intended to create more housing is the City's Density Bonus program, whereby

(a) private developers can add up to 35% more units to their projects than zoning would ordinarily allow, and/or be granted relief from other zoning restrictions. In exchange, the developers agree to set-aside 5% to 30% of the total units as affordable for various levels of low and moderate income tenants;[1]

(b) affordable housing developers can also participate.[2]

State law has permitted Density Bonuses since 1979, and since the passage of Senate Bill 1818 in 2004, California has mandated that cities offer them. Los Angeles adopted a Density Bonus ordinance in 2008.

This audit focused on two main questions:

- How much additional affordable housing has the Density Bonus program actually created since 2008?
- Did the City adequately ensure that the affordable housing created through Density Bonuses and other subsidized programs stayed affordable?

Based on a review of land use covenants, from 2008 to 2014, we found that the Density Bonus program resulted in only 329 *additional* affordable housing units built in market rate developments within the City. While affordable housing developments took advantage of the Density Bonus program incentives, the land use covenants were not explicit as to how many additional

[1] The audit report refers to these as "market-rate developments/projects" built by private developers without government assistance.
[2] The audit report refers to these as "affordable housing developments/projects" that received government subsidies or financing assistance.

units were built. As a result, we were able to identify only 97 *additional* units, and while more may have been built, the data could not corroborate this.

We also found that City efforts are inadequate to ensure that affordable housing is occupied only by eligible low-income persons and that those persons are not overcharged.

The Density Bonus program should help add housing for low-income individuals and families as well as help add more market rate units. But how successful is this program?

THE MEASURABLE IMPACT ON AFFORDABLE HOUSING

In 2015, the City's Housing and Community Investment Department (HCID) HCID reported to the City Council that 4,668 affordable housing units were built in 201 projects that had participated in the Density Bonus program since 2008. However, this number included several duplicate projects, and one project that was terminated. Eliminating the duplicate and terminated projects results in 169 projects and 4,463 units. This number represented the units set aside as affordable in market rate developments as well as ALL of the income-restricted units in affordable housing projects that took advantage of any aspect of the Density Bonus program, including reduced requirements for parking spaces. It should be noted that HCID was not required to calculate and report the number of incremental[3] affordable units that were created because of the Density Bonus program.

Accordingly, we sought to determine how many additional affordable units were built only due to the Density Bonus program. This required us to review the land use covenants that HCID prepared for each of the projects. While approximately 21% of all eligible multi-family projects that were completed and available for occupancy from 2008 through 2014 took advantage of some aspect of the Density Bonus program, we determined that the program led to the creation of 329 additional affordable units within market rate projects and at least 97 additional units within affordable housing projects. We noted that private market rate developers took advantage of the program more often than affordable housing developers, building 54% (91 of the 169) of the projects.

[3] Incremental unit refers to the *additional* unit(s), i.e., above the number specified by the zoning code for a particular multi-family housing project, that were created as a result of the City's density bonus incentive.

In launching the City's Density Bonus program, policymakers did not set goals for how to measure success. To set such goals, policymakers would have to weigh the relative benefits of easing some restrictions imposed on developers, the benefit of providing additional income-restricted affordable units, and the quality of life and community concerns related to greater density.

If the City determines that the Density Bonus program should be a more significant component to addressing its affordable housing needs, options to encourage more developers will need to be explored. It is difficult to assess what incentives might need to be offered or changed to entice more developers to take advantage of the program. For example, we surveyed developers who previously participated in the Density Bonus program. While 16 of the 19 developers who responded indicated they would participate in the Density Bonus program again, one stated that the total number of bonus units was not sufficient; four said the process added too much time to their project timeline.

According to the Regional Housing Needs Assessment, the City will need 82,002 units of all sorts to meet housing demands by 2021, and 46,590 of those should be deemed affordable.

IMPROVEMENTS NEEDED IN MONITORING AND ENFORCEMENT

Land use covenants are intended to ensure that the affordable units remain affordable. They are recorded along with the property's title for a set period of time (typically 30 years per SB 1818, or 55 years per that law's 2014 revision).

In an attempt to ensure that the units stay affordable, HCID contracts with a monitor to check on tenant income and the rent charged after the units are occupied. HCID contracts for monitoring of all units within the City's affordable housing inventory.

In examining whether or not the affordable units built through the Density Bonus program in fact remained affordable, we assessed whether the City adequately monitored ALL of its affordable housing stock, so that these units remain occupied by eligible low and moderate income tenants.

The City's income-restricted affordable housing stock includes approximately 28,000 units including:

- Units within projects that received government funds through the City, such as long-term loans from the City's Affordable Housing Trust Fund and/or Federal and State housing funds;
- Units within projects that received funds from the former Community Redevelopment Agency; and
- Units created through City Land Use Concessions such as the Density Bonus, when there was no exchange of funds but the developer was relieved of some land use or zoning requirements.

The City monitors all of these affordable units through a private company under contract, and those efforts are more extensive than any other city we benchmarked. All tenants are required to report their income to their landlords, who then report that income to the City's contractor, along with the amount of rent they charged each tenant.

While it would be tedious and costly to gather this information through other means, the 2014 monitoring data raises several concerns regarding:

- **Landlords Who Charged Too Much** – In 1,482 units – or 5.2% of the affordable housing stock monitored by the City, landlords charged tenants more rent than allowed under affordable housing program rules.

- **Tenants Who Earned Too Much** -- In 464 units, which represents 1.6% of the City's affordable housing stock, tenants exceeded the income requirements for affordable housing. In some cases, the excess was small, but in more than two-thirds of the cases, tenants reported exceeding the income limits by more than $5,000. In one case, a household earned $149,000 more than the income limit.

- **Tenants Without Reported Earnings** -- For approximately 1,200 tenants, no income amount was reported. We question if all of these tenants actually earned nothing from work wages, personal businesses, unemployment/disability benefits, social security, retirement accounts, dividends or other investments.

We also found that HCID failed to verify tenant income in 1,056 units – or 3.7% of all affordable units – before the tenants moved in. While these tenants may have still qualified, HCID is supposed to ensure that landlords only rent affordable units to tenants who meet the income requirements.

Also, in 18% (5,221) of the restricted units, landlords accepted Housing Choice Vouchers (Tenant-Based Section 8 Rental Assistance) though they received other government subsidies for their housing project. While it is legal to layer these programs, the housing vouchers are designed to help tenants occupy market rate units. When tenants with vouchers occupy restricted units, it reduces the number of affordable units that could be available to other families who do not have vouchers but still need assistance.

Cumulatively these numbers negatively impact the number of affordable housing units available to the City's low-income residents. Furthermore, while the City can compel landlords to return rent they overcharged, the City has no way to transition tenants out of affordable housing if they exceed income requirements. Given how pressing the need for housing is, more can be done to ensure that the City's restricted affordable housing stays truly affordable, and units are available to those in need.

RECOMMENDATIONS

If Policymakers determine that Density Bonus units should be a significant component of the City's affordable housing strategy, to improve the program, with an eye toward increasing the number of additional units built, we recommend:

- Exploring how to get more developers to build affordable units through the Density Bonus program, such as by possibly increasing incentives.

To improve transparency of the Density Bonus program results, we recommend:

- Better tracking of the number of market rate and affordable units that developers build.
- Simplifying/standardizing covenants and making them available online for easy public access.

To improve enforcement for all affordable housing and to make sure units go to those in need, we recommend:

- Developing policies to gradually transition over-income tenants out of affordable housing.
- Ensuring that all tenant income is properly verified.

- That Council consider restricting the use of Housing Choice Vouchers to privately-owned units.

REVIEW OF THE REPORT

On June 21, 2016 we provided a draft of this report to HCID, Department of Building and Safety (DBS) and Department of City Planning (DCP) management. We met with HCID representatives at an exit conference held on July 6, 2016 and received written comments from DBS and DCP management. We considered the comments and clarifying information provided as we finalized the report.

DEPARTMENTS' RESPONSE AND ACTION PLAN

The Housing and Community Investment Department, Department of City Planning and the Department of Building and Safety all provided a formal response and Action Plan (See Appendix X). Below is our assessment and comments pertaining to each Department.

Housing and Community Investment Department

The Department agreed with ten of the thirteen recommendations directed to the Housing and Community Investment Department, and we now consider three Recommendations (2.2, 2.3 and 6.1) as Implemented, and seven Recommendations (1.3, 1.5, 1.6, 2.1, 3.1, 3.4, and 3.6) as Partially Implemented.

HCID disagreed with three recommendations (3.2, 3.3, and 3.5) related to income thresholds and Housing Choice Vouchers.

Income Thresholds and Transitional Policies

To ensure the City's affordable housing stock is occupied by those who are in most need, Recommendations 3.2 and 3.3 urged HCID to develop a removal policy for tenants who surpass an over-income threshold, as well as a timeline for tenants to transition out of the restricted unit when they exceed the income limit. HCID expressed concern that such removal policies would create displacement in the City's tight housing market. The Department also indicated that could result in tenants' under-reporting income or disincentivizing tenants to increase their incomes in the future. The Department proposed as an alternative to work with the City Attorney to draft a policy to increase the rent paid by tenants that exceed income limits.

The intention of the original recommendation was to ensure that existing restricted units remain occupied by genuinely low-income, eligible tenants. By allowing tenants whose incomes exceed original program guidelines to remain in restricted units indefinitely and without a transition plan, those restricted units will not be available for those in greater need.

Housing Choice Vouchers

HCID also disagreed with Recommendation 3.5, to consider restricting the use of Housing Choice Vouchers (HCVs) to privately owned units. The Department indicated that it considers HCVs a source of income for tenants, and it does not want to limit access to a restricted unit based on their source of income. The Department also indicated that prohibiting the use of HCVs in City financed units would increase the existing hardship for voucher holders to find landlords who accept HCVs, due to the high rents and low vacancy rates in the City. The Department noted that the exclusion of Section 8 tenants contradicts guidelines of the HOME Investment Partnerships Program, which is leveraged with the City's Affordable Housing Trust Fund.

While we acknowledge these issues, the audit demonstrates the impact of the current policy, which results in fewer affordable housing options for eligible Los Angeles residents. If an individual with HVC rental assistance occupied an apartment outside of HCID's inventory (e.g. a privately-owned unit), two low-income households could be served. The intention of implementing the recommendation was to increase the number of units in the City available to eligible low-income residents. We urge the Department to reconsider this policy should the City's housing market become less tight in the future.

Department of Building and Safety

Management agreed with the four recommendations addressed to the Department of Building and Safety. Based on their response, we now consider all four (1.3, 1.4, 1.6 and 3.4) as Partially Implemented. The Department indicated that it is collaborating with HCID and DCP to develop or improve their information systems, which will increase the efficiency of tracking and subsequent reporting of milestones related to units created through the Density Bonus program. The Department also indicated that it plans to work with HCID to develop an automated process to ensure HCID's Occupancy Monitoring unit is immediately notified when a Certificate of Occupancy is issued for a housing project with restricted units. This will help ensure HCID's Occupancy Monitoring Unit can certify tenants' income *before* they move into the unit.

Department of City Planning

Management agreed with the three recommendations addressed to the Department of City Planning. Based on their response, we now consider all three (1.3, 1.6, and 4.1) as Partially Implemented. DCP also indicated a commitment to collaborate with HCID and DBS to improve the tracking and reporting of units created through the Density Bonus program.

Background

Studies suggest that individual families and the community-at-large benefit from affordable housing. The stability of an affordable mortgage or rent can improve childhood development, school performance and health outcomes. Further, affordable housing increases spending and employment in the surrounding economy; this spending acts as an important source of revenue for local governments, and reduces the likelihood of foreclosure and its associated costs.

The City's blueprint for meeting housing and growth is the 2013-2021 Housing Element of the General Plan. It states that from 2000 to 2010, rents increased 31% in real terms, while incomes only increased 1.2%. In 2014 the average rent for a two-bedroom/two-bathroom apartment ranged from $2,400 to $2,600.[4]

According to the Regional Housing Needs Assessment[5] (RHNA) the City will need an additional 82,002 new units through 2021 to meet demand, and 46,590 of these units (57%) should be affordable. In April 2015, the Mayor released the "Sustainability City pLAn," which directs City Departments to minimize the loss of existing affordable housing units and includes a specific goal to build 100,000 *total* housing units by 2021. In October 2015, Mayor Garcetti announced a goal to build and preserve 15,000 *affordable* units by 2021.

To be part of the City's affordable housing inventory, a unit must be restricted by both income and rent guidelines. California's Department of Housing and Community Development (HCD) establish these guidelines each year. Income guidelines consider household income and size, while the rent guidelines consider household income and number of bedrooms. To occupy a restricted unit, residents must prove they do not exceed the applicable income level limits. Likewise, the owner cannot charge more rent than the unit's associated income level.

For Density Bonus projects, three[6] categories based on the Area Median Income (AMI) dictate the income and rent limits:

- Very Low (50% of AMI)
- Low (80% of AMI)
- Moderate (120% of AMI)

4 Realfacts Database.
5 The Regional Housing Needs Assessment (RHNA) is mandated by State Housing Law as part of the periodic process of updating local housing elements of the General Plan. It is completed by the Southern California Association of Governments (SCAG).
6 Some programs consider a fourth income category, Extremely Low, which is 30% of AMI.

DENSITY BONUSES

One of the tools the City uses to increase affordable housing units is the Density Bonus program. Density Bonuses are a type of ***Land Use concession***, in which there is no exchange of funds, but rather developers are relieved of some land use requirements.

The Density Bonus program allows a developer to build more residential market-rate units (bonus units) than the Zoning Code allows, ***if*** the developer commits to set aside a certain number of restricted affordable units within the project. The percent of bonus units granted depends on the corresponding income-level[7] of the affordable housing units (very low-income, low-income, or moderate-income). Conversely, the number of restricted affordable units required depends on how many bonus market rate units the developer requests to build, or the number of incentives they wish to use.

Incremental Unit – refers to the *additional* unit(s), i.e., above the number specified by the zoning code for a particular multi-family housing project, that were created as a result of the City's density bonus incentive.

For example, if the original project includes 10 base units, and the developer requests the 10% low-income Density Bonus option, they would be required to set aside one low-income unit, (10 x 10% = 1) and they would be allowed to build two bonus market-rate units (10 x 20% = 2). The additional units that are created because of the Density Bonus can be described as "incremental units."

Exhibit 1: Density Bonus Calculation Example		
Project begins with **10** base units:		
Low Income		
Set-Aside Affordable Units	Bonus Market Rate Units	Total Units After DB
10 x 10% = 1	10 x 20% =2	12

The terms of each Density Bonus agreement are formalized through a covenant agreement. When a covenant is officially recorded with the County, the restricted units become part of the City's affordable housing inventory.

[7] See Appendix V for a table of the bonus unit and income level and bonus unit for the required set-aside percentages.

THE CITY'S DENSITY BONUS PROGRAM

State law and City ordinances dictate how the City can offer Density Bonuses to developers. In 2004, the California State Legislature passed Senate Bill Number 1818 (SB 1818), which stipulated that all local governments must grant developers the option of a Density Bonus. SB 1818 also dictated:

- The terms of affordability for restricted units must be at least 30[8] years, but can be longer if required by the financing/rental subsidy programs.
- The Density Bonus option must be offered to developers of projects with 5 or more units.
- The number of bonus units can vary depending on the number of restricted units included for very low income, low income or moderate income levels. However, the percentage of bonus units cannot exceed 35% of the total units originally proposed.
- Municipalities must offer developers at least one to three incentives. While a municipality has some discretion, they must include options related to parking reductions, yard setbacks, and open space.

EXHIBIT 2: DENSITY BONUS ILLUSTRATION

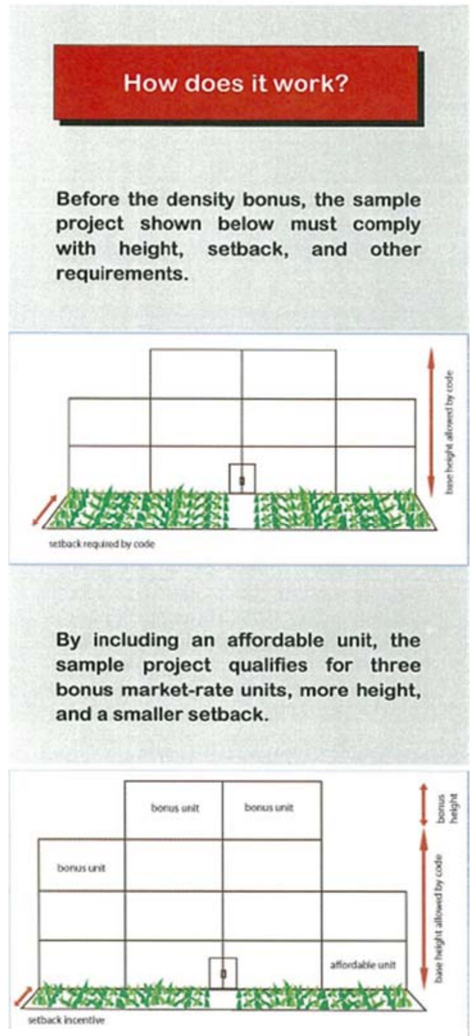


Photo Credit: Los Angeles County Department of Regional Planning

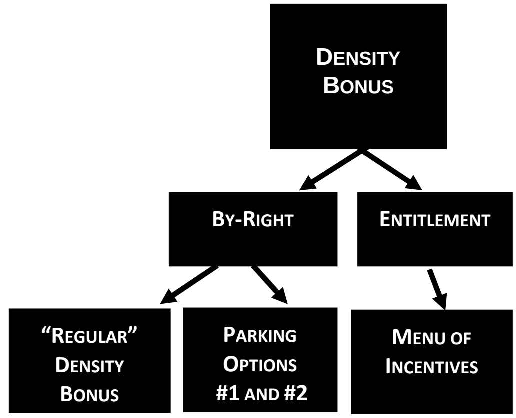
City Council approved the City's Density Bonus program[9] on April 15, 2008.

In the City, Density Bonuses usually fall under two categories, By-Right or Entitlement. These categories have different sub-programs and specific application and approval processes.

[8] AB 2222 revised the terms from 30 to 55 years, effective January 1, 2015.
[9] Ordinance No. 179681. Los Angeles Municipal Code Section 12.22

A. Density Bonus By-Right

Exhibit 3: Density Bonus Components



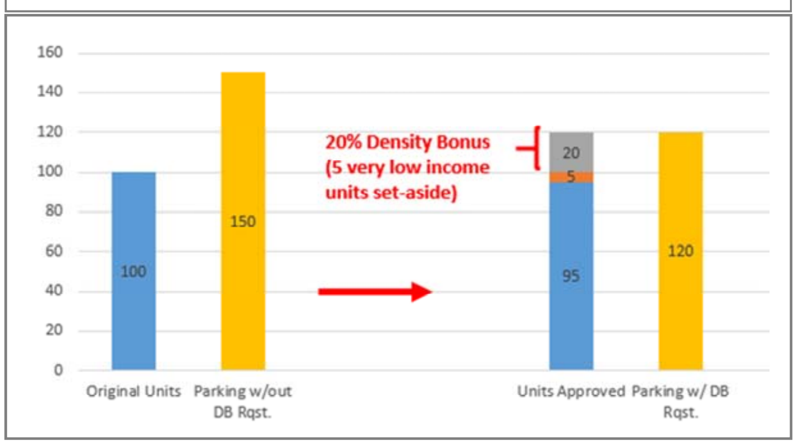
The By-Right Density Bonuses are also referred to as "ministerial", because they meet the Zoning Code and are *automatically* granted if the development is approved. Since the By-Right Density Bonuses do not require a request for relief from the Zoning Code, the developer does not submit an application to the Planning Department; rather, the developer is only required to submit the request to DBS during the building permit review process. Further, the City does not collect a fee for the By-Right Density Bonuses.

"Regular" By-Right Options

The City's Ordinance stipulates that a Density Bonus must be provided if developers agree to one of the following:

- Include requisite number of Low or Very Low Income Restricted Affordable Units
- Include Senior Citizen Housing
- Include Common Interest Development[10] with Low or Moderate Income Units, or with Low or Very Low Income units for rent
- Donate Land
- Include Child Care Facility
- Convert Multi-Unit Buildings to Condominiums

EXHIBIT 4: EXAMPLE OF DB WITH PARKING REDUCTION



By–Right Parking Reductions

A second component of the Density Bonus By-Right is the parking reduction option, in which the developer may reduce the number of parking spaces required by

[10] Common-interest developments or CIDs, include condominiums, retirement communities, vacation timeshares, and other housing developments comprised of individually owned units, in addition to shared facilities and common areas.

the Zoning Code. Since the parking reduction option is by-right, the bonus units and reduced parking are automatically approved, if they agree to set-aside affordable units.

Exhibit 4 illustrates how a Density Bonus with parking reduction works. In this example, if the developer agrees to set aside five units restricted for very low income residents, the development could include an additional 20 market rate units, ***and*** decrease the number of required parking spots by 30.

B. Entitlement Density Bonus (with Incentives)

In accordance with SB 1818, in addition to the By-Right Density Bonus options, the City offers a menu of additional Density Bonus incentives available to developers. Below is a summary[11] of the "menu" of the incentives, detailed in Ordinance No. 179681:

- up to 20% decrease from **yard/setback** requirements,
- up to 20% increase from **lot coverage** requirements;
- up to 20% decrease from **lot width** requirements;
- up to 35% increase from **floor area** ratio requirements;
- an increase in the **height** requirement equal to the percentage of the Density Bonus; and
- up to 20% decrease from **open space** requirements.

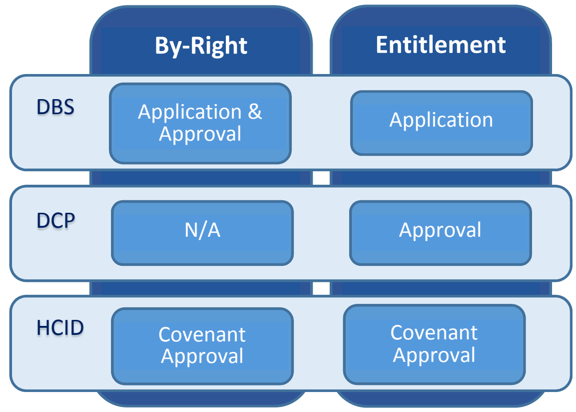
Developers may request one or more of the above incentives. Developers can also request additional incentives that are not on the list, which are considered "off-menu."

Unlike by-right Density Bonuses, developers must pay a fee to apply for these incentives. The fee depends on the type and number of incentives, and is based on the administrative costs incurred by Department of City Planning staff to review and process the application.

[11] See Appendix VI for a detailed listing of the incentives.

DENSITY BONUS APPLICATION AND APPROVAL

Several City Departments administer and oversee the Density Bonus program application and approval phases. The specific process is determined by whether a Density Bonus project is By-Right or Entitlement.



The Department of Building and Safety

A developer begins the application process with the Department of Building and Safety (DBS) by requesting a building permit.

- **By-Right**
  DBS will process requests for a by-right/parking reduction Density Bonus. For these projects, DBS staff will calculate and verify the number of units in a project; review all building plans; and approve the project. DBS staff also issue building permits so construction can begin and Certificates of Occupancy once construction is complete, prior to tenant move-in. The Certificate of Occupancy allows an owner to begin leasing/selling the units.

- **Entitlement**
  If a developer requests an entitlement Density Bonus, DBS staff refer the developer to the Department of City Planning (DCP) for all aspects of project review.

Department of City Planning
(Entitlement Density Bonus Reviews Only)

The Department of City Planning (DCP) only reviews Density Bonus applications when a developer requests entitlements in the form of incentives. During the entitlement review, DCP determines the number of restricted and bonus market rate units. The Density Bonus ordinance[12] directs staff to round-up to the next whole number of units.

According to DCP staff, most entitlement projects are large and complex. The review process of entitlement projects requires additional steps such as public

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[12] LAMC Section 12.25 (c), (7) *Fractional Units*. In calculating Density Bonus and Restricted Affordable units, any number resulting in a fraction shall be rounded up to the next whole number.

hearings. These tend to lengthen the duration of the City's review and delay approval needed to initiate construction. DCP staff must also verify that the project plans comply with the City's General and Specific Plans, as well as conditions set in State law.

An assigned City Planner reviews a development case file to ensure it is accurate and complete. For entitlement Density Bonus projects the review typically includes:

- ✓ Ensuring the project complies with the Zoning Code;
- ✓ Calculating the number of bonus and restricted units;
- ✓ Conducting environmental review to comply with the California Environmental Quality Act (CEQA);
- ✓ Conducting public hearings (if required);
- ✓ Presenting recommendations to the Planning Commission; and
- ✓ Writing the final Letter of Determination, which details the outcome of the entitlement review.

According to the Department, staff does not conduct detailed pro forma analyses of off-menu incentives. DCP staff also indicated that the typical entitlement review process takes 1-2 months. While we did not audit the timeframe for the entitlement review, we did survey developers who participated in the Density Bonus program to understand their experience. We asked them if they had plans to participate in the Density Bonus program again in the future. While most of the developers who responded indicated that they would, 21% indicated that the process added too much time to their project timeline.

After DCP staff issues a Letter of Determination on entitlement projects, Public Counter staff conducts a detailed review of project plans to ensure conditions of approval and environmental mitigations have been incorporated into the project plans prior to DBS issuing a building permit.

The Director of City Planning or the City Planning Commission (CPC) authorizes the Entitlement Density Bonus projects.

- ➢ A project with one to three on-menu incentives is approved by the Director of the Department of City Planning.

- ➢ A project with more than three incentives, or incentives that are off-menu is reviewed by the CPC.

Housing and Community Investment Department

Staff at the Housing and Community Investment Department (HCID) are responsible for preparing the land use covenants which dictate the terms of the Density Bonus projects.

After HCID drafts the Covenant, the City Attorney reviews and approves it. The approved draft is sent to the owner for signature. HCID completes the approval, then sends the executed covenant to the LA County Recorder. The covenant and all its stipulations will remain on the property's title despite any change in ownership or foreclosure proceeding.

Upon project completion and covenant execution, DBS issues the Certificate of Occupancy, which initiates HCID's monitoring responsibilities.

DENSITY BONUS MONITORING

HCID monitors restricted units to ensure that tenants meet income requirements and owners comply with rent guidelines.

Urban Futures Bond Administrators (UFBA) – Occupancy Monitoring

HCID's Occupancy Monitoring Unit contracts with an outside provider, Urban Futures Bond Administrators (UFBA) to monitor all of the City's designated restricted units. The most recent contract for calendar year 2014, totaling $680,000, was awarded through a Request for Proposal (RFP) in 2013. The contract was amended in December 2014, to extend through calendar year 2015, and increased the amount by $710,000, for a total of $1,390,000. Funding for the contract is derived from the Municipal Housing Finance Fund (MHFF) and the Federal HOME Investment Partnerships Program (HOME) Fund.

Reported Density Bonus Units

In May 2014, a council motion (Council File 14-0692-S1) instructed HCID to prepare a report responding to questions related to the affordable units that were produced since the City implemented the Density Bonus ordinance. In April 2015, HCID reported that 201 Density Bonus properties with 4,668 affordable housing units had been constructed since 2008 pursuant to the City's Density Bonus Ordinance.

HCID also reported that 73% (3,400 of 4,668 units) were within affordable housing developments; while 27% (1,268 of 4,668 units) were within market rate developments, and the vast majority of the units were occupied by low-income families (e.g., in 2014 a family of four with income of $68,300, or less.)

Exhibit 5: HCID's Reported Restricted Units Created 2008 - 2014							
Number of SB 1818 Properties	**Very Low Income**		**Low Income**		**Moderate Income**		**Total**
201	**899**	**19%**	**3,693**	**79%**	**76**	**2%**	**4,668**

The report also indicated that most of the restricted affordable units were located in Council Districts 1, 9 and 13.

However, as described in Finding 1, HCID's reported number of projects and restricted units did not show the impact of the Density Bonus program on the City's affordable housing stock, in terms of *additional* units created.

Specifically, we found that HCID reported the total restricted affordable units within the developments that took advantage of the program, without distinguishing the number of added bonus units that were restricted as affordable. Our review of the covenants identified 169 SB 1818 properties that were constructed from 2008 thru 2014, which generated 329 additional affordable units within market rate projects and at least 97 additional units within affordable housing projects.

While the Density Bonus program requires the developer to set aside units for very low, low or moderate income tenants, generally, only the market rate developments incrementally added to the City's affordable housing stock. In contrast, with few exceptions, affordable housing developments seemingly continued with the same number of planned affordable units, but requested other incentives available through the program, such as parking reductions. In those cases, we could not determine if there was an *incremental* increase to the City's affordable housing stock resulting from the Density Bonus.

We also reviewed every covenant in detail to determine the number of projects built by private developers (i.e., without government assistance) compared to subsidized affordable housing projects that participated in the City's Density Bonus program.

- 54% (91 of 169) of the Density Bonus projects were built by private developers; while,
- 46% (78 of 169) of the Density Bonus projects were affordable housing projects that received other financial subsidies through the City or other government agencies.

Density Bonuses Have Evolved

Prior to the City's formal Density Bonus program, restricted units were approved through Land Use Entitlements, such as Conditional Use Permits or the Mello Act.

- ✓ The Department of City Planning issues **Conditional Use Permits** which allows the City to consider land use options that are otherwise not allowed within a Zone.

- ✓ The **Mello Act** dictates that if existing restricted housing units in California's Coastal Zone are converted or demolished, the low and moderate income designated units must be replaced. Further, if a new housing development is built, it must include restricted units.

Most recently, in September 2014, the California State Assembly approved Assembly Bill 2222 (AB 2222), which modified SB 1818, and requires developers applying for Density Bonus projects to adhere to the following:

- The term of affordability must be 55 years or longer for all very low and low-income units (an increase from 30 years required by SB 1818); and

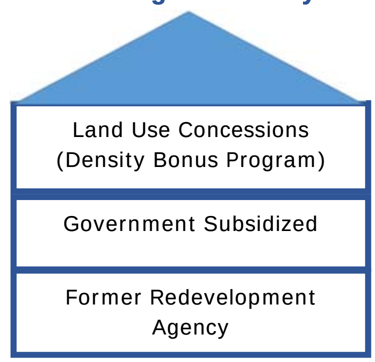
- For new or redevelopment of buildings with existing rent restricted units, owners must replace those units with the same number to be made available for, and occupied by, persons and families in the same or lower income category.

AB 2222 Implementation Concerns

The Department of City Planning and the Housing and Community Investment Department are considering a revised Density Bonus ordinance to incorporate AB 2222. However, there is controversy regarding the implementation of AB 2222 because of its requirement to replace existing, as well as any demolished, affordable housing units associated with the City's Rent

Stabilization Ordinance (RSO).[13] The RSO was designed to protect tenants from excessive rent increases while allowing landlords a reasonable return on their investments. Although subject to rent limits, RSO units are not income restricted and can be occupied by any household. Consequently, they differ from the City subsidized or Land Use Units that require an affordable housing covenant and are subject to monitoring activities.

The City's Affordable Housing Inventory



Currently, developers may invoke the California Ellis Act provision to remove RSO regulations from a rental unit by demolishing it altogether, permanently removing it from the housing market, or keeping it vacant for 5 consecutive years. By demolishing and then rebuilding a new rental unit, a developer can circumvent the RSO. As such, there is concern that if the City implements an AB 2222 ordinance that requires developers to replace all existing/demolished RSO units, this would discourage developers from utilizing Density Bonuses. There are also questions about whether all RSO units should be maintained as affordable, since some RSO units are not below market rate. For example, if an RSO unit is vacated and re-rented every year when a rent increase is permitted, the Owner can maintain market-rate rent, thereby the unit is not part of the broad population of "affordable" housing.

THE CITY'S AFFORDABLE HOUSING INVENTORY

The Density Bonus program, and other Land Use Concessions are part of the City's larger effort to provide affordable housing. The City also offers affordable housing through Government Subsidized programs (which directly finance affordable housing units) and through units inherited from the former Community Redevelopment Agency (which used to help finance units in economically blighted zones.)

- **GOVERNMENT SUBSIDIZED**

  The Housing and Community Investment Department of Los Angeles (HCID) helps to administer various types of funding including Community Development Block Grants (CDBG) and HOME Investment

[13] The Rent Stabilization Ordinance became effective May 1, 1979. Generally, landlords are allowed to increase the rent 3%-8% every 12 months in accordance with the annual rent increase percentage, which is based on the Consumer Price Index (CPI).

Partnerships Program[14] to preserve or build affordable housing for low-income residents. HCID uses the City's Affordable Housing Trust Fund Program (AHTF), to administer the majority of this funding, which provides long-term loans through a competitive process to developers, typically non-profit organizations that focus on affordable housing. The Department also acts as "pass-through" funder for State-issued bonds, which provide financing for affordable housing projects.

Developers generally leverage the City funds with other sources of funding to build rental units for low and very low-income households. HCID's projects and programs are categorized as follows:

i. **Major Projects** - New construction or major rehabilitation projects, funded through the AHTF.

ii. **Housing Opportunities for People with AIDS (HOPWA)** – HOPWA funds are leveraged to develop new permanent supportive affordable housing for persons living with HIV/AIDS and their families.

iii. **Bond Projects** - Newly constructed units developed using funds made available through the sale of multi-family housing revenue bonds.

iv. **Neighborhood Preservation Program (NPP)** - The NPP includes rehabilitation/preservation of smaller properties.

v. **Homeownership Programs** – though not for rental units, these homeownership loans are primarily financed through several programs, including:

- The HOME Program;
- The Neighborhood Stabilization Program (NSP); and
- The 2014 Low Income Purchase Assistance Program (LIPA)

FORMER COMMUNITY REDEVELOPMENT AGENCY (CRA) PROJECTS

The Community Redevelopment Agency (CRA) was created in 1948 for the purpose of addressing blight within the City of Los Angeles, by

[14] The U.S. Department of Housing and Urban Development administers the CDBG and HOME funding.

building affordable housing, creating living-wage jobs, developing commercial and industrial sites and making public improvements. However, in 2011 California dissolved[15] Redevelopment Agencies to help mitigate the State's deficit. Subsequently, in June 2012, HCID became the successor entity for the CRA and is now responsible for enforcing the income compliance for all of the pre-existing CRA affordable housing units. The City's Earthquake Emergency Loan Program units also fall under the former CRA portfolio.

- **Earthquake Projects** –The projects are primarily rehabilitation projects financed with other HUD funds.

"Layered" Units

HCID cannot readily determine the number of individual affordable housing units because many units are layered. "Layered" units are located in housing projects with/subsidized by multiple financing programs. Layered units are routinely monitored and "counted" more than once since HCID monitors affordable housing according to the program that created or financed the unit. For example, a CRA project might also have received a Density Bonus. In this case, it may be monitored in accordance to the Density Bonus guidelines and the CRA guidelines. For example, as of Spring 2016, HCID's portfolio consisted of an estimated 40,218 units. In contrast, our audit determined that there were 28,482 unduplicated units based on 2014 monitoring data. HCID's inventory does not include all of the affordable units administered by the Housing Authority of the City of Los Angeles (HACLA).[16]

Audit Objectives

The overall objective of this audit was to evaluate the effectiveness of the City's application and monitoring processes for Density Bonuses as related to affordable housing. The audit focused on the Density Bonus application and approval process through the Department of City Planning, the Department of Building and Safety, and the Housing and Community Investment Department.

[15] The State of California dissolved all Redevelopment Agencies throughout the State with the passage of Assembly Bill 1X26, which took effect February 1, 2012.

[16] HACLA's portfolio includes 79,379 units, which consist of Public Housing Units, Housing Choice Vouchers, Project Based Section 8 properties and other housing assistance program units. Source: HACLA's 2016 Final Agency Plan.

Background

While the scope of this audit focused on the Density Bonus program, we also reviewed the monitoring and enforcement processes for all of the City's affordable housing programs, as managed by HCID.

The audit also included benchmarking and an assessment of related practices of other jurisdictions and agencies.

A survey was sent to developers regarding their experience and opinions regarding the City's Density Bonus program, and a direct mailing was sent to tenants who reported $0 income in 2014, in an effort to collect their earned income amount.

Findings and Recommendations

Section I: Density Bonuses - Unclear Benefits for Affordable Housing

Given the City's housing shortage, proponents of the Density Bonus program view it as an important tool to increase the number of housing units throughout the City. Some may also consider the Density Bonus program an optimal and cost-effective way to increase affordable housing, since the City does not directly contribute public dollars to construct these units. However, there are other issues and indirect costs involved. Critics indicate that the Program accelerates growth and strains the City's infrastructure, including public safety services, roads, schools, and the sewer and water delivery systems. Opponents also voice concern that additional development changes community character. These views have led to public debate regarding density in general.

The City is required by State law to implement a Density Bonus program; therefore, the question is not whether the City should administer a program; rather, what are the quantitative goals of the program, and what is the City's strategy to achieve those goals?

Our audit sought to evaluate the success of the Density Bonus program, but this was difficult because policymakers have not set unit goals or criteria by which to measure its success. While it may have been assumed that the program would create additional housing in the City, including restricted affordable units, it is unclear to what extent the City intended to rely on the Density Bonus program to generate additional income-restricted units to increase the City's supply of affordable housing.

In approving the City's land use regulations, and more specifically, the provisions of the Density Bonus ordinance for by-right development as well as for each entitlement application submitted through City Planning, policymakers must weigh the relative benefits of easing some restrictions imposed on developers, with the benefit of providing additional income-restricted affordable units, while also considering quality of life and community concerns relative to density. Public policy, as effected through ordinances and related program goals, should clarify what the City is willing to provide to help meet the housing needs of residents through increased density.

We identified shortcomings that have prevented departments from providing the data needed by policymakers to inform a strategy and specific goals for the Density Bonus program. Without this information, policymakers do not have a baseline that would inform a strategy or specific goals for the City's Density Bonus program or allow for adequate program evaluation in the future.

Finding No. 1: None of the administering Departments separately track or report the number of additional units, including the incremental affordable housing units, generated by the Program. Further, the City does not effectively track applications and approvals for Density Bonuses and only began tracking the Land Use restricted affordable units in 2008.

As a result, the City cannot measure the impact of the Density Bonus program. Specifically, it cannot determine the number of bonus units (as either restricted affordable or at market rate) the program has generated. Nor can it assess how the various concessions provided to developers are actually increasing the City's affordable housing stock.

The City Cannot Identify the Number of Density Bonus Units Created

In May 2014, a council motion (Council File 14-0692-S1) instructed HCID to prepare a report responding to questions related to the affordable units that were produced since the City implemented the Density Bonus ordinance. Approximately one year later HCID reported that 4,668 affordable housing units had been constructed since 2008 pursuant to the City's Density Bonus Ordinance, and most of the affordable housing units were located in Council Districts 1, 9 and 13.

However, based on our review, we found a compilation error with HCID's number of SB 1818 projects reported to City Council, and the categorization of some projects as affordable housing vs. market-rate.

Project Count

During our review of HCID's analysis of SB 1818 projects, we found that the Department's project count included duplicate projects and a terminated covenant.

Once these were removed, we identified 169 SB 1818 properties constructed from 2008 thru 2014, as opposed to the 201 reported.

Exhibit 6: April 2015 HCID Report to Council Regarding SB1818 Properties and Units Constructed during 2008 - 2014	
Total Number of Properties	Total Number of Affordable Units
201	4,668

- *Duplicate Projects*
  HCID manually entered project data in separate excel worksheets and tabulated totals incorrectly. We identified this error by consolidating all of the worksheets and running a duplicate check based on the covenant number and address.

- *Terminated Covenant*
  The Department also included a project that was not a part of the City's Density Bonus program. Staff explained that prior to construction, the developer pulled the building permits for the project and terminated the Density Bonus covenant. However, HCID had not removed the covenant from the list of active Density Bonus projects.

Exhibit 7: Auditor Review of SB1818 Properties and Units Constructed during 2008 - 2014	
Total Number of Properties	Total Number of *Incremental* Affordable Units
169	329 Market Rate projects At least 97 Affordable projects

Project Categorization

During our review of the 169 covenants we also noted the funding sources used to finance the projects to determine the number of ***projects*** built by private developers without government assistance (considered market rate developments), compared to subsidized affordable housing projects that participated in the City's Density Bonus program. We found that some of the projects had to be re-categorized and found:

- 54% (91 of 169) of the Density Bonus projects were built by private (market rate) developers; while,

- 46% (78 of 169) of the Density Bonus projects were subsidized affordable housing projects.

This provides some perspective regarding the participation in the Density Bonus program. Our review found that private developers participated in the program at a slightly higher rate than affordable housing developers.

Incremental Restricted Units

While Council did not specifically request the incremental (new, our "bonus") units generated through the program, we reviewed each of the covenants in an effort to show the effect of the Density Bonus program on the City's affordable housing stock. Since the incremental restricted units are not specifically tracked, we had to review the descriptive language included in the covenants, and calculate the units when the information was available. We identified 329 additional affordable units within market rate projects and at least 97 additional units within affordable housing projects, were generated through the City's Density Bonus program from 2008 thru 2014.

Incremental Restricted Units within Affordable Housing Developments

HCID reported 4,668 affordable units were generated through the Density Bonus program and were restricted under a land use covenant. The Department reported in their count generally *all* of the restricted units within the affordable projects that participated in the Density Bonus program, because those were the total number of restricted units cited in the land use covenants.

For example, if a subsidized affordable housing project also received a Density Bonus allowing it to build 12 units rather than 10 as originally planned, all are restricted as affordable, and HCID tracked and reported all 12 as restricted for land use purposes.

However, for this example, we reported the two additional (i.e. incremental) units as a means to measure the true impact of the Density Bonus program on the City's affordable housing inventory.

Alternatively, if a project is for market-rate units, only 1 of the units within the 10 originally planned (base) number of units would be set aside as affordable, while 2 additional bonus units would be rented at market rate.

Exhibit 8: Example of How the Incremental Units are Considered for Market Rate Housing Projects

Base Units	Required set-aside affordable units	Bonus/Incremental Units			Total Units After DB
10	10% x 10 = 1 Unit	10 x	20% =	2	12
This 1 affordable unit is within the 10 base units		***Ideally, HCID would be able to report these 2 units***			

Our review noted that most of the subsidized affordable housing developments that took advantage of the Density Bonus program did so to realize parking reductions, rather than to build bonus units. In some cases, according to City staff, a subsidized project may not have been viable without a Density Bonus concession; however, the covenants do not clearly identify when this is the case. While more incremental units may have been created as a result of the Density Bonus program, an exact number could not be determined as part of this audit. None of the City departments involved (i.e. HCID, DBS or DCP) distinguish the base number of units the project had prior to obtaining the Density Bonus in any of the application documents, the incremental units are not separately tracked.

Lack of Tracking Prior to 2008

HCID and DCP staff indicated that prior to the formal Density Bonus ordinance in 2008, Density Bonus units may have been granted to Owners through Conditional Use Permits and the Mello Act. This was attributed to the fact that the City did not adopt an ordinance to implement the Density Bonus program until 2008, even though the State passed the Density Bonus statute in 2005. Thus, between 2005 and 2008, no policies were in place to administer the Density Bonus program. DCP management explained that Planners reviewed Density Bonus cases using the Conditional Use Permits criteria (LAMC Sec. 12.24) and/or Public Benefit Projects (which require a covenanted agreement, per LAMC Sec.14.00).

HCID also expressed concern regarding the complete inventory of Density Bonus units. Staff indicated that there have been instances when Owners have called to ask questions about a covenant (restricting the income eligibility or rent) tied to their property, but HCID did not have a record of the covenant in its databases or files. If HCID does not have a record of the covenant, they cannot track or monitor the associated units. In 2010, HCID hired a new Manager for the Land Use unit who established a process to track covenant information in order to report on the total number of units created within each income level and affordable housing program. The ability to track Density Bonus units has since improved; however, there are still information system limitations.

Evaluating the Success of the Density Bonus Program Requires Consistent Data Collection and Adequate Systems

Standard Covenant Language

Identifying the incremental units required a detailed review of each of the 169 covenants because the covenants have different language and describe the incentives in different ways. For example, some of the covenants include a Density Bonus percentage and others do not. While recent covenants appear more standardized, the information still varies; a standardized template would allow HCID to more easily collect consistent data. As such, HCID should work with the City Attorney to standardize the Density Bonus covenant templates. Further, in order to facilitate transparency and ensure the terms of the covenants are known to the owners and the general public, HCID should post executed covenants on the departmental website.

Multi-Department Effort – Disjointed Systems

Multiple databases and systems also hinder the administering department's efforts to effectively track and report on the Density Bonus program. Since these databases and systems do not interface, departments cannot easily identify the total number of bonus market rate units the City has approved, nor the number of restricted affordable units gained over time. Significant manual effort is required to determine the number of restricted and bonus units developed as a result of the Density Bonus program. Further, although City staff indicated that the vast majority of the Density Bonus requests are granted, no department analyzes the approval rate for the Density Bonus requests – whether *By-Right* or *Entitlement.*

Each of the three departments that administer Density Bonuses (DBS, DCP and HCID) has its own information systems/databases to track its role in the review, approval, and monitoring process. However, none of the systems can compile summary metrics that would help evaluate the Density Bonus program overall.

- *Department of Building and Safety*

    - *Plan Check Inspection System (PCIS)*

      DBS uses the Plan Check and Inspection System (PCIS) to track the Plan Check process, clearances, Building Permits, and Certificates of Occupancy for all types of development.

Within PCIS the Density Bonus project applications are identified by the clearance description field: "Housing Density Bonus". However, PCIS is limited in its capability to *identify* restricted units, bonus units, and incentives, and to distinguish whether a project is By-Right or Entitlement. Although this information can be found in narrative fields, it cannot be extracted for summary reporting.

- ***Department of City Planning***

  - *Planning Case Tracking System (PCTS)*

    The Planning Case Tracking System is used by DCP staff to track development projects with entitlement Density Bonus requests. In addition to capturing necessary planning information such as lot size and zone information, PCTS tracks fee-related information, and review process milestones.

    In response to the Mayor's 2014 housing initiative, DCP is implementing changes in PCTS to distinguish the number of affordable units from market rate units approved. PCTS will also be able to track the number and type of units at three stages of development: application, approval, and construction. While this will help provide data regarding the Density Bonus program, it will only report on projects developed since July 2013. As a result, it will not allow DCP to evaluate the effectiveness of the Density Bonus program since its inception in 2008.

- ***Housing and Community Investment Department***

  - *Housing Information Management System (HIMS)*

    The Housing and Information Management System (HIMS) is a web-based system developed internally by HCID in 2008 to maintain information for the entire affordable housing stock that is funded and monitored by HCID.

    While HIMS has a module to track its monitoring of government subsidized units, it lacks a separate module to track project details such as the number of market rate versus restricted units within a Density Bonus project. HIMS cannot report the number of units in a Density Bonus project, or the significant details of the overall program. Consequently, the Land Use unit uses a separate Access database and Excel spreadsheets to record Density Bonus project details. These disparate databases make it difficult to efficiently aggregate Density Bonus data.

- *Land Use and Environmental Services Unit Access Database*

  HCID's Land Use Unit uses the Land Use Access Database to track land use covenants. It includes information on the housing program, project name and address, project description, and unit description (floating/fixed, set-aside units, income requirements, number of bedrooms, etc.). However, based on our review of a sample of projects, the database is incomplete.

- *Land Use and Environmental Services Unit Excel Spreadsheets*

  HCID's Land Use Unit Manager uses Excel spreadsheets to track the total number of Land Use covenants and related restricted affordable units by income level. The spreadsheets also distinguish between the market rate and City subsidized Density Bonus units, but it does not distinguish the By-Right and Entitlement projects.

Since there are multiple databases that track Density Bonus applications and approvals, a universal tracking number, which would standardize project identification numbers throughout all databases, could facilitate the application and approval rates. However, a unique identifier does not solve the problem of free-form, narrative fields that cannot be queried to yield quantitative reports. Similarly, incentives granted through the Density Bonus program are also tracked in free-form text fields, so they cannot be easily aggregated or reported either.

Further, while DCP and DBS track Density Bonus applications in their respective systems, neither department reports on the number of Density Bonus applications or approvals in a consistent or meaningful way; nor does either department use the numbers to report on the Density Bonus program overall.

HCID tracks the number of approved Density Bonus applications as they execute the covenants, but it does not have efficient processes to track and report on the Density Bonus projects and units. Due to the lack of comprehensive data collection (prior to 2008), system integration and consistent, robust data collection, none of the departments can ensure that the various concessions provided to developers are actually increasing the affordable housing stock, or market rate housing stock.

Review the Percentage Set-Asides and Menu of Incentives

Since the City has not set unit goals for the Density Bonus program, and the administering departments are considering how to implement AB 2222, (pg. 10) it is an ideal time to review the percentage set-asides and the on-menu incentives developers have requested to identify which have resulted in producing incremental affordable units. One of the developers who responded to our survey stated that the number of bonus units was not sufficient. Reviewing the incentives and units generated by them would allow policymakers to determine whether or not the Density Bonus ordinance should be revised to maximize the number of additional units it generates. For example, since we found that most affordable housing developers participated in the program to realize parking reductions, should the City mandate that affordable housing developers build additional incremental affordable units when they utilize a parking reduction? In addition to the type of incentives, City stakeholders could also consider revising the current affordable and bonus percentages in the ordinance in an effort to attract more developers. More developers may participate if the percentages of Density Bonus units allowed increased.

In order to determine the impact of the Density Bonus program on the City's housing stock, both as affordable restricted and at market rate, policymakers must first identify the goals of the program, and what a successful program will accomplish. Once these have been decided, DBS and DCP should work with HCID to track the number of units a developer proposed **prior** to the Density Bonus calculation and the number of approved incremental bonus units, and separately identify those additional Density Bonus units as restricted affordable units, or market rate units to determine the impact of the program.

Exhibit 9: The City's Current Density Bonus Percentage for Low Income Units

% Low Income Units	% 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

Recommendations

If policymakers determine that Density Bonus units should be considered a significant component of the City's affordable housing strategy, Mayor and Council should:

1.1 Set a target goal for the number of incremental restricted units the Density Bonus program is expected to generate. This will allow for periodic evaluations to review the success of the City's Density Bonus program, and its impact on the City's affordable housing inventory.

1.2 Request an analysis from DCP/DBS/HCID identifying the percentage set-asides and the on-menu incentives requested by developers in prior Density Bonus projects to determine which have been most effective in encouraging Developers to participate in the Density Bonus program, and consider revising the ordinance to increase outcomes.

To accurately determine the impact of the Density Bonus program on the City's affordable housing inventory, DCP, HCID and DBS should:

1.3 Work together to track the number of units a developer proposed prior to the Density Bonus calculation (base units) and, the number of approved incremental bonus units. In addition, separately identify bonus units as either market rate or restricted as affordable, and determine the incremental affordable units that are created through the program.

To enable reporting on the types of Density Bonus units that were requested, approved and constructed, DBS Management should:

1.4 Consider updating the Plan Check and Inspection System similar to the updates the Department of City Planning is incorporating in the Planning Case Tracking System.

HCID Management should:

1.5 Develop a standardized template for the Density Bonus covenants. Also consider making each recorded covenant publicly accessible and mapping each project location on the Department's internet site.

To overcome report shortcomings and evaluate the effectiveness of the Density Bonus program, DBS, DCP and HCID should:

1.6 Consider developing and using a unique identifier for all projects that can be used by all departments involved in administering development projects. This would enable stakeholders to track the projects' progression and report on the status of various milestones.

Finding No. 2: HCID does not report the occupancy compliance rate (income and rent) of the restricted units under the Density Bonus program or the City's entire affordable housing inventory to stakeholders.

Therefore, the City lacks assurance that its entire Affordable Housing inventory actually remains affordable, and in line with the goals of the program.

Data collection and accurate reporting is critical for the transparency of public policies and programs. In addition to providing information regarding the City's progress towards the development of affordable housing, as discussed in the previous finding, Density Bonus program data can help assess compliance with income and rent guidelines. This information would help stakeholders determine if the program is helping meet the need for affordable housing in the City, and assess whether or not resources are maximized.

The City has made a substantial effort to monitor and enforce affordable housing guidelines, but the information collected is not being used in the most constructive manner because HCID is limited in its ability to trend the compliance of any one program type or project, and the department does not summarize results to analyze the occupancy monitoring compliance rate. Further, HCID does not formally report the compliance rates of the units in the City's affordable housing inventory to stakeholders, because the current systems used by the Department and its contracted Monitor, Urban Futures Bond Administrators (UFBA) do not have the ability to aggregate the total number of restricted units that exceed income and/or rent limits.

UFBA's Case Management System (CMS)

UFBA developed their proprietary Case Management System (CMS) in 2012, and primarily uses it as a repository for documents related to tenant income and rent. On an annual basis, owners are required to report tenants' annual income and provide rent rolls to UFBA.

While the process differs for each affordable housing program, once CMS is updated with the required documents, UFBA reviews as follows:

- Annual Occupancy Summary - Owners complete an "Occupancy Summary," which documents the annual income for residents in restricted units and the rent paid by the tenant. Any subsidies[17] that contributed to the total rent are also noted. The Occupancy Summary is also intended to note changes in household composition and/or new tenants. Once completed, the Occupancy Summary is uploaded to CMS.

- Based on the Occupancy Summaries, UFBA determines whether the unit complies with rent and income guidelines. UFBA's assessment is reflected in a Project Overview report, which lists each unit, the associated income and rent amount, as well as the compliance status.

Each month, UFBA bills HCID for each unit monitored by submitting an invoice and the Project Overview reports to support the work completed.

CMS is a critical tool because it can track compliance/non-compliance at the project and unit level. Although each unit is reviewed in detail by UFBA at least once a year, and the compliance information is in CMS, HCID does not request or review the data in an aggregated manner.

Although UFBA logs monitoring details for each restricted unit, CMS is not currently programmed to run compliance/status reports. For example, to obtain information for our data analysis, UFBA had to ask their CMS developer to compile a database with the monitoring information for each unit monitored during 2014.

Exhibit 10: Urban Futures Bond Administration Fee Schedule

Program	Fee
Bond Only	$17
Major Projects (MP)	$27
Neighborhood Preservation Project (NPP)	$22
Earthquake (EO)	$20
Land Use (LU)	$14
Community Redevelopment Agency (CRA)	$17
Housing Opportunities for Persons with AIDS (HOPWA)	$17
Single Family Homeownership Residency Monitoring	$15

Further, for all properties constructed with federal funds, HUD requires the City to monitor tenant household incomes and rents for compliance with HOME and other program requirements. UFBA bills HCID different monitoring fees per unit, dependent on the program type since there are different levels of review. For example, UFBA reviews income source documentation and supporting documents for each Major Project unit, but only reviews a

[17] Examples of subsidies include utility assistance or Section 8 vouchers.

project summary that includes limited self-reported information for the Land Use units.

The City's contract with UFBA totaled $1.4 million for Fiscal Years 2014 and 2015, to monitor all of the City's restricted affordable units included in HCID's inventory, based on the fee schedule.

Based on our benchmarking, HCID and UFBA's monitoring activities go beyond the efforts of other cities. For instance, Sacramento and Santa Ana do not monitor their entire affordable housing inventory; instead, they sample a percentage of those units annually. Our benchmarking found that the City of Los Angeles monitors a larger volume of affordable housing units than other cities, and was the only agency to utilize an outside contractor to conduct its monitoring.

Inconsistent Data Entry

Based on our data analysis, we noted HCID does not utilize consistent or standard address fields in its databases. For example, the same project may be entered in the system under two different naming conventions; 123 S. Main St., may also be in the system as 123 South Main Street. This issue makes it difficult to efficiently and accurately report on the entire inventory of affordable housing units.

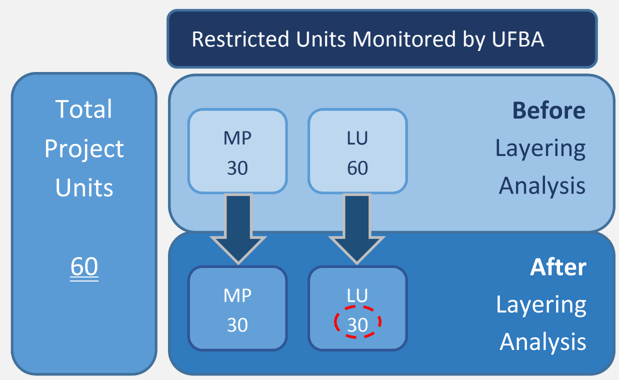
Since HCID/UFBA do not have efficient reporting systems, the City cannot analyze compliance trends over the years or across program types. In addition, since HCID and UFBA lack a robust system that can track monitoring of a unit according to multiple program restrictions, it cannot report aggregated results. As a result, the City lacks assurance that its Affordable Housing Units are occupied solely by residents who meet income eligibility criteria; or that an Owner is collecting rent within the allowable limit. (See Finding No. 3)

Double Monitoring

Our analysis identified 1,490 units that were monitored more than once in 2014. While the vast majority were required to be monitored more than once because of specific program guidelines, we noted that 379 Land Use restricted units were still "double monitored" in 2014.

When tenants begin occupying a new affordable housing project, HCID forwards the project information to UFBA, and the units are added to the annual monitoring schedule. Although some projects are restricted by multiple program guidelines, Land Use restricted units should only be monitored once according to the most restrictive program. For example, a 60 unit project restricted by Land Use (all 60) and Major Project (30) guidelines may have been monitored 90 times. In this case, 30 of the units should be monitored according to Major Project guidelines, which are the most restrictive, and the remaining 30 units should be monitored in accordance with the Land Use guidelines.

EXHIBIT 11: EXAMPLE OF DOUBLE MONITORING ANALYSIS



MP = Major Projects Program LU= Land Use

Since UFBA double monitored 379 units, HCID paid UFBA an additional $5,306. Since these Land Use units were layered with a more restrictive program type, they could have only been monitored once.

The OM unit completed an analysis to determine how many of the Land Use units were unnecessarily "double monitored" and directed UFBA to discontinue monitoring the Land Use units that are layered with more restrictive programs. The OM Unit should ensure that all Land Use units layered with any other program type are removed from the monitoring list and are not double monitored in future cycles.

Recommendations

To assess whether the City's affordable housing supply (including Density Bonus units) remains affordable, HCID management should:

2.1 Work with UFBA to generate a monthly/quarterly report on the compliance status for each unit monitored. This should be used to assess the compliance rate for the City's affordable housing inventory.

2.2 Develop a standard format for entering project/address information in HIMS and CMS to enable HCID to efficiently

identify projects and determine the number of restricted units to ensure unduplicated unit counts.

2.3 Continue to ensure that Land Use units subject to multiple program restrictions are only monitored once against the most restrictive requirements.

Section II: The City Cannot Enforce Compliance for All Affordable Housing Programs

Given the limited supply of affordable housing units in the City, it is imperative that the restricted affordable units are occupied only by income eligible individuals. Further, since developers already receive benefits for building affordable housing (such as direct financing or Density Bonuses), they should not gain the additional benefit of collecting more rent than is allowed. The City should make every effort to ensure all affordable units remain affordable in exchange for any benefit provided to owners.

Although the primary focus of the audit was Density Bonuses, we reviewed the available 2014 monitoring data for all of the restricted units in the City's affordable housing inventory. This included Land Use Concession units, Government Subsidized units and former CRA units. We found that not every affordable housing unit is going to those in need, reducing the options for those residents most in need.

Finding No. 3: The City's actual affordable housing inventory is less than the number of restricted units listed on paper, because some tenants exceed income guidelines and some owners collect more rent than allowed. Our analysis found that 6.8% (1,946) of the units exceeded affordability restrictions, such as restrictions on household income (1.6%) or rent (5.2%).

- **HCID failed to conduct the initial income verification for 3.7% (1,056) of the tenants upon move-in, and there is a risk that these tenants may also exceed income limits.**

While the City can require owners to reimburse tenants for rent that was over-collected, the City does not have a process to remove tenants who surpass the income guidelines. If these rates hold steady the City's true affordable housing inventory will continue to decline, and will always be lower than the number of restricted units on paper.

We also noted that in 18% (5,221) of the restricted units, landlords accepted Housing Choice Vouchers (Tenant-Based Section 8 Rental Assistance), in addition to receiving financing for their housing project. While legal, tenants with vouchers who occupy restricted units reduce the number of units that would otherwise be available to families in need.

The Occupancy Monitoring (OM) Unit at HCID is responsible for monitoring all of the City's designated affordable units to ensure that residents meet the income guidelines and that owners collect the correct rent amounts. HCID's OM staff conducts an initial income verification before a prospective tenant can move into an affordable unit restricted by a Land Use concession. Thereafter, HCID relies on Urban Futures, Inc. to conduct annual monitoring to ensure units and tenants meet affordability requirements. HCID and the City Attorney's Office are responsible for enforcing the City's housing regulations.

OVER- INCOME TENANTS

We reviewed the data for every restricted affordable unit that was monitored in 2014[18], and found tenants in 464 units that exceeded income requirements considering their household and unit size. Overall, 69.4% of the 464 households exceeded income limits by $5,000 or more.

Exhibit 12: Over-Income Ranges		
$0-$100	5	1.1%
$101-$1,000	50	10.8%
$1,001-$5,000	87	18.8%
$5,001-$10,000	77	16.6%
$10,001-$20,000	124	26.7%
$20,001-$50,000	100	21.6%
> $50,001	21	4.5%

Some tenants were nominally over the limit; for example, five instances were within $100 of the income limit. However, there were some egregious cases, with one household earning more than $149,000 over the income limit. In effect, these households are depriving genuinely low-income households of affordable places to live.

Exhibit 13: Over Income Data Statistics	
Total	464 Units
Lowest	$10
Highest	$149,018
Average	$15,709
Median	$10,539

In addition, 1,181 units in the 2014 monitoring data noted no tenant income. As this appeared questionable, Auditors sent letters to those tenants requesting their income to determine if there were additional units where tenants exceeded income restrictions. While we received only 251 responses to the survey, we noted an additional 8 tenants exceeded the income limits. Based on these responses, an additional 3% of residents in affordable housing could exceed income limits. As these were self-reported amounts, it is possible that the income amounts were also under-stated.

However, using a conservative approach that considers only the affirmative responses to the direct mailing and the monitoring data, we found that overall 1.6% of the tenants exceeded income limits in 2014.

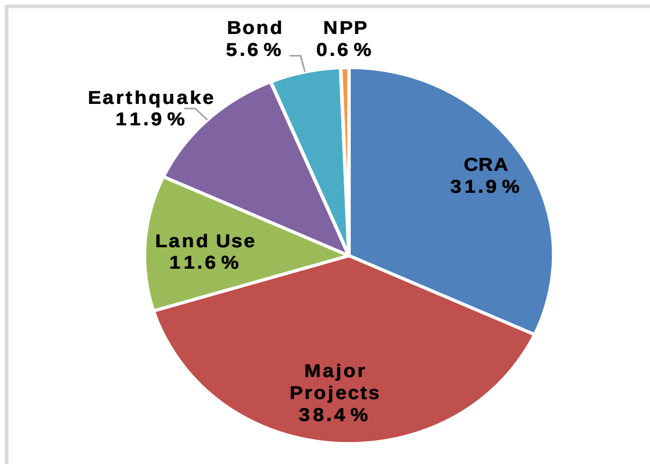
[18] Since the data was requested in 2015, the only complete year of data available was for 2014.

Exhibit 14: Over-Income Households in 2014							
	Bond	**CRA**	**Earth-quake**	**Land Use**	**Major Projects**	**NPP**	**Total**
# of Over-Income Units	**26**	**148**	**55**	**54**	**178**	**3**	**464**
# of Total* Units	2,208	10,822	1,244	4,333	9,680	195	**28,482**
% of Over-Income Units by Program Type	1.18%	1.37%	4.42%	1.25%	1.84%	1.54%	**1.63%**

*Includes the tenants from the direct mailing responses and the 2014 UFBA monitoring data.

Most of the over-income units fall under the (former) CRA and Major Projects programs, though proportionally, units under the Earthquake program had the most over-income tenants. It is possible a tenant may have been *initially* income qualified when they moved in; however, over time, their income may have increased above the eligible threshold.

Exhibit 15: Over-Income Units by Program Type



Missing Initial Income Verifications

Though required for Density Bonus projects, we found that HCID did not conduct income verification for all prospective tenants; thus, there is a risk that tenants exceeding income limits moved into a restricted unit. We found that HCID did not conduct the initial income verification for 3.7% of the tenants that occupied City administered restricted affordable units.

Exhibit 16: Units without Initial Income Verification							
	Bond	**CRA**	**Earthquake**	**Land Use**	**Major Projects**	**NPP**	**Total**
# of Units Missing Initial Income Verification	115	218	112	611	0	0	**1,056**
# of Total Units	2,208	10,822	1,244	4,333	9,680	195	**28,482**
% of Total Units	5.2%	2.0%	9.0%	14.1%	0.0%	0.0%	**3.7%**

HCID's Occupancy Monitoring unit must verify that a Certificate of Occupancy (CofO) is issued before an owner can lease any/all newly-built restricted unit(s). To prevent an owner from leasing a restricted unit without the initial income verification, the Occupancy Monitoring unit should immediately contact owners that have obtained a Certificate of Occupancy.

The Occupancy Monitoring unit is responsible for completing the initial income verification, a multi-step process. Once HCID finds that the CofO has been issued, the Occupancy Monitoring staff emails the ***owner***[19] the Tenant Income and Rent Certification (TIRC) documents. Owners must complete and remit the TIRC package to the Occupancy Monitoring unit for every new tenant that the owner wants to move into a restricted unit. Within 10 days, staff reviews and responds to requests. The OM unit maintains an Income Certification Log to track the time-frames throughout the initial TIRC process, with a date the package was submitted, forwarded, reviewed, and completed. If the TIRC document package is not complete, Occupancy Monitoring sends a request for missing information, and the owner must respond within 5 days. OM staff will close the file after 5 days and the owner will be required to start the process over again, by resubmitting documents. If documents are complete, Occupancy Monitoring reviews the relevant income documents which can include bank statements or W-2s. If unemployed, the tenant must provide social security statements, disability insurance, etc. HCID OM staff references the annual income and rent schedules to verify eligibility. (See Appendix VI for rent and income schedules.)

Lack of Electronic Communication between HCID and DBS

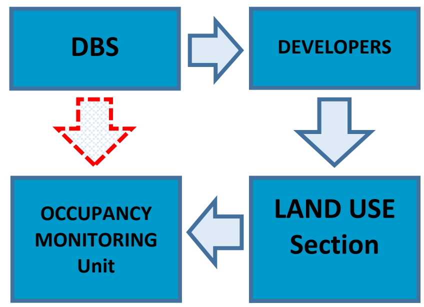
Missed initial income verifications will likely be avoided if the Department of Building and Safety proactively involves HCID's Occupancy Monitoring unit prior to issuing the Certificate of Occupancy. Doing so would mitigate the risk

[19] The City does not contact the tenants directly. All communication regarding tenant(s) income and rent collected is sent directly to the building owner/property manager.

of inadequate verification of tenant income eligibility and related impact to the City's affordable housing stock.

By default, the clearance process ensures that developers will notify HCID of an application when they begin the covenant preparation process. However, DBS does not have an automated reporting capability to: a) remit approved Density Bonus applications, or b) notify HCID when a Certificate of Occupancy for the projects is issued. This lack of communication between DBS and the Occupancy Monitoring unit poses a risk that owners may lease restricted units before the City can verify that a prospective tenant is qualified to occupy a restricted unit.

HCID's Land Use section staff must manually look up each individual covenant in DBS' Plan Check and Inspection System (PCIS) and notify the Occupancy Monitoring unit. Currently, only the Land Use section can verify issuance of the CofO because staff has direct access to PCIS to complete the covenant sign-off.



Student Verification/Eligibility in Restricted Units

If an adult tenant of a restricted affordable unit is a student, they must submit proof of school enrollment. Our direct mailing to tenants in restricted units that did not report any income in 2014 provided an anecdotal example of why it is important to monitor student eligibility. A tenant called regarding the letter and indicated that he was not aware he was occupying a restricted affordable unit. He explained that he was a recent law school graduate and could not recall his income for the prior year. The tenant did not provide his current income to the audit team, however, it is possible that his current income exceeds the limit, as he has since graduated, and is now gainfully employed.

In response to questions from the City Council's Housing Committee, HCID proposed conducting additional verification of income for students who apply to occupy restricted units, by requiring them to disclose whether they are being claimed as a dependent by someone else, and to provide that person's tax returns. The Housing Committee's interest illustrates the importance of the Initial Income Certification process to the City's affordable housing inventory.

Inability to Remove Over-Income Tenants from Restricted Units

Over-income tenants are problematic because the City lacks adequate enforcement mechanisms to remove tenants who exceed income requirements. Specifically, the City has no policies or legal processes in place to evict tenants that exceed income limits and continue to occupy restricted units. HCID management indicated that the Department does not want to "be in the business of removing residents from their homes," as it contradicts their mission. According to HCID, the City should not penalize individuals who work hard and increase their income over time, since the intention of providing affordable housing is to help residents improve their circumstances.

However, other governments have approached the tenant over-income issue through transition programs which gradually remove over-income tenants, and free up affordable units for those in greater need.

- HUD

  The U.S. Department of Housing and Urban Development (HUD) issued a public housing final rule in December 2004 which gave public housing authorities[20] discretion to establish and implement policies that would require families with incomes above the eligibility income limits to find housing in the unassisted market.

Exhibit 17: Over-Income Threshold Example	
Tenant Initially Earns	= $45,000
AMI Threshold example	= $63,000
200% AMI	= $126,000
Once tenant reaches 200% AMI or more	→ Transition Out

- San Francisco

  San Francisco has a high demand for affordable housing, and does not allow tenants to remain in restricted units if their income exceeds a specified level. If the tenant's income exceeds the Area Median Income (AMI) by 200%, the City transitions them out of a restricted unit no sooner than the end of the (current) lease term of the tenant Household.

[20] This rule is specifically addressed to public housing authorities (PHAs), which manage public housing buildings that are constructed with public funds and managed directly by a local government entity. The Housing Authority of the City of Los Angeles oversees these buildings for the City. These buildings do **not** include restricted affordable units constructed by non-profit or private developers that require covenants, and are considered separate from the City's affordable housing inventory.

- TCAC Funded Projects

  Projects that receive a tax credit from the State Tax Credit Allocation Committee (TCAC) must also adhere to stringent income regulations. If a tenant's income exceeds 140% of the AMI, the unit is no longer considered affordable by the TCAC, and the owner is at risk of losing the tax credit.

Establishing over-income threshold limits and a transition policy would support tenants improving their financial situation over time, while also keeping restricted units available for those most in need, thus helping more households over the long-term.

Fixed and Floating Units

Given that the City lacks policies to evict ineligible tenants, including "floating" units in all covenants may be a desirable interim option, as they provide a relatively quick remedy to ensure the project remains compliant with the intent and restrictions of the affordable housing covenant.

Covenants requiring restricted affordable units will stipulate either "fixed" or "floating" units. While a fixed unit is always designated as affordable (e.g. Unit #1A), a project with floating units allows any comparable unit in the development to serve as a restricted unit. For example, if a tenant exceeds income limits in a restricted unit, the owner must lease the next available, comparable unit to an eligible household at the income level stipulated in the covenant. This is in contrast to when an over-income tenant is living in a "fixed" unit, and the owner must wait until the tenant moves out in order for the new tenant to meet income guidelines.

Floating units should be considered an interim solution because monitoring them is complicated, as the restricted unit may change during each monitoring cycle.

OWNERS COLLECTED MORE RENT THAN ALLOWED

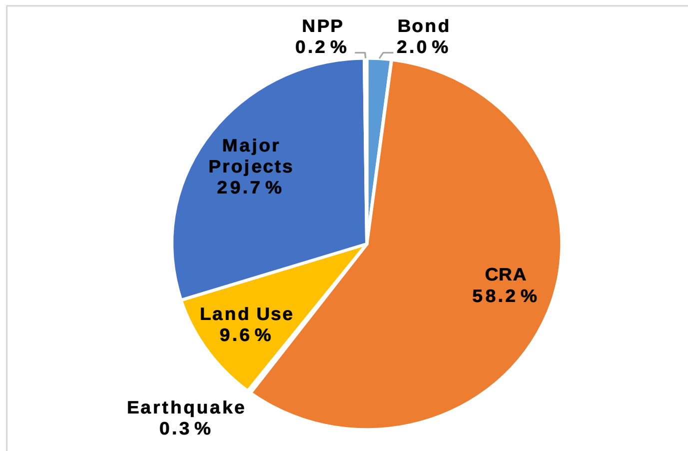
Based on the 2014 monitoring data, UFBA reported that 5.2% of the owners collected more rent than allowed by the associated program guidelines.

Exhibit 18: Units for which Owners Collected More Rent Than Allowed							
	Bond	**CRA**	**Earthquake**	**Land Use**	**Major Projects**	**NPP**	**Total**
# of Over Rent Units	**30**	**862**	**4**	**143**	**440**	**3**	**1482**
Total # of Units	2,208	10,822	1,244	4,333	9,680	195	**28,482**
% of Total Units	1.4%	8.0%	0.3%	3.3%	4.5%	1.5%	**5.2%**

Most of the over-rent units fall under the (former) CRA and Major Projects programs.

City policy requires that in instances of over-rent collection, UFBA notifies the owner, and gives the owner two weeks to reimburse the tenant.

Exhibit 19: Over-Rent Units by Program Type

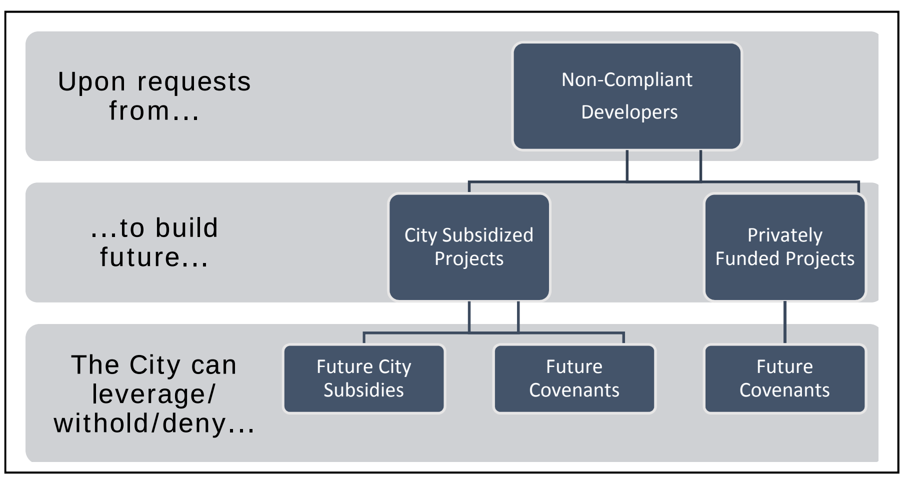


Penalties for Developers

Government-Subsidized Projects

HCID has stringent policies to enforce compliance for government-subsidized projects. For example, if owners do not respond to letters from the City Attorney to correct any non-compliant issues, HCID's Asset Management Division can withhold future Affordable Housing Trust Fund (AHTF) financing if the developer re-apply for public funding.

Exhibit 20: HCID Compliance Enforcement Methods



Land Use Projects

For Land Use projects that did not receive government funding, HCID has little recourse for non-compliance. Developers of these projects have already received a land use concession through the Density Bonus program; therefore, the City cannot leverage much beyond denying a covenant on a future project. HCID's current policy directs staff to conduct a compliance check for developers applying for a new covenant. Developers with non-compliant projects will *not* be issued any new covenants, unless non-compliance issues are remedied. However, developers do not face any monetary threats such as penalties or withheld funding.

SECTION 8 VOUCHERS USED WITHIN RESTRICTED AFFORDABLE HOUSING PROJECTS

Often times, multiple programs are layered within a restricted affordable housing project. For example, a developer may receive HUD funding and a Low-Income Housing Tax Credit to build affordable units, AND a tenant may utilize voucher assistance (commonly known as Section 8 Project-Based or Housing Choice Vouchers) to help cover the rent. We noted 10,408 of the units within the City's affordable housing stock that were monitored by HCID in 2014 accepted Section 8 Vouchers.

Financing and Renting Affordable Housing

The more common financing and rental assistance programs, which are frequently layered, are described below:

Financing Affordable Housing

Affordable housing developers use many tools to finance restricted affordable housing projects, including direct federal funds from HUD, or the Low-Income Housing Tax Credit.

- *HOME Investment Partnerships Program (HOME)*

  The "HOME Investment Partnerships Program" (HOME), allocates formula funds to participating jurisdictions to increase the number of families served with decent, safe, sanitary, and affordable housing and to expand the long-term supply of affordable housing. HCID is the City's administrator of HOME funds and awards funds to developers based on competitive applications.

- *Low Income Housing Tax Credits*

  Created by the Tax Reform Act of 1986, the LIHTC program gives California's Tax Credit Allocation Committee (TCAC) the authority to issue tax credits to incentivize developers to build affordable housing.

Renting an Affordable Unit

Low-income families, as well as the elderly, and the disabled may benefit from Section 8 Vouchers to help cover the cost of their rent. Federal funds are allocated by HUD to local public housing agencies (PHAs), who administer the Vouchers. The Housing Authority of the City of Los Angeles (HACLA), is the City's PHA. A housing subsidy is paid to the landlord directly by the PHA on behalf of the participating family. The family then pays the difference between the actual rent charged by the landlord and the amount subsidized by the program, but cannot exceed 30% of the family's monthly income.

There are two types of Section 8 Vouchers, Project-Based Vouchers and Housing Choice Vouchers:

- *Project-Based Voucher (PBV)*

  Project-Based Vouchers are attached to a particular unit in a building. The owner agrees to reserve some or all of the units in a building for low-income tenants, and in return HUD guarantees to make up the difference between the tenant's rent contribution and the rent amount in the owner's contract with the government. In 2014, 5,187 PBVs were included in City restricted units.

Project-Based Voucher (PBV)	Housing Choice / Tenant-Based Voucher (HCV)
Stays with the Unit • Non Transferrable	Stays with the Tenant • Can be applied towards rent in any unit (including privately owned) that meets program guidelines.

- *Housing Choice Voucher (HCV)*

  In the Housing Choice Voucher program, also referred to as Tenant-Based Vouchers, the participant is free to choose housing that meets the requirements of the program, including privately-owned single-family homes, townhouses and apartments. In 2014, 5,221 HCV's were applied towards rent in City-restricted units.

Since HCVs are tenant-based assistance, the subsidy is tied to the low-income tenant, not the unit. When the tenant moves, the HCV can move with the tenant. Whereas the PBV subsidy is attached to a specific unit, and is not transferrable. If the tenant moves out, the subsidy stays with the unit and benefits the next low-income tenant that moves in.

Consider Restricting the Use of Housing Choice Vouchers to Non-HOME Financed Units

While legal, tenants with HCVs who occupy restricted units reduce the number of units that would otherwise be available to families who are also in need, but do not have a HCV. Although federal law prohibits owners who have received HOME financing from refusing to rent to tenants with HCV, the impact of this policy results in fewer affordable housing options. If the tenant with rental assistance rented an apartment outside of HCID's inventory (e.g. privately-owned unit), two low-income households could be served. In other words, rent for the unit that would otherwise be restricted as affordable will not be available to those without a voucher. We are not questioning the legality of these practices, but rather how they are not necessarily in-line with the spirit of the City's housing goals and needs. Therefore, in order to ensure the City's restricted affordable units are maximized, it may be ideal to restrict the use of Housing Choice Vouchers to non-HOME financed, privately-owned units.

If the City considers prohibiting owners that accept government funding to build units from also accepting HCVs from tenants, this may eventually increase the number of affordable units. This is, of course dependent upon the availability of HCVs and private owner participation.

OBSERVATION REGARDING OWNERS WHO MAY COLLECT HIGHER RENT WHEN TENANTS HAVE RENTAL ASSISTANCE

Exhibit 21: Over Rent Data Statistics (For Units with Rental Assistance)

Total	4,621
Minimum	$1
Maximum	$1,423
Average	$266
Median	$213

We also noted that rent collected by owners of restricted affordable units exceeded the rent limits for 16% (4,621) of the units that accepted Section 8 vouchers, either Project Based or Tenant Based. Our analysis found that 76% of these owners collected $100-$500 per month more rent from tenants that received additional rental assistance.

Exhibit 22: Monthly Over Rent Range (For Units with Rental Assistance)

$0-$100	694	15.0%
$100-$500	3,515	76.1%
$500-$800	251	5.4%
$800-$1,500	161	3.5%

Affordable housing financing programs set rent and income levels, and tenants are expected to pay the rent amount. When a tenant has qualified for a voucher, the tenant is responsible for paying a portion of the rent (based on 30% of their monthly income), while the voucher covers the difference with funds from HUD through the Housing Authority of the City of Los Angeles (HACLA). To maximize their rental income, an owner will actually prefer a tenant with rental assistance over one without.

Federal law allows owners to collect a fair market rent amount as determined by the Department of Housing and Urban Development, which may be more than the rent limits, though less than market rate.

Exhibit 23 shows how a unit occupied by a tenant with a voucher subsidy could appear to exceed rent limits.

Exhibit 23: Example of Voucher Subsidy Increasing Monthly Rent Amount	
Fair Market Rent as Determined by HUD	$800 (Market Rent $1200)
Tenant Contribution	$100 (based on 30% monthly income)
Voucher	$600 (based on family size and fair market rent comparable)
Rent Collected	$700
Rent Limit	$650 (based on program restrictions)
Over Rent	$50

In these cases, the owner may collect higher rent than what appears specified by the regulations. This is the explanation for the 16% of apparent "over-rent" units we noted.

VACANCY RATES

Given the dire need for affordable housing, the Department should make all efforts to make the vacancy rate in its portfolio zero. While the monitoring data is based on one point in time, we noted a vacancy rate of 3%.[21]

HCID management indicated that this is lower than the citywide vacancy rate (approximately 5%) and explained that OM staff review the individual monthly project compliance reports and call owners to ask about the status of a unit when 10%, or 2 or more units are vacant. According to staff, property managers usually state that units are not vacant for very long, and the vacancy is attributed to a unit being cleaned after a tenant moved out.

Currently, marketing a restricted unit and finding an eligible tenant is the responsibility of the owner. However, to help owners market restricted affordable units and minimize vacancies, the City recently signed a contract with socialserve.com and the County of Los Angeles. Socialserve.com operates a database that is linked to the County's housing resource center website, which will eventually list all of the restricted units in the City. Per staff, the Major Projects units are currently on the site, and over the next two years, it will be updated to include the City's entire inventory of restricted

[21] Since HCID does not track or report vacancy rates in an aggregated manner, we could not trend this to determine if 3% is representative of the monthly average.

affordable units. To ensure full participation, property managers will have to register their affordable units on the site to remain compliant with program requirements.

Occupancy Monitoring Policies and Procedures

Throughout the audit, we noted that the Occupancy Monitoring unit does not have Policies & Procedures that detail the monitoring and enforcement processes for the City's restricted units. In addition to formal institutional knowledge, policies and procedures are important because they ensure all stakeholders clearly understand their role and they provide transparency to a unit's function.

Recommendations:

To ensure the City's affordable housing stock is occupied only by those who are most in need, HCID should develop and propose the following to policymakers:

3.1 An over-income threshold for tenants who occupy restricted units.

3.2 Removal or transitional policies for tenants that surpass the over-income threshold.

3.3 A timeline/deadline transitional tenants will have to meet, when required to vacate a restricted unit.

To ensure initial income certifications are completed in a timely manner, HCID and DBS management should:

3.4 Consider implementing an automated process to ensure HCID's Occupancy Monitoring Unit is immediately notified when a Certificate of Occupancy is issued for a Housing project with restricted units.

In an effort to maximize the number of affordable housing options in the City, HCID should urge policymakers to:

3.5 Consider restricting the use of Housing Choice Vouchers to non-HOME financed, privately-owned units.

To provide additional transparency and maintain institutional knowledge, HCID should:

> **3.6 Ensure all of the processes, procedures and polices relevant to monitoring the City's affordable housing inventory are clearly documented.**

Section III: The City is Missing Opportunities to Collect Density Bonus Related Fees from Developers

While there are flaws related to the reporting and enforcement for the Density Bonus program and the City's affordable housing in general, developers continue to build units. Since the Program is intended to increase the number of affordable units in the City, efforts should be made to improve administrative processes as well, specifically those related to Density Bonus fees.

Per City financial guidelines, departments can charge fees for services if permissible by state and federal law, and if a group who benefits from the services is identifiable. These fees should support the full cost of operations, including all direct and indirect and capital costs. In the case of residential development, developers directly benefit from the various City services involved in reviewing and approving a project for construction and completion, and subsequent monitoring efforts to ensure compliance with requirements.

Finding No. 4: Density Bonus related fees collected by the Department of City Planning have not been updated since 2011. There is a risk that fees do not cover the administrative costs to review the Density Bonus entitlement applications.

If a developer intends to request incentives through the entitlement process they must pay a fee. The Density Bonus ordinance dictates the fees for the entitlements/incentives as outlined in the table.

EXHIBIT 24: DENSITY BONUS ENTITLEMENT APPLICATION FILING FEES

Type of Application	Fee
Density Bonus including a request for one or more Incentives included in the Menu of Incentives	$7,115
Density Bonus including a request for an Incentive not included in the Menu of Incentives	$23,287
Density increase in excess of that permitted	$20,718

We found that the Department of City Planning has not reviewed or updated the Density Bonus Entitlement Application Filing fee amounts since 2011. Given increases in salaries and other associated costs for completing the application reviews, there is a risk that DCP has not been recovering the administrative costs related to entitlement reviews of Density Bonus applications.

Developers that apply for one or more of the ***on-menu*** incentives are charged the lowest flat-fee. Developers pay higher fees when requesting incentives that are not on the menu (off-menu), or request density increases in excess of that permitted. The fees are remitted into the Planning Case Processing Special Fund, which helps to offset the staff costs involved in processing planning and land use applications.

Per the City's Revenue Policies, departments shall monitor "all user charges and fees for the City" *on an annual basis*, "to determine that rates are adequate and each source is maximized."

DCP management indicated that a fee study is currently underway to determine if fees are adequately recovering costs, given the last fee increase was phased-in as of 2011. DCP selected an outside contractor to complete the study, which is expected to be completed during 2016.

Recommendation:

The Department of City Planning should:

4.1 Ensure that the entitlement fee study is completed as soon as possible and implement the appropriate fees in a timely manner.

Finding No. 5: The City is missing opportunities to collect fees that would help offset costs associated with the Density Bonus program, and the development of affordable housing.

The City does not currently collect a fee from developers to cover the administrative costs associated with preparing the covenants for Density Bonus Projects. If the City adopts a covenant fee, HCID could potentially collect $366,000 per year.

Despite the various administrative processes involved in executing the covenants, the City does not collect a fee from developers to cover the costs involved to draft the covenants for Density Bonus projects, or any of the affordable housing developments subject to a covenant. HCID staff indicated that developers have requested the ability to pay an expediting fee to the covenant process. Collecting a preparation fee would allow HCID to hire more staff to complete the process in a more expeditious manner.

Once a development is approved for a Density Bonus, the developer must work with HCID's Land Use and Environmental Services Section (Land Use Unit) to execute an Affordable Housing Land Use Covenant.

To start the covenant execution process, the developer must submit documents to HCID's Land Use Unit, including a covenant application, the building permit application, and the grant deed.

Once the covenant is drafted, HCID sends a copy to the City Attorney for review and approval. If approved, the covenant is sent to the owner, who has 30 days to review it, sign it, make 4 notarized copies, and send one notarized copy back to HCID. Upon receipt, it must be signed by HCID's General Manager. This signature allows Land Use staff to sign off on the clearance sheet, allowing the developer to move forward with the building permit approval process.

Exhibit 25: Developer Response Results Regarding Fee Payment

Would your Firm be willing to pay a fee to expedite the covenant preparation process?	#	%
Yes	17	89%
No	2	11%
Totals	19	100%

The developer must then file a notarized copy of the covenant with all signatures with the County Recorder's Office to ensure the covenant, and all its stipulations, remain on the property's title through any future change in ownership or foreclosure proceeding.

Currently, HCID funds Land Use unit staff salaries with funds from the Municipal Housing Finance Fund (MHFF), Community Development Block Grants (CDBG), and HOME Investment Partnerships Program (HOME) grants. However, the grant sources have administrative service caps, so the amount of funding that can be used to pay HCID staff salaries is limited. Consequently, the number of staff that HCID can hire to help execute covenants is also limited.

In contrast, City Planning, which is also involved in processing and reviewing Density Bonus related applications, collects administrative-related fees to offset its staff costs.

Proposed Affordable Housing Covenant Preparation Fee

In 2013, HCID completed a fee study that considered the various activities performed by Land Use staff and proposed five categories of fees related to the preparation ***and*** enforcement of affordable housing covenants. If the "Affordable Housing Covenant Preparation Fee" is adopted, developers would pay $5,999 to HCID when they submit a Land Use application. Based on a projected annual number of projects, HCID estimated that the new fees, if adopted, would generate $365,932[22] per year in additional revenues to the City.

Based on our review of HCID's methodology to determine the covenant fee, it appears that staff included the appropriate activities and cost components. The methodology considered direct costs, which include the salaries and benefits for HCID Clerical and Analyst[23] staff, as well as City Attorney staff involved in the covenant preparation process. HCID also used Cost Allocation Plan (CAP) 34 to calculate the indirect costs such as fringe benefits and building leases.

In 2014, the City Administrative Officer reviewed the methodology used by HCID, and approved the fee for consideration by City Council. However, as our audit fieldwork, the Housing Committee has considered the fee, but not yet adopted it.

[22] Based on the historical average of 61 covenants per year through 2014.
[23] Management Analyst and Senior Management Analyst

We surveyed developers and 89% of those that responded, indicated they would be willing to pay a fee to expedite the covenant preparation process.

Recommendation

City Council and the Mayor should:

5.1. Approve a covenant fee that would cover the current administrative costs related to executing the covenants for all affordable housing projects, including Density Bonus projects. Once adopted, periodically review and adjust the fee to reflect the administrative costs involved in preparing covenants.

Finding No. 6: HCID has not consistently collected an annual monitoring fee from owners to help cover the costs of monitoring the restricted units to ensure compliance with income and rent guidelines.

While HCID has actively monitored restricted units for the last 10 years, HCID only began consistently collecting a monitoring fee of $135 for each restricted unit in 2013. This amount is stated in covenants prepared since 2013. Older covenants stipulated varying monitoring fees; for example, $50/restricted unit, $75/restricted unit, or 5% of the gross rent collected. It is unclear how fees included in older covenants were determined, and there was no formal effort to collect a monitoring fee from owners of projects associated with these older covenants. According to HCID management, the City Attorney's Office has advised them not to collect fees retroactively. For example, for covenants executed in 2010 that include a $75/restricted unit monitoring fee, HCID only collected the fee for monitoring completed in 2013 and 2014. The department did not bill the owner for monitoring the unit in 2010, 2011 or 2012.

HCID conducted a fee study in 2013 which determined that the monitoring fee amount should be $135. Starting in January 2014, HCID began billing project owners for monitoring activities on an annual basis. HCID bills project owners on one invoice for all monitored covenants. All fees collected are remitted to the Municipal Housing Finance Fund (MHFF). According to the current process, the monitoring fee billed each year pertains to the monitoring conducted during the previous calendar year. For example, monitoring fees collected in 2014 corresponded to monitoring performed during calendar year 2013.

Through 2015, HCID sent collection letters seeking $881,635 in monitoring fees, and has received $734,960 from owners.

Exhibit 26: Affordable Housing Monitoring Fees Billed and Collected for 2013 & 2014

Monitoring Year	# of Units	Total Amount Billed	Total Amount Collected	% Collected
2013	4,750	$334,260	$274,810	82%
2014	6,193	$547,375*	$460,150	84%
		$881,635	$734,960	83%

**This includes the prior year uncollected amount of $66.615.*

HCID should have been applying a consistent fee methodology to determine the monitoring fee amounts, and more importantly, it should have been collecting fees as soon as the restricted units were occupied.

Since HCID did not collect a monitoring fee, other funding sources, (including limited CDBG grant monies) were used to pay the contracted monitor, UFBA.

Recommendation

HCID should:

6.1 Review the current monitoring fee amount of $135 per restricted unit, to ensure it is appropriate and continue to collect it for each affordable unit monitored on an annual basis.

Respectfully submitted,

Diana Galaviz
Internal Auditor II

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GLOSSARY OF KEY TERMS

AMI- Average Median Income

By-Right Density Bonus - Also referred to as "ministerial." Land uses which do not require a variance from the Zoning Code, and are automatically granted if the development is approved.

Covenant - A regulatory agreement or contract which dictates the terms of conditions for the use of the land, which is tied to the deed.

DBS – Department of Building and Safety

DCP – Department of City Planning

Developer- Individual or firm that funds and/or builds new real estate projects, including the new construction and renovation of existing building(s).

Entitlement Density Bonus–Land uses which require a variance from the Zoning code. They must be requested as a "conditional use" and approved by the Director of City Planning or the City Planning Commission.

HUD – Federal Department of Housing and Urban Development

HCID – Housing and Community Investment Department

HIMS- Housing and Information Management System used by HCID staff to track restricted affordable housing project details.

Incremental Unit(s) – The *additional* unit(s), i.e., above the number specified by the zoning code for a particular multi-family housing project, that were created as a result of the City's Density Bonus incentive.

Layered Units – A restricted affordable housing unit that is subject to multiple programs, guidelines, and related restrictions generally defined by the type of financial assistance provided.

OM Unit- Occupancy Monitoring Unit at HCID, responsible for monitoring the income and rent compliance for the City's restricted affordable units.

PCIS – The Plan Check and Inspection System used by Department of Building and Safety staff to track building plans' processes and fees.

GLOSSARY OF KEY TERMS (cont.)

PCTS – The Planning Case Tracking System used by Department of City Planning staff to track the planning review processes.

UFBA – Urban Futures and Bond Administration

APPENDIX I: ACTION PLAN

	Finding	Page	Recommendation	Page	Entity Responsible for Implementation	Priority
Section I: Density Bonuses: Unclear Benefits for Affordable Housing						
1	None of the administering Departments separately track or report the number of additional units, including the incremental affordable housing units, generated by the Program. Further, the City does not effectively track applications and approvals for Density Bonuses and only began tracking the Land Use restricted affordable units in 2008.	16	If policymakers determine that Density Bonus units should be considered a significant component of the City's affordable housing strategy, Mayor and Council should: 1.1 Set a target goal for the number of incremental restricted units the Density Bonus program is expected to generate. This will allow for periodic evaluations to review the success of the City's Density Bonus program, and its impact on the City's affordable housing inventory.	24	Mayor City Council	A
			1.2 Request an analysis from DCP/DBS/HCID identifying the percentage set-asides and the on-menu incentives requested by developers in prior Density Bonus projects to determine which have been most effective in encouraging Developers to participate in the Density Bonus program, and consider revising the ordinance to increase outcomes.	24	Mayor City Council	A

APPENDIX I: ACTION PLAN

	Finding	Page	Recommendation	Page	Entity Responsible for Implementation	Priority
1	None of the administering Departments separately track or report the number of additional units, including the incremental affordable housing units, generated by the Program. Further, the City does not effectively track applications and approvals for Density Bonuses and only began tracking the Land Use restricted affordable units in 2008.	16	To accurately determine the impact of the Density Bonus program on the City's affordable housing inventory, DCP, HCID and DBS should: 1.3 Work together to track the number of units a developer proposed prior to the Density Bonus calculation (base units), and the number of approved incremental bonus units. In addition, separately identify bonus units as either market rate or restricted as affordable, and determine the incremental affordable units that are created through the program.	24	DCP HCID DBS	A
			To enable reporting on the types of Density Bonus units that were requested, approved and constructed, DBS Management should: 1.4 Consider updating the Plan Check and Inspection System similar to the updates the Department of City Planning is incorporating in the Planning Case Tracking System.	24	DBS	A

APPENDIX I: ACTION PLAN

<table>
<tr><th></th><th>Finding</th><th>Page</th><th>Recommendation</th><th>Page</th><th>Entity Responsible for Implementation</th><th>Priority</th></tr>
<tr><td rowspan="2">1</td><td rowspan="2">None of the administering Departments separately track or report the number of additional units, including the incremental affordable housing units, generated by the Program. Further, the City does not effectively track applications and approvals for Density Bonuses and only began tracking the Land Use restricted affordable units in 2008.</td><td rowspan="2">16</td><td>HCID Management should:

1.5 Develop a standardized template for the Density Bonus covenants. Consider making each recorded covenant publicly accessible and mapping each project location on the Department's internet site.</td><td>24</td><td>HCID</td><td>A</td></tr>
<tr><td>To overcome report shortcomings and evaluate the effectiveness of the Density Bonus program DBS, DCP and HCID should:

1.6 Consider developing and using a unique identifier for all projects that can be used by all departments involved in administering development projects. This would enable stakeholders to track the projects' progression and report on the status of various milestones.</td><td>25</td><td>DBS
DCP
HCID</td><td>A</td></tr>
</table>

APPENDIX I: ACTION PLAN

	Finding	Pg.	Recommendation	Pg.	Entity Responsible for Implementation	Priority
2	HCID does not report the occupancy compliance rate (income and rent) of the restricted units under the Density Bonus program or the City's entire affordable housing inventory to stakeholders.	26	To assess whether the City's affordable housing supply (including Density Bonus units) remains affordable, HCID management should: 2.1 Work with UFBA to generate a monthly/quarterly report on the compliance status for each unit monitored. This should be used to assess the compliance rate for the City's affordable housing inventory.	29	HCID	B
			2.2. Develop a standard format for entering project/address information in HIMS and CMS to enable HCID to efficiently identify projects and determine the number of restricted units to ensure unduplicated unit counts.	29	HCID	A
			2.3 Continue to ensure that Land Use units subject to multiple program restrictions are only monitored once against the most restrictive requirements.	30	HCID	A

APPENDIX I: ACTION PLAN

	Finding	Page	Recommendation	Page	Entity Responsible for Implementation	Priority
Section II: The City Cannot Enforce Compliance for All Affordable Housing Programs						
3	The City's actual affordable housing inventory is less than the number of restricted units listed on paper, because some tenants exceed income guidelines and some owners collect more rent than allowed. Our analysis found that 6.8% (1,946) of the units exceeded affordability restrictions, such as restrictions on household income (1.6%) or rent (5.2%).	31	To ensure the City's affordable housing stock is occupied only by those who are most in need, HCID should develop and propose the following to policymakers: 3.1 An over-income threshold for tenants who occupy restricted units.	43	HCID	A
			3.2 Removal or transitional policies for tenants that surpass the over-income threshold.	43	HCID	A
			3.3 A timeline/deadline transitional tenants will have to meet, when required to vacate a restricted unit.	43	HCID	A

APPENDIX I: ACTION PLAN

	Finding	Page	Recommendation	Page	Entity Responsible for Implementation	Priority
3	The City's actual affordable housing inventory is less than the number of restricted units listed on paper, because some tenants exceed income guidelines and some owners collect more rent than allowed. Our analysis found that 6.8% (1,946) of the units exceeded affordability restrictions, such as restrictions on household income (1.6%) or rent (5.2%).	31	To ensure initial income certifications are completed in a timely manner, HCID and DBS management should: 3.4 Consider implementing an automated process to ensure HCID's Occupancy Monitoring Unit is immediately notified when a Certificate of Occupancy is issued for a Housing project with restricted units.	43	HCID and DBS	A
			In an effort to maximize the number of affordable housing options in the City, HCID should urge policymakers to: 3.5 Consider restricting the use of Housing Choice Vouchers to non-HOME financed, privately owned-units.	43	HCID	A
			To provide additional transparency and maintain institutional knowledge, HCID should: 3.6 Ensure all of the processes, procedures and polices relevant to monitoring the City's affordable housing inventory are clearly documented.	44	HCID	B

APPENDIX I: ACTION PLAN

	Finding	Page	Recommendation	Page	Entity Responsible for Implementation	Priority
	Section III: The City is Missing Opportunities to Collect Density Bonus Related Fees from Developers					
4	Density Bonus related fees collected by the Department of City Planning have not been updated since 2011. There is a risk that fees do not cover the administrative costs to review the Density Bonus entitlement applications.	45	4.1 Ensure that the entitlement fee study is completed as soon as possible and implement the appropriate fees in a timely manner.	46	DCP	A
5	The City is missing opportunities to collect fees that would help offset costs associated with the Density Bonus program, and the development of affordable housing.	47	5.1 Approve a covenant fee that would cover the current administrative costs related to executing the covenants for all affordable housing projects, including Density Bonus projects. Once adopted, periodically review and adjust the fee to reflect the administrative costs involved in preparing covenants.	49	City Council and the Mayor	A

APPENDIX I: ACTION PLAN

	Finding	Page	Recommendation	Page	Entity Responsible for Implementation	Priority
6	HCID has not consistently collected an annual monitoring fee from owners to help cover the costs of monitoring the restricted units to ensure compliance with income and rent guidelines.	50	6.1 Review the current monitoring fee amount of $135 per restricted unit, to ensure it is appropriate and continue to collect it for each affordable unit monitored on an annual basis.	51	HCID	B

A –High Priority *- The recommendation pertains to a serious or materially significant audit finding or control weakness. Due to the seriousness or significance of the matter, immediate management attention and appropriate corrective action is warranted.*
B –Medium Priority *- The recommendation pertains to a moderately significant or potentially serious audit finding or control weakness. Reasonably prompt corrective action should be taken by management to address the matter. Recommendation should be implemented no later than six months.*
C –Low Priority *- The recommendation pertains to an audit finding or control weakness of relatively minor significance or concern. The timing of any corrective action is left to management's discretion.*

APPENDIX II: FINANCIAL SCORECARD

Finding/Recommendation	Page	Category	Financial Impacts
Finding No. 5: The City is missing opportunities to collect fees that would help offset costs associated with the Density Bonus program, and the development of affordable housing. The City does not currently collect a fee from developers to cover the administrative costs associated with preparing the covenants for Density Bonus Projects. If the City adopts a covenant fee, HCID could potentially collect $366,000 per year. **Recommendation 5.1**: Approve a covenant fee that would cover the current administrative costs related to executing the covenants for all affordable housing projects, including Density Bonus projects. Once adopted, periodically review and adjust the fee to reflect the administrative costs involved in preparing covenants.	47 49	Increased Revenue	Adopting a covenant preparation fee could generate approximately $366,000 each year for HCID.

Cost Recovery: Monies that may be recoverable.

Cost Savings and Efficiencies: Cost savings opportunity and process enhancements.

Cost Avoidance: Monies that are lost but are avoidable in the future.

Increased Revenue: Revenue opportunities.

Wasted Funds: Monies that are lost and not recoverable due to reckless act or mismanagement of funds.

We strive to identify and recommend actions that will result in real financial impact, whereby the City can achieve significantly more through cost savings and/or increased revenue than the cost of the audit function. The above dollar estimates are dependent upon various factors, such as full implementation of audit recommendations and should not be used as guaranteed amounts

APPENDIX III – AUDIT SCOPE AND METHODOLOGY

We reviewed the effectiveness of the City's application and monitoring processes for Density Bonuses since 2008 through 2014, as related to restricted affordable units. The audit focused on the Density Bonus application and approval process through the Department of City Planning, the Department of Building and Safety, and the Housing and Community Investment Department (HCID). We also reviewed the monitoring and enforcement processes related to the City's affordable housing inventory, as managed by HCID. Audit fieldwork was primarily conducted from October 2015 through February 2016 and generally covered activities FY 2008-2009 through FY 2013-FY 2014. This audit was performed in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. In accordance with these standards and best practices, we performed the following key tasks:

<u>Interviews and Observations</u>
We interviewed Department of Building Safety, Department of City Planning and the Housing and Community Investment Department staff involved in the administration and oversight of the City's Density Bonus program. These interviews included staff from HCID's occupancy monitoring contractor, UFBA. We also reviewed project case files, and relevant information systems and databases.

<u>Data Analyzed</u>
We analyzed 2014 monitoring result data of the City's restricted affordable inventory provided by UFBA. We used the data analysis software, IDEA and Excel to remove duplicated units, identify tenants who exceeded income limits, and owners who collected more rent than the limits.

<u>Benchmarking</u>
We surveyed other agencies throughout the country regarding the administration and oversight of their Density Bonus programs. We received responses from the cities of Glendale, Sacramento, Santa Ana and San Francisco. See Appendix IV for the benchmarking results.

APPENDIX III – AUDIT SCOPE AND METHODOLOGY

We sent a survey to developers who previously built projects in the City, to understand their experience and solicit their opinion regarding the City's Density Bonus program. See Appendix IX for their results.

We sent a direct mailing to tenants who did not report any income in 2014, in an effort to collect their earned income amount. See Appendix VIII for the results of the responses.

APPENDIX IV Benchmarking

These are the results of benchmarking with other cities, regarding their Density Bonus programs.

	Santa Ana	Sacramento	San Francisco	Glendale
1) When did your City start administering Density Bonuses?	2011	Likely when the state law took effect.		2006
2) How many Density Bonus projects have been built in your City since you started administering Density Bonuses?	4	1 or 2		
2a) How many restricted (affordable) units are in those projects?	24	I don't know.		127 As reported in 2014-2012 Housing Element
3) Does your City have a Density Bonus goal?	No	No		Yes, One Density Bonus Project per Year
3a) If yes, please describe your City's Density Bonus goal and if it is referring to the restricted, market rate, or overall units.				
4) What is the threshold for developers to be eligible for Density Bonuses? (e.g. in LA, the development has to be >5 units)	5 or more units	>5 units		
5) What departments are involved in administering Density Bonuses?	Planning and Building Agency, Community Development Agency (Housing Division)	Community Development Department and the Sacramento Housing and Redevelopment Agency (SHRA)		Department of City Planning

APPENDIX IV Benchmarking

	Santa Ana	Sacramento	San Francisco	Glendale
6) What type of incentives are most popular, and why?	Density, Parking, Setbacks	Concessions are not very attractive because we updated our zoning code in 2013 to better facilitate urban infill development that has streamlined entitlements, and context sensitive, flexible development standards.		
7) What fees do developers incur in the application process for Density Bonus projects, and how much are they?	Not applicable	No fee.		
8) Does your City collect a monitoring fee?	No	Yes	Yes	Does not currently collect a monitoring fee, but in process of conducting study.
8a) If yes, how often is the monitoring fee collected?		Semi annually	Annually	NA
8b) If yes, how much is the monitoring fee?		.15% of original loan amount. If there is a bond, than it is .15% of bond.		
9) Instead of providing restricted units on-site, can developers opt to pay in-lieu fees towards city-owned affordable housing development?	If subject to the Housing Opportunity Ordinance (Inclusionary Housing), then yes	No		
9a) If yes, how much are the in-lieu fees?	Various, however currently revising Housing Opportunity Ordinance. Under the new Ordinance, proposed at $15 per habitable s.f.			

APPENDIX IV Benchmarking

	Santa Ana	Sacramento	San Francisco	Glendale
10) How does your City monitor affordable housing units to ensure they are occupied by eligible tenants? For example, do you collect and review income verification documents from tenants or from owners?	City staff will inspect housing units 1-3 years to ensure Health and Safety for the tenants, as well as conduct on-site review of tenant files and income verification documents. Both are completed in a sampling of the units. In addition, the City request annual reports for the affordable units which includes a rent roll. Finally, City staff has started to monitor evictions of units while completing annual on-site visits.	No. SHRA reviews a minimum 20% sample annually. The owner/manager collect and verify to insure income qualification.	The Mayor's Office of Housing monitors the income and rent of the affordable and restricted units.	
11) Does your City have a contractor to monitor your affordable housing projects to ensure owners are complying with income verification requirements?	No	No	No	No
12) How often does your City monitor its contractor to ensure the contractor is correctly and efficiently monitoring affordable units?				
13) If your City has a contractor, how often does the contractor verify tenant incomes?				
14) Does your City distinguish between fixed and floating units?	No	Yes	SF does not allow floating units.	

APPENDIX IV Benchmarking

	Santa Ana	Sacramento	San Francisco	Glendale
15) Are the same monitoring standards used for monitoring market rate projects as for monitoring government subsidized projects? If so, please describe.	Currently, yes the same monitoring standards are utilized for both market rate projects and monitoring government subsidized projects. The City uses the HUD standards for inspections (DSS) and will put the unit on an inspection cycle between 1-3 years. The City also utilizes the same forms for the inspection of units and the file inspections.	With the exception of our Rental Housing Inspection Program, we do not monitor market-rate projects.		
16) What is your City's definition of occupancy noncompliance?	Lack of income verification document, restricted units not occupied by eligible tenants, tenants were not income qualified at entry, occupancy standards at unit entry (lease up)	Over income, overcharging of rent, not being in compliance with affirmative marketing requirements, not maintaining property standards, and any other violations of the loan agreement.		
17) What percentage of your City's Density Bonus restricted units are in compliance, i.e. occupied by only eligible households?	100%	I don't know.		Don't Know

APPENDIX IV Benchmarking

	Santa Ana	Sacramento	San Francisco	Glendale
18) How does your City enforce compliance?	Through recorded agreements with the developer and annual inspections.	SHRA has compliance violation fees, recommend change of property management, technical training to get management back on track. Otherwise owner goes into default on loan.	To enforce compliance with income requirements	
18a) Do you impose a penalty on owners if they are not complying?	No	Yes		No
18b) If you charge a noncompliance fee, how much is it?	No	Multiple fees		
19) Does your City have a process to remove ineligible tenants who no longer meet the income requirements?	Standard legal procedure	Yes	Yes. Once they exceed 55% of the Area Median Income, they have 6 months to transition out.	No

Appendix V
Detailed Menu of Density Bonus Incentives
Per LAMC Section 12.22 A25 (f)

Tables in the City's Density Bonus Ordinance
LAMC Section 12.22 A25 (c)1 and (c)4

The tables dictate the percentage of (how many) Bonus Market Rate units a developer can include in a project if they agree to include the corresponding percentage of restricted affordable units.

% Very Low Income Units	% Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

% Low Income Units	% 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

% Moderate Income Units	% 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

Appendix VI
Detailed Menu of Density Bonus Incentives Per LAMC Section 12.22 A25 (f)

Menu of Incentives. Housing Development Projects that meet the qualifications of Paragraph (e) of this subdivision may request one or more of the following Incentives, as applicable:

1. **Yard/Setback.** Up to 20% decrease in the required width or depth of any individual yard or setback except along any property line that abuts an R1 or more restrictively zoned property provided that the landscaping for the Housing Development Project is sufficient to qualify for the number of landscape points equivalent to 10% more than otherwise required by Section 12.40 of this Code and Landscape Ordinance Guidelines "O."

2. **Lot Coverage.** Up to 20% increase in lot coverage limits, provided that the landscaping for the Housing Development Project is sufficient to qualify for the number of landscape points equivalent to 10% more than otherwise required by Section 12.40 of this Code and Landscape Ordinance Guidelines "O".

3. **Lot Width.** Up to 20% decrease from a lot width requirement, provided that the landscaping for the Housing Development Project is sufficient to qualify for the number of landscape points equivalent to 10% more than otherwise required by Section 12.40 of this Code and Landscape Ordinance Guidelines "O".

4. **Floor Area Ratio.**

   i. A percentage increase in the allowable Floor Area Ratio equal to the percentage of Density Bonus for which the Housing Development Project is eligible, not to exceed 35%; or

   ii. In lieu of the otherwise applicable Floor Area Ratio, a Floor Area Ratio not to exceed 3:1, provided the parcel is in a commercial zone in Height District 1 (including 1VL, 1L and 1XL), and fronts on a Major Highway as identified in the City's General Plan, and

      a. the Housing Development Project includes the number of Restricted Affordable Units sufficient to qualify for a 35% Density Bonus, and

b. 50% or more of the commercially zoned parcel is located in or within 1,500 feet of a Transit Stop/Major Employment Center.

A Housing Development Project in which at least 80% of the units in a rental project are Restricted Affordable Units or in which 45% of the units in a for-sale project are Restricted Affordable Units shall be exempt from the requirement to front on a Major Highway.

5. **Height.** A percentage increase in the height requirement in feet equal to the percentage of Density Bonus for which the Housing Development Project is eligible. This percentage increase in height shall be applicable over the entire parcel regardless of the number of underlying height limits. For purposes of this subparagraph, Section 12.21.1 A.10 of this Code shall not apply.

   i. In any zone in which the height or number of stories is limited, this height increase shall permit a maximum of eleven additional feet or one additional story, whichever is lower, to provide the Restricted Affordable Units.

      a. No additional height shall be permitted for that portion of a building in a Housing Development Project that is located within fifteen feet of a lot classified in the R2 Zone.

      b. For each foot of additional height the building shall be set back one horizontal foot.

   ii. No additional height shall be permitted for that portion of a building in a Housing Development Project that is located within 50 feet of a lot classified in an R1 or more restrictive residential zone.

   iii. No additional height shall be permitted for any portion of a building in a Housing Development Project located on a lot sharing a common lot line with or across an alley from a lot classified in an R1 or more restrictive zone. This prohibition shall not apply if the lot on which the Housing Development Project is located is within 1,500 feet of a Transit Stop but no additional height shall be permitted for that portion of a building in the Housing Development Project that is located within 50 feet of a lot classified in an R1 or more restrictive residential zone.

6. **Open Space.** Up to 20% decrease from an open space requirement, provided that the landscaping for the Housing Development Project is sufficient to qualify for the number of landscape points equivalent to 10% more than otherwise required by Section 12.40 of this Code and Landscape Ordinance Guidelines "O".

7. **Density Calculation.** The area of any land required to be dedicated for street or alley purposes may be included as lot area for purposes of calculating the maximum density permitted by the underlying zone in which the project is located.

8. **Averaging of Floor Area Ratio, Density, Parking or Open Space, and permitting Vehicular Access.** A Housing Development Project that is located on two or more contiguous parcels may average the floor area, density, open space and parking over the project site, and permit vehicular access from a less restrictive zone to a more restrictive zone, provided that:

   i. the Housing Development Project includes 11% or more of the units as Restricted Affordable Units for Very Low Income households, or 20% of the units for Low Income households, or 30% of the units for Moderate Income households; and

   ii. the proposed use is permitted by the underlying zone(s) of each parcel; and

   iii. no further lot line adjustment or any other action that may cause the Housing Development Project site to be subdivided subsequent to this grant shall be permitted.

Appendix VII
Income and Rent Limit Tables

Land Use/Density Bonus Schedule VI

This schedule was used by HCID to determine the income and rent limits for the restricted affordable units under the Density Bonus program.

Los Angeles HOUSING+COMMUNITY Investment Department

Eric Garcetti, Mayor
Rushmore D. Cervantes, General Manager

LOS ANGELES HOUSING & COMMUNITY INVESTMENT DEPARTMENT

2014 Income and Rent Limits - Land Use Schedule VI

Effective Date: July 1, 2014

Density Bonus

2013 MFI	$64,800	MFI change	
2014 MFI	$64,800	from 2014=	0.00%

Table I: Qualifying Maximum Income Levels Based on Family Size from State Income Limits for 2014

Income Level	Family Size							
	One	Two	Three	Four	Five	Six	Seven	Eight
Extremely Low (30%)	$17,950	$20,500	$23,050	$25,600	$27,650	$29,700	$31,750	$33,800
Very Low (50%)	$29,900	$34,200	$38,450	$42,700	$46,150	$49,550	$52,950	$56,400
Low (60% / 80%)	$47,850	$54,650	$61,500	$68,300	$73,800	$79,250	$84,700	$90,200
Moderate (120% / 110%)	$54,450	$62,200	$70,000	$77,750	$83,950	$90,200	$96,400	$102,650

Table II: Maximum Allowable Rent Levels

Rent Level	Number of Bedrooms				
	Single	One	Two	Three	Four
Extremely Low (30%)	$326	$373	$419	$466	$503
Very Low (50%)	$543	$621	$699	$776	$838
Low (60% / 80%)	$652	$745	$838	$932	$1,006
Moderate (120% / 110%)	$1,195	$1,366	$1,537	$1,708	$1,844

The annual allowable automatic rent adjustment rate for rental units subject to the Rent Stabilization Ordinance (RSO) is currently 3%.

Appendix VII
Income and Rent Limit Tables

Land Use Schedule II

This schedule was used by HCID to determine the income and rent limits for the restricted affordable units under HCID's other affordable housing programs.

Los Angeles HOUSING+COMMUNITY Investment Department

Eric Garcetti, Mayor
Rushmore D. Cervantes, General Manager

LOS ANGELES HOUSING & COMMUNITY INVESTMENT DEPARTMENT

2014 Income and Rent Limits - Mello Schedule II / LU Schedule VII (HCD Gross Rents)

Effective Date: July 1, 2014

2013 MFI	$64,800	MFI change	
2014 MFI	$64,800	from 2014=	0.00%

Table I: Qualifying Maximum Income Levels Based on Family Size

Income Level	Family Size							
	One	Two	Three	Four	Five	Six	Seven	Eight
Very Low	$29,900	$34,200	$38,450	$42,700	$46,150	$49,550	$52,950	$56,400
Low/Lower	$47,850	$54,650	$61,500	$68,300	$73,800	$79,250	$84,700	$90,200
Moderate	$54,450	$62,200	$70,000	$77,750	$83,950	$90,200	$96,400	$102,650

Table II: Maximum Allowable Rent Levels

Rent Level	Number of Bedrooms				
	Single	One	Two	Three	Four
Very Low	$567	$648	$729	$810	$875
Lower	$680	$778	$875	$972	$1,050
Low	$907	$1,037	$1,166	$1,296	$1,400
Moderate	$1,247	$1,426	$1,604	$1,782	$1,925

Note: This Schedule is HCD Gross Rent Schedule for Projects with AHTF funding and Mello program Covenant.

The annual allowable automatic rent adjustment rate for rental units subject to the Rent Stabilization Ordinance (RSO) is currently 3%.

Appendix VIII
Results of Direct Mailings to Tenants Who Did Not Report Any Income in 2014

Summary of Responses to Units that Reported $0 Income in 2014	
Total Letters Sent Initially	1,181
Total Responses Received	248
Total Letters Returned to Sender	152
	1,029
Response Rate (Not including returned letters)	24%
Reported Income Exceeds the Income threshold in UFBA 2014 report	8 3%

Responses by Program Type						
BOND	CRA	Earthquake	Land Use	Major Project	NPP	Total
11	116	51	39	28	3	248
4%	47%	21%	16%	11%	1%	

Q1. Does the Owner ask for income documentation once a year?			
Blank	No	Yes	Total
8	32	208	248
3%	13%	84%	

Q2. How many people lived in the Unit in 2014?							
1-one person	2-two people	3-three people	4-four people	5-five people	6-six people or more	Blank	Total
146	39	24	16	11	5	7	248
59%	16%	10%	6%	4%	2%	3%	

Q3. How many years have you lived in this unit?								
0-1 year	1-2 years	2-3 years	3-4 years	4-5 years	5-6 years	6 years or more	Blank	Total
36	31	23	31	13	12	100	2	248
15%	13%	9%	13%	5%	5%	40%	1%	

Appendix IX
Results of Developer Survey

Total Responses - 19							
1. How did you / your Firm become aware of the City's Density Bonus program?	**# / %**	**2. Does your Firm have plans to participate in the City's Density Bonus program again in the future?**	**# / %**	**3. If your Firm does not plan to participate in the City's Density Bonus program again, why not?**	**# / %**	**4. Would your Firm be willing to pay a fee to expedite the covenant preparation process?**	**# / %**
Department of Building and Safety Staff*	0/0%	Yes	16/84%	The process added too much time to project timeline.	4/21%	Yes	17/89%
Department of City Planning Staff	4/21%	No	3/16%	The number of bonus market rate units offered by City is not appealing enough.	1/5%	No	2/11%
Other City of Los Angeles Department Staff	1/5%	Other	0%	The number of affordable/restricted units required by the City to qualify for the bonus units is too burdensome		Other	
Other Development Firm	3/16%	Blank	0%	The additional profit from the bonus units does not exceed the cost incurred by providing affordable/restricted units.		Blank	
More than one option selected	4/21%			Other	0		
Other	6/32%			Blank	0		
Blank	1/5%						
Totals	19/100%		19/100%		5/26%		19/100%

*DBS staff is included in "More than one option selected"

APPENDIX X
Departments' Response and Action Plan

As part of our audit protocol, we requested a formal response and action plan from each Department involved in the audit.

A formal response, including comments and planned actions, was received from the Housing and Community Investment Department; the Department of Building and Safety; and the Department of City Planning, which are included in this section. It should be noted that all three departments have already begun to implement the audit's recommendations.

Los Angeles
HOUSING+COMMUNITY
Investment Department

Eric Garcetti, Mayor
Rushmore D. Cervantes, General Manager

INTER-DEPARTMENTAL MEMORANDUM

TO:	**SIRI A. KHALSA, CPA** **OFFICE OF THE CONTROLLER**
FROM:	**RUSHMORE CERVANTES, GENERAL MANAGER** **HOUSING + COMMUNITY INVESTMENT DEPARTMENT**
DATE:	**OCTOBER 20, 2016**
REGARDING:	**FORMAL RESPONSE TO AUDIT REPORT ENTITLED, "IMPACT OF THE CITY'S DENSITY BONUS PROGRAM ON AFFORDABLE HOUSING"**

In response to your request dated September 22, 2016, please find attached the matrix with the Office of the Controller's findings and recommendations. HCID has provided comments and planned actions on this matrix. Please consider this HCID's formal response to the audit report entitled, "Impact of the City's Density Bonus Program on Affordable Housing."

If you have additional questions regarding the responses or status of the recommendations, please contact Helmi Hisserich at (213) 808-8662 or Helmi.Hisserich@lacity.org.

Attachment

Report Title: Impact of the Density Bonus Incentive Program on Affordable Housing
Department Responsible for Implementation: Housing (HCID)
Reported Status Date: October 20, 2016

Finding #	Summary Description of Finding	Reco No	Recommendation	Department Reported Information: Current Status	Basis for Status	If I/P, % Complete	Target Date for Implementation
Section I	**Density Bonuses: Unclear Benefits for Affordable Housing**						
1	None of the administering Departments separately track or report the number of additional units, including the incremental affordable housing units, generated by the Program. Further, the City does not effectively track applications and approvals for Density Bonuses and only began tracking the Land Use restricted affordable units in 2008.		To accurately determine the impact of the Density Bonus program on the City's affordable housing inventory, DCP, HCID and DBS should:		Currently working with DCP and DBS to improve the City's affordable housing inventory tracking.	0%	2017
		1.3	Work together to track the number of units a developer proposed prior to the Density Bonus calculation (base units), and the number of approved incremental bonus units. In addition, separately identify bonus units as either market rate or restricted as affordable, and determine the incremental affordable units that are created through the program.	PI			
1	None of the administering Departments separately track or report the number of additional units, including the incremental affordable housing units, generated by the Program. Further, the City does not effectively track applications and approvals for Density Bonuses and only began tracking the Land Use restricted affordable units in 2008.		To enable reporting on the types of Density Bonus units that were requested, approved and constructed, HCID Management should:		Currently have a standardized template in place and continue to work with the City Attorney to improve the template on an on-going basis. HCID will work with the Systems Unit to create a link on the HCID website to access City Clerk's website for a copy of the covenant.	50%	n/a
		1.5	Develop a standardized template for the Density Bonus covenants. Consider making each recorded covenant publicly accessible and mapping each project location on the department's internet site.	PI			
			To overcome report shortcomings and evaluate the effectiveness of the Density Bonus programs DBS, DCP and HCID should:		Currently working with DCP and DBS to develop a unique identifier for all projects in all departments.	0%	2017
		1.6	Consider developing and using a unique identifier for all projects that can be used by all departments involved in administering development projects. This would enable stakeholders to track the projects' progression and report on the status of various milestones.	PI			
2	HCID does not report the occupancy compliance rate (income and rent) of the restricted units under the Density Bonus program or the City's entire affordable housing inventory to stakeholders.		To assess whether the City's affordable housing supply (including Density Bonus units) remains affordable, HCID management should:		UFBA currently provides monthly compliance report. HCID will work with UFBA to generate an enhanced report to assess the compliance rate.	50%	2017
		2.1	Work with UFBA to generate a monthly/quarterly report on the compliance status for each unit monitored. This should be used to assess the compliance rate for the City's affordable housing inventory.	PI			
		2.2	Develop a standard format for entering project/address information in HIMS and CMS to enable HCID to efficiently identify projects and determine the number of restricted units to ensure unduplicated unit counts.	I	HCID has developed a standard format for entering project/address information in HIMS and CMS. New projects that are sent to UFBA use this standard format.	100%	n/a
		2.3	Continue to ensure that Land Use units subject to multiple program restrictions are only monitored once against the most restrictive requirements.	I	HCID will continue to ensure that Land Use units subject to multiple program restrictions are only monitored once against the most restrictive requirements.	100%	n/a

I - Implemented
PI - Partially Implemented
NI - Not Implemented
D - Disagree

Report Title: Impact of the Density Bonus Incentive Program on Affordable Housing
Department Responsible for Implementation: Housing (HCID)
Reported Status Date: October 20, 2016

				Department Reported Information			
Finding #	**Summary Description of Finding**	**Reco No**	**Recommendation**	**Current Status**	**Basis for Status**	**If I/P, % Complete**	**Target Date for Implementation**
Section II	**The City Cannot Enforce Compliance for All Affordable Housing Programs**						
3	The City's actual affordable housing inventory is less than the number of restricted units listed on paper, because some tenants exceed income guidelines and some owners collect more rent than allowed. Our analysis found that 6.8% (1,946) of the units exceeded affordability restrictions, such as restrictions on household income (1.6%) or rent (5.2%).	To ensure the City's affordable housing stock is occupied only by those who are most in need, HCID should develop and propose the following to Policy Makers:					
		3.1	An over-income threshold for tenants who occupy restricted units.	PI	HCIDLA has determined that it will establish an over-income threshold, which is consistent with other affordable housing funding restrictions. If a household is deemed to be over-income, HCIDLA will implement a rent increase (i.e. rent to be charged at 30% of income) without eviction, for over-income tenants residing in restricted units. This policy will apply only to units that are only restricted by a Land Use covenant, so that there is no programmatic conflict with other funding sources/programs, which allow tenants to go over-income without raising their rent. Within the next 90 days, HCID will draft language for the City Attorney's consideration to amend the covenant to include this over-income remedy.	10%	2017
		3.2	Removal or transitional policies for tenants that surpass the over-income threshold.	D	Implementing removal policies for over-income tenants would create displacement of tenants in a housing market with high rents and low vacancy rates. It may also cause the unintended consequences of encouraging people to under-report income or to dis-incentivize increasing tenant's household income. Instead, HCIDLA, in consultation with City Attorney, will review the implement a rent increase (i.e. rent to be charged at 30% of income) for over-income tenants residing in restricted units, without eviction.	n/a	n/a
		3.3	A timeline/deadline transitional tenants will have to meet, when required to vacate a restricted unit.	D		n/a	n/a

I - Implemented
PI - Partially Implemented
NI - Not Implemented
D - Disagree

Report Title: Impact of the Density Bonus Incentive Program on Affordable Housing
Department Responsible for Implementation: **Housing (HCID)**
Reported Status Date: October 20, 2016

Finding #	Summary Description of Finding	Reco No	Recommendation	Department Reported Information: Current Status	Basis for Status	If I/P, % Complete	Target Date for Implementation
3	The City's actual affordable housing inventory is less than the number of restricted units listed on paper, because some tenants exceed income guidelines and some owners collect more rent than allowed. Our analysis found that 6.8% (1,946) of the units exceeded affordability restrictions, such as restrictions on household income (1.6%) or rent (5.2%).		To ensure initial income certifications are completed in a timely manner, HCID and DBS management should:				
		3.4	Consider implementing an automated process to ensure HCID's Occupancy Monitoring Unit is immediately notified when a Certificate of Occupancy is issued for a Housing project with restricted units.	PI	Working with HCIDLA Systems and DBS to implement.	0%	2017
			In an effort to maximize the number of affordable housing options in the City, HCID should urge policy makers to:				
		3.5	Consider restricting the use of Housing Choice Vouchers (HCV) to non-HOME financed, privately owned-units.	D	HCIDLA disagrees that tenants with HCV should be prohibited from living in a restricted unit due to their source of income, a HCV. The impact of implementing a prohibition of Section 8 in restricted units would increase the existing hardship that voucher holders experience in finding landlords to accept Section 8 due to the extremely high rents and low vacancy rates in Los Angeles. This exclusion of Section 8 tenants also runs counter to a mandate of the major funding source of the Affordable Housing Trust Fund; HOME prohibits turning down tenants with Section 8.	n/a	n/a
			To provide additional transparency and maintain institutional knowledge, HCID should:				
		3.6	Ensure all of the processes, procedures and polices relevant to monitoring the City's affordable housing inventory are clearly documented.	PI	In process.	10%	2017
6	HCID has not consistently collected an annual monitoring fee from owners to help cover the costs of monitoring the restricted units to ensure compliance with income and rent guidelines.	6.1	Review the current monitoring fee amount of $135 per restricted unit, to ensure it is appropriate and continue to collect it for each affordable unit monitored on an annual basis.	I	Completed review; Land Use Fees Transmittal approved by the Mayor pending final ordinance by the City Attorney.	100%	2016

I - Implemented
PI - Partially Implemented
NI - Not Implemented
D - Disagree

CITY OF LOS ANGELES

CALIFORNIA

ERIC GARCETTI
MAYOR

DEPARTMENT OF
BUILDING AND SAFETY
201 NORTH FIGUEROA STREET
LOS ANGELES, CA 90012

FRANK M. BUSH
GENERAL MANAGER

OSAMA YOUNAN, P.E.
EXECUTIVE OFFICER

October 11, 2016

Ms. Siri A. Khalsa, CPA
Interim Director of Auditing
Office of the Controller
200 N. Main St., 4th Floor
Los Angeles, CA 90012

Dear Ms. Khalsa,

In response to your letter dated September 22, 2016 regarding the final draft audit report entitled, "Impact of the City's Density Bonus Program on Affordable Housing," we have reviewed the report and provided our Department's planned actions and responses in the attached DBS recommendations matrix. In summary, we will be working closely with HCIDLA and Planning to implement the recommendations.

If you have any questions or comments you would like to discuss, please contact me at Frank.Bush@lacity.org or (213) 482-6800.

Sincerely,

for Frank Bush

Frank Bush
General Manager

Enclosure

cc: Sydia Reese, Internal Auditor

Report Title: Impact of the Density Bonus Incentive Program on Affordable Housing

Department Responsible for Implementation: **Building & Safety (DBS)**

Reported Status Date: 10/11/2016

				Department Reported Information			
Finding #	**Summmary Description of Finding**	**Reco No**	**Recommendation**	**Current Status**	**Basis for Status**	**If I/P, % Complete**	**Target Date for Implementation**
Section I	**Density Bonuses: Unclear Benefits for Affordable Housing**						
1	None of the administering Departments separately track or report the number of additional units, including the incremental affordable housing units, generated by the Program. Further, the City does not effectively track applications and approvals for Density Bonuses and only began tracking the Land Use restricted affordable units in 2008.		To accurately determine the impact of the Density Bonus program on the City's affordable housing inventory, DCP, HCID and DBS should:				
		1.3	Work together to track the number of units a developer proposed prior to the Density Bonus calculation (base units), and the number of approved incrementa bonus units. In addition, separately identify bonus units as either market rate or restricted as affordable, and determine the incremental affordable units that are created through the program.	NI	Work together with HCID and Planning	0%	Dec-16
			To enable reporting on the types of Density Bonus units that were requested, approved and constructed, DBS Management should:				
		1.4	Consider updating the Plan Check and Inspection System similar to the updates the Department of City Planning is incorporating in the Planning Case Tracking System.	NI	Work together with HCID and Planning	0%	Dec-16
1	None of the administering Departments separately track or report the number of additional units, including the incremental affordable housing units, generated by the Program. Further, the City does not effectively track applications and approvals for Density Bonuses and only began tracking the Land Use restricted affordable units in 2008.		To overcome report shortcomings and evaluate the effectiveness of the Density Bonus programs DBS, DCP and HCID should:		Currently working on Build LA which provides the mechanism to assign a unique identifer for all projects that can be used by all departments. This is dependent on a contract being signed this December 2016 for completion and delivery by January 2018.	10%	Jan-18
		1.6	Consider developing and using a unique identifier for all projects that can be used by all departments involved in administering development projects. This would enable stakeholders to track the projects' progression and report on the status of various milestones.	PI			

Report Title: Impact of the Density Bonus Incentive Program on Affordable Housing

Department Responsible for Implementation: **Building & Safety (DBS)**

Reported Status Date: 10/11/2016

Finding #	Summmary Description of Finding	Reco No	Recommendation	Department Reported Information: Current Status	Basis for Status	If I/P, % Complete	Target Date for Implementation
Section II	**The City Cannot Enforce Compliance for All Affordable Housing Programs**						
3	The City's actual affordable housing inventory is less than the number of restricted units listed on paper, because some tenants exceed income guidelines and some owners collect more rent than allowed. Our analysis found that 6.8% (1,946) of the units exceeded affordability restrictions, such as restrictions on household income (1.6%) or rent (5.2%).	To ensure initial income certifications are completed in a timely manner, HCID and DBS management should:					
		3.4	Consider implementing an automated process to ensure HCID's Occupancy Monitoring Unit is immediately notified when a Certificate of Occupancy is issued for a Housing project with restricted units.	NI	Working with with HCIDLA Systems to implement	0%	2017

I - Implemented
PI - Partially Implemented
NI - Not Implemented
D - Disagree

FORM GEN. 160 (Rev. 6-80)

CITY OF LOS ANGEL.ES
INTER-DEPARTMENTAL CORRESPONDENCE

October 13, 2016

TO: Siri A. Khalsa, CPA
Interim Director of Auditing
Office of the Controller

FROM: Vincent P. Bertoni, AICP
Director of Planning
Department of City Planning

SUBJECT: **RESPONSE TO FINAL DRAFT AUDIT REPORT "IMPACT OF THE DENSITY BONUS PROGRAM ON AFFORDABLE HOUSING"**

Thank you for the opportunity to review the Controller's Office final draft audit of the Density Bonus program. Upon my appointment as Director of Planning this year, the Department of City Planning (DCP) has prioritized affordable housing in a number of work programs across Department divisions—through policy, entitlement review and clearances, and operational improvements. I am fully committed to improving our planning processes and procedures in all aspects of the DCP's operations to achieve positive outcomes in the production of affordable housing, and working collaboratively with your office to identify future areas of change.

The DCP is charged with implementing housing policies through individual project entitlement review, and through developing ordinances and Municipal Code updates for City Planning Commission, City Council, and Mayoral consideration. The Department's emphasis on quality affordable housing production is evidenced by the recently accelerated initiation of affordable housing and density bonus policy work, a new dedicated BuildLA unit, and a new Priority Housing Project Program that operates with expedited functions across the Department. Additional details on these work programs are provided in subsequent pages in specific responses.

I support the full evaluation of the Density Bonus process, policy, and practice, with the goal of creating additional housing that is affordable to low income households. To this end, I will also work closely with the Housing and Community Investment Department (HCID) and the Department of Building and Safety (DBS) to integrate recommended procedures and improve the intersecting responsibilities outlined in this report.

The following pages include responses to your recommendations. For additional assistance or follow up on the comments below, please contact Lisa Webber, Deputy Director (213-978-1274 / lisa.webber@lacity.org), or Shana Bonstin, Principal City Planner (213-978-1217 / shana.bonstin@lacity.org).

DEPARTMENT OF CITY PLANNING COMMENTS ON DENSITY BONUS AUDIT

Recommendation No. 1.2: (Mayor and Council should...) Request an analysis from DCP/DBS/HCID identifying the percentage set-asides and the on-menu incentives requested by developers in prior Density Bonus projects to determine which have been most effective in encouraging Developers to participate in the Density Bonus program, and consider revising the ordinance to increase outcomes.

The Department recently prioritized affordable housing in our long range policy work program, and this year created a Housing Policy Unit designed to focus on these efforts. An update to the Density Bonus Ordinance and Affordable Housing Incentive Guidelines (AHIG) began work in July 2016. Background work has been done to identify areas that require revision. The team is compiling data on existing cases and cataloging which incentives were used most frequently. A component of the policy program will be to work with developers to receive practical input and feedback from the completion of projects in previous cases.

As a part of the Density Bonus Ordinance amendment, the Department will be reevaluating the processes with an aim to streamline procedures such that compliance review could be accomplished by a ministerial sign-off process or a Director-level determination, in lieu of a lengthier approval and determination at the City Planning Commission level. This would also serve to address the concern noted in the summary section of the audit (bottom of page ii), stating that some developers said the existing "process added too much time to their project timeline" to continue to utilize it.

Recommendation No. 1.3: (DCP, HCID, and DBS should...) Work together to track the number of units a developer proposed prior to the Density Bonus Calculation (base units) and, the number of approved incremental bonus units. In addition, separately identify bonus units as either market rate or restricted as affordable, and determine the incremental affordable units that are created through the program.

The DCP is committed to coordinating with HCID and DBS to track the units as recommended by your report. Currently, the Department captures housing unit data for projects when application forms with detailed calculations are submitted and reviewed as part of the DCP entitlement process. Potential future upgrades to the Department's Planning Case Tracking System (PCTS) and the Dwelling Unit Data Tracking function include the creation of new fields to electronically capture this data—incremental bonus units and whether they are market rate or restricted affordable. Furthermore, in working with HCID and DBS, this effort can be coordinated to complement the DBS permitting and HCID covenant recordation processes and also capture data for ministerial projects.

Recommendation 1.6: (DBS, DCP, and HCID should...) Consider developing and using a unique identifier for all projects that can be used by all departments involved in administering development projects. This would enable stakeholders to track the projects' progression and report on the status of various milestones.

The DCP is actively collaborating with DBS on the BuildLA program, which will permit a single application tracking system for use by all departments within the City. A function of this program will be a unique project identifier, equivalent to a "universal" identification number. This year, DCP filled the initial staffing positions for the dedicated BuildLA efforts, in anticipation of commencing work with the consultant, Accela, by the end of the year.

As well, the Department created the Priority Housing Project Program (PHP) this year, in response to the Mayor's Executive Directive 13. The program offers streamlined processing services for qualifying (20%+) affordable housing projects. Prioritization occurs with dedicated staff in each geographically-organized Project Planning Division and Affordable Housing Liaisons at our Development Services Center and the Citywide Policy Division. A housing scorecard has been developed to track the Department's progress. Since January 2016, 20 new projects with a total of 1,883 units have been filed and are being monitored through this program.

Recommendation No. 4.1: (DCP should...) Ensure that the entitlement fee study is completed as soon as possible and implement the appropriate fees in a timely manner.

The DCP received funding to conduct a comprehensive fee study in Fiscal Year 2014/15 and initiated the study in January 2015. The contractor has been working with staff to conduct the fee study and analysis, which includes a review of Density Bonus related fees. A draft report from the contractor is expected this month, October 2016, and the Department is preparing a report on fee revisions to achieve full cost recovery to the City Council. This will address a portion of the concern that existing fees do not cover administrative costs associated with Density Bonus review.

Attachment

VPB:LW:cf

Report Title: Impact of the Density Bonus Incentive Program on Affordable Housing
Department Responsible for Implementation: City Planning (DCP)
Reported Status Date: October 13, 2016

Finding #	Summmary Description of Finding	Reco No	Recommendation	Department Reported Information: Current Status	Basis for Status	If I/P, % Complete	Target Date for Implementation
Section I	Density Bonuses: Unclear Benefits for Affordable Housing						
1	None of the administering Departments separately track or report the number of additional units, including the incremental affordable housing units, generated by the Program. Further, the City does not effectively track applications and approvals for Density Bonuses and only began tracking the Land Use restricted affordable units in 2008.		To accurately determine the impact of the Density Bonus program on the City's affordable housing inventory, DCP, HCID and DBS should:	PI	Currently, the Department captures housing unit data for projects when application forms with detailed calculations are submitted and reviewed as part of the DCP entitlement process. Potential future upgrades to the Department's PCTS and the Dwelling Unit Data Tracking function include new fields to electronically capture this data—incremental bonus units and whether they are market rate or restricted affordable. Furthermore, in working with HCID and DBS, this effort can be coordinated to complement the DBS permitting and HCID covenant recordation processes and also capture data for ministerial projects	50%	Dec-16
		1.3	Work together to track the number of units a developer proposed prior to the Density Bonus calculation (base units), and the number of approved incremental bonus units. In addition, separately identify bonus units as either market rate or restricted as affordable, and determine the incremental affordable units that are created through the program.				
	None of the administering Departments separately track or report the number of additional units, including the incremental affordable housing units, generated by the Program. Further, the City does not effectively track applications and approvals for Density Bonuses and only began tracking the Land Use restricted affordable units in 2008.		To overcome report shortcomings and evaluate the effectiveness of the Density Bonus programs DBS, DCP and HCID should:				
		1.6	Consider developing and using a unique identifier for all projects that can be used by all departments involved in administering development projects. This would enable stakeholders to track the projects' progression and report on the status of various milestones.	PI	DCP is actively collaborating with DBS on the BuildLA program, which will permit a single application tracking system for use by all departments. A function of this program will be a unique project identifier, equivalent to a "universal" identification number. This year, DCP filled the initial staffing positions for the dedicated BuildLA efforts, in anticipation of commencing work with the consultant, Accela, by the end of the year.	80%	Dec-16
Section III	The City is Missing Opportunities to Collect Density Bonus Related Fees from Developers						
4	Density Bonus related fees collected by the Department of City Planning have not been updated since 2011. There is a risk that fees do not cover the administrative costs to review the Density Bonus entitlement applications.	4.1	Ensure that the entitlement fee study is completed as soon as possible and implement the appropriate fees in a timely manner.	PI	DCP received funding to conduct a fee study and initiated the study in January 2015. The fee study and analysis includes a review of Density Bonus related fees. A draft report is expected this month, October 2016, and the Department is preparing a report on fee revisions to achieve full cost recovery to the City Council.	95%	Dec-16

I - Implemented
PI - Partially Implemented