

Policy Proposal: Source of Income Protections in City-supported Housing

CITY COUNCIL ACTION REVIEW

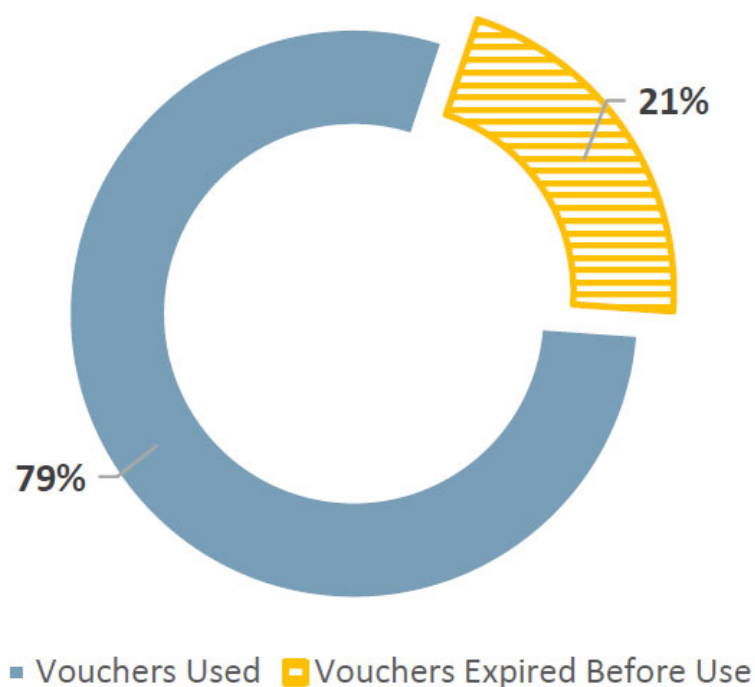
JUNE 27, 2022



Briefing Objectives

- ◀ Review Background Discussions
- ◀ Committee Recommendation
- ◀ Policy Overview
 - Policy Summary
 - Definitions
 - Applicability & Implementation
 - Market Rate Considerations
 - Compliance Action
- ◀ Next Steps

HCV Housing Search Success Rate



From 2017 to 2019,
204 households were
granted a voucher but were
unsuccessful in utilizing it.


The average time frame of
successful searches during
this period was approximately
73 days.

Source: Inlivian Issue Brief: May 2020

Source of Income Background

◀ Staff presented four recommendations to City Council on February 22, 2021:

1. **Adopt a policy requiring mandatory acceptance of Housing Choice Vouchers (HCV) and other forms of rental subsidy in all City supported housing**
2. Encourage and monitor changes to the HCV Program at the Federal level with the new administration
3. **Create a Council appointed Ad Hoc Advisory Group to develop program enhancements and process improvements to the HCV program**
4. Consider amending the Fair Housing Ordinance if implementation of the Ad Hoc Committee recommendations is not successful

- 
- *City Council approved recommendations #1 and #3 in February 2021.*
 - *Great Neighborhoods discussed recommendation #1 in June & August 2021...*

Discussions were then paused to allow the Source of Income Ad Hoc Advisory Committee to finalize recommendations

Ad Hoc Advisory Committee Charge

◀The Ad Hoc Advisory Committee has fulfilled its charge to:

Develop recommendations for program enhancements and process improvements that will increase the acceptance of all forms of rental subsidies, including Housing Choice Vouchers (HCVs), the largest source of rental subsidies in our community.

Ad Hoc Advisory Committee Timeline

- Formed: March – April 2021
- Meetings: May – December 2021
- Recommendations: December 2021
- Presentation to Great Neighborhoods Committee: February 2022

Ad Hoc Advisory Committee Recommendations

- 1. City and County should include source of income protections for any for-rent residential housing developments receiving public financial support of any kind**
 - Includes both affordable and market-rate housing developments receiving Tax Increment Grants and other types of public financial support
- 2. City, County, private and philanthropic sectors should provide new or expanded funding to increase capacity of existing local organizations(s) to create greater rental housing provider participation in the Housing Choice Voucher (HCV) and other rental subsidy programs in areas of moderate to high opportunity**
 - Emphasis on increased housing navigator capacity
 - Aligns with HOME-ARP RFP recommendations
 - Committee will be updated on opportunities for this at a future meeting
- 3. City or County should offer property tax reimbursements for new rental housing developments in high-opportunity areas that set aside at least 5% of their units for 30% AMI and below households with a voucher or rental subsidy**
 - State statute prohibits City tax reimbursements of this nature
 - Staff is exploring options including discussion with Mecklenburg County staff

Note: recommendations above were discussed at the February 28, 2022 Great Neighborhoods Committee meeting

Proposed Source of Income Policy

Great Neighborhoods Committee Recommendation

Prospective tenants in City-supported developments will not be disqualified from renting a housing unit based on a refusal to consider any lawful source of income.

- ◀ The policy is not intended to require terms that prevent a property owner or manager from determining, in a commercially reasonable and non-discriminatory manner, the ability of a housing applicant to afford to rent a property.
- ◀ Landlords can decline renting to a potential tenant. However, it cannot be because of a lawful source of income.

Definitions

- ◀ **City-supported Developments.** Developments with City-provided financial assistance or real estate conveyance for the production or preservation of affordable housing units or other public benefit.
- ◀ **Affordable Housing.** Housing units that are affordable to households earning at or below 80% of the area median income (AMI).
- ◀ **Market-Rate Housing.** Housing units that are intended to be available at the prevailing market rate.
- ◀ **Lawful Source of Income.** Lawful sources of income shall include income from:
 - A lawful profession, occupation or job,
 - Any government or private assistance, grant, loan or rental assistance program, including federal and other rental subsidy programs, and
 - Any legal, documented gift, inheritance, pension, annuity, alimony, child support, or other consideration or benefit.

Policy Applicability

Affordable Housing Developments

- ◀ All affordable housing developments receiving any City-provided subsidy assistance/incentives including conveyance of real estate for the production of affordable housing.

Market-Rate Housing Developments

- ◀ Market-rate housing developments when they are a component of a City-supported development (e.g., Tax Increment Grants, CIP-funded partnership for infrastructure improvements).

Policy Non-Applicability

Rezoning Requests

- ◀ Enabling legislation from the North Carolina General Assembly would be required to apply this policy to Rezoning requests.

Housing with no City support

- ◀ Providers of housing with no City support will continue to be encouraged to voluntarily accept tenants with all forms of rental subsidies.

Implementation

◀ Policy requirements:

- Currently included in Housing Trust Fund RFP guidelines.
- Will be included in the terms of other City affordable housing agreements (e.g. loan documents, land conveyance documents, etc.).
- Will be included in the terms of any City incentive agreement for projects that include a housing component (e.g., Tax Increment Grant agreements).

◀ Will apply to all City-supported developments receiving awards after policy is approved.

◀ Policy will apply for the term of the City incentive agreement.

Implementation

- ◀ The table below illustrates how the proposed policy would expand source of income protections for City-supported for-rent residential housing developments, regardless of funding source.

Current Applicability	Future Applicability (policy implementation)	Applicable Term
Housing Trust Fund	Housing Trust Fund	Affordability period
	CDBG	Affordability period
	HOME	Affordability period
	Land Conveyance (City-owned land for affordable housing)	Ground lease term or affordability period
	Tax Increment Grants (that include for-rent housing)	TIG reimbursement period
	CIP-Funded Infrastructure Partnerships (that include for-rent housing)	Reimbursement period

Market-Rate Housing Considerations

- ◀ **Market rents often exceed thresholds required by Housing Choice Voucher or other voucher programs**
 - These units would not be accessible to households with vouchers even if landlords accept them
- ◀ **Considerations for including market-rate housing in source of income policy:**
 - Reduces flexibility in negotiations for TIGs and CIP-funded infrastructure improvements (flexibility is imperative to effective partnerships)
 - Discourages inclusion of residential uses in larger multi use developments
 - Incentive period for infrastructure improvements typically ends before housing is constructed
 - Enforcement mechanism is difficult



Enforcement Requires Contractual Agreement

Tax Increment Grant Example

Proposed Development

Developer A
Site Development
*TIG Contract**

Developer B
Affordable Housing
*HTF Loan Contract**

Developer C
Commercial Space
(not applicable)

Developer D
Market-Rate Housing
No City Contract

**Education & Incentives /
Voluntary Compliance**
(Examples of possible incentives include
risk mitigation funds, holding fees, direct
payments, etc.)

**Source of Income Policy for City-
supported developments included in City
contracts (mandatory compliance)*



Implementation

Provider Training

- City staff (*HNS, Community Relations*) will provide training for all housing developers (includes the developer's property management affiliates) that receive applicable City support

Outreach & Education

- City staff (*Community Relations*) will provide educational materials for prospective tenants of applicable City-supported developments
- Outreach and training can include additional information such as Tenant-Landlord relations, Fair Housing, etc.

Annual Reporting

- Housing developer/provider shall provide an annual report including the number of units rented to households with housing vouchers and other forms of documented rental subsidies

Asset Monitoring

- Housing & Neighborhood Services will leverage its asset monitoring expertise of the City's affordable housing portfolio:
 - Ensure required reporting is received annually
 - Staff reviews all reports
 - Developer/Provider follow-up as needed

Compliance Action

- ◀ Housing providers will be in violation of this policy if the sole reason for denying the applicant is because of the applicant's lawful source of income.
- ◀ Residents who believe they have been denied access to housing solely based on a lawful source of income may initiate a complaint with the City by calling 311 or the Community Relations Committee.
- ◀ Investigations will be conducted by the Community Relations Committee.

Note: The City has no independent legal authority to investigate or enforce source of income protections outside of the City's legal agreements with each Developer receiving applicable assistance from the City. Investigation/compliance action will be set forth in the contractual financial / incentive agreement between the City and each Developer.

Compliance Action

Violations confirmed by Community Relations Committee

First Offense

- Documented warning
- Compliance training

Second Offense

- Compliance training
- \$500 fine per day until cured

Third Offense

- Default letter with cure period

If no cure:

- Recapture City award*
- Responsible party no longer eligible for future City-support

* If unable to recapture award (e.g., for City-land conveyances with no other City financial support), escalating fines will apply.

Next Steps

◀ **Council vote planned for July 11, 2022**

◀ **If Policy is approved, staff will**

- Incorporate policy into all applicable City contracts
- Education and Outreach
 - *Developers, housing providers, property managers*
 - *Prospective tenants of City-supported housing developments*
- Begin compliance monitoring