Performance Audit

of

San Francisco's Affordable Housing Policies and Programs

Prepared for the

Board of Supervisors
of the City and County of San Francisco

by the

San Francisco Budget and Legislative Analyst
January 18, 2012

CITY AND COUNTY OF SAN FRANCISCO
BOARD OF SUPERVISORS
BUDGET AND LEGISLATIVE ANALYST
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January 18, 2012

Honorable David Campos,
and Members of the Board of Supervisors
City and County of San Francisco
Room 244, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Dear Supervisor Campos and Members of the Board of Supervisors:

The Budget and Legislative Analyst is pleased to submit this *Performance Audit of San Francisco's Affordable Housing Policies and Programs.* In response to a motion adopted by the Board of Supervisors on July 12, 2011 (Motion 11-111), the Budget and Legislative Analyst conducted this performance audit, pursuant to the Board of Supervisors powers of inquiry as defined in Charter Section 16.114 and in accordance with U.S. Government Accountability Office (GAO) standards, as detailed in the Introduction to the report.

The scope of the performance audit included (a) the Planning Department's oversight of City housing development; (b) the effectiveness of the City's current policies in meeting housing needs; (c) City funding sources and implementation of housing development projects; and (d) the City's ability to implement regional housing plans, such as transit oriented housing.

The performance audit's six findings are summarized in the Executive Summary. The performance audit has 26 recommendations, of which 8 recommendations are directed to the Director of Planning, 14 recommendations are directed to the Director of the Mayor's Office of Housing, and 4 recommendations are directed to the Board of Supervisors. The Director of Planning and Director of the Mayor's Office of Housing agree or partially agree with all the recommendations. The written responses from the Director of Planning and Director of the Mayor's Office of Housing are attached to this report, beginning on page 81.

We would like to thank the staff of the Planning Department, the Mayor's Office of Housing, and the San Francisco Redevelopment Agency for their assistance with this performance audit.

Respectfully submitted,

Harvey M. Rose
Budget and Legislative Analyst

cc: President Chiu
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Supervisor Chu
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Executive Summary

The Board of Supervisors directed the Budget and Legislative Analyst to conduct a performance audit of City's policies to develop affordable housing, through a motion (M11-111) approved on July 12, 2011. The scope of the performance audit included: (a) the Planning Department's oversight of City housing development; (b) the effectiveness of the City's current policies in meeting housing needs; (c) City funding sources and implementation of housing development projects; and (d) the City's ability to implement regional housing plans, such as transit oriented housing. The performance audit was conducted in accordance with Government Auditing Standards, 2007 Revision, issued by the Comptroller General of the United States, U.S. Government Accountability Office.

Introduction

The U.S. Department of Housing and Urban Development (HUD) defines affordable housing as housing that costs no more than 30 percent of a family's annual income. According to the Housing Element of the City's General Plan, 42.7 percent of rental households and 38.6 percent of owner-occupied households overpay for housing in San Francisco.

San Francisco's Housing Needs

The Association of Bay Area Governments (ABAG) develops the regional housing needs allocation, distributing affordable housing goals to local jurisdictions, in accordance with State law. According to the City's Housing Element, as shown in Table 1 below, San Francisco met 85.8 percent of its housing goals under the 1999-2006 Regional Housing Needs Plan. As shown in Table 1 below, 64.6 percent of San Francisco's housing production is market rate housing.

Table 1
Housing Production Goals and Actual Housing Production
1999-2006

Households' Income as a Percent of Average Median Income (AMI)	**ABAG Regional Housing Needs Production Goals**		**Actual New Housing Production and Acquisition/ Rehabilitation**		
	Number of Units	Percent of Total	Number of Units	Percent of Total	Percent of Goals Met
Very Low Income (< 50% AMI)	5,244	25.7%	4,342	24.8%	82.8%
Low Income (50% to 79% AMI)	2,126	10.4%	1,113	6.4%	52.4%
Moderate Income (80% to 120% AMI)	5,639	27.7%	725	4.1%	12.9%
Market (> 120% AMI)	7,363	36.1%	11,293	64.6%	153.4%
Total	**20,372**	**100.0%**	**17,473**	**100.0%**	**85.8%**

Source: Housing Element

According to the City's Housing Element, San Francisco needs to produce 31,193 additional housing units from 2007-2014. This represents an increase of 10,821 units, or 53.1 percent, compared to the 1999-2006 housing production goals of 20,372.

Development of Affordable Housing

The San Francisco Redevelopment Agency (SFRA), the Mayor's Office of Housing (MOH), and the San Francisco Housing Authority have been the main developers of affordable housing in San Francisco. The December 29, 2011, California Supreme Court decision that the State could eliminate redevelopment agencies significantly changes financing for affordable housing development in San Francisco, as discussed below.

Financing for affordable housing has been provided largely by tax increment revenues[1] and bonds, affordable housing fees charged to developers, inclusionary affordable housing built by developers, Federal and State tax credits, and financing provided by HUD.

From FY 2002-03 to FY 2010-11, Federal, State and local funds financed more the $1.9 billion in affordable housing projects in San Francisco, as shown in Table 2 below. This includes projects financed in part by MOH and SFRA as well as projects sponsored by non-City sources, such as ABAG and the California State Communities Development Agency.

Table 2
City, State, and Federal Financing of the City's Affordable Housing Projects
FY 2002-03 to FY 2010-11

Source of Financing	**Total Financing FY 2002-03 through FY 2010-11**	**Percent of Total**
Tax Increment Revenues and Bond Proceeds	$460,130,116	24%
City Affordable Housing Fund	95,961,640	5%
Developer Contributions and Housing Income	73,371,353	4%
City Hotel Tax or Contributions in Lieu of Hotel Tax	47,623,208	2%
City General Fund	30,000,000	2%
City Proposition A Affordable Housing Bonds	18,053,081	1%
City and Local Sources	**725,139,398**	**38%**
State Propositions 46 and 1C Affordable Housing Bonds	286,129,994	15%
State Tax Credits	57,654,092	3%
California Department of Housing and Community Development	8,190,000	0%
California Housing Finance Agency	4,100,000	0%
State Sources	**356,074,086**	**19%**
Federal Tax Credits	634,609,090	33%
Federal CDBG, HOME, and HOPWA Grants	194,768,626	10%
Federal Sources	**829,377,716**	**43%**
Total City, State, and Local Sources	**$1,910,591,200**	**100%**

Source: MOH, SFRA, California Tax Credit Allocation Committee, California Department of Housing and Community Development

As shown in Table 3 below, non-City agencies receiving Federal or State tax credits, have developed 1,522 affordable housing units in San Francisco, while MOH and SFRA have

[1] Tax increment revenues are the gains in Property Tax revenues that result from redevelopment.

financed the balance of 10,561 (12,083 total affordable housing units less 1,522 financed by non-City agencies).

Table 3
Development of Affordable Housing Units
FY 2002-03 through FY 2010-11

	Very Low Income (Less than 50% of Area Median Income)				**Low to Moderate Income (50% to 120% of Area Median Income)**				
	MOH	**SFRA**	**Non City**	**Total**	**MOH**	**SFRA**	**Non City**	**Total**	**Total**
Rental									
Senior	831	1,619	443	2,893	0	67	0	67	2,960
Supportive	944	1,105		2,049	50	191	0	241	2,290
Individuals	1,398	135	110	1,643	4	65	0	69	1,712
Family	669	1,102	969	2,740	95	399	0	494	3,234
Inclusionary	0	0	0	0	294	186	0	480	480
Total Rental	3,842	3,961	1,522	9,325	443	908	0	1,351	10,676
Ownership									
Inclusionary	0	0	0	0	756	50	0	806	806
Affordable	21	5	0	26	13	562	0	575	601
Total Ownership	21	5	0	26	769	612	0	1,381	1,407
Total	**3,863**	**3,966**	**1,522**	**9,351**	**1,212**	**1,520**	**0**	**2,732**	**12,083**

Source: MOH, SFRA, Tax Credit Allocation Committee

The Planning Commission does not receive a sufficiently comprehensive evaluation of the City's achievement of its housing goals

The Planning Commission is responsible for (1) formulation and adoption of long term housing planning policy, and (2) approval of individual conditional use housing development applications for projects that do not qualify for approval "as of right".[2] Planning Department staff evaluate conditional use applications for housing developments and submit reports with recommendations for housing development projects applying for conditional use approval to the Planning Commission. These reports use standardized language to discuss the basis for approving each project's conditional use application, including how the specific project meets the objectives of the City's long term planning policy contained in the City's Housing Element. These reports do not evaluate the extent to which specific housing development projects contribute to the City's housing goals, allocated by ABAG as part of the regional housing allocation and contained in the City's Housing Element, for different income levels (e.g. very low-income vs. low- or moderate-income). Planning Commission consideration of proposed projects focuses largely on the project at hand and not the impact of an individual project on Citywide needs for long-term housing development.

[2] "As of right" means that the development project conforms to existing zoning and does not require further Planning Department or Planning Commission approval.

The Planning Commission needs better-organized and more comprehensive summary of data and more comprehensive staff evaluations of current and projected housing development for households at various income levels in order to support the Planning Commission's development of housing policy. At the Planning Commission's request, in August 2011 the Planning Department provided the first quarterly report to the Planning Commission on progress towards meeting housing goals. These quarterly reports should be revised to include information on the unit type and income level of proposed projects under review, including how units will address the City's allocation of the Regional Housing Needs assessment.

The Planning Department does not report the impact of transit-oriented housing development to the Planning Commission or the Board of Supervisors

San Francisco's plans for transit-oriented housing can be identified in several Area Plans[3] and zoning districts. Specific transit-oriented districts were implemented in the Planning Code in 2008 to increase density while promoting affordable housing development, transportation alternatives to private vehicles, and sustainable growth.

Approval of additional parking, payment of affordable housing fees rather than construction of on-site inclusionary affordable housing by developers, and other actions shape transit-oriented districts in ways that may differ from the Planning Code's original zoning intent. For example, the Planning Commission's decision to approve 16 parking spaces, rather than the 10 parking spaces granted as-of-right, in a transit-oriented district housing development on Dolores Street in the Mission District resulted in a 60 percent increase in parking spaces compared to the number allowed by the transit-oriented zoning. Increased parking spaces could deter the use of transit, which is the goal of transit-oriented zoning.

Approximately 19 percent of new housing development in transit-oriented districts since 2008 is affordable housing, or 24 of 126 new housing units. Payment of affordable housing fees by developers under the City's Inclusionary Affordable Housing Ordinance, as previously adopted by the Board of Supervisors, results in housing that differs in type, location, and target populations than on-site inclusionary affordable housing. Whether a developer constructs on-site inclusionary affordable housing in a transit-oriented district, or instead pays affordable housing fees, could impact the development of affordable housing in transit-oriented districts, especially if developers chose to construct market rate housing in transit-oriented districts while affordable housing financed by affordable housing fees is developed in other locations.

The Planning Department compiles information on housing development in periodic monitoring reports for Area Plans, the land use plans for specific San Francisco neighborhoods, every two to five years. The Planning Department should compile and report at least annually to the Planning Commission on the *cumulative* impact of granting additional parking spaces and the payment of

[3] Area Plans are land use plans for specific San Francisco neighborhoods.

affordable housing fees rather than construction of on-site inclusionary affordable housing in transit-oriented districts, which could alter the intention of the transit-oriented districts.

The Board of Supervisors does not receive consistent information on the overall impact of the City's housing policies

The City's policies for affordable housing development are largely defined by the City's Housing Element, the five-year Consolidated Plan for the expenditure of Federal grants, the Plan to Abolish Chronic Homelessness, and the Inclusionary Affordable Housing Ordinance. The City's Housing Element is a State requirement and the Five-Year Consolidated Plan is a HUD requirement. The Plan to Abolish Chronic Homelessness and Inclusionary Affordable Housing Ordinance are policies specific to San Francisco. While the Board of Supervisors approved the City's Housing Element, the Consolidated Plan, and the Inclusionary Affordable Housing Ordinance, the Board of Supervisors has only indirectly approved the Plan to Abolish Chronic Homelessness through approval of financing for specific projects.

The Board of Supervisors does not receive consistent information on the impact of the City's policies on the development of affordable housing in San Francisco. The Plan to Abolish Chronic Homelessness has set a goal of 3,000 new supportive housing units by 2014 through the development of new units or master leases, but MOH does not report to the Board of Supervisors on whether or not these goals have been met. Affordable housing units developed pursuant to the Plan to Abolish Chronic Homelessness, and partially financed by Federal tax credits, operate as supportive housing units for at least 15 years in accordance with the requirements set by the Federal tax credits. These supportive housing units require annual General Fund subsidies to pay for the operating costs for at least 15 years. Although supportive housing operating agreements, including General Fund subsidies, are expected to continue for at least 15 years, MOH enters into agreements with supportive housing operators for only nine years, which are not subject to Board of Supervisors approval. If the terms of the agreements were 15 years, then such agreements would be are subject to Board of Supervisors approval. The operating subsidies that fund these agreements currently total $5 million per year.

2010 revisions to the Inclusionary Affordable Housing Ordinance impact the location and type of affordable housing built in San Francisco

The 2002 Inclusionary Affordable Housing Ordinance, as previously approved by the Board of Supervisors, was intended to develop affordable housing on the same site as market rate housing in order to increase social and economic integration and the associated benefits. The 2002 Inclusionary Affordable Housing Ordinance provided developers with an incentive to construct inclusionary affordable housing rather than pay an affordable housing fee. 2010 revisions to the Inclusionary Affordable Housing Ordinance require developers to pay an affordable housing fee rather than construct inclusionary affordable housing, except when developers meet special conditions.

From FY 2002-2003 through FY 2009-10, most developers constructed inclusionary affordable housing rather than pay affordable housing fees, as shown in Table 4 below.

Table 4
Percent of Developers Selecting Payment of Affordable Housing Fees Compared to Construction of Inclusionary Affordable Housing from FY 2002-03 through FY 2009-10

Option Selected by Developer	Number of Projects	Percent of Projects
Payment of Affordable Housing Fee	35	25.2%
Construction of Inclusionary Affordable Housing	113	74.8%
Total Projects	151	100.0%

Source: MOH

Since the 2010 revisions to the Inclusionary Affordable Housing Ordinance, more developers have chosen to pay the affordable housing fee rather than construct inclusionary affordable housing. 55 percent of developers subject to the Inclusionary Affordable Housing Program, who received planning permits in FY 2010-11, opted to pay the affordable housing fee as compared to only 25.2 percent of developers in FY 2002-03 through FY 2009-10 who opted to pay the affordable housing fee.

Although both inclusionary affordable housing built by developers and affordable housing developments financed by affordable housing fees meet the City's policy objectives, the types of housing differ. Developer-built inclusionary affordable housing is generally owner-occupied by moderate income households and does not target specific populations. Affordable housing financed by affordable housing fees is generally rental housing for lower income households and often targets senior, chronically homeless, disabled, and other populations. Developer-built housing and City-sponsored affordable housing financed by affordable housing fees also differ in geographic distribution and size of units. 2010 revisions to the Inclusionary Affordable Housing Ordinance, in which developers generally pay affordable housing fees rather than build inclusionary affordable housing units, except when developers meet special conditions, may shift the development of affordable housing from inclusionary affordable housing for low to moderate income households to affordable housing financed by affordable housing fees for very low income households.

The 2010 program, allowing developers to defer affordable housing fee payments, slows new affordable housing construction

The 2010 Fee Deferral Program allows developers to defer a number of development impact fees, including 80 to 85 percent of affordable housing fees.

- Previously, 100 percent of the affordable housing fees were paid when the developer obtained building permits, or approximately 12 months after receiving planning permit approval. Construction of affordable housing financed by the affordable housing fees was completed in approximately 48 months, as shown in Chart 1 below.

- Currently, 85 percent of the affordable housing fees are paid when the developer obtains the first certificate of occupancy, or approximately 36 months after receiving planning permit approval. Construction of affordable housing financed by the affordable housing fees is completed in approximately 60 months, as shown in Chart 1 below.

Chart 1
Impact of Affordable Housing Fee Deferral
On When Affordable Housing Project is Completed

2002 Ordinance: 100% Fee Payment When Building Permits Obtained	Planning Permit	Building Permit	Certificate of Occupancy		
		100% Fee Payment Fees Available for Housing Development		Affordable Housing Project Completed	
	Month 1	**Month 12**	**Month 36**	**Month 48**	**Month 60**
2010 Revised Ordinance: 15% Fee Payment When Building Permits Obtained and 85% Fee Deferral	Planning Permit	Building Permit	Certificate of Occupancy		
	15% Fee Payment		85% Fee Payment		Affordable Housing Project Completed
	Month 1	**Month 12**	**Month 36**	**Month 48**	**Month 60**

The full impact of the 2010 Inclusionary Affordable Housing Ordinance revisions is not yet known. In response to the required assessment of the affordable housing fee in early 2012 and a Board of Supervisors hearing request on production of moderate income housing, MOH should evaluate the total payment of affordable housing fees, construction of inclusionary affordable housing, and the resulting types and distribution of housing development.

Future financing sources for affordable housing development are uncertain due to the dissolution of the San Francisco Redevelopment Agency, decline in the local housing market, and reduced Federal contributions

San Francisco affordable housing developments received more than $1.9 billion in Federal, State and local financing in the nine-year period from FY 2002-03 through FY 2010-11. While 87.4 percent of the City's affordable housing developments have been partially financed by MOH or SFRA, 12.6 percent of affordable housing developments are sponsored by non-City agencies, such as ABAG.

San Francisco affordable housing developments have been awarded a higher percentage of State loans than the City's population share. As of June 30, 2010, San Francisco, which has 2 percent of the State's population, had received 11 percent of the loan awards, or $286 million of $2.6 billion total awards.

SFRA also set aside a higher percentage of tax increment revenues for affordable housing than required by State law. While State law requires that 20 percent of tax increment funds must be allocated to development of low and moderate income housing, SFRA has allocated approximately 40 percent of annual tax increment revenues for the development of low and moderate income housing.

State, Federal, and local sources of funds for affordable housing development have decreased since FY 2006-07

As shown in Table 5 below, State and Federal tax credits, affordable housing fees administered by MOH, and other sources of funds administered by MOH, such as HUD grants, decreased from FY 2007-08 through FY 2010-11. The City refunded affordable housing fees to developers in FY 2008-09 and FY 2009-10 who did not move forward with planned housing development projects and collected less than $70,000 in affordable housing fees in FY 2010-11.

Although tax increment financing of affordable housing projects increased by $13 million or 20 percent from FY 2007-08 through FY 2010-11, dissolution of the SFRA will eliminate this source of funding except in specific Redevelopment Project Areas that have been previously approved. Existing unspent tax increment revenues allocated to affordable housing of approximately $200 million will be transferred to the City. Tax increment revenues, which would have gone to the SFRA, will now be transferred to the City, although SFRA has not yet estimated the amount to be transferred to the City.

Table 5
Decreases in Public Financing of Affordable Housing Projects
FY 2007-08 through FY 2010-11

Source of Funds	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Increase/ (Decrease) FY 2007-08 to FY 2010-11	Percent Change
SFRA Tax Increment and Other	$65,418,082	$100,098,920	$85,460,388	$78,497,983	$13,079,901	20%
MOH Affordable Housing Fees and Other	39,961,430	41,142,126	25,751,876	26,535,780	(13,425,650)	(34%)
Federal and State Tax Credits	104,096,184	53,039,298	87,876,690	56,535,030	(47,561,154)	(46%)
Total	**$209,475,696**	**$194,280,344**	**$199,088,954**	**$161,568,793**	**($47,906,903)**	**(23%)**

Source: MOH, SFRA, Tax Credit Allocation Committee

Significant reductions of tax increment bond financing for affordable housing development due to the dissolution of SFRA increases the importance of General Obligation bond financing of affordable housing

The Governor is considering pending proposals to provide that a 55 percent majority of voters, rather than a 66.7 percent majority of voters, would be required for General Obligation bond authorization for affordable housing. San Francisco voters approved affordable housing General Obligation bonds of $100,000,000 in 1996. Two subsequent General Obligation bond measures for affordable housing in San Francisco received more than 55 percent but less than 66.7 percent voter approval. The Director of MOH should track State proposals to authorize local governments to issue affordable housing General Obligation bonds with 55 percent voter approval, evaluate the feasibility of issuing affordable housing General Obligation bonds in San Francisco, and submit a written report to the Board of Supervisors on the status of the State proposal at least once per year, including one report prior to June 30, 2012.

State and local efforts to establish more stable, dedicated funding sources for affordable housing development have not succeeded

The State Department of Housing and Community Development and the State legislature have proposed but not moved forward with proposals for dedicated funding sources for affordable housing. The City's financial policies, adopted by the Board of Supervisors, include two provisions for non-recurring and volatile revenues: (1) non-recurring revenues must be used only for one-time expenditures, such as affordable housing development; and (2) 75 percent of volatile revenues, such as City's Real Estate Transfer Taxes, are to be deposited into the City's budget stabilization reserve. The Board of Supervisors should consider establishing a policy that a portion of non-recurring revenues and volatile revenues be appropriated for affordable housing development.

MOH should improve the marketing of inclusionary affordable housing units to prospective tenants and purchasers

MOH administers the inclusionary affordable housing program and monitors inclusionary affordable ownership and rental housing units. MOH works with the Planning Department to ensure that (a) developers comply with inclusionary affordable housing requirements and (b) inclusionary affordable owner-occupied and rental housing units are allocated by location and unit size throughout the development. MOH is responsible for setting the price of inclusionary affordable housing units, ensuring qualified buyers or renters, and monitoring ongoing affordability and compliance with program requirements.

In six of eight cases reviewed for this performance audit, project sponsors did not begin marketing inclusionary affordable housing units until 5 to 16 months after the principal project was completed. This fails to comply with program requirements that inclusionary affordable housing unit marketing begin no later than 60 days from certificate of occupancy. MOH should develop mechanisms to enforce the requirement that project sponsors contact MOH to price and market the inclusionary affordable housing units within 60 days of the first certificate of occupancy. In addition, the Department of Building Inspection should create and regularly provide MOH with a report of projects containing inclusionary affordable housing units that receive a certificate of occupancy.

Other changes in inclusionary affordable housing unit marketing would increase outreach to target populations. In particular, project sponsors are not required to develop marketing plans and conduct lotteries, develop a wait list or take other steps to insure broad opportunities for eligible applicants to rent inclusionary affordable housing units after the initial tenant leaves. Further, the Planning Commission should adopt revisions to the Planning Department's procedures manual to extend the required marketing period from 28 days to 90 days to strengthen outreach.

Since the Inclusionary Affordable Housing Ordinance was adopted by the Board of Supervisors in 2002, MOH has not monitored residents of inclusionary affordable rental housing units to insure that the units have been appropriately rented or remain income eligible. The absence of monitoring has resulted in inclusionary affordable housing units remaining vacant for long periods of time or being occupied by tenants who no longer meet the income eligibility requirements. In one project located at 55 Page Street, 17 units of inclusionary affordable rental units have been unoccupied for three years.

MOH has taken some steps to enhance its monitoring of inclusionary affordable rental unit compliance, including (a) redirecting a portion of an existing staff person's time to the program, and (b) opening enforcement cases for each non-complying property. If MOH were to (a) require a monitoring plan from rental agents at the time of certificate of occupancy and (b) building owners and managers in the program requirements, as is done in other cities, MOH could further enhance monitoring of inclusionary affordable rental units.

MOH does not recover the costs of monitoring inclusionary affordable rental units. Charging a rental monitoring fee to owners of inclusionary affordable rental units, as is done in other jurisdictions, would provide the City with an estimated $18,000 in the first year of fee collection to offset monitoring costs.

Introduction

The Board of Supervisors directed the Budget and Legislative Analyst to conduct a performance audit of City's policies to develop affordable housing, through a motion (M11-111) approved on July 12, 2011. The scope of the performance audit included: (a) the Planning Department's oversight of City housing development; (b) the effectiveness of the City's current policies in meeting housing needs; (c) City funding sources and implementation of housing development projects; and (d) the City's ability to implement regional housing plans, such as transit oriented housing.

Methodology

The performance audit was conducted in accordance with Government Auditing Standards, 2007 Revision, issued by the Comptroller General of the United States, U.S. Government Accountability Office. In accordance with these requirements and standard performance audit practices, we performed the following performance audit procedures:

- Conducted survey interviews with executive and management staff in the Planning Department, Mayor's Office of Housing, and Redevelopment Agency; interviewed representatives from the San Francisco Housing Authority and Association of Bay Area Governments; and interviewed representatives from community organizations, including non-profit affordable housing developers.

- Reviewed legislation, reports, financial statements, housing inventory, and other reports regarding oversight, financing, and production of affordable housing.

- Conducted detailed (a) case reviews of two affordable housing developments, including evaluation of the planning and approval process, interviews with the respective housing developers and housing operators, and site visits; (b) review of Planning Department documents and Planning Commission meeting minutes, including interviews with Planning Department staff and Planning Commission representatives; (c) evaluation of the transit-oriented housing development; (d) evaluation of the City's meeting of housing goals; and (e) other data pertinent to the audit objectives.

- Submitted a draft report, with findings and recommendations, to the Planning Department, Mayor's Office of Housing, and Redevelopment Agency on November 8, 2011; and conducted exit conferences with department directors and executive managers the week of December 5, 2011 to December 9, 2011.

- Submitted the final draft report, incorporating comments and information provided in the exit conferences, to the Planning Department, Mayor's Office of Housing, and Redevelopment Agency on December 21, 0211.

Affordable Housing

The U.S. Department of Housing and Urban Development (HUD) defines affordable housing as housing that costs no more than 30 percent of a family's annual income. According to the Housing Element of the City's General Plan, adopted by the Planning Commission in March 2011, rising housing costs lead to overpayment as more of a household's income is spent on housing. The Housing Element defines overpayment as 30 percent or more of a household's income allocated to rent payments or 35 percent or more of a household's income allocated to mortgage payments. According to the Housing Element, 42.7 percent of rental households and 38.6 percent of owner-occupied households overpay for housing in San Francisco.

San Francisco's Housing Needs

The State of California mandates regional Councils of Government to develop Regional Housing Needs Plans that determine how many housing units, including affordable units, which each community must plan to accommodate. The Association of Bay Area Governments (ABAG) is the regional Council of Government for the San Francisco Bay Area. ABAG published the 2007-2014 Regional Housing Needs Plan in June 2008. Local governments, including San Francisco, must then plan where and how the allocated housing units will be developed within their communities. San Francisco's plan is implemented through the Housing Element of the General Plan.

According to the Housing Element, San Francisco met 85.8 percent of its housing goals under the 1999-2006 Regional Housing Needs Plan. As shown in Table 1 below, most San Francisco housing production is market rate housing.

Table 1
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Source: Housing Element

According to the Housing Element, San Francisco needs to produce 31,193 additional housing units from 2007-2014. This represents an increase of 10,821 units, or 53.1 percent, compared to the 1999-2006 housing production goals of 20,372.

Table 2
Housing Production Goals
2007-2014

Households' Income as a Percent of Average Median Income (AMI)	**ABAG Regional Housing Needs Production Goals**	
	Number of Units	Percent of Total
Extremely Low Income (< 30% AMI)	3,294	10.6%
Very Low Income (31% to 49% AMI)	3,295	10.6%
Low Income (50% to 79% AMI)	5,535	17.7%
Moderate Income (80% to 120% AMI)	6,754	21.7%
Market (> 120% AMI)	12,315	39.5%
Total	**31,193**	**100.0%**

Source: Housing Element

Land Use and Housing Development in San Francisco

The City's General Plan governs land use and development in San Francisco. The Planning Department develops and maintains the General Plan, and develops area plans that provide more specific development guidelines for City neighborhoods.

Development projects must be reviewed and approved by the Planning Department for conformance with the General Plan and the applicable area plan. The Planning Commission approves certain specified uses and features in various zoning districts through conditional use procedures. Planning Commission conditional use decisions may be appealed to the Board of Supervisors.

Development of Affordable Housing

Affordable housing in San Francisco is developed by for-profit, non-profit, and public agencies.

- For-profit developers generally develop affordable housing units through the City's Inclusionary Affordable Housing Program, in which developers of large residential housing developments pay a fee to the City's Affordable Housing Fund, construct on-site or off-site affordable units, pay a fee, or for two area plans make a land.

- The Mayor's Office of Housing (MOH) and the San Francisco Redevelopment Agency (SFRA) have provided loans or grants to for-profit or non-profit affordable housing developers. These loans and grants are leveraged with other funding sources, including commercial loans, tax-exempt revenue bonds, and federal or state tax credits. Affordable housing developers also develop affordable housing in partnership with state or regional agencies.

- MOH and SFRA have also partially financed and managed HOPE SF, San Francisco's initiative to rebuild existing public housing as part a larger mixed-income housing developments.

Inclusionary Housing

Both private and publicly-funded developers develop affordable housing in San Francisco. The City charges development impact fees to mitigate the costs of residential and commercial development, including the demands for increased services and need for affordable housing.

The City's Inclusionary Affordable Housing Program (Planning Code Section 415) requires private developers to pay an affordable housing fee when developing housing in San Francisco. The Inclusionary Affordable Housing Ordinance justifies the affordable housing fee or inclusionary housing requirements as follows:

> Development of new market-rate housing makes it possible for new residents to move to the City. These new residents place demands on services provided by both the private and public sectors. Some of the public and private sector employees needed to meet the needs of the new residents earn incomes only adequate to pay for affordable housing. Because affordable housing is in short supply within the City, such employees may be forced to live in less than adequate housing within the City, pay a disproportionate share of their incomes to live in adequate housing within the City, or commute ever-increasing distances to their jobs from housing located outside the City. These circumstances harm the City's ability to attain goals articulated in the City's General Plan and place strains on the City's ability to accept and service new market-rate housing development.

The Inclusionary Affordable Housing Ordinance allows developers to develop on-site or off-site affordable housing units (inclusionary housing) as an alternative to paying the affordable housing fee if they meet certain qualifying conditions.

In 1992 the Planning Commission adopted guidelines to implement the City's Inclusionary Affordable Housing Policy. The policy required housing projects with 10 or more units that seek a conditional use permit or planned unit development to set a minimum of 10 percent of their units as affordable units.

In 2002 the Board of Supervisors adopted the Inclusionary Affordable Housing ordinance, requiring developers constructing 10 or more residential units to set aside 10 percent of on-site units or 15 percent of off-site units for inclusionary housing. Developers seeking conditional use approval for housing developments were required to set aside 12 percent of on-site units or 17 percent of off-site units for inclusionary housing, or pay an affordable housing fee.

The original ordinance was amended in 2006 to require housing developments of 5 or more units to set aside at least 15 percent of their onsite housing units as affordable units. If the developer opted to develop the housing units offsite, the minimum affordable unit requirement was increased to 20 percent. Developers could also elect to pay an affordable housing fee.

Developers have constructed 1,050 inclusionary affordable housing units from FY 2002-03 through FY 2010-11, as shown in Table 3 below.

Table 3
Inclusionary Affordable Housing Units
FY 2002-03 to FY 2010-11

	Inclusionary Affordable Housing Units
Rental	294
Ownership	756
Total	**1,050**

Source: MOH

In 2010 the Board of Supervisors amended the Inclusionary Affordable Housing ordinance to clarify the nexus between market and affordable housing[1] and thus require developers to pay an affordable housing fee. Under the amended Inclusionary Affordable Housing ordinance, developers may elect to construct onsite or offsite affordable housing units rather than pay the fee. A recent amendment allows land donations as an alternative means of meeting the affordable housing requirement in the Eastern Neighborhoods, and Market and Octavia Plan Areas.

The San Francisco Redevelopment Commission adopted the Housing Participation Policy for redevelopment project areas, based on the City's Inclusionary Affordable Housing Program and redevelopment plans. The Housing Participation Policy has required developers undertaking projects in redevelopment project areas to provide onsite affordable housing or pay an in-lieu fee.

2010-2014 Consolidated Plan

MOH, the SFRA, and the Office of Economic and Workforce Development (OEWD) jointly prepared the five-year 2010-2014 Consolidated Plan, required by HUD for the expenditure of federal grants for community and affordable housing development. These grants include the Community Development Block Grant (CDBG), HOME Investment Partnerships program (HOME), Emergency Shelter Grants (ESG), and Housing Opportunities for Persons with AIDS

[1] A nexus study, establishing the relationship between market rate housing development and community affordable housing impacts, was conducted on behalf of the City in 2007. The study found that the affordable housing fee met two requirements: (1) the need for affordable housing is directly connected to market rate housing development; and (2) the fee was proportional to the impact of market rate development.

(HOPWA). MOH is the lead agency for CDBG, HOME, and ESG funds. SFRA is the lead agency for HOPWA funds.

The goals of the Consolidated Plan are:

Goal 1: Families and individuals are healthy and economically self-sufficient
Goal 2: Neighborhoods and communities are strong, vibrant and stable
Goal 3: Formerly homeless individuals and families are stable, supported and live in long-term housing
Goal 4: Families and individuals have safe, healthy and affordable housing
Goal 5: Public housing developments that were severely distressed are thriving mixed-income communities

Goals 3, 4, and 5 are directed toward the provision of affordable housing. MOH and SFRA prioritize development of rental housing for very low income individuals and families with incomes up to 60 percent of the Area Median Income (AMI) and ownership housing for low to moderate income individuals and families with incomes up to 120 percent of the AMI. Priorities for housing include very low income seniors, families with children, and individuals with mental or physical disabilities.

Plan to Abolish Chronic Homelessness

According to one MOH representative, one of the primary goals of the City's affordable housing program since 2006 is to provide housing for families and individuals who would otherwise be homeless. In 2004, the San Francisco Ten Year Planning Council[2] submitted the *San Francisco Plan to Abolish Chronic Homelessness* to the Mayor. The San Francisco Ten Year Planning Council defined chronic homeless, based on HUD's definition, as "an unaccompanied disabled individual who has been sleeping in one or more places not meant for human habitation or in one or more emergency homeless shelters for over one year or who has had four or more periods of homelessness over three years."

The Ten Year Council targeted housing and services for the chronically homeless because they consume the highest portion of dedicated resources. According to the Ten Year Planning Council, only 20 percent of San Francisco's homeless population meets the definition of "chronic homeless", but this population consumes 63 percent of San Francisco's annual budget for homeless services, comprised of federal, state and local funding. The goal of the *San Francisco Plan to Abolish Chronic Homelessness* was to create 3,000 units of supportive housing that includes both housing and services to support the tenants. The *San Francisco Plan to Abolish Chronic Homelessness* recommended that the Inclusionary Affordable Housing Program, MOH, SFRA, and Housing Authority include supportive housing as a priority in their housing programs. The goal of 3,000 new units of supportive housing was to be achieved through master leases with single resident occupant (SRO) hotels and development of new housing units. As of FY 2010-11, the City has created 1,953 new support

[2] The San Francisco Ten Year Planning Council consisted of business, community, labor and City department representatives.

housing units for the chronically homeless, through financing of new construction or implementing new master lease agreements.

MOH and SFRA have financed affordable housing projects through loans to non-profit and for-profit developers, using a variety of funding sources. Federal funding sources, especially federal tax credits, are the major source of funds for affordable housing development in San Francisco, as shown in Table 4. State funding sources include state tax credits and loans funded by state general obligation bond proceeds. Local funding sources have included tax increment revenues generated by redevelopment projects, City affordable housing fees, hotel tax revenues, General Fund monies, and other sources.

From FY 2002-03 to FY 2010-11, federal, state and local funds financed more the $1.9 billion in affordable housing projects in San Francisco. This includes projects financed in part by MOH and SFRA as well as projects sponsor by non-City sources, such as the Association of Bay Area Governments (ABAG) or the California State Communities Development Agency.

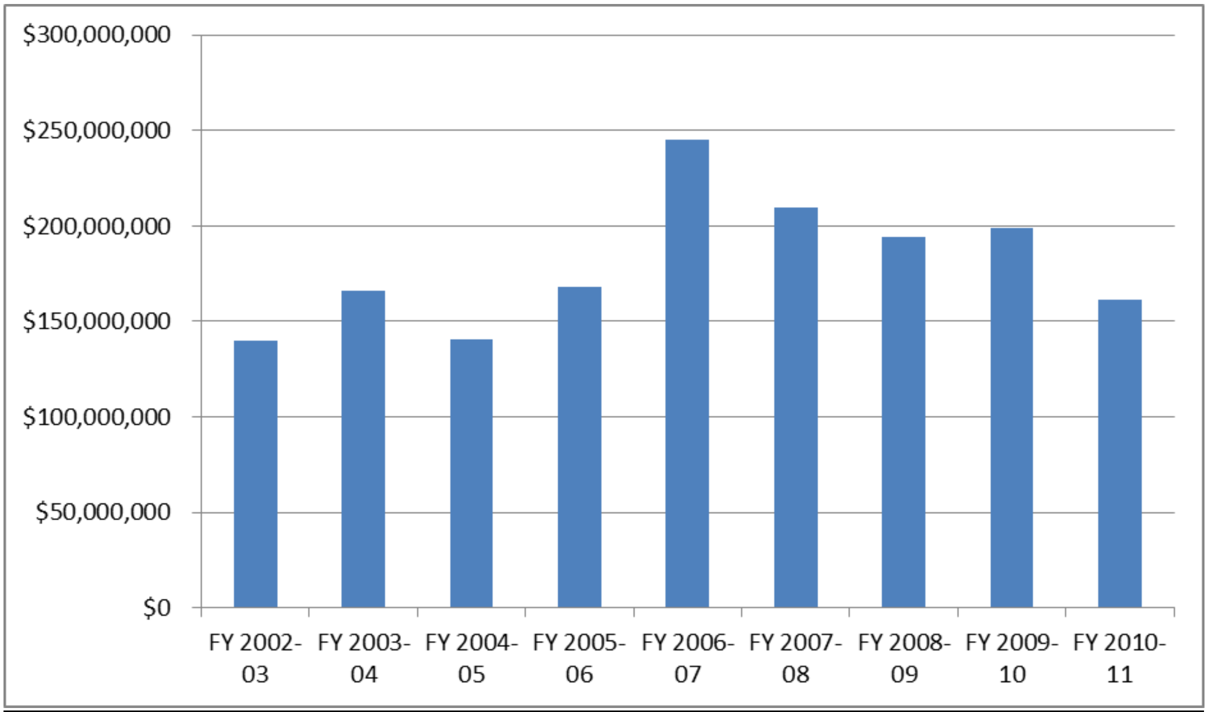
Table 4
City, State, and Federal Financing of the City's Affordable Housing Projects
FY 2002-03 to FY 2010-11

Source of Financing	**Total Financing FY 2002-03 through FY 2010-11**	**Percent of Total**
Tax Increment Revenues and Bond Proceeds	$460,130,116	24%
City Affordable Housing Fund	95,961,640	5%
Developer Contributions and Housing Income	73,371,353	4%
City Hotel Tax or Contributions in Lieu of Hotel Tax	47,623,208	2%
City General Fund	30,000,000	2%
City Proposition A Affordable Housing Bonds	18,053,081	1%
City and Local Sources	**725,139,398**	**38%**
State Propositions 46 and 1C Affordable Housing Bonds	286,129,994	15%
State Tax Credits	57,654,092	3%
California Department of Housing and Community Development	8,190,000	0%
California Housing Finance Agency	4,100,000	0%
State Sources	**356,074,086**	**19%**
Federal Tax Credits	634,609,090	33%
Federal CDBG, HOME, and HOPWA Grants	194,768,626	10%
Federal Sources	**829,377,716**	**43%**
Total City, State, and Federal Sources	**$1,910,591,200**	**100%**

Source: MOH, SFRA, California Tax Credit Allocation Committee, California Department of Housing and Community Development

Chart 1 below shows the total amount of City, State, and Federal financing for the City's affordable housing projects from FY 2002-03 through FY 2010-11. As seen in Chart 1, total City, State, and Federal financing was approximately $245 million in FY 2006-07 and has decreased since FY 2006-07 to approximately $160 million in FY 2010-11. The Attachment to the Introduction provides detailed data on City, State, and Federal financing of the City's affordable housing projects by fiscal year.

Chart 1
Total City, State, and Federal Financing of the City's Affordable Housing Projects
FY 2002-03 through FY 2010-11



State and Federal Tax Credits

State and federal low-income housing tax credits are the major source of financing for affordable housing projects in San Francisco. State and federal low-income tax credits are awarded to affordable housing projects within local jurisdictions based on federal Internal Revenue Service (IRS) and state rules, and are available only for rental housing development.

The Tax Credit Allocation Committee, a division of the State Treasurer's Office, awards tax credits to projects within each local jurisdiction that serve qualified tenants for a minimum of 55 years. The program serves families, homeless persons, persons with special needs, and seniors.

Tax credits are (1) competitive, which provide an approximately 9 percent annual tax credit to eligible projects for ten years; and (2) non-competitive, which provide an approximately 4 percent annual tax credit to eligible projects for ten years. The state program generally mirrors the federal program with some exceptions, including that the credit is available for four years rather than ten years.

- The federal government allocates competitive tax credits, or 9 percent tax credits, to each state equal to $2.15 per capita. The Tax Credit Allocation Committee allocates the competitive tax credits to specific types of projects (such as projects sponsored by non-profits or targeted to individuals with special needs) and to geographic regions within the state, based on population and housing needs. The Tax Credit Allocation Committee awards these tax credits to eligible projects within geographic regions through a competitive process. Projects partially financed by tax-exempt bonds and certain other federal subsidies are not eligible for competitive tax credits.

- Projects that have certain other federal subsidies or are financed with more than 50 percent tax-exempt bonds are eligible for 4 percent annual tax credits. The state ceiling for 4 percent annual tax credits is tied to the state ceiling for issuing private activity tax-exempt revenue bonds. The federal government sets the annual ceiling for each state to issue private activity tax-exempt revenue bonds, which is approximately $75 per capita. The California Debt Limit Allocation Committee, a division of the State Treasurer's Office, allocates the annual state ceiling for issuing private activity tax-exempt bonds to the eligible programs, such as multifamily housing, single family housing, industrial development and other programs, and to priorities within each program, such as low-income or mixed-income multifamily housing.

Housing sponsors can sell the tax credits to investors to obtain financing for the project. Tax credit financing is contributed to the development project over the course of construction and project completion, as provided in the tax-credit regulations.

Tax Increment Bonds

Tax increment revenues and tax increment bonds, which are local sources of financing for affordable housing projects, have made up approximately 24 percent of affordable housing financing. Tax increment revenues have been generated by SFRA as developments within redevelopment areas are completed and generate property tax revenue that exceeds tax revenue prior to development (tax increment). SFRA has issued loans and grants to qualified affordable housing projects within redevelopment areas, using tax increment revenues and tax increment bonds. In order to increase available financing, SFRA has issued tax increment bonds that are repaid with tax increment revenues. SFRA has also contributed tax credit financing to affordable housing projects in San Francisco outside of designated redevelopment areas, in accordance with the Community Redevelopment Law.

Other Local Funding Sources

The City's affordable housing fees, hotel tax, and General Fund are other major sources to finance affordable housing development.

Affordable Housing Fund

Planning Code Section 415 establishes the Citywide Affordable Housing Fund. Affordable housing fee and jobs housing linkage fee[3] revenues are deposited into the fund to finance affordable housing projects. Nearly $96 million in Affordable Housing Fund revenues have been

[3] The job housing linkage fee imposes, with some exemptions, affordable housing requirements upon entertainment, hotel, office, research, and retail development projects proposing a net addition of 25,000 or more square feet throughout the City.

allocated to affordable housing projects since implementation of the Inclusionary Affordable Housing Ordinance in FY 2002-03, as shown in Table 4 above. In addition, jobs housing linkage fees generated in the Transbay Redevelopment Project Area are deposited into the SFRA Low and Moderate Income Housing Fund.

Hotel Tax

Under the Business and Tax Regulation Code, a portion of the City's hotel tax revenue is allocated to rent subsidies and development of affordable housing. These hotel tax revenues are appropriated annually in the MOH budget. However, the Business and Tax Regulation Code allows other City or SFRA funds to supplant the hotel tax revenues allocated to affordable housing development. Therefore, while the City's annual budget sets aside $500,000 to $600,000 for low income rental subsidies, hotel tax revenues for affordable housing development are not consistently appropriated in the annual budget. Rather, SFRA contributes tax increment revenues in lieu of the hotel tax revenues.

General Fund

During the annual budget process, the Board of Supervisors has also appropriated General Fund monies to MOH for the acquisition, construction, or rehabilitation of affordable housing. Total General Fund monies allocated for these purposes from FY 2006-07 through FY 2010-11 were $30 million, of which $11 million were allocated to HOPE SF.

Affordable Housing General Obligation Bonds

The voters approved Proposition A in 1996, authorizing the City to issue $100 million in general obligation bonds to pay for the construction of rental housing for households with annual income no more than 60 percent of the AMI ($85 million) and down payment assistance for first time home buyers with incomes 100 percent or less of the AMI to purchase homes ($15 million). The City issued the bonds in five series from 1998 through 2001.

MOH provided grants and loans, which were combined with other financing to develop approximately 2,000 affordable rental units. Loan repayments subsequently became a source of funds for other projects. As of June 30, 2011, MOH reported an unexpended fund balance of approximately $3.4 million.

Down Payment Assistance

Both MOH and SFRA have administered down payment assistance programs for first time homebuyers.

- MOH administers six down payment assistance programs, including four programs for purchasers of market rate units and two programs for purchasers of below market rate units. These programs provide first time low and moderate homebuyers with down payment loans of between $10,000 and $100,000.

- SFRA has administered several down payment assistance programs, including the California Department of Housing and Community Development program, providing low-interest down payment loans up to $30,000 to first time low and moderate income home buyers, and the SFRA's down payment assistance program, providing loans up to $40,000 for purchasing units in certain redevelopment projects.

Development of Affordable Housing Units

From FY 2002-03 through FY 2010-11, MOH and SFRA have helped finance the development of 10,561 affordable housing units. Non-city agencies, receiving federal or state tax credits, have developed another 1,522 affordable housing units, as shown in Table 5 below. These units include the 1,050 inclusionary units constructed by private developers as part of the City's Inclusionary Affordable Housing Program, plus 236 inclusionary units constructed by private developers in SFRA's redevelopment areas.

Table 5
Development of Affordable Housing Units
FY 2002-03 through FY 2010-11

	Very Low Income (Less than 50% of Area Median Income)				**Low to Moderate Income (50% to 120% of Area Median Income)**				
	MOH	**SFRA**	**Non City**	**Total**	**MOH**	**SFRA**	**Non City**	**Total**	**Total**
Rental									
Senior	831	1,619	443	2,893	0	67	0	67	2,960
Supportive	944	1,105		2,049	50	191	0	241	2,290
Individuals	1,398	135	110	1,643	4	65	0	69	1,712
Family	669	1,102	969	2,740	95	399	0	494	3,234
Inclusionary	0	0	0	0	294	186	0	480	480
Total Rental	3,842	3,961	1,522	9,325	443	908	0	1,351	10,676
Ownership									
Inclusionary	0	0	0	0	756	50	0	806	806
Affordable	21	5	0	26	13	562	0	575	601
Total Ownership	21	5	0	26	769	612	0	1,381	1,407
Total	**3,863**	**3,966**	**1,522**	**9,351**	**1,212**	**1,520**	**0**	**2,732**	**12,083**

Source: MOH, SFRA, Tax Credit Allocation Committee

As shown in Table 5, most affordable housing developed in San Francisco from FY 2002-03 through FY 2010-11 was for individuals or families with very low income (less than 50 percent of the AMI). This corresponds to federal funding sources, which restrict tax credits and other funds to affordable housing developments targeted to individuals or families with incomes that are 60 percent or less than the AMI.

City policy also targets housing development for very low income and individuals with incomes less than 50 percent of the AMI. Although MOH and SFRA financed some housing development for individuals or families with incomes 50 percent or more of the AMI, most affordable housing development for this income group comes from inclusionary housing.

Citywide Affordable Housing Loan Committee

SFRA and MOH have generally provided partial financing to non-profit or for-profit developers through loans. Loan applications are reviewed by the Citywide Affordable Housing Loan Committee, comprised of representatives from SFRA, MOH, the Department of Public Health and the Human Services Agency. The Citywide Affordable Housing Committee recommends loans to the SFRA Commission or Mayor for approval.

According to the Citywide Affordable Housing Loan Committee's underwriting guidelines, qualified borrowers may receive deferred loans from 40 to 75 years, depending on the source of funds. Loan repayment is based on residual receipts generated by the project's rents and other revenues. To defer loan payments, the borrowers must ensure the continuing affordability of the housing units. The underwriting guidelines set various standards for interest, reserves, developer fees, operating costs, and other standards for developing the projects.

Local Operating Subsidies for Supportive Housing

Affordable housing developments that provide supportive housing units for homeless individuals or families often require operating subsidies because these tenants cannot pay sufficient rent to cover the operating and maintenance costs of the supportive housing units. The Department of Public Health and Human Services Agency commit ongoing General Fund subsidies to pay for supportive housing units' operating and maintenance costs. The operating subsidies pay only for operating and maintenance costs for the supportive housing units and not for supportive services.

The Department of Public Health entered into an operating subsidy agreement for the first time in 2006 with the SFRA's nonprofit subsidiary, Public Initiatives Development Corporation, to pay for the operating costs of Plaza Apartments' supportive housing units for homeless individuals. The Local Operating Subsidy Program was formalized when MOH assumed program administration. Under the Local Operating Subsidy Program, the Human Services Agency or Department of Public Health request annual General Fund appropriations to pay for the subsidies, and then transfer the funds to MOH through a work order agreement, who manages the local operating subsidy agreements.

The MOH enters into nine-year contracts with supportive housing facility operators to subsidize the operating costs. Currently, MOH has contracts with operators of 15 supportive housing facilities, subsidizing the operating costs of 777 units, with annual costs of $5.0 million, as shown in Table 6.

Table 6
Annual Local Operating Subsidies
FY 2007-08 to FY 2011-12

	Public Health	Human Services Agency	Total
FY 2007-08	$0	$370,093	$370,093
FY 2008-09	490,696	1,045,746	1,536,442
FY 2009-10	709,304	2,470,102	3,179,406
FY 2010-11	795,842	2,701,135	3,496,977
FY 2011-12	2,023,014	2,936,156	4,959,170
Five Year Total	**$4,018,856**	**$9,523,232**	**$13,542,088**

Source: MOH

HOPE SF

The San Francisco Housing Authority owns 6,255 public housing units in 48 facilities. From 1998 through 2006, HUD financed redevelopment of six public housing developments, totaling 756 housing units, in a program known as HOPE VI. Under HOPE VI, the Housing Authority leases the land for up to 75 years to nonprofit or for-profit developers, who redeveloped, operate and maintain the public housing developments.

Because the Housing Authority has been unable to obtain additional HUD financing for redevelopment of other high-need public housing developments, MOH and SFRA have partially financed five public housing developments through HOPE SF. Under HOPE SF, the Housing Authority will enter into long-term ground leases with for-profit or nonprofit developers to redevelop the existing sites as mixed income developments. The housing developments will be financed through a combination of federal grants, federal tax credits, state loans, tax increment bond proceeds, Affordable Housing Fund revenues, and developer contributions. Each housing project will be developed in phases, with the initial phase redeveloping existing public housing units and additional affordable rental units, with subsequent phases developing below market rate ownership and market rate units.

MOH and SFRA have entered into Memoranda of Understanding (MOUs) with the Housing Authority for redevelopment of Hunters View and Alice Griffith housing projects.

- Hunters View Associates, a partnership comprised of The John Stewart Company (a for-profit developer), Devine & Gong, Inc. (a for-profit developer), and Ridgeview Affordable Housing, Inc. (a non-profit developer), will develop 740 total units at Hunters View, of which 350 are affordable rental units, for estimated costs of $204.4 million. Construction of Hunters View began in 2011 with completion of the first phase in 2013.

- Lennar Corporation and McCormack Baron Salazar, Inc., both for-profit developers, and a to-be-determined non-profit developer, will develop 1,210 total units at Alice Griffith, of which 504 are affordable rental units, for estimated costs of $201.8 million. In August 2011, HUD awarded a $30.5 million Choice Neighborhoods grant for the development of Alice Griffith.

- Mercy Housing Corporation, a nonprofit developer, in partnership with Related Companies, a for-profit developer, will develop 1,700 total units at Sunnydale, of which 1,006 will be affordable rental units, for estimated costs of $387.8 million. The Sunnydale project is in the planning and design phase.

- BRIDGE Housing Corporation, a nonprofit developer, will develop 1,604 total units at Potrero, of which 983 will be affordable rental units, for estimated costs of $449.6 million. The Potrero project is in the planning and design phase.

- Westside Courts is in the assessment phase.

	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Total
Tax Increment Revenues and Bond Proceeds	35,139,000	48,665,000	33,384,000	44,271,000	60,836,096	45,253,082	71,004,271	59,737,934	61,839,733	460,130,116
City Affordable Housing Fund	0	12,544,408	3,747,755	0	26,871,420	18,434,628	24,166,911	4,808,034	5,388,484	95,961,640
Developer Contributions and Housing Income	1,100,000	13,000,000	3,882,000	7,600,000	5,000,000	11,965,000	17,094,649	8,449,454	5,280,250	73,371,353
City Hotel Tax or Contributions In Lieu of Hotel Tax	5,436,000	4,825,000	5,000,000	5,000,000	5,362,208	5,000,000	5,000,000	5,000,000	7,000,000	47,623,208
City General Fund	0	0	0	0	19,000,000	5,000,000	2,000,000	2,000,000	2,000,000	30,000,000
City Proposition A Affordable Housing Bonds	0	13,000,000	824,706	679,000	2,668,302	681,073	200,000	0	0	18,053,081
City and Local Sources	41,675,000	92,034,408	46,838,461	57,550,000	119,738,026	86,333,783	119,465,831	79,995,422	81,508,467	725,139,398
State Propositions 46 and 1C Affordable Housing Bonds (9 Year Total)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	286,129,994
State Tax Credits	0	0	0	(9,461,140)	0	23,410,624	30,308,168	13,396,440	0	57,654,092
California Department of Housing and Community Development	0	0	0	0	0	0	0	8,190,000	0	8,190,000
California Housing Finance Agency	1,500,000	0	0	0	2,600,000	0	0	0	0	4,100,000
State Sources	1,500,000	0	0	(9,461,140)	2,600,000	23,410,624	30,308,168	21,586,440	0	356,074,086
Federal Tax Credits	75,758,390	50,841,780	70,507,480	97,786,860	105,282,610	80,685,560	22,731,130	74,480,250	56,535,030	634,609,090
Federal CDBG, HOME, and HOPWA Grants	21,251,477	23,130,000	23,325,879	22,356,032	17,332,156	19,045,729	21,775,215	23,026,842	23,525,296	194,768,626
Federal Sources	97,009,867	73,971,780	93,833,359	120,142,892	122,614,766	99,731,289	44,506,345	97,507,092	80,060,326	829,377,716
Total City, State, and Federal Sources	**140,184,867**	**166,006,188**	**140,671,820**	**168,231,752**	**244,952,792**	**209,475,696**	**194,280,344**	**199,088,954**	**161,568,793**	**1,910,591,200**

1. Planning Department and Commission Role in Meeting the City's Affordable Housing Needs

- **The Association of Bay Area Governments (ABAG) develops a Regional Housing Needs Allocation that establishes housing goals for each Bay Area jurisdiction as mandated by the State's Department of Housing and Community Development. San Francisco's "fair share" of this Allocation is incorporated into the Housing Element of the General Plan, which is the planning document for the City's housing policies.**

- **Historically, San Francisco, like other Bay Area jurisdictions, has not met its housing goals for other than market rate housing development. San Francisco is unlikely to meet its 2007-2014 housing goals, particularly for low and moderate-income housing.**

- **The Planning Commission is responsible for (1) formulation and adoption of long term housing planning policy and (2) approval of individual conditional use housing development applications for projects that do not qualify for approval "as of right". Planning Department staff evaluate conditional use applications and submit reports to the Commission. These reports use standardized language to discuss the basis for project approval, including how the project meets the objectives of the Housing Element. The reports do not evaluate the extent to which specific residential projects contribute to the City's housing goals for different income levels (e.g. very low-income vs. low- or moderate-income). Commission consideration of proposed projects focuses largely on the project at hand and not the impact of an individual project on the City's goals for long-term housing development.**

- **The Planning Commission needs a better-organized and more comprehensive summary of data and more comprehensive staff evaluations of current and projected housing development at various levels of affordability to support its housing policy planning role. At the Commission's request, the Planning Department provided the first quarterly report to the Commission on progress towards meeting housing goals in August 2011. These reports should be revised to include information on the unit type and income level of proposed projects under review, including how units will address the City's allocation of the Regional Housing Needs assessment.**

Housing Allocation and City Policies

The Association of Bay Area Governments (ABAG) develops the Regional Housing Needs Plans every seven years for the San Francisco Bay Area, including Alameda, Contra Costa, Marin, Napa, San Francisco, Santa Clara, San Mateo, Solano and Sonoma counties, in accordance with State law. ABAG's *San Francisco Bay Area Housing Needs Plan 2007-2014*, published in June 2008, documents the Bay Area's Regional Housing Needs Allocation. The Regional Housing Needs Allocation is a state mandated process for determining how many housing units, including affordable units that each community must plan to accommodate. In the most recent Regional Housing Needs Allocation, ABAG assigned San Francisco 31,000 units of the total State-assigned Bay Area housing need of 214,500 units.

The Regional Housing Needs Plan is intended to:

(1) Increase the housing supply and the mix of housing types, tenure, and affordability equitably;

(2) Facilitate infill development and socioeconomic equity, the protection of environmental and agricultural resources, and encourage efficient developing patterns;

(3) Improve the intra-regional relationship between jobs and housing and allocate a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category; and,

(4) Allocate a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category.

Regional Housing Need Determination and Housing Allocations

The State of California's Department of Finance works with regional Councils of Governments, such as ABAG, to determine the amount of housing needed within each region, and issues a Regional Housing Needs Determination. Regional housing need is determined by estimating existing and projecting future housing need based on household growth.

Projected need is based on population growth whose components are:

(1) Births minus deaths, or the natural increase;

(2) Migration; and

(3) Household formation rates[1].

By applying the 2004 household formation rates to regional population forecasts, ABAG and the State arrived at a projected regional need for the Bay Area of 214,500 housing units.

[1] New households can be formed either when children move out of their parents' homes, when couples separate or when unrelated individuals choose to live singly after previously sharing a residence.

Regional Housing Needs Allocation

The Regional Housing Needs Allocation is a State mandated process for distributing the regional housing need at five income levels among jurisdictions in a given region. Local jurisdictions plan where and how the allocated housing will be developed within their jurisdictions through the Housing Element of each General Plan. Although jurisdictions typically plan to meet the majority of their housing goals through new construction, they may also do so through rehabilitating, preserving or acquiring housing at the five income levels.

Although local jurisdictions are obligated to take steps to meet the Regional Housing Needs Allocation goals, the inability to meet the goals carries no legal penalty. The City, through its Housing Element, has identified adequate sites for the approximately 31,000 units it has been allocated among the five income levels, and reports its progress on producing the allocated housing to the State Department of Housing and Community Development. The actual production for most of this housing above the lowest income level relies on private sector housing development, as well as affordable housing financed by local, state, and federal funds.

Allocations Methodology Committee

ABAG established a Housing Methodology Committee in May 2006 in order to allocate its housing goals for the 2007-2014 Regional Housing Needs Allocation. The Housing Methodology Committee was made up of planners and planning directors from Bay Area jurisdictions, representatives of Bay Area governments, environmental groups, and residential builders, who worked with ABAG staff to develop a methodology for the allocation of units by income category to each city and county in the Bay Area region. This allocation of need assigns each local jurisdiction the number of housing units by affordability level that they must plan to accommodate in the current housing element cycle (2007 to 2014).

San Francisco Planning Department staff participated in the Housing Methodology Committee, but no planning commissioners from the San Francisco Planning Commission or from any other Bay Area Planning Commission participated. At least one member of the San Francisco Planning Commission has stated that the method by which ABAG allocates housing among jurisdictions in the nine Bay Area counties is unclear. As the allocation of housing goals is central to the City's housing policies, the Director of Planning should ensure that members of the Planning Commission understand and are kept abreast of the regional housing needs determination and allocation process.

San Francisco is not meeting its housing goals

San Francisco is falling short of the City's regionally assigned goals, particularly for low and moderate-income housing. This pattern is consistent with the historical performance of other large cities in the Bay Area. While the City is on pace to meet 67 percent of its overall housing goal, at the current rate of production it will only achieve 16 percent of its goal for low-income housing and 25 percent of its goal for moderate-income housing by 2014, as shown in Table 1.1 below. In contrast, at the current rate of production, the City is projected to exceed its goal for market-rate housing by 13 percent. However, these straight-line projections of housing production may be unreliable given historic fluctuations in housing production.

Table 1.1
San Francisco Housing Production Projection through June 2014

Income as a Percentage of Area Median Income (AMI)	Regional Housing Needs Allocation 2007 - 2014	Total Units Completed Through Dec 2010	Total Units Projected to be Completed by June 2014 at Current Production Rate	Percentage of Target Projected to be Met by June 2014
Extremely Low (< 30% of AMI)	3,294	1,095	2,042	62%
Very Low (31% to 49% of AMI)	3,295	1,218	2,274	69%
Low (50% to 79% of AMI)	5,535	470	886	16%
Moderate (80% to 120% of AMI)	6,754	906	1,702	25%
Market (> 120% of AMI)	12,315	7,428	13,916	113%
Total	**31,193**	**11,117**	**20,820**	**67%**

Source: Planning Department Quarterly Housing Production Report Presented to Commission on August 11, 2011

The City's projected inability to meet regionally assigned housing goals is consistent with historical performance of the largest Bay Area jurisdictions. As shown in Table 1.2 below, none of the three largest Bay Area jurisdictions - San Jose, San Francisco, and Oakland - were able to meet their housing allocation for below market rate affordability levels during the last eight-year cycle (1999-2006). Bay Area jurisdictions have generally exceeded their goal allocation for market rate housing while falling short of their goals for below market rate housing. None of the jurisdictions in the Bay Area met their Regional Housing Needs Allocation goals for below market rate housing.

Table 1.2
Achievement of Regional Housing Needs Allocation Goals by Jurisdiction
1999 to 2006

Income as a Percentage of Area Median Income (AMI)	San Jose	San Francisco	Oakland
Very Low (31% to 49% of AMI)	88%	82.8%	24%
Low (50% to 79% of AMI)	180%	52.4%	65%
Moderate (80% to 120% of AMI)	13%	12.9%	8%
Market (Above 120% of AMI)	166%	153.4%	222%
Total	110%	85.7%	91%
Total Excluding Market Rate	**67%**	**47.5%**	**26%**

Source: Current Housing Elements for San Francisco, San Jose and Oakland:

Historically, San Francisco and most other local jurisdictions have had the most difficulty in meeting housing needs for moderate income households. From 1999 to 2006, San Francisco and San Jose achieved 13 percent of their housing goals while Oakland achieved only 8 percent. The primary barrier to meeting below market rate housing goals for most jurisdictions, including San Francisco, is inadequate funding, as discussed in Section 5 this report.

Housing Goals for Extremely Low and Very Low Income Households

The actual production of very low-income housing in San Francisco increased in 1999 to 2006 compared to 1989 to 1998, as shown in Table 1.3 below. Although San Francisco has made substantial improvement in meeting the very low income housing goals since the 1989 to 1998 Regional Housing Needs Allocation, the City is projected to meet only 66 percent of 2007 to 2014 housing goals for these households.

Table 1.3
Comparison of San Francisco's Actual Housing Production to Regional Housing Needs Allocation Goals
1989 to 1998, 1999 to 2006, and 2007 to 2004

Income as a Percentage of Area Median Income (AMI)	**Percent of Housing Production to Regional Housing Needs Allocation Goals**		
	1989-1998	**1999-2006**	**2007-2014 (as of December 2011)**
Extremely Low (< 30% of AMI)[1]	n/a	n/a	62%
Very Low (31% to 49% of AMI)	39.3%	82.8%	69%
Subtotal, Extremely Low and Very Low Income	39.3%	82.8%	66%
Low (50% to 79% of AMI)	40.6%	52.4%	16%
Moderate (80% to 120% of AMI)	11.9%	12.9%	25%
Market (> 120% of AMI)	106.0%	153.4%	113%
Total	**56.6%**	**85.2%**	**67%**

Source: City and County of San Francisco Housing Elements

[1] Prior to 2007 to 2014, the Regional Housing Needs Allocation categorized the housing goals for households with income less than 50 percent of the AMI as "very low income".

The Housing Element's Incorporation of Housing Goals

The roles of the Planning Department and the Planning Commission in meeting the housing needs of San Francisco are primarily to:

(1) Align the City's long term planning with the regional eight-year housing goals through the adoption of updated General Plan Housing Elements; and,

(2) Review and approve all residential permits and licenses dependent on the Planning Code.

State law requires that each city and county adopt a General Plan that comprises seven mandatory elements, including a Housing Element. The Housing Element requirement mandates that local governments plan for existing and projected housing need. The Housing Element requirement is the State's "primary market based strategy to increase housing supply, affordability and choice."

Local governments must update their Housing Elements according to a schedule set by the Department of Housing and Community Development. Depending on the region, localities update their Housing Elements every five to seven years.

Department of Housing and Community Development staff work with city and/or county staff (typically in the jurisdictions' Planning Department) during the drafting process, certify that the Housing Element complies with statutory requirements, and report this compliance to the State legislature. Adoption of a compliant Housing Element is a requirement or rating criteria for a number of state housing related, community development, and infrastructure funding programs.

State Code requires each local government body to prepare an annual progress report on the status and progress in implementing the jurisdiction's housing element. San Francisco did not submit a full annual progress report this year because its Housing Element was only recently adopted. Instead, the City has submitted the first Quarterly Housing Production Report (Table 1.4 below) that shows housing production to date since adoption of the Element.

Housing Element Adoption and Implementation

The Planning Commission adopted San Francisco's Housing Element along with associated California Environmental Quality Act (CEQA) findings on March 24, 2011. The Housing Element was completed after a community-based planning process that lasted approximately two years and involved Planning Department sponsored community workshops, three Planning Commission hearings, and consultation with a 15 member Community Advisory Body with membership from each of the eleven supervisor districts.

The Housing Element is also a set of policy guidelines intended to guide the Mayor, Board of Supervisors and the Planning Commission. According to Planning Department staff, the Housing Element's citizens advisory body proposed three additional policy areas that are reflected in the element including:

1. Maintenance of San Francisco's diverse neighborhood character;

2. Balancing housing development and community infrastructure; and,

3. Prioritizing sustainable development.

The Housing Element itself does not change zoning, supplant the entitlement (planning permit) process for proposed projects, or make changes to density or height restrictions in any part of the City. Rather, the Housing Element outlines the City's strategies to remove barriers to housing development especially for below market rate levels units as outlined below.

The Planning Commission does not receive a sufficiently comprehensive evaluation of the City's achievement of its housing goals

Prior to August 2011, the Planning Commission did not receive regular information on the City's achievement of its housing goals. At the request of the Planning Commission, the Planning Department submitted the first quarterly report to the August 11, 2011 Planning Commission on the City's progress in meeting the Regional Housing Needs Allocation goal at each of the five mandatory income levels. According to the August 11, 2011 report, the City had housing shortfalls for all income categories, except market rate, with a shortfall as of the end of 2010 of 6,382 units.

Table 1.4
Regional Housing Needs Allocation Goals and Actual Production
2007 to 2010

	Number of New Units 2007 to 2010			
Income as a Percentage of Area Median Income (AMI)	**Goals**	**Actual**	**Shortfall of Actual to Goals**	**Percent of Actual to Goals**
Extremely Low (< 30% of AMI)	1,760	1,095	665	62%
Very Low (31% to 49% of AMI)	1,757	1,218	539	69%
Low (50% to 79% of AMI)	2,952	470	2,482	16%
Moderate (80% to 120% of AMI)	3,602	906	2,696	25%
Market (> 120% of AMI)	6,568	7,428	-	113%
Total	**16,639**	**11,117**	**6,382**	**67%**

Source: Planning Department

According to Planning Department staff, the next report will not be submitted to the Planning Commission until Spring, 2012 when the Planning Department submits the annual Housing Inventory due to a position vacancy in the Information and Analysis Unit.

The Planning Department also collects and reports detailed data on the current and projected status of housing production in the medium term.

- The annual Housing Inventory surveys housing production trends and changes in housing stock. According to the 2010 Housing Inventory, the report provides a basis for evaluating the Housing Element's housing production goals and policies. The 2010 Housing Inventory is a descriptive document, presenting data on the number and types of housing constructed or rehabilitated, location and affordability of new housing units, and comparison of housing development to prior years.

- The Pipeline Report provides a quarterly assessment of development trends in the short to medium term, and includes the number of housing units that have applied for or received planning and building permits or are under construction. The Pipeline Report is an overview of development but acknowledges that not all development will be completed. Also, because the data is derived from several databases, it is subject to varying accuracy and currency of the original sources.

The Planning Code and Procedural Changes

Planning Code Changes and Implementation of Area Plans

State Housing Element law requires jurisdictions to describe their efforts to identify sites to accommodate their "fair share" allocation and to remove barriers that would impede development of their share of the regional housing need. Planning Code changes and new Area Plans have facilitated housing development through favorable zoning requirements or procedures.

<u>Increased Density</u>

A number of the City's Area Plans[2] adopted over the last five years, in combination with changes to the Planning Code, have allowed higher density housing in areas of the City best able to accommodate such housing due to proximity to public transit. These plans have removed restrictions on residential density in some zoning districts, including some neighborhood commercial districts and mixed used districts in the Eastern Neighborhoods (Central Waterfront, East Soma, Mission and Show Place Potrero). This has also resulted in the creation of Downtown Residential Districts in the Rincon Hill Area Plan area.

Density Incentives

In addition to new zoning districts that allow for increases in density, numerous density bonus incentives and relaxation of regulations have been implemented in the Planning Code to encourage housing development for special populations and low-income residents. These have included:

(1) Allowance of double density for dwellings designed and occupied by seniors in neighborhood commercial and residential districts;

(2) Removal of density controls in residential transit oriented districts for affordable dwelling units; and,

(3) Exemption from dwelling unit mix requirements for 100% affordable buildings in residential transit oriented and neighborhood commercial transit districts, and Eastern Neighborhoods.

<u>Programmatic Environmental Impact Reports</u>

Area Plans allow programmatic Environmental Impact Reports required by CEQA, which are applicable to the entire plan area, rather than project-specific Environmental Impact Reports.

[2] Eastern Neighborhood Area Plans include the following: Mission, Central Waterfront, East Soma, and Show Place Potrero. Additionally the Board of Supervisors has adopted Area Plans for Rincon, Balboa Park and Executive Park. The Redevelopment Agency has adopted Area Plans for Bay View Hunters Point and Candlestick Point and Vistacion Valley.

Programmatic Environmental Impact Reports facilitate residential development by streamlining the CEQA review process for individual projects and reducing the related costs. Because entitlement applications for major residential developments have decreased since 2008, we cannot determine whether programmatic Environmental Impact Reports have accelerated the entitlement process for multi-unit residential developments. In FY 2010-11 only 12 large condominium/apartment projects were entitled through the conditional use application process and three of these involved re-entitlement or modification of past entitlements.

Reduced Parking Requirements

A number of the City's Area Plans combined with Planning Code changes have permitted reduction in parking requirements and unbundling of the sale of dwelling units from parking spaces. Unbundled parking has resulted in a cost reduction for buyers and renters in the City's inclusionary housing program who choose to forgo parking as explained in Section 2 of this report.

Preliminary Project Assessments

In February 2011, the Planning Department implemented a revised Development Review process. A preliminary review called Preliminary Project Assessment is now required for any project proposing to add six or more dwelling units or construct more than 10,000 square feet of non-residential space. The purpose of the Preliminary Project Assessment is to help alert developers, regardless of the income goals of their projects, to potential issues before costly modifications are needed.

The Preliminary Project Assessment allows the Department to coordinate internal review and provide preliminary feedback to developers early in the process for moderate and large projects. The Assessment is intended to give applicants an understanding of the approval process, make them aware of any issues that may need to be addressed and to take into account potential project modifications before applicants file for an Environmental Review or for Entitlement Applications. Long range planning, current planning and the environmental review units participate in preliminary project reviews.

Linking Affordable Housing Goals to Project Approval

The Planning Commission must approve residential projects that can not be built "as of right" under the Planning Code. Planning Department staff evaluates these projects and recommends conditions of approval to the Planning Commission to ensure conformance with Planning Code. The Planning Commission approves planning permits (or entitlements) for these projects that include specific conditions to ensure the project's conformance with the Planning Code or Area Plan.

Planning Department staff reports do not sufficiently evaluate the impact of residential projects on housing goals

Written reports by Planning Department staff to the Planning Commission do not sufficiently explain how residential projects contribute to Housing Element goals. The Department's staff reports contain standardized language when discussing the basis for recommending entitlement approval, including findings that the project conforms to the Planning Code and an enumeration of the objectives in the Housing Element and applicable Area Plans that the project advances.

Planning Commission consideration of proposed projects focuses largely on the project at hand and not the role of an individual project in long term housing development. Developers are required to indicate whether their projects are rentals or for purchase and how they intend to meet the City's inclusionary housing requirement, including the number of on-site inclusionary housing units if applicable. However, Planning Department staff reports to the Commission do not evaluate the extent to which specific residential projects contribute to the City's housing goals for different income levels (e.g. very low-income vs. low- or moderate-income).

Planning Department staff have stated that measures are being taken to implement Measure #1 of the recently adopted Housing Element. This measure directs Planning staff to provide data to the Commission on the expected unit type and income level of any proposed projects or area plans under review, including how such units would address the City's fair share of the Regional Housing Need.

Planning Department staff reports do not evaluate the impact of affordable housing fees paid by developers in lieu of constructing inclusionary housing because information on the type of housing financed by the fees is not available until the projects been entitled by the Commission. As noted in Section 4 of this report, affordable housing financed by affordable housing fees serves different populations and geographic locations than inclusionary housing. Planning Department staff would need to coordinate with the Mayor's Office of Housing, which administers the affordable housing fee, in order to present an evaluation to the Commission on the impact of affordable housing fees in lieu of inclusionary housing on meeting the City's housing goals.

Conclusions

The City has historically not met the housing goals defined by the Regional Housing Needs Allocation and contained in the Housing Element of the General Plan, especially for affordable housing. Until recently, the Planning Commission has received limited information on how approval of specific housing developments meets the goals of the Housing Element. While the Planning Department began submitting quarterly reports to the Planning Commission on the City's meeting of specific housing goals, these reports need to incorporate more detailed assessments of current and future housing production and the City's achievement of Housing Element policies and goals.

Recommendations

The Director of Planning should:

1.1 Report to the Planning Commission on the regional housing needs determination and assessment process and organize co-jointly with ABAG a workshop or tutorial on the regional housing needs determination and assessment process for the San Francisco Planning Commission and other interested Bay Area Planning Commissioners in late 2012 or early 2013.

1.2 Present an informational report to the Planning Commission on San Francisco's housing need allocation prior to final adoption by ABAG of the next regional housing allocation.

1.3 Direct staff members to revise staff report templates to the Planning Commission so that they include data on the expected unit type and income level of any proposed projects or area plans under review, including how such units would address the City's fair share of the Regional Housing Need.

1.4 Resume providing the Planning Commission with a Quarterly Housing Production Report once the Department's Information and Analysis Unit is again fully staffed.

1.5 Direct staff to coordinate with MOH as necessary in order to report to the Planning Commission within the next and subsequent annual Housing Inventories on the use of affordable housing fees including the location, tenure (ownership or rental) and affordability level of housing built with funding from affordable housing fees.

1.6 Include in the annual Housing Inventory an evaluation of (a) how residential projects entitled in the preceding calendar year contributed to the City's housing goals for each income level and to the Housing Element's policies and objectives; (b) how entitled housing projects met inclusionary housing or affordable housing fee requirements, and their expected impact on achieving the City's housing goals for each income level; (c) whether entitled housing projects advanced various Area Plan goals and objectives and (d) the current and projected status of housing development in the City compared to the City's housing goals.

Costs and Benefits

While the Planning Department collects and reports detailed data on the City's current and projected housing production, these recommendations would require additional staff time to further assess and report the data. The Planning Department will need to work with the Planning Commission to ensure that the allocation of staff resources is appropriate to provide the Commission the necessary information to formulate and oversee policy.

2. Implementation of Transit-Oriented Housing

- **A regional plan for transit oriented housing has not yet been implemented. The Association of Bay Area Governments (ABAG), which is the agency responsible for developing the Regional Housing Needs Plan, and the Metropolitan Transportation Commission (MTC) expect to develop a long-range transportation, land-use, and housing plan by 2013 to comply with State legislation. This long-range plan will incorporate the Regional Housing Needs Plan.**

- **San Francisco's general plans for transit-oriented housing can be identified in several Area Plans and zoning districts. However, specific transit-oriented districts were implemented in the Planning Code in 2008 to increase density while promoting affordable housing development, transportation alternatives to private vehicles, and sustainable growth.**

- **Under the Planning Code, the Planning Commission can approve variations in permitted Conditional Uses within transit-oriented districts. For example, the Planning Commission approved a 60 percent increase in parking spaces, from 10 to 16, for a 13 unit residential development on Dolores Street.**

- **The Planning Code's Inclusionary Affordable Housing provision requires developers to pay affordable housing fees and allows them to construct on-site inclusionary housing. Affordable housing fees finance housing that differs in housing type, location, and target populations than inclusionary housing. Approximately 19 percent of new housing development in transit-oriented districts since 2008 is affordable housing, or 24 of 126 new housing units. Whether a developer pays affordable housing fees or constructs on-site inclusionary housing may impact affordable housing development in transit-oriented districts.**

- **Approval of additional parking, payment of affordable housing fees rather than construction of on-site inclusionary housing, and other actions shape transit-oriented districts. While the Planning Department compiles such information in periodic monitoring reports for Area Plans, compiling and reporting on the *cumulative* impact of such actions or approvals, which could alter the intention of the transit-oriented districts, should be more frequent.**

Regional Transit Oriented Development Policies

At present, there are no regional measures for evaluating San Francisco's implementation of affordable housing in transit-oriented development sites. The Association of Bay Area Governments (ABAG), the regional Council of Government for the San Francisco Bay Area, and the Metropolitan Transportation Commission (MTC), the Bay Area region's transportation planning, coordinating and financing agency, have traditionally provided jurisdictions with resources for encouraging transit-oriented development. ABAG and MTC are currently in the planning stages to incorporate the State mandated Regional Housing Needs Plan with the State mandated Sustainable Communities Strategy, which includes transit-oriented development.

According to ABAG, transit-oriented development refers to development at a transit access point, typically a train or ferry station or bus stop, surrounded by a mix of land uses, including housing, retail, employment, schools, parks, and other community amenities. Transit-oriented developments, in general, share the following components:

- Easy access for pedestrians and bicyclists to and from access to public transit;
- Activities used by transit riders either before or after their transit trips, such as retail shops and services; and,
- Higher density of residential units and higher intensity of retail and office spaces.

Regional Voluntary Program

In 2007, the ABAG, MTC, the Bay Area Air Quality Management District, and the Bay Conversation and Development Commission developed the FOCUS program, a voluntary, incentive-based regional development and conservation strategy that promotes a more compact land use pattern for the Bay Area. Under FOCUS, local governments apply to have plan areas or projects identified as "Priority Development Areas," or development in vacant areas in city centers or urban settings near transit. The four regional agencies then work to direct existing and future financial incentives to the Priority Development Areas. According to ABAG, all of the City and County of San Francisco's plan areas were approved as Priority Development Areas.

State Mandated Regional Plan

In October of 2008, the State Legislature passed SB 375, which requires the 18 California regions to develop an integrated transportation, land-use, and housing plan known as a Sustainable Communities Strategy. Since the passage of SB 375, ABAG and the MTC have been trying to transition the voluntary FOCUS program into Plan Bay Area, a mandatory regional plan for sustainable land use, transportation and housing. According to ABAG staff, the current list of Priority Development Areas, including all of San Francisco's area plans, could be included in the Plan Bay Area, but plans have not been finalized. ABAG staff currently estimate that the planning efforts for Plan Bay Area will culminate in 2013 with an adopted plan that details a 25-year transportation investment and land-use strategy for 2015-2040.

Other Regional Transit-Oriented Development Policies

MTC adopted its existing Transit-Oriented Development policy in 2005, which only applies to physical transit extensions funded by MTC's Resolution 3434. The San Francisco Municipal Transportation Agency (SFMTA) New Central Subway project is one of the approved transit extension projects that must, under MTC's Transit-Oriented Development policy, have an adopted Station Area Plan that commits to the development of housing that meets corridor-level thresholds[1] and includes various elements of addressing areas of concern for transit-oriented development, such as pedestrian access to transit, development of both residential and commercial uses, and reduction of parking demand.

San Francisco's Transit-Oriented Development Policies

San Francisco's Housing Element, adopted in March 2011, includes general policy statements regarding transit-oriented development. These policy statements include:

- 1.10: Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips;
- 12.1: Encourage new housing that relies on transit use and environmentally sustainable patterns of movement;
- 13.1: Support "smart" regional growth that locates new housing close to jobs and transit; and,
- 13.3: Promote sustainable land use patterns that integrate housing with transportation in order to increase transit, pedestrian, and bicycle mode share.

In addition, the Transit First Policy, Transportation Element, various Area Plans and Redevelopment Plans promote and contain policies on transit-oriented development. Further, several zoning districts have parking requirements that require less than one parking space to one dwelling unit, including residential housing districts throughout San Francisco, to encourage the use of transit.

The San Francisco Planning Code was amended in 2008 to adopt transit-oriented zoning districts to increase density while promoting affordable housing development, transportation alternatives to private vehicles, and sustainable growth. These districts are Neighborhood Commercial Transit Districts (NCT-1, NCT-2, and NCT-3); Residential, Transit-Oriented Neighborhood Districts (RTOs); and Residential Transit-Oriented-Mission Neighborhood District (RTO-M).[2] Each of these districts has the following requirements in common, which are consistent with regional organizations' transit-oriented development guidelines:

[1] Light rail projects are required to meet a housing threshold of approximately 3,300 housing units within a half mile of each station in the project. New below market rate housing is provided a bonus and is considered 1.5 units, as opposed to 1 unit toward meeting housing unit thresholds.

[2] There are also Neighborhood Commercial Transit Districts named after specific streets or neighborhoods, which includes: the Hayes-Gough, Valencia Street, 24th Street – Mission, Upper Market Street, SoMa, Mission Street, and Ocean Avenue Neighborhood Commercial Transit Districts.

- Residential units within walking distance from transit, generally within ¼ mile;
- Mixed-use development with commercial use on the lower floors and housing/residential use above;
- Restrictions on access to off-street parking and loading in some locations to enhance the pedestrian-oriented character and transit function; and,
- Conditional or no density limit by lot area.

The lack of density limits for developments in transit-oriented zoning districts facilitate the City's ability to develop affordable housing as higher density tends to result in smaller, more affordable housing units.

The following is a description of the major differences between each of the transit-oriented zoning districts:

Sec. 733A.1. NCT-1—Neighborhood Commercial Transit Cluster District – Small mixed-use clusters with small-scale, neighborhood–serving commercial uses mixed with residential uses.

Sec. 734.1. NCT-2—Small-Scale Neighborhood Commercial Transit District – Commercial use is intended to provide convenience goods and services to the surrounding neighborhoods as well as limited comparison shopping goods for a wider market.

Sec. 731.1. NCT-3—Moderate-Scale Neighborhood Commercial Transit District – Commercial uses offer a wide variety of comparison and specialty goods and services to a population greater than the immediate neighborhood, while additionally providing convenience goods and services to the surrounding neighborhood.

Sec. 206.4 RTO—Residential, Transit-Oriented Neighborhood District – Only commercial use compatible with housing is permitted and auto-oriented uses are not permitted (i.e. gas stations or auto shops).

Sec. 206.5 RTO-M—Residential, Transit-Oriented-Mission Neighborhood District – This transit zoning district is similar to RTO, but specifically for the Mission District.[3]

Off-Street Parking Ratios

Table 2.1 below is a summary of the various restrictions to access to off-street parking within each transit-oriented zoning district in the form of parking ratios. As shown, maximum parking ratio requirements exist and contribute to the promotion of transit use. When the parking ratio is less than one parking space to one residential unit, it is assumed that residents without a parking space will not own a car and will utilize nearby transit for a majority of their travel. Additionally,

[3] The Mission District is defined as the land area South of Duboce Avenue/Thirteenth Street and the US 101 freeway overpass, West of Potrero Avenue, North of Cesar Chavez Street, East of Delores Street (North Mission) and East of Guerrero Street (Southern Mission).

lower parking ratios could help the City meet its housing targets as more space becomes available for housing as opposed to parking. Further, less parking could contribute to the affordability of housing because units without a parking space could be sold or rented for a cheaper price.

However, the Planning Commission is able to approve Conditional Use permits for parking ratios within residential developments that are higher than the parking ratios that are initially permitted within the zoning district, up to a limit of .75 or 1 parking space per dwelling unit. Approval of Conditional Use permits could potentially diminish the intended impact of lower parking ratios as: (1) additional parking could encourage some residents to use cars instead of transit for travel if they are provided a parking space; (2) less housing units could be developed in the same amount of space; and, (3) the provision of parking could increase the price of housing.

Table 2.1
Residential Parking Ratios in Transit-Oriented Zoning Districts

District	Permitted	Conditional Use	Not Permitted
NCT-1	≤ .5	>.5 and ≤ .75	>.75
NCT-2	≤ .5	>.5 and ≤ .75	>.75
NCT-3	≤ .5	>.5 and ≤ .75	>.75
RTO	≤ .75	>.75 and ≤ 1	>1
RTO-M	≤ .75	>.75 and ≤ 1	>1

Source: SF Planning Code

In accordance with Planning Code 151.1(g), the Planning Commission must make the following affirmative findings in order to grant Conditional Use permits for off-street, or accessory, parking in transit-oriented development zoning districts:

- Vehicle movement on or around the project does not unduly impact pedestrian spaces or movement, transit service, bicycle movement, or the overall traffic movement in the district;
- Accommodating excess accessory parking does not degrade the overall urban design quality of the project proposal;
- All above-grade parking is architecturally screened and lined with active uses according to the standards of Section 145.1, and the project sponsor is not requesting any exceptions or variances requiring such treatments elsewhere in the Code;
- Excess accessory parking does not diminish the quality and viability of existing or planned streetscape enhancements; and,
- For projects with 50 dwelling units or more, all residential accessory parking in excess of 0.5 spaces per unit shall be stored and accessed by mechanical stackers or lifts, valet, or other space-efficient means that reduces space used for parking and maneuvering, and maximizes other uses.

Implementation of San Francisco's Transit-Oriented Development

We reviewed the development of affordable housing within transit-oriented development zoning districts and the approval of parking ratios above the permitted parking to evaluate the implementation of transit-oriented development that is consistent with City and regional policies.

Development of Affordable Housing

Development of affordable housing in transit-oriented districts is consistent with the City's Inclusionary Housing Ordinance and Area Plans. From 2008, when the transit-oriented development zoning districts were first established within the San Francisco planning code, through 2010, 126 housing units were built in transit-oriented districts, including replacement of three existing units and development of 123 new units.

- In 2008, there were no conversions, demolitions, or construction of housing units in transit-oriented development zoning districts.

- In 2009, a commercial structure was converted into a single-family home while the City lost four units due to the merger of two units into one unit and the demolition of three units. Permits have been issued for the construction of one-to-one replacement of the demolished units. All of the 2009 units that were converted or have permits for replacement construction were previously and will continue to be market rate units.

- In 2010, 123 new units, including 24 affordable units or approximately 20 percent, were developed. However, the City lost two units in 2010 due to the merger of two market rate units into one market rate unit and due to an administrative correction.[4]

Table 2.2 below is a summary of the changes in housing units within transit-oriented development zoning districts and the type of housing.

[4] According to the Planning Department, administrative records had previously counted two units in a single parcel when there was really only one unit. Therefore, the correction of this record resulted in the lost of one unit in 2010.

Table 2.2
Summary of Changes to Housing Stock in Transit-Oriented Development Zoning Districts, 2008-2010

Year	Total Number of Housing Units [1]	Type of Change	Number of New Market Rate Units	Affordable Housing: Inclusionary	Affordable Housing: 100% Affordable	Affordable Housing: Total Number of New Affordable Units	Affordable Housing: Percent Affordable Units
2008	None	n/a	None	None	None	None	n/a
2009	3	Replace	3	None	None	None	n/a
2010	123	New	99	9	15	24	19.5%
Total	**126**		**102**	**9**	**15**	**24**	19.0%

Source: Planning Department

[1] Units that were converted from commercial structures to housing units, or from two units into one unit were excluded from this table.

The Inclusionary Affordable Housing Ordinance allows developers to pay affordable housing fees rather than construct on-site inclusionary housing. Affordable housing fees finance housing that differs in housing type, location, and target populations than inclusionary housing. Whether a developer pays affordable housing fees or constructs on-site inclusionary housing may impact affordable housing development in transit-oriented districts.

Approval of Additional Parking

The Planning Commission generally follows guidelines for Conditional Use approvals when approving or denying developments that request parking ratios greater than initially permitted in the applicable transit-oriented zoning district.

<u>Disapproval of Additional Parking</u>

The Planning Commission has considered four applications for additional parking in transit-oriented districts and denied three of the four applications. For example, the application for a 136 unit housing development on Fulton Street requested approval for 104 parking spaces, or a parking ratio of 1:0.76. The Planning Commission did not grant residential parking above the permitted parking ratio of 1:0.5 because the proposed valet, tandem parking did not meet the goal of providing parking that is stored and accessed through “space-efficient means that reduces space used for parking and maneuvering, and maximizes other uses.”

<u>Approval of Additional Parking</u>

The Planning Commission approved one application for additional parking for a 13-unit housing development on Dolores Street. Zoning allowed a parking ratio of 1:0.75 and the applicant requested one parking space for each housing unit (13 spaces) plus three additional spaces to replace existing parking, for 16 total spaces or a ratio of 1:1.2.

The Planning Commission approved the additional parking based on Planning Code guidelines. According to the Planning Department's report:

> "During the week, it is anticipated that most residents will travel to work by walking, taking public transit such as BART or MUNI, or using taxicabs. However, the residents will require additional parking beyond that which is normally allowed as accessory parking because it is anticipated that each household will desire to own a vehicle primarily for non-commuter purposes and generate a parking demand of at least one parking space. Existing on-street parking in this area is limited."

The Planning Department does not report the impact of transit-oriented development to the Planning Commission or the Board of Supervisors

Approval of additional parking, payment of affordable housing fees rather than construction of on-site inclusionary housing, and other actions shape transit-oriented districts. For example, the Planning Commission's decision to approve 16 parking spaces in the Dolores Street development resulted in a 60 percent increase in parking spaces compared to the number allowed by the transit-oriented zoning. Also, if developers elect to pay affordable housing fees rather than build on-site inclusionary housing, transit-oriented districts may have fewer affordable housing units than anticipated in the area plans. While the Planning Department compiles such information in periodic monitoring reports for Area Plans that contain transit-oriented districts every two to five years, compiling and reporting on the *cumulative* impact of such actions or approvals, which could alter the intention of the transit-oriented districts, should be at least annually.

Coordination with Transportation Agencies

For transit-oriented development to be effective, transportation infrastructure and transit services should be sufficient to meet the transit needs of new residents in transit-oriented zoning districts. Staff from the MTC, SFMTA, and Planning Department reports that coordination between land-use and transportation planning has improved over the last few years, but could be further improved.

The Board of Supervisors approved legislation in 2006 to add Article 36 to the Administrative Code, which formalized interagency coordination for Area Plan-identified community improvements through the establishment of the Interagency Plan Implementation Committee. Community improvements could include transportation, open space, recreation, and public realm amenities planned for the area. In accordance with Article 36 of the Administrative Code, Interagency Plan Implementation Committee develops criteria and recommendations for capital project implementation, funding and programming, identifies areas for intra-departmental collaboration, coordinates with Area Plans' Citizen Advisory Committees, and produces an annual report to the Planning Commission and Board of Supervisors. The Interagency Plan Implementation Committee is chaired by the Planning Department and includes representatives from the City Administrator's Office, SFMTA, Department of Public Works, Recreation and Parks Department, and the San Francisco County Transportation Authority (Transportation Authority), among other City agencies.

The April, 2011 Interagency Plan Implementation Committee report highlighted several examples of transportation agencies coordinating and collaborating with the Planning Department on transit projects within Area Plans approved by the Planning Commission. For example, the SFMTA, Transportation Authority, and Planning Department have coordinated on a design for the conversion of Hayes Street, between Van Ness and Gough, to a two-way street and the Market and Octavia Citizen Advisory Committee has recommended the allocation of impact fee funds to complete the project. Additionally, the three agencies are coordinating the Eastern Neighborhoods Transportation Implementation Planning Study, which will lead to the design of multi-modal transportation corridor projects needed to serve new and existing development in the Eastern Neighborhoods.

Despite these efforts, citywide coordination of land use and transportation planning could be further improved. For example, the lack of early communication and coordination among agencies could result in approvals of projects within transit-oriented districts that may not be able to provide sufficient transportation services to the projected residential population given existing limitations on transit services and land use designs that are not optimal for transportation infrastructure requirements. Going forward, the SFMTA and Transportation Authority should be included as early as possible in the planning and approval of developments in transit-oriented zoning districts and area plans.

Conclusion

San Francisco's transit-oriented districts promote affordable housing development, transportation alternatives to private vehicles, and sustainable growth. The Planning Code allows the Commission to approve Conditional Use permits for parking ratios that are higher than initially permitted. Additionally, developers are required to pay affordable housing fees, but allowed to construct on-site inclusionary units as an alternative, though several developers have opted to just pay the affordable housing fees. While the Planning Commission approves specific Conditional Use permits and individual projects that only pay affordable housing fees, the Commission does not receive annual reports on the cumulative impact of these approvals, which could alter the intent of the transit-oriented districts.

Also, while the establishment of an Interagency Plan Implementation Committee has improved coordination between the SFMTA, Transportation Authority and the Planning Department, Citywide coordination of land use and transportation planning could be further improved to ensure that transit services and land use designs are optimal for transportation infrastructure requirements.

Recommendations

The Director of Planning should:

2.1 Submit a report at least annually, or more often depending on the development market, to the Planning Commission and to the Board of Supervisors, evaluating (a) net development of market rate and affordable housing in transit-oriented districts, and (b) approval of Conditional Use permits with higher parking ratios than initially permitted in transit-oriented zoning districts; and

2.2 Include the San Francisco Municipal Transpiration Agency and San Francisco County Transportation Authority as early as possible in the planning and development of San Francisco Planning Area Plans.

Costs and Benefits

Implementation of all recommendations should be accomplished using existing resources. The periodic availability of summary reports that include changes in housing stock and approval of Conditional Use permits for higher parking ratios within transit-oriented zoning districts could help the Planning Commission and the Board of Supervisors evaluate and ensure the implementation of affordable housing around transit stations and bus stops. Further, improved coordination among the Planning Department and San Francisco transit agencies could facilitate the provision of sufficient transit for residents living in transit-oriented zoning districts.

3. The City's Affordable Housing Policies

- **The City's policies for affordable housing development are largely defined by the General Plan's Housing Element, the five-year Consolidated Plan for the expenditure of federal grants, the Plan to Abolish Chronic Homelessness, and the Inclusionary Affordable Housing Ordinance. The Housing Element is required by the State and the Consolidated Plan is required by the U.S. Department of Housing and Urban Development (HUD). The Plan to Abolish Chronic Homelessness and Inclusionary Affordable Housing Ordinance are policies specific to San Francisco. While the Board of Supervisors approved the Housing Element, the Consolidated Plan, and the Inclusionary Affordable Housing Ordinance, the Board of Supervisors has only indirectly approved the Plan to Abolish Chronic Homelessness through approval of financing for specific projects.**

- **The Board of Supervisors does not receive consistent information on the impact of these policies on the development of affordable housing in the City. The Plan to Abolish Chronic Homelessness has set a goal of 3,000 new supportive housing units by 2014, through development of new units or master leases, but the Mayor's Office of Housing (MOH) does not report to the Board of Supervisors on the achievement of these goals. Also, the fiscal feasibility of developing these supportive housing units requires ongoing General Fund subsidies for the operating costs for at least 15 years. However, MOH enters into agreements with supportive housing operators for only nine years, which are not subject to Board of Supervisors approval, rather than agreements of 15 years, which are subject to Board of Supervisors approval. The operating subsidies that fund these agreements are currently $5 million per year.**

- **Financing of affordable housing development in the future will not continue at the same level as the recent past. The slowdown in the housing market, 2010 revisions to the Inclusionary Affordable Housing Ordinance, and the California Supreme Court's upholding of the Governor's proposal to eliminate redevelopment agencies impact the City's development of affordable housing.**

- **According to the 2010-2014 Consolidated Plan, San Francisco faces cost and other barriers to developing affordable housing. The State Treasurer's Office's Tax Credit Allocation Committee is planning a statewide study of the costs of affordable housing financed by state and federal tax credits. The Director of MOH should evaluate the findings of the Tax Credit Allocation Committee, when completed, and report to the Board of Supervisors on how these findings impact affordable housing development in San Francisco.**

The City's Affordable Housing Policies and Goals

The City's affordable housing policies are defined by: (1) the Housing Element of the General Plan; (2) the Plan to Abolish Chronic Homelessness; (3) the Inclusionary Affordable Housing Ordinance; and (4) the five-year Consolidated Plan for 2010-2014. The Housing Element is mandated by the State for all California counties. The five-year Consolidated Plan is mandated by the U.S. Department of Housing and Urban Development (HUD) for all jurisdictions receiving Community Development Block Grants and other HUD grants. The Inclusionary Affordable Housing Ordinance and the Plan to Abolish Chronic Homelessness are specific to San Francisco.

Housing Goals

The Housing Element and the Plan to Abolish Chronic Homelessness are the City's affordable housing policies that contain specific goals for the number of new housing units to be developed.

<u>Supportive Housing</u>

The Plan to Abolish Chronic Homelessness set a goal for the City to develop 3,000 new supportive housing units for chronically homeless individuals and families between 2004 and 2014. As shown in Table 3.1 below, although MOH and SFRA planned for 2,899 total new supportive housing units by 2014, or 97 percent of the goal of 3,000. 12 percent of these units have not yet been fully funded.

Table 3.1
Plan to Abolish Chronic Homelessness Supportive Housing Goals
2004 to 2014

New Supportive Housing Units 2004 to 2010	Units	Percent of Total Planned Units
Master Lease Units	780	26%
Salvation Army	20	1%
Redevelopment Agency	411	14%
Mayor's Office of Housing	742	25%
Completed Units as of 2010	1,953	65%
Units In Construction or Fully Funded	527	18%
Units in Predevelopment or not Fully Funded	357	12%
New Master Lease Units	62	2%
Total Completed and Planned Units	2,899	97%
Additional Units Needed to Meet Goal by 2014	101	3%
Total Plan to Abolish Chronic Homelessness Goal	3,000	100%

Source: SFRA, MOH

Housing Element

The Housing Element's housing goals for the City increased significantly in 2007-2014 compared to 1999-2006 due to projected population growth at all income levels, as shown in Table 3.2.

Table 3.2
The Housing Element's Housing Production Goals by Income Level
1999 to 2006 and 2007 to 2014

Households' Income as a Percent of Area Median Income (AMI)	Number of Units 1999-2006	2007-2014	Increase	Percent Increase
Extremely Low Income (< 30% AMI)	n/a	3,294	n/a	n/a
Very Low Income (30% to 49% AMI)	5,244	3,295	n/a	n/a
Subtotal Extremely and Very Low Income [1]	5,244	6,589	1,345	25.6%
Low Income (50% to 79% AMI)	2,126	5,535	3,409	160.3%
Moderate Income (80% to 120% AMI)	5,639	6,754	1,115	19.8%
Market (> 120% AMI)	7,363	12,315	4,952	67.3%
Total	**20,372**	**31,193**	**10,821**	**53.1%**

Source: Housing Element

[1] The Housing Element implemented the new category "extremely low income" in 2007-2014, which had previously been included in "very low income".

From 1999 to 2006 the City exceeded its goals for market rate housing for households with income greater than 120 percent of the AMI. Although the City did not achieve its housing goals for lower income households, the City was better able to produce housing for very low income individuals and families than for low and moderate income individuals and families, as shown in Table 3.3.

Table 3.3
Housing Element Goals and Actual Production
1999-2006

Households' Income as a Percent of Area Median Income (AMI)	Housing Element Goals (Number of Units)	Actual New Housing Production and Acquisition/ Rehabilitation (Number of Units)	Percent of Regional Housing Needs Production Goals
Very Low Income (< 50% AMI)	5,244	4,342	82.8%
Low Income (50% to 79% AMI)	2,126	1,113	52.4%
Moderate Income (80% to 120% AMI)	5,639	725	12.9%
Market (> 120% AMI)	7,363	11,293	153.4%
Total	**20,372**	**17,473**	**85.8%**

Source: Housing Element

MOH and SFRA Policies

Three City agencies have financed or managed affordable housing development in San Francisco: MOH, SFRA, and the San Francisco Housing Authority. While the Housing Authority and SFRA were established by State law, MOH is specific to San Francisco. The Housing Authority's role in developing affordable housing is limited to public housing funded by HUD. SFRA and MOH have financed affordable housing development through several financing sources.

MOH implements the Mayor's housing policies. These policies are defined by the City's five-year Consolidated Plan, which is approved by the Board of Supervisors, and the Plan to Abolish Chronic Homelessness, which target affordable housing development for extremely low and very low income individuals and families with income less than 50 percent of AMI.

SFRA has implemented policies established by the SFRA Commission, a body of seven commissioners appointed by the Mayor and approved by the Board of Supervisors. SFRA's policies have been defined by redevelopment area plans, approved by the Board of Supervisors, as well as the five-year Consolidated Plan, and were required to conform to Community Redevelopment Law. The SFRA Commission approved specific housing development projects, based on conformance with the respective redevelopment area plan, five-year Consolidated Plan, Plan to Abolish Chronic Homeless, and consultation with other City agencies. While affordable housing projects generally targeted housing for extremely and very low income individuals and families, redevelopment area plans also provided for housing development for low and moderate income households.

As shown in Table 3.4 below, MOH mostly provides financing for housing for individuals and families with extremely and very low income, while SFRA has provided financing for some housing for individuals and families with low to moderate income. Inclusionary housing is targeted to individuals and families with low or moderate income, depending on whether the housing is ownership or rental.

Table 3.4
Affordable Housing Production
FY 2002-03 to FY 2010-11

	MOH		**SFRA**		**Total**	
Income	Units	Percent	Units	Percent	Units	Percent
Extremely Low and Very Low Income (< 50% AMI)	3,863	76.1%	3,966	72.3%	7,829	74.1%
Low and Moderate Income (50% to 120% AMI)	162	3.2%	1,429	26.0%	1,591	15.1%
Inclusionary Housing	1,050	20.7%	91	1.7%	1,141	10.8%
Total	**5,075**	**100.0%**	**5,486**	**100.0%**	**10,561**	**100.0%**

Source: MOH and SFRA

The Board of Supervisors does not receive consistent information on supportive housing and local operating subsidies

The Board of Supervisors does not have direct approval over MOH policies and programs to implement the Plan to Abolish Chronic Homelessness and the Local Operating Subsidy Program. While the Board of Supervisors did not formally approve the Plan to Abolish Chronic Homelessness, the Board of Supervisors has approved the subsequent five-year strategic plan "Toward Ending Homelessness in San Francisco," which incorporates the goals of the Plan to Abolish Chronic Homelessness.

The Board of Supervisors does not receive reports on the number of supportive housing units developed or leased for chronically homeless individuals and families, although MOH prepared these reports for the Local Homeless Coordinating Board. MOH should report annually to the Board of Supervisors on (1) completed and planned supportive housing units for chronically homeless individuals and families, including populations served, and, (2) funding strategies for planned units.

<u>Local Operating Subsidy</u>

The Board of Supervisors approves Local Operating Subsidy Program expenditures in the annual budgets of the Department of Public Health and the Human Services Agency, who then work order these monies to MOH to administer the local operating subsidy agreements with supportive housing operators. MOH enters into nine-year agreements with supportive housing operators to subsidize the operating costs, which are not subject to Board of Supervisors approval. The actual term of the local operating subsidy is at least 15 years, consistent with affordability requirements established for projects financed by federal tax credits. MOH should enter into 15-year agreements with supportive operators, which are subject to Board of Supervisors approval, to allow better Board of Supervisors oversight of Local Operating Subsidy Program expenditures.

Changes to MOH and SFRA programs

Financing of affordable housing development in the future will not continue at the same level as the recent past. The slowdown in the housing market, 2010 revisions to the Inclusionary Affordable Housing Ordinance, and the California Supreme Court's upholding of the Governor's proposal to eliminate redevelopment agencies impact the City's development of affordable housing.

Decreased affordable housing fee revenues

In response to the decrease in affordable housing fee revenues, MOH is not actively seeking new affordable housing projects. In FY 2010-11, MOH issued only one Notice of Funding Availability (NOFA) for $500,000 for predevelopment financing of supportive housing development for seniors and persons with disabilities. MOH does not plan to issue NOFAs in FY

2011-12 or FY 2012-13. Rather, MOH intends to use available funds to maintain or improve existing affordable housing units.

Dissolution of the SFRA

On December 29, 2011 the California Supreme Court upheld State Assembly Bill (AB) 26 to dissolve redevelopment agencies statewide but struck down AB 27, which would have allowed local jurisdictions to retain their redevelopment agencies by remitting a portion of their tax increment revenues to the State. According to the Supreme Court decision, redevelopment agencies do not have a protected right to exist (AB 26) but do have a protected right to not be forced to make payments to other agencies (AB 27). The Supreme Court decision also upheld the "freeze" provisions of AB 26, which suspended the ability of redevelopment agencies to use their funds to incur new indebtedness. The date for dissolving redevelopment agencies was extended by four months, from the original date of October 1, 2011 to the revised date of February 1, 2012.

The Court decision will result in local jurisdictions forming successor agencies to begin the unwinding and disposition of redevelopment agency assets. These successor agencies are most likely the city or county that established the redevelopment agency, governed by an oversight board. The successor agency will receive the redevelopment agency's existing balances and future shares of tax increment revenues to pay the redevelopment agency's existing debt. Tax increment revenues exceeding required debt payments would be used to offset state expenses (most likely Trial Court and Medi-Cal costs) and distributed to local governments and agencies. Unspent redevelopment agency funds allocated to housing would be shifted to local jurisdictions to pay for affordable housing programs.

In response to AB 26 and AB 27, the SFRA suspended all redevelopment activities, including development of affordable housing. Prior to the suspension, the SFRA completed approval and/or funding of several affordable housing projects. As a result, the SFRA has nine affordable housing projects that are fully-funded and in construction or ready to begin construction. The SFRA has also provided its portion of project funding for eight other affordable housing projects, or phases of projects, that are in the predevelopment or preliminary planning phases.

Barriers to Affordable Housing Development

According to the 2010-2014 Consolidated Plan, "San Francisco....is one of the more challenging environments to build housing. Factors including high land and construction costs, protracted entitlement and permitting processes, and organized opposition from neighbors pose real obstacles to developing housing in San Francisco." In addition to these issues, the 2010-2014 Consolidated Plan identified lack of sufficient federal, state and local funds to develop affordable housing.

The City has addressed some land use, environmental review, and planning permit issues through the development of new area plans, such as the Eastern Neighborhoods and Better Neighborhoods planning program. This has resulted in new height and density zoning, allowing for larger residential developments; and streamlined the planning permit process in the neighborhoods covered by new area plans.

The State Treasurer's Office is also evaluating the costs of affordable housing projects funded by state and federal tax credits. The Tax Credit Allocation Committee, which is a division of the Treasurer's Office, began holding forums on affordable housing costs and cost containment in July 2011. According to the Tax Credit Allocation Committee, "Tax Credit Allocation Committee-awarded projects generally may be more costly than necessary fostering the public perception that affordable housing is too expensive." The focus of the cost containment forums were the costs of land acquisition, architectural services, construction, project contingencies, and impact fees. The goal of the cost containment evaluation is for the Tax Credit Allocation Committee to award tax credits only to "cost-reasonable" projects. According to one Tax Credit Allocation Committee representative, the Tax Credit Allocation Committee is currently developing the scope of the cost containment evaluation in coordination with other State agencies. The Director of MOH should evaluate the cost containment findings of the Tax Credit Allocation Committee, when completed, and report to the Board of Supervisors on how these findings impact affordable housing development in San Francisco.

Conclusion

The Board of Supervisors shapes housing policy through approval of the five-year Consolidated Plan, redevelopment area plans, the City's land use plans, and financing for specific projects. While planning and financing of affordable housing is determined in part by federal and state requirements for grants and loans, tax credits, and redevelopment areas, the City has authority over local programs, such as inclusionary housing.

The Board of Supervisors needs sufficient information on the availability of funding and the impact of existing policy on development of affordable housing to evaluate the effectiveness of City policies. While the Board of Supervisors receives information on various plans and specific projects, the Board does not receive consistent information on the overall impact of the City's housing policies.

The Director of MOH should report to the Board of Supervisors on the impact of the Inclusionary Affordable Housing Ordinance, including the 2010 revisions, collection of affordable housing fees, and construction of inclusionary units, including types, size, population, and distribution of housing developed, as discussed further in Section 4.

Recommendations

The Director of MOH should:

3.1 Report annually to the Board of Supervisors on (1) completed and planned supportive housing units for chronically homeless individuals and families, including populations served, and (2) funding strategies for planned units.

3.2 Enter into 15-year local operating subsidy agreements with supportive housing operators, which are subject to Board of Supervisors approval.

3.3 Evaluate the cost containment findings of the Tax Credit Allocation Committee, when completed, and report to the Board of Supervisors on how these findings impact affordable housing development in San Francisco.

3.4 Consistent with Recommendation 4.3, report to the Board of Supervisors no later than January 31, 2012 on the impact of the Inclusionary Affordable Housing Ordinance on the types, size, and distribution of housing produced.

Costs and Benefits

Implementation of these recommendations would provide necessary information on the impact of the City's policies to develop supportive housing for the chronically homeless, including the ongoing General Fund costs for operating this supportive housing. Staff time would be required to prepare and present brief annual reports, proposed 15 year agreements, and findings of the Tax Credit Allocation Committee to the Board of Supervisors.

4. Inclusionary Program Impacts on Affordable Housing Production

- **The 2002 Inclusionary Affordable Housing Ordinance is intended to develop affordable housing on the same site as market rate housing in order to increase social and economic integration and the associated benefits. The 2002 Inclusionary Affordable Housing Ordinance provided developers an incentive to construct inclusionary housing rather than pay an in lieu fee, while 2010 revisions to the Ordinance give preference to payment of fees.**

- **Although inclusionary housing and affordable housing financed by affordable housing fees both meet the City's policy objectives, the types of housing differ. Developer-built inclusionary housing is generally owner occupied by moderate income households and does not target specific populations. Affordable housing financed by affordable housing fees is generally rental housing for lower income households and often targets senior, chronically homeless, disabled, and other populations. Developer-built housing and City-sponsored affordable housing also differ in geographic distribution and size of units.**

- **The 2010 Fee Deferral Program allows developers to defer a number of development impact fees, including 80 to 85 percent of affordable housing fees. As a result, developers who received planning permits in FY 2010-11 were more likely to opt to pay fees than previously. 55 percent of developers subject to the Inclusionary Affordable Housing Program opted to pay the affordable housing fee in FY 2010-11 compared to 25 percent of developers in FY 2002-03 through FY 2009-10. A shift from constructing inclusionary housing to paying affordable housing fees impacts the type of housing that is developed.**

- **Deferral of affordable housing fees impacts the timing and amount of funds available to the City for affordable housing development. Previously, the City was able to encumber affordable housing fee revenues when the developer obtained building permits and began construction. Now, the City cannot encumber most of the affordable housing fee revenues until the developer obtains the first certificate of occupancy, an estimated delay of 18 to 24 months.**

- **The full impact of the 2010 Inclusionary Affordable Housing Ordinance revisions is not yet known. In response to the required assessment of the affordable housing fee prior to Spring of 2012 and a Board of Supervisors hearing request on production of moderate income housing, MOH should evaluate the collection of affordable housing fees, construction of inclusionary housing, and resulting types and distribution of housing development.**

Inclusionary Housing Program Impact on Affordable Housing Development

Passed in April 2002, San Francisco's Inclusionary Affordable Housing Ordinance mandates housing developer participation in the City's inclusionary housing program. Prior to 2002, Planning Commission guidelines required developers seeking conditional use permits for residential projects of 10 units or more to include 10 percent affordable units. Periodic revisions have been made to the ordinance since that time.

From FY 2002-03 through FY 2009-10, developers contributed to the development of 1,204 units of below market rate housing by either:

1. Building affordable units either on- or off-site, which resulted in the construction of 1,050 below market rate units, or 87 percent of total units built via the city's inclusionary housing program, in 113 projects. These units include units approved prior to 2002, and units approved under the Inclusionary Affordable Housing Ordinance, approved in 2002.

2. Payment of an affordable housing fee from 35 market rate developers which has resulted in expenditure of approximately $40 million in affordable housing fees and interest by the City. These funds have been used by the City to build affordable housing in the period from 2002 through FY 2009-10.[1] We estimate that 154 units were built during this time directly using affordable housing fees and earned interest, or approximately 13 percent of the 1,204 inclusionary housing units.[2] The City does not develop affordable housing using affordable housing fees solely, but rather uses the affordable housing fee revenues to leverage other sources of funds to develop affordable housing.

In addition, the San Francisco Redevelopment Agency (SFRA) developed 236 inclusionary housing units, 186 of which were rentals and 50 of which were owner occupied. Requirements for these inclusionary housing units are determined by the respective plans for each redevelopment area.

The 1,440 affordable housing units developed pursuant to the City's Inclusionary Affordable Housing Ordinance, or redevelopment plans, represent approximately 18 percent of 8,081 affordable housing units financed by MOH or SFRA between FY 2002-03 and FY 2009-10.

[1] $48 million in affordable housing fees had been collected and $9 million in interest earned during this period. We consider here only amounts spent in these funds. Amounts spent from the Jobs-Housing Linkage Fee, charged on non-residential construction and deposited in the Affordable Housing Fund are not considered here.
[2] The estimate of 154 housing units financed by affordable housing fees is based on the percentage of each housing project's affordable housing fee financing compared to total financing, times the number of units in the project.

Affordable Housing Fees

The City assesses an affordable housing fee on all new market-rate housing developments, unless the project sponsor chooses to meet its obligation in another way. Affordable housing fees are calculated by formula, which is expressed as the difference between what buyers at the affordable income levels can afford at 33 percent of their gross income for housing and the average cost of building a unit (known as the "affordability gap"). Affordable housing fees currently range from approximately $180,000 for a studio to $375,000 for a three bedroom unit.

While fees may be adjusted annually, the current fee levels were last developed in June 2008 and are currently scheduled for reassessment by Spring of 2012. This assessment will (1) evaluate whether the amount of the fee correctly reflects the "affordability gap" and (2) whether at least one of the options (e.g., on-site development, fee payment) would, if selected, allows for some profit margin for a project of a given type (e.g., midrise development, high-rise development, etc.).

Characteristics of Affordable Housing Constructed through the Inclusionary Program

The characteristics of affordable housing constructed by developers and that constructed through the City using the affordable housing fee differ in the income and demographics of the populations targeted, unit size, geographical distribution, and whether units are rentals or owner-occupied.[3]

Affordable housing units constructed by affordable housing fees target lower income residents than inclusionary housing

Housing units built with affordable housing fees target low income households to a greater extent than inclusionary units constructed by developers. Affordable housing financed by affordable housing fees combined with other sources of financing has been typically targeted at households with incomes less than 50 percent of area median income for a given family size. Of the units built under the City's affordable housing program (other than developer-built inclusionary housing) between FY 2002-03 and FY 2009-10, 85 percent were constructed for very low income households with incomes less than 50 percent of the area median income. Only 15 percent were for low to moderate income households (between 50 percent and 79 percent and 80 percent to 120 percent of area median income, respectively). A portion of these were constructed utilizing affordable housing fees as a funding source.

In contrast, developer-built inclusionary units are targeted to those with incomes of 55 percent or less (for rentals) to up to 90 percent (for owner-occupied units) of Area Median Income.

[3] This analysis does not include housing sponsored by the City using funds other than the affordable housing fee.

Affordable housing financed by affordable housing fees target more specific populations than inclusionary housing

The inclusionary housing program does not require developers who build on- or off-site below market rate units to make such units available to specific demographics, such as seniors, families, or those requiring supportive services. In contrast, units financed by the affordable housing fee have been directed to specific demographic groups, including low- or very low-income individuals, supportive housing), seniors, and families (as shown in Table 4.1 below. Many of these units serve the chronically homeless (i.e., some number of senior units are reserved for chronically homeless seniors). Most individual and supportive housing units built with affordable housing fees also serve the formerly homeless as the City's affordable housing policy prioritizes housing for the chronically homeless.

Table 4.1
Target Populations for Affordable Housing Units
Financed by Affordable Housing Fees
FY 2002-03 through FY 2009-10

Target Demographic	Number of Units	Percent of Units
Individual	70	45%
Supportive Housing	24	24%
Senior	35	23%
Family	13	8%
Total	**154**	**100%**

Source: MOH

Affordable housing units financed by affordable housing fees are typically smaller than inclusionary units

Inclusionary housing units built by developers tend to be larger than affordable housing units financed by affordable housing fees. As shown in Table 4.2 below, approximately 51 percent of the inclusionary units built by market-rate housing developers are two, three, or four bedroom units. Approximately 67 percent of units financed by affordable housing fees are single rooms.

Table 4.2
Percent of Units by Unit Size Inclusionary Housing
Compared to Affordable Housing Financed by Affordable Housing Fees

Type of Unit	Single Room	One Bedroom	2+ Bedrooms
Developer Built	1%	34%	51%
Fee Supported	67%	19%	14%

Source: Budget and Legislative Analyst, based on data provided by MOH

Inclusionary housing units are more evenly distributed through the City than affordable housing financed by affordable housing fees

Housing units financed by affordable housing fees are more geographically concentrated than inclusionary housing units. As seen on the map in Attachment 4.1, while affordable housing projects financed by affordable housing fees are located in six neighborhoods, 74 percent are concentrated in Downtown/Civic Center and South of Market (SOMA).[4] According to MOH staff, this concentration reflects areas where land has been available and zoning has permitted larger projects. Attachment 4.1 depicts the neighborhood distribution of inclusionary affordable housing built by developers and affordable housing projects financed by the City (through MOH) and San Francisco Redevelopment Agency.

Inclusionary housing units are distributed throughout the City because they follow the general development of market-rate housing, with projects in 26 neighborhoods. While most inclusionary housing units are located in SOMA, Downtown/Civic Center, the Mission and Bayview/Hunters Point, a large number of inclusionary housing units (i.e., more than 15 each) are distributed throughout the City, as shown in Attachment 4.1.

Inclusionary housing units are generally owner-occupied rather than rental

Market-rate developers have built more condominiums than rental apartments during the last decade. Consequently, inclusionary housing units are most often owner-occupied.

The City has responded to the imbalance in inclusionary rental units relative to owner-occupied by enacting policies within the inclusionary housing program that encourage market-rate developers to build more affordable *rental* units. Specifically, the area plans for the four sections of the Eastern Neighborhoods (i.e., for the Mission Area, Showplace Potrero, Central Waterfront, and East SOMA) provide a 3 percentage point reduction in the inclusionary housing requirement, if developers choose to develop rental rather than owner-occupied housing. The Rincon area plan previously required that a given percentage of affordable units be rentals, but that requirement was eliminated in January, 2010.

In addition, the City utilizes the Affordable Housing Fund to encourage affordable rental unit development and the City's Housing Element and Housing Inventory document that renting is more affordable than home ownership. While the Housing Element does not specify a desired ratio of rental property to ownership property development for San Francisco, the Housing Element does acknowledge a need for affordable rental units because the majority of San Francisco residents are renters (64 percent rental of City residents rent compared to 36 percent who own). Furthermore, the City's condominium conversion law limits to 200 annually the number of rental units that can be converted.

[4] Units in the neighborhoods of Noe Valley and Bernal Heights and of Visitation Valley, Excelsior and Crocker Amazon have been joined because of a relatively small number of units were constructed in each neighborhood.

The development of more inclusionary rental housing depends on developers building affordable inclusionary units as part of market-rate developments. The Planning Department projects that a significant number of rental units will be completed by the middle of 2012. As the inclusionary housing program relies at least in part on private developers who respond to market trends, the inclusionary program is likely to produce a greater number of affordable rental units relative to affordable ownership if the market demand for rental units rises.

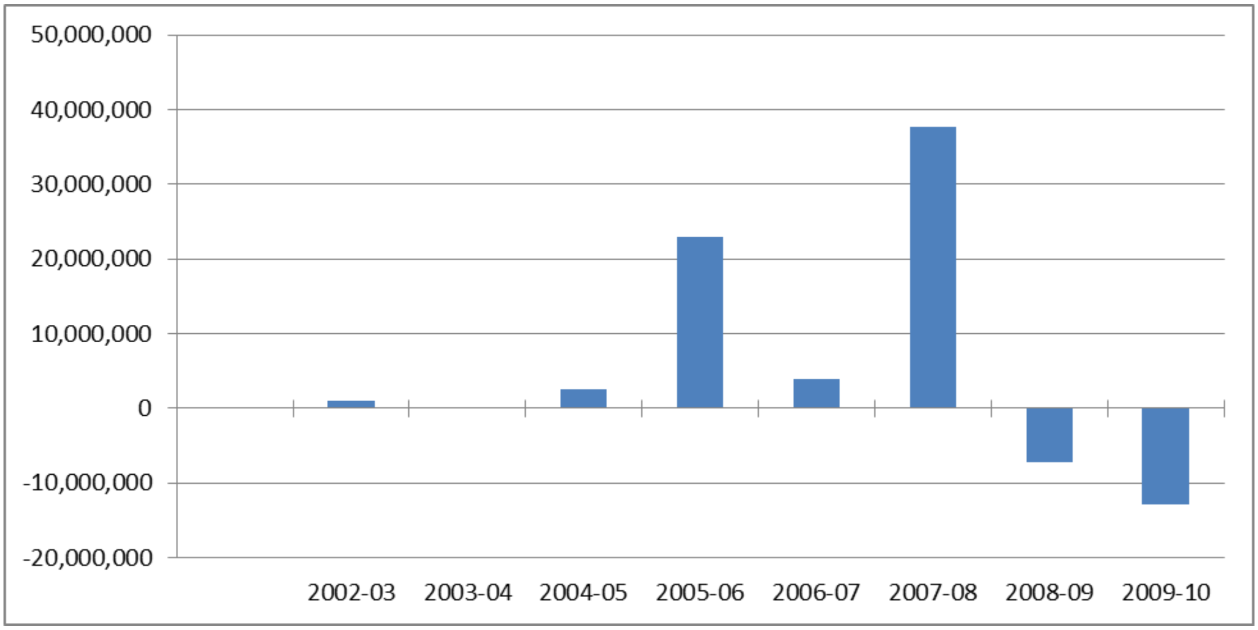
The City lacks affordable rental units for households with income from 55 to 80 percent of the area median income. Whether considering developer-built or City-sponsored projects, the inclusionary housing program does not target moderate income rental units. The maximum income level for developer-built rentals in the program is 55 percent while rentals in projects built in part with the affordable housing fee are generally at less than 35 percent.

Impact of Fee Payment Deferral on Affordable Housing Development

The 2010 amendments to Planning Code Article 4 allow developers to defer payment of a number of development impact fees, including 80 percent to 85 percent of affordable housing fees, until receipt of the certificate of occupancy for the completed project. In adopting the 2010 fee deferral ordinance, the Board of Supervisors found that "giv[ing] the project sponsor the option to defer payment of the fees...will allow project sponsors to proceed to obtain entitlements for development projects that would otherwise be unable to proceed under *adverse* economic conditions and enable a better-managed economic recovery". The option to defer payment of affordable housing fees sunsets in 2014.

The deferral of payment of affordable housing fees will reduce the frequency and amount of fee refunds to developers. As shown in Chart 4.1 below, the City refunded more affordable housing fees than it collected in FY 2008-09 and FY 2009-10 because developers who had paid the affordable housing fees for planned residential projects did not move forward with the residential projects.

Chart 4.1
Net Affordable Housing Fee Collections
FY 2002-03 to FY 2009-10



Source: Controller's Office and Mayor's Office of Housing

The deferral lowered the barrier to development of residential projects by reducing costs (impact and affordable housing fee payments) that could not be recouped until construction was complete and units sold or rented. The legislation therefore was intended to encourage housing development by reducing upfront costs, particularly for smaller developers who may have less access to capital.

As shown in Table 4.3, the majority of developers that received planning permits in FY 2010-11 selected to pay the affordable housing fee rather than construct inclusionary housing.

Table 4.3
Developer Selection of Fee Payment of Inclusionary Housing
Housing Projects Receiving Planning Permits in FY 2010-11

Option Selected by Developer	Number of Projects	Percent of Projects
Payment of Affordable Housing Fee	10	55.6%
Construction of Inclusionary Housing	5	27.8%
Combination Fee Payment and Inclusionary Housing Construction	3	16.7%
Total Projects	**18**	**100.0%**

Source: Planning Commission Minutes, FY 2010-11

Prior to implementation of the fee deferral option, of the 151 projects entitled that were subject to the inclusionary housing requirement, an estimated 113 projects (75 percent) chose to build inclusionary units and the remaining 25 percent of projects met the requirement by paying the affordable housing fees, as shown in Table 4.4

Table 4.4
Percent of Developers Selecting Payment of Affordable Housing Fees Compared to Construction of Inclusionary Housing from FY 2002-03 through FY 2009-10

Option Selected by Developer	Number of Projects	Percent of Projects
Payment of Affordable Housing Fee	35	25.2%
Construction of Inclusionary Housing	113	74.8%
Total Projects	151	100.0%

Source: MOH

Although there appears to be a trend of more developers choosing the affordable housing fee option, there has been inadequate time since July 2010 to assert conclusively that the ability to defer payment of the affordable housing fee is causing developers to choose the affordable housing fee option instead of building inclusionary housing. In addition, residential construction has slowed significantly since 2008 because of the decline in the economy. In general, because it is dependent on market rate housing being built, inclusionary housing policies will create more affordable housing, whatever the program design, when implemented in robust housing markets undergoing growth.

Deferral Option May Slow New Affordable Housing Construction

The fee deferral impacts the *timing* of when the funding is available to the City and subsequent construction of affordable housing units built by the City. Before July, 2010, developers who chose to build inclusionary units either on- or off-site could delay costs until construction of the units began, while those who chose to pay the fee had to pay the fee at building permit at the latest. After passage of the deferral legislation, developers who choose to build inclusionary units on- or off-site must incur costs when construction begins, while those who choose the affordable housing fee option may delay payment of most of the fee until receipt of the first certificate of occupancy, which according to the Department of Building Inspection, is typically at least two years after entitlement.

The delay in collecting fees until issuance of a certificate of occupancy for those projects that do eventually proceed to completion could delay the City's use of affordable housing fee revenues to finance affordable housing projects by an estimated 18 to 24 months. Prior to the fee deferral, MOH encumbered affordable fee revenues when the developer obtained building permits and began construction, after which is was unlikely that the project sponsor would stop construction and request a refund. Now, MOH cannot collect most affordable fee revenues until the developer obtains the certificate of occupancy.

Chart 4.2 depicts the timing of when affordable housing comes on-line under the previous payment arrangement, the deferral option and the developer-built option.

Chart 4.2
Impact of Affordable Housing Fee Deferral or On-Site Inclusionary Affordable Housing On When Affordable Housing Project is Completed

2002 Inclusionary Affordable Housing Ordinance: 100% Fee Payment When Building Permit Obtained	Planning Permit	Building Permit	Certificate of Occupancy		
		100% Fee Payment Fees Available for Housing Development		Affordable Housing Project Completed	
	Month 1	**Month 12**	**Month 36**	**Month 48**	**Month 60**

2010 Revised Inclusionary Affordable Housing Program: Option to Defer 85% of Fee Payment Until Temporary Certificate of Occupancy	Planning Permit	Building Permit	Certificate of Occupancy		
	15% Fee Payment		85% Fee Payment		Affordable Housing Project Completed
	Month 1	**Month 12**	**Month 36**	**Month 48**	**Month 60**

2010 Revised Inclusionary Affordable Housing Program: Option to Build On-Site	Planning Permit	Building Permit	Certificate of Occupancy		
		Construction Begins Developer Incurs Construction Costs	Affordable Housing Project Completed		
	Month 1	**Month 12**	**Month 36**	**Month 48**	**Month 60**

The Deferral Option Marginally Reduces the Amount of Interest Income the City Receives from Development Fees

The recently enacted fee deferral option does not change the amount of fees that will ultimately be collected if a developer chooses to move forward with a project. When developers were required to pay 100 percent of the development fee up-front, the City would earn interest on the entire amount until the funds were spent. Under the fee deferral option, although the City only receives 15 percent of the development fees up-front, when a developer defers funds and completes the project, the amount owed at certificate of occupancy includes accumulated interest from the date of deferral.

However, because developers do not receive interest on amounts paid in affordable housing fees, there is a difference in the amount of interest earnings the City receives in those cases where a developer decides *not* to proceed with construction. When a developer paid 100 percent of the fee up-front, the City would earn interest on this money until notified by the developer that they were cancelling the project. Under the fee deferral option, the City is only earning interest on 15 percent of the total amount of the development fee until it is refunded to the developer. The magnitude of this difference may not be significant, however. At an interest rate of 2 percent per year (the current interest rate for the Development Impact Fee as calculated by DBI), the City earns about $20,000 per year for each $1 million in deposits. The difference between requiring full up-front (100 percent) funding vs. allowing fee deferral (15 percent) at 2 percent interest is approximately $17,000 per year in lost interest for the City for each $1 million in development fees that are subsequently refunded when the project is cancelled.

Future Projections

The Planning Department estimates that of the units entitled in 2010, an estimated 750 units will be made affordable through the inclusionary affordable housing requirement. Many of these units are in redevelopment areas. Treasure Island and Candlestick/Hunters Point redevelopment projects were entitled this year, with expected total units of 7,800 and 10,500, respectively. The production of these units, including those at the affordable level, is likely to occur over the next decade or longer.

Evaluation of Impact of 2010 Inclusionary Affordable Housing Ordinance

MOH is reassessing the affordable housing fee by Spring of 2012, as noted above. Additionally, the Board of Supervisors has requested a hearing on the status of the City's plans for significantly increasing the production of moderate and middle income housing, the status of the review of the inclusionary housing program, how that review will address a needed increase in moderate income housing, and the connection between the production of middle and moderate income housing and the City's ability to attract, retain, and increase private and non-profit sector job.

In response to the fee assessment and hearing request, MOH should evaluate the impact to the 2010 Inclusionary Affordable Housing Ordinance revisions on the collection of affordable housing fees, construction of inclusionary housing, and resulting types, sizes, target demographics and distribution of housing development.

Impact of Costa Hawkins Restrictions on Rent Control for Vacant Units

The Costa-Hawkins bill, which restricts rent control on vacant units, and subsequent case law may impact developers' decisions to construct inclusionary rental units or pay affordable housing fees. Although the legislation provides an exception to allow cities and private parties, by mutual consent, to impose rent restrictions in perpetuity, developers must be given consideration in exchange for the exception (e.g. direct financial benefit, receipt of tax exempt bonds, density bonuses, etc.). The legislation refers to "forms of assistance" specified in the State Density

Bonus Statute, which include “density bonuses” and “concessions or incentives.” The City’s existing Inclusionary Affordable Housing Ordinance now provides that a combined package of benefits in special use districts satisfies Costa Hawkin’s “public assistance exception.” The types of consideration are detailed in the standard development agreement entered into between the city and project sponsors of affordable rental housing.

The option of paying the affordable housing fee may be more attractive to rental housing developers because it is simpler than obtaining an exception. In fact, if the project would be approved as of right, the City has no consideration to provide to the developer and cannot enter into a Costa-Hawkins waiver. The Planning Department reports that it has had to decline developer requests to build inclusionary rental units because the developer was not requesting any concession from the City.

Only one of the residential projects entitled in FY 2010-11 was rental housing. As a result, it is unclear whether the complexities surrounding on-site inclusionary rental units will result in more rental developers paying the fee. However, both MOH and the Planning Department report that more developers may seek to develop rental housing in response to market demand, which would require an increased use of exceptions. Four buildings containing 520 inclusionary rental units have been issued exceptions as of August 31, 2011 and six more developments, comprising 122 inclusionary rental units, are reported to be in the process of requesting waivers.

Conclusions

Housing constructed as inclusionary housing differs from housing financed by affordable fee revenues in eligible household income, target population, unit size, and geographic distribution. City policy encompasses both construction of inclusionary housing, which serves low and moderate income households, and MOH policy to use affordable housing fees to finance housing for extremely low and very low income households. 2010 revisions to the Inclusionary Affordable Housing Ordinance make the payment of the affordable housing fee the preferred alternative rather than construction of inclusionary housing. This may shift the development of affordable housing from inclusionary housing for low and moderate income households to affordable housing financed by affordable housing fees for extremely low and very low income households.

Further, 2010 revisions to Article 4 of the Planning Code allow developers to delay payment of most affordable housing fees. While this will reduce the amount of refunds that MOH made to developers in FY 2008-09 and FY 2009-10, it will also delay when MOH can encumber affordable housing fees by an estimated 18 months to 24 months. Delays in encumbering affordable housing fees will result in delays in implementing affordable housing projects as MOH uses affordable housing fees in order to leverage other financing for affordable housing projects

Recommendations:

The Board of Supervisors should:

4.1 Consider the impact of the deferral on incentives to either pay the affordable housing fee or build inclusionary affordable housing units when reviewing whether the developer impact fee deferral program should be allowed to sunset in 2014.

4.2 Consider the impact of the affordable housing fee deferral on the amount and timing of funding available to the City as leverage for affordable housing projects when reviewing whether the developer impact fee deferral program should be allowed to sunset in 2014.

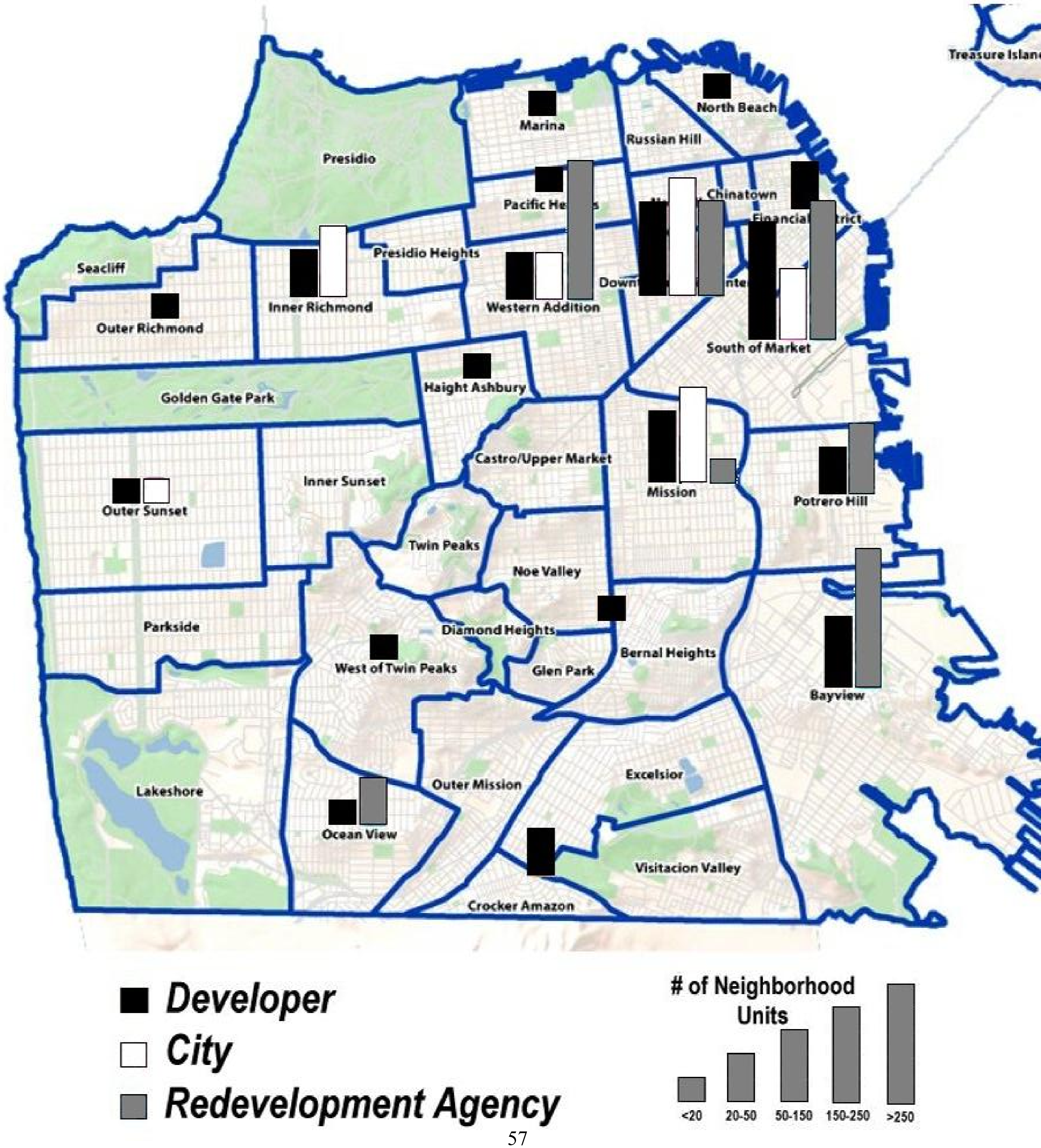
The Director of the Mayor's Office of Housing should:

4.3 Analyze the impact of the Inclusionary Affordable Housing Ordinance on the types, sizes, target demographics and distribution of housing produced as part of the pending study on the impact of the Ordinance and submit a written report to the Board of Supervisors no later than Spring, 2012.

Costs and Benefits

Implementation of these recommendations should provide the Board of Supervisors with more comprehensive information in order to develop and approve City policies established by the Inclusionary Affordable Housing Ordinance.

Affordable Neighborhood Units from Developers City and Redevelopment Agency FY 2002-03 through FY 2009-10



5. Financing of Affordable Housing Projects

- **San Francisco affordable housing developments received more than $1.9 billion in Federal, State and local financing in the nine-year period from FY 2002-03 through FY 2010-11. While most of the City's affordable housing developments have been partially financed by the Mayor's Office of Housing (MOH) or the San Francisco Redevelopment Agency (SFRA), some projects are sponsored by non-City agencies, such as the Association of Bay Area Governments (ABAG).**

- **San Francisco has been successful in obtaining State and Federal financing for projects. San Francisco affordable housing projects have been awarded a higher percentage of State loans than the City's population share. SFRA has also set aside a higher percentage of tax increment revenues for affordable housing than required by State law.**

- **Most State, Federal, and local sources of funds for affordable housing development have decreased since FY 2006-07. Local sources of funds have decreased due to economic uncertainty. The City has collected no or few affordable housing fees from FY 2008-09 through FY 2010-11 due to declines in market rate housing development. Although tax increment financing of affordable housing projects has been stable, dissolution of the SFRA may eliminate this source of funding. Existing unspent tax increment revenues of about $200 million allocated to affordable housing will be transferred to the City. New property tax increment revenues, which would have gone to the SFRA, will now be shifted to the City, although SFRA has not yet estimated the amount.**

- **Elimination or significant reduction of tax increment bond financing for affordable housing development due to the dissolution of SFRA increases the importance of general obligation bond financing of affordable housing. The Governor has considered proposals to allow 55 percent rather than 66.7 percent voter approval for affordable housing general obligation bonds. San Francisco voters approved affordable housing general obligation bonds of $100,000,000 in 1996. Two subsequent general obligation bond measures for affordable housing received more than 55 percent but less than 66.7 percent voter approval.**

- **State and local efforts to establish more stable, dedicated funding sources for affordable housing development have not succeeded. The State Department of Housing and Community Development and State legislature have proposed but not moved forward with proposals for dedicated funding sources. The Board of Supervisors could consider establishing a policy that a portion of non-recurring revenues or volatile revenues be appropriated for affordable housing development.**

Public Financing of Affordable Housing Projects

San Francisco affordable housing projects received $1.9 billion in public financing from FY 2002-03 through FY 2010-11. State and Federal tax credits are the largest financing source for affordable housing projects. While the San Francisco Redevelopment Agency (SFRA) and Mayor's Office of Housing (MOH) have partially financed most San Francisco affordable housing projects, other public agencies, such as the Association of Bay Area Governments (ABAG) or the California State Communities Development Agency, have also sponsored affordable housing projects in San Francisco.

Table 5.1
Sources of Public Financing for Affordable Housing
FY 2002-03 through FY 2010-11

	Total Financing FY 2002-03 through FY 2010-11	Percent of Total
Federal and State Tax Credits	$692,263,182	36%
Tax Increment Revenues and Bond Proceeds	460,130,116	24%
State Loans and Grants	298,419,994	16%
Federal Grants	194,768,626	10%
City General Fund, Affordable Housing Fees, Other	191,637,929	10%
Developer Contributions and Other Income	73,371,353	4%
Total	**$1,910,591,200**	**100%**

Source: MOH, SFRA, Tax Credit Allocation Committee, Department of Housing and Community Development

Federal and State Tax Credits

The State Treasurer's Office's Tax Credit Allocation Committee awards Federal and State tax credits to qualified affordable housing projects annually. Tax credits of approximately 9 percent (or "competitive" tax credits) are allocated to geographic regions, based on population and housing needs, and to specific types of projects (such as housing for individuals with special needs). Project applicants must compete for the available credits within a geographic region, because applications exceed available tax credits.

State Loans

San Francisco affordable housing projects have been successful in obtaining the State's Department of Housing and Community Development loans. California voters approved Proposition 46 in 2002 to issue $2.1 billion in general obligation bonds and Proposition 1C in 2006 to issue $2.85 billion in general obligation bonds to pay for affordable housing and related infrastructure. The Department of Housing and Community Development uses bond proceeds to provide 55-year loans to affordable housing projects. As of June 30, 2010, San Francisco, which has 2 percent of the State's population, had received 11 percent of the loan awards, or $286 million of $2.6 billion total awards.

Public financing for affordable housing projects has decreased since FY 2006-07

While public financing for affordable housing varies each year, depending on the source of funds and affordable housing project applications, total public financing decreased by 23 percent from 2007-08 through FY 2010-11, as shown in Table 5.2. Only SFRA tax increment financing remained stable.

Table 5.2
Decreases in Public Financing of Affordable Housing Projects
FY 2007-08 through FY 2010-11

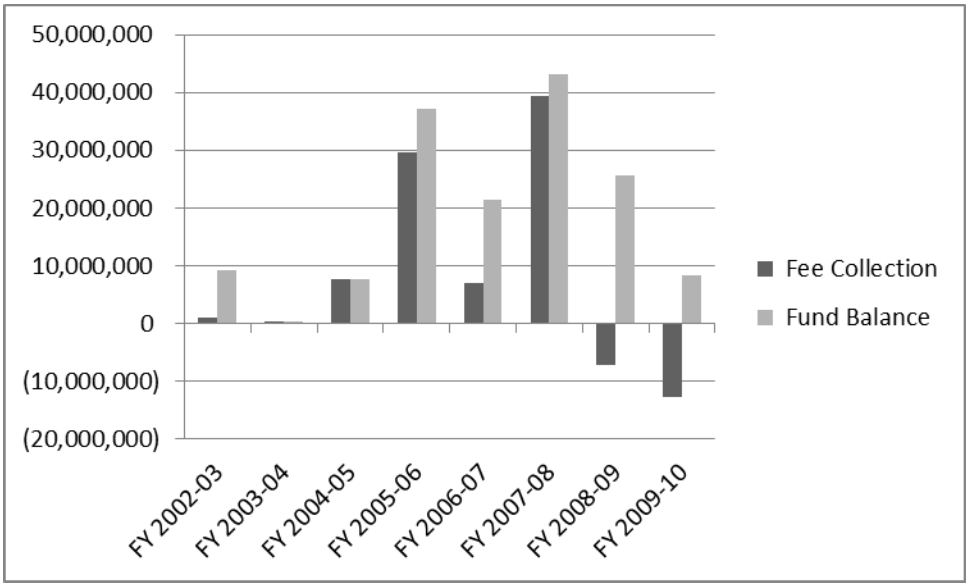
Source	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Increase/ (Decrease)	Percent Change
SFRA	$65,418,082	$100,098,920	$85,460,388	$78,497,983	$13,079,901	20%
MOH	39,961,430	41,142,126	25,751,876	26,535,780	(13,425,650)	(34%)
Tax Credits	104,096,184	53,039,298	87,876,690	56,535,030	(47,561,154)	(46%)
Total	**$209,475,696**	**$194,280,344**	**$199,088,954**	**$161,568,793**	**($47,906,903)**	**(23%)**

Source: MOH, SFRA, Tax Credit Allocation Committee

Affordable Housing Fund revenues have decreased significantly

The Affordable Housing Fund consists of affordable housing fees, jobs housing linkage fees, and interest earnings. The City has only collected $15,878 in jobs housing linkage fees since FY 2008-09. While collection of affordable housing fees varies each year, fee revenues have decreased significantly since FY 2007-08, as shown in Chart 5.1 below. The City refunded affordable housing fees to developers in FY 2008-09 and FY 2009-10 and collected less than $70,000 in FY 2010-11.

Chart 5.1
Affordable Housing Fund Collections and Balance
FY 2002-03 through FY 2010-11



Source: MOH

U.S. Department of Housing and Urban Development (HUD) funding has decreased nationwide

HUD has historically been the major funder of affordable housing nationwide. HUD budget reductions and changes to programs and awards, coupled with the rising cost of housing, mean that less Federal funding is available to meet local housing needs. Local funding for affordable housing has become a more important source as HUD funding decreases.

Tax increment financing has been the most stable source of local funds for affordable housing development but may be eliminated with the dissolution of SFRA

Tax increment financing has been the largest source of local funds for affordable housing projects. While State law requires that 20 percent of tax increment funds must be allocated to development of low and moderate income housing, SFRA has allocated approximately 40 percent of annual tax increment revenues, as shown in Table 5.3. San Francisco has had the highest percentage of tax increment revenues allocated to low and moderate income housing of all California redevelopment agencies.

Table 5.3
Tax Increment Revenues Allocated to Low and Moderate Income Housing
FY 2008-09 and FY 2009-10

	FY 2008-09	**FY 2009-10**
Gross Project Area Tax Increment	89,136,650	86,442,627
Actual Tax Increment Allocated to Housing	34,531,505	35,021,581
Percent of Tax Increment Allocated to Housing	38.7%	40.5%

Source: Department of Housing and Community Development

<u>Loss of Tax Increment Revenues as a Source of Funds</u>

The City will lose significant tax increment revenues as a source of funds for affordable housing. Only Redevelopment Project Areas that have pre-existing binding agreements with third parties (the Major Approved Development Projects of Mission Bay, Hunters Point Shipyard/Candlestick Point, and parts of Transbay, including Zone 1) will remain as a source of affordable housing financing as a result of the California Supreme Court's decision, upholding the dissolution of redevelopment agencies (see Section 3).

In accordance with the State law dissolving redevelopment agencies, SFRA's unspent funds for housing of approximately $200 million will be transferred to the City to finance affordable housing. The City will receive increased property tax revenues from the dissolution of SFRA, but SFRA has not yet estimated the amount. The City will lose the ability to issue tax increment bonds from Project Areas not considered Major Approved Development Projects, which are a major source of affordable housing financing. Combined tax increment revenues and bond proceeds have averaged approximately $46 million per year. The Governor has proposed changes to existing law that would allow general obligation bonds to pay for affordable housing and other economic development initiatives to be approved by 55 percent of the vote rather than the current requirement of 66.7 percent, but this proposal has not yet been formalized.

Affordable housing fees and hotel taxes are less consistent and predictable sources of funding

Under the City's municipal codes, both affordable housing fee and hotel tax revenues are allocated to affordable housing development. As shown in Chart 5.1, affordable housing fee collections vary yearly, and resulted in large refunds in FY 2008-09 and FY 2009-10 for development projects that did not proceed.

The Business and Tax Code allocates a percentage of hotel tax revenues to pay for rent subsidies within or adjacent to the Yerba Buena Redevelopment Area and development and rehabilitation of affordable housing for seniors and disabled individuals Citywide. However, if the City or SFRA identify other funds for affordable housing projects, these funds may be used in lieu of hotel tax revenues. Because SFRA has generally provided funds to pay for affordable housing development in lieu of hotel tax revenues, the City has appropriated less than 28 percent of the hotel tax allocation for affordable housing from FY 2002-03 through FY 2010-11.

Table 5.4
Hotel Tax Revenues Allocated to Affordable Housing
FY 2002-03 through FY 2010-11

	Business and Tax Code Provision	Annual Appropriation	Percent
FY 2002-03	$6,036,000	$6,036,000	100%
FY 2003-04	5,560,000	0	0%
FY 2004-05	5,135,000	0	0%
FY 2005-06	6,500,000	0	0%
FY 2006-07	6,370,000	5,000,000	78%
FY 2007-08	7,172,000	5,000,000	70%
FY 2008-09	8,000,000	0	0%
FY 2009-10	6,100,000	0	0%
FY 2010-11	7,100,000	0	0%
Total	$57,973,000	$16,036,000	28%

Source: Controller's Revenue Letter and Annual Appropriation Ordinance

Proposals for dedicated funding sources for affordable housing development have not succeeded at the State or local level

San Francisco has three dedicated funding sources for development of affordable housing: tax increment, affordable housing fees, and hotel taxes. However, as discussed above, new tax increment revenues will be significantly reduced with the dissolution of the SFRA; and affordable housing fee and hotel tax revenues have not been consistently stable or predictable.

National Housing Trust Fund

Nationally, housing trust funds with dedicated funding sources are considered important to the long-term financing and development of affordable housing. Congress established the National Housing Trust Fund in 2008, as a provision of the Housing and Economic Recovery Act. The government sponsored enterprises, Fannie Mae and Freddie Mac, were to contribute funds to the National Housing Trust Fund to pay for housing development for extremely low and very low income households. However, ongoing funding of the National Housing Trust Fund is not known due to the uncertain future of Fannie Mae and Freddie Mac.

Proposed Permanent Funding Sources in California

According to the Center for Community Change's 2007 Housing Trust Fund Progress Report, 600 cities, states, and other jurisdictions had established housing trust funds, including 38 states. California has not established a housing trust fund, although the Department of Housing and Community Development has been evaluating establishment of a permanent funding source, rather than periodic general obligation bonds, to fund affordable housing development. The Department has set an annual target of $2 billion to fund affordable housing development, paid from several different funding sources, and administered by both state and local governments.

The Department of Housing and Community Development conducted stakeholder meetings with representatives from local government, housing, labor, education, environmental and other organizations to discuss establishment of a permanent housing fund, called the "Permanent Source". Key components of the proposed Permanent Source are:

- The Permanent Source will include multiple funding sources to provide more stable support for housing over time;
- Permanent Source funds will be administered by both State and local governments; and
- Affordable housing programs using Permanent Source funds will be implemented by existing local and State entities.

The Department of Housing and Community Development has identified two possible permanent revenue sources with estimated revenues of $1.2 billion per year:

- New document recording fees of $75 per document. This fee would apply to grant deeds, trust deeds, mortgage insurance, and other documents related to real estate transactions.
- New non-conforming loan guarantee program to guarantee mortgages that do not meet Federal Housing Administration (FHA) standards, which includes a one percent transaction fee for affordable housing.

The Department of Housing and Community Development has not moved forward in recommending either of these revenue sources, which require State legislature approval. State Senator Steinberg introduced a bill (Senate Bill 500) in January 2010 to establish a Housing Market Stabilization Fund, although the bill did not identify a funding source. The bill is currently inactive.

Document Recording Fees and Transfer Taxes

Document recording fees and real estate transfer taxes are the two major funding sources for state and local housing trust funds nationwide. Implementation of new document recording fees to pay for affordable housing development in California would require two-thirds approval of the State legislature. While State law allows transfer taxes to be used for general or specific purposes, California cities and counties have only used the transfer taxes for general purposes.

The State legislature has not yet authorized counties to increase document recording fees as a source of funds to finance affordable housing. Although State Assemblymember DeSaulnier introduced Assembly Bill 239 in 2007 to establish a $25 real estate document recording fee surcharge in San Mateo and Contra Costa Counties to pay for affordable housing development, the State legislature failed to adopt this legislation.

Efforts to increase the real estate transfer tax as a source of funds to finance affordable housing in San Francisco have also not been successful. In 2010, the Board of Supervisors considered a proposed ballot measure to allow developers to pay a one percent tax on future property transfers in exchange for reduced affordable housing or jobs housing linkage fee payments in the present. The ordinance was intended to stimulate housing development impacted by the recession and generate future revenues to finance affordable housing development. The Controller's report on the economic impact of the proposed legislation found that, if developers elected to pay the transfer tax in the future in exchange for reduced payment of affordable housing or jobs housing linkage fees in the present, the City would receive more fee revenue over the long term. The proposed ballot measure was not submitted to the voters due to opposition from the Mayor.

Alternative Sources of Funds

The Board of Supervisors could consider establishing a policy that a portion of non-recurring revenues or volatile revenues be appropriated for affordable housing development.

The City's Financial Policies

The City's financial policies, adopted by the Board of Supervisors, include two provisions for non-recurring and volatile revenues:

- 75 percent of volatile revenues, including transfer taxes that exceed the five-year average, and other revenues, are to be deposited into the budget stabilization reserve.

- Non-recurring revenues, including proceeds from the sale of land or fixed assets, unassigned prior-year fund balance exceeding the five-year average, and other revenues, are restricted to one-time expenditures. One-time expenditures include development of affordable housing, as well as other uses.

The Board of Supervisors could consider adopting a policy that 25 percent of volatile revenues that exceed the five-year average (the portion of transfer taxes not assigned to the budget stabilization reserve) are to be used for affordable housing development. Actual allocation of these revenues would not be mandatory and would be subject to Board of Supervisors' appropriation approval. If the policy were implemented, the City could realize additional funding for affordable housing development of approximately $1.8 million per year.[1]

The Board of Supervisors could also consider adopting a policy that a portion of non-recurring revenues would be allocated to affordable housing development. According to the Controller's September 13, 2011 memorandum, if a policy restricting non-recurring revenues to one time expenditures had been in place previously, $59 million would have been allocated to one-time

[1] For example, the *Three Year Budget Projection for General Fund Supported Operations, FY 2011-12 through FY 2013-14*, jointly prepared by the Controller, Mayor's Office, and Budget and Legislative Analyst, estimated $5.5 million in deposits to the budget stabilization reserve in FY 2013-14, equal to 75 percent of volatile revenues. An additional 25 percent would equal approximately $1.8 million.

expenditures from FY 2007-08 through FY 2011-12.[2] If the Board of Supervisors were to allocate 10 percent of these funds to affordable housing development, the City would realize approximately $1.2 million per year on average for affordable housing development, although actual receipt of revenues would not be distributed annually.

Because these sources of funds are not large, the City could allocate them to the Small Site Acquisition Fund, approved by the Board of Supervisors in 2009, or for use as gap financing for affordable housing projects with multiple funding sources.

General Fund Supported Debt

City voters have previously approved issuing debt supported by the General Fund for affordable housing development, although the resulting developments are not owned by the City. 1996 Proposition A general obligation bond proceeds provided loans for the development of affordable housing and down payment assistance to low-income home buyers. The City subsequently submitted general obligation bond measures to the voters for development of affordable housing in 2002 and 2004, but these measures did not receive the required 66.7 percent majority vote.

The Board of Supervisors approved $38 million in certificates of participation, to be issued in 2012, for the development of affordable housing at Hunters View. Payments on certificates of participation are paid from City revenues, including General Fund revenues. While the Housing Authority owns the land, a private joint venture partnership would own the buildings.

The Capital Plan is a 10 year expenditure plan for City-owned facilities and infrastructure. Therefore, the City's capital planning process does not include discussion of general obligation bonds and other General Fund supported financing of affordable housing that may be owned by private or non-profit entities.

Significant reduction or elimination of tax increment bond financing for affordable housing development due to the dissolution of SFRA increases the importance of general obligation bond financing of affordable housing. As noted above, the Governor has considered proposals to change State law, allowing 55 percent rather than 66.7 percent approval of general obligation bonds for economic and affordable housing development. San Francisco voters approved $100,000,000 in general obligation bonds to pay for affordable housing in 1996 (Proposition A). Two subsequent general obligation bond measures for affordable housing received more than 55 percent but less than 66.7 percent voter approval: Proposition B in 2002 received 55.8 percent voter approval; and Proposition A in 2004 received 64.2 percent voter approval.

[2] According to the Controller's memorandum, the policy would have resulted in the City setting aside $16 million in non-recurring revenues in FY 2007-08 and $43 million in non-recurring revenues in FY 2011-12 for one-time expenditures.

HUD Insurance Programs for Rental Housing Development

HUD has two loan insurance programs for supporting rental housing development in areas considered to be in need of revitalization. These areas may include but are not restricted to redevelopment areas. Under both programs, HUD insures loans, acquired by private housing developers from private lenders, against default. Section 220 insures loans for the development of multifamily rental housing. Section 221 (d) (4) is similar to Section 220, except that Section 221 (d) (4) specifies multifamily rental housing for moderate income or displaced families. Neither Section 220 nor Section 221 (d) (4) specifies income limits for tenants. However, HUD targets moderate income rather than luxury rental housing.

Section 220 and Section 221 (d) (4) are attractive to developers because they facilitate access to credit in markets or during periods in which credit by private lenders is restricted. Additionally, loans secured through Section 220 and Section 221 (d) (4) are for 40-year terms and are "non-recourse", indicating that developers are not required to use personal property as collateral. Because HUD restricts the size of the loan, developers may need to use additional sources of financing.

<u>Projects in San Francisco</u>

Private developers in San Francisco have not previously used Section 220 or Section 221 (d) (4). According to one HUD representative, applications for Section 220 and Section 221 (d) (4) nationwide increased significantly in FY 2010-11.

Two San Francisco projects have recently received HUD Section 220 or Section 221 (d) (4) financing.

- 178 Townsend Street is a $41 million, 94-unit rental project, funded with a $32.5 million HUD insured loan, plus other State loans and Federal tax credits.

- 333 Harrison Street is a $100 million, 325-unit rental project, funded with a $70 million HUD insured loan, $2,762,000 in South of Market Community Stabilization Fund monies, a State loan, and other financing.

Both projects are currently under construction.

Affordable Housing Units

While Section 220 and Section 221 (d) (4) do not require affordable housing, both projects must comply with the City's Inclusionary Affordable Housing Ordinance. In order to finance affordable units, both projects have obtained additional financing.

- 178 Townsend Street will contain 20 percent affordable housing units (approximately 18 units) for households with income 60 percent of AMI. The developer has obtained tax credits (4 percent non-competitive) and tax-exempt bond financing through ABAG to fund affordable housing development.

- 333 Harrison Street will contain 15 percent affordable units (approximately 49 units) for households with income 30 percent of AMI. The City provided $2,762,000 from the South of Market Community Stabilization Fund, and the Department of Housing and Community Development awarded an $11.5 million infill and infrastructure grant because the project contains affordable housing units and is located close to transit.

Promoting HUD Financing for Private Housing Development

HUD Section 220 and Section 221 (d) (4) financing, combined with tax credits and tax-exempt bonds, can facilitate rental housing development and inclusionary housing by private developers in tight credit markets. 178 Townsend was sponsored by ABAG for the issuance of tax exempt bonds but did not receive City funds.

The process for applying for Section 220 or Section 221 (d) (4) financing can be cumbersome. 178 Townsend Street was the first large housing development in San Francisco to apply for and receive Section 221 (d) (4) financing. According to the developer's representative, the HUD application and approval process took 18 months, and involved significant paperwork. HUD has expressed an interest in continuing to guarantee loans for large housing developments under Section 220 and Section 221 (d) (4).

The Director of MOH should work with HUD and private developers to promote Section 220 or Section 221 (d) (4) financing for rental housing development in San Francisco neighborhoods in need of revitalization. MOH would need to work with HUD officials to facilitate the cumbersome application process. MOH could support the development of affordable housing through combining Section 220 or Section 221 (d) (4) financing with non-competitive tax credits and tax-exempt bonds.

Conclusion

SFRA and MOH have been successful in obtaining Federal and State tax credits and State loans to finance affordable housing development in San Francisco. SFRA has also exceeded State requirements for allocating tax increment revenues to low and moderate housing development. Because the dissolution of the SFRA may eliminate some or all of the tax increment financing for affordable housing development, the City needs to look for other sources of financing.

The City has dedicated other local sources of financing for affordable housing, especially the payment of the affordable housing fee or construction of inclusionary housing by developers. This source, however, depends on the development of market rate housing, which has slowed significantly during the recession and most likely will not return to the previous high level of market rate development.

An alternative source of funding could include real estate document recording fees, which requires State legislature approval. A prior effort by a State legislator to implement document recording fees as a dedicated financing source for affordable housing has not been successful. To move forward with new dedicated funding sources for affordable housing, the City would need to evaluate (1) the relationship of new dedicated funding sources to the existing Inclusionary

Affordable Housing Ordinance, and (2) the relative impact of the existing affordable housing fees and inclusionary housing requirements, and new real estate document recording fees or other dedicated sources on the housing and commercial real estate markets.

Recommendations

The Board of Supervisors should:

5.1 Consider adopting a policy that development of affordable housing would be a priority use of volatile revenues, including transfer taxes, that exceed the five year average (the portion of volatile revenues not assigned to the budget stabilization reserve).

5.2 Consider adopting a policy that a portion of non-recurring revenues would be allocated to affordable housing development.

The Director of MOH should:

5.3 Track State proposals to authorize local governments to issue affordable housing general obligation bonds with 55 percent voter approval, evaluate the feasibility of issuing affordable housing general obligation bonds in San Francisco, and report to the Board of Supervisors regularly on the status of the State proposal, but at least once prior to June 30, 2012.

5.4 Work with HUD and private developers to promote Section 220 or Section 221 (d) (4) financing for housing development in San Francisco neighborhoods in need of revitalization, including (a) working with HUD officials to facilitate the application process; and (b) working with developers to combine Section 220 or Section 221 (d) (4) financing with non-competitive tax credits and tax-exempt bonds to pay for inclusionary housing.

Costs and Benefits

If the Board were to implement new policies, allocating up to 25 percent of volatile revenues, including transfer taxes, that exceed the five-year average or a portion of non-recurring revenues to affordable housing development, these policies would not increase City revenues but would make more revenues available to affordable housing projects. Promoting and facility HUD financing for rental housing could potentially increase the availability of financing and production or rental housing in neighborhoods needing revitalization, including inclusionary housing.

6. Inclusionary Housing Program Management

- **The Mayor's Office of Housing (MOH) administers the inclusionary housing program and monitors inclusionary ownership and rental units. MOH works with the Planning Department to ensure that developers comply with inclusionary housing requirements and inclusionary owner-occupied and rental units are distributed by location and unit size throughout the development. MOH is responsible for setting the price of inclusionary units, ensuring qualified buyers or renters, and monitoring ongoing affordability and compliance with program requirements.**

- **Marketing of inclusionary units could improve. In six of eight cases reviewed for this audit, project sponsors did not begin marketing inclusionary units until 5 to 16 months after the principal project was completed. This fails to comply with program requirements that inclusionary unit marketing begin no later than 60 days from certificate of occupancy. MOH should develop mechanisms to enforce the requirement that project sponsors contact MOH to price and market the units within 60 days of the first certificate of occupancy. In addition, the Department of Building Inspection (DBI) should create and regularly provide MOH with a report of projects containing inclusionary units that receive a certificate of occupancy.**

- **Other changes in inclusionary marketing would increase outreach to target populations. In particular, project sponsors are not required to develop marketing plans and conduct lotteries, develop a wait list or take other steps to insure broad opportunities for eligible applicants to rent inclusionary units after the initial tenant leaves. Further, the Planning Commission should adopt revisions to the procedures manual to extend the required marketing period from 28 days to 90 days to strengthen outreach.**

- **Since the requirement for inclusionary housing was adopted in 2002, MOH has not monitored residents of inclusionary rental units to insure that they have been appropriately rented or remain income eligible. The absence of monitoring has resulted in units remaining vacant for long periods of time or being occupied by tenants who no longer meet the income requirements. In one project, 17 units of inclusionary rentals have been unoccupied for three years. MOH has begun to enforce some program requirements. Requiring a monitoring plan from rental agents at the time of certificate of occupancy and training building owners and managers in the program requirements as is done in other cities would also improve monitoring.**

- **MOH does not recover the costs of monitoring inclusionary rental units. Charging a rental monitoring fee, as is done in other jurisdictions, would provide the City with approximately $18,000 in the first year to offset monitoring costs.**

The City's Inclusionary Housing Program

The City's Inclusionary Affordable Housing program supports affordable housing acquisition for home buyers earning approximately 90 percent of the San Francisco Area Median Income for the family size and tenants earning a maximum of 55 percent of the San Francisco Area Median Income. In a few instances, different income targets were set by the Planning Commission during entitlement. For example, a project at 601 Alabama allows for some units to be purchased by those at income levels below this threshold, while the overall average for the building remained at 100 percent of area median income.

For site or building permits issued prior to September 9, 2006, the area median income for ownership units is reduced from 100 percent to 90 percent of area median income and from 60 percent to 55 percent of area median income for rental units.

The City, through the Mayor's Office of Housing (MOH), implements this program by placing certain requirements on developers of market rate housing projects. In 2010, the Inclusionary Affordable Housing Ordinance was amended to indicate that the primary alternative for project sponsors to fulfill the requirement is to pay an affordable housing fee, generally representing the difference in what buyers at the affordable income level are able to afford and the average cost of building a unit (known as the affordability gap), for 20 percent of the total number of units in the principal project. Sponsors may also qualify for the following alternatives to the fee:

(1) Providing below market rate units on-site, generally at a rate of 15 percent of total units within the principal project (percentages are higher in the Eastern Neighborhoods Plan Area);

(2) Providing affordable housing units off-site, generally at a rate of 20 percent of the units in the principal project and within a one mile radius of the principal project (percentages are higher in the Eastern Neighborhoods Plan Area);

(3) For project sponsors in the Eastern Neighborhoods Plan Area or Market and Octavia Plan Area, dedicating land suitable for housing development within a reasonable distance of the principal project and the plan boundary.

Project sponsors may use one or a combination of these alternatives to fulfill the inclusionary housing requirement. Unlike many cities, where inclusionary requirements apply only to projects built in redevelopment areas, San Francisco's inclusionary housing policy applies to all residential developments of five or more units. For example, in San Jose, City policy requires that market rate projects located in redevelopment areas established after 1976 include 20 percent of the units as affordable. In the City of Los Angeles, inclusionary housing applies only to redevelopment areas or projects built with City financing. Since 2000, five major American cities with populations of over 500,000 have adopted comprehensive inclusionary zoning ordinances including Boston, Denver, San Francisco, San Diego and Sacramento.

Inclusionary Housing Program Administration

Prior to FY 2007-08, the administration and operating costs for the Inclusionary Affordable Housing Program were covered by the City's federal Community Development Block Grant (CDBG) funds. Due to decreases in CDBG administrative allocations, funding for program administrative costs now comes from the Affordable Housing Fund[1], as allowed under the Planning Code. MOH reports that total program costs were $631,535 in FY 2010-11.

The Planning Department and MOH share responsibility for administration of the inclusionary housing program, depending on the stage of the project. The role of the Planning Department in implementing this program is to:

(1) Review projects through the entitlement process;
(2) Determine the project's affordable housing requirement (i.e. the number of below market rate or inclusionary required by the project sponsor);
(3) Incorporate applicable language into the Conditions of Approval, including placing conditions on the location of inclusionary units to insure relatively equal placement throughout the project;
(4) Designate where affordable units may be located if the project sponsor opts for on-site units; and,
(5) Approve building designs for off-site projects if the project sponsor opts for off-site units.

MOH may provide assistance, at the request of the Planning Department, in reviewing planning documents to ensure the size and placement of units reflects that of market units. However, generally, MOH's responsibility for developer-built units consists of:

(1) Pricing and marketing inclusionary units;
(2) Qualifying applicants;
(3) Preparing closing documents;
(4) Monitoring ongoing compliance;
(5) Forecasting and publicizing upcoming inclusionary unit availability; and,
(6) Providing information to potential and actual project sponsors.

There are currently more than approximately 1,700 units subject to affordable housing restrictions.

Pricing of Inclusionary Units

The first substantive step of MOH's involvement with project sponsors is to price inclusionary units for low and moderate-income tenants and purchasers. In undergoing this process, MOH uses a checklist that factors in: (1) whether project sponsors have set pricing appropriately based on different income levels and unit sizes; and (2) the impact on affordability of other costs to the

[1] Job housing linkage fees, which are included in the Affordable Housing Fund, are precluded from paying administrative costs.

tenants and/or purchasers such as parking, Home Owner Association (HOA) dues, and property taxes.

MOH Staff Selection and Pricing of Units for Given Income Targets

MOH and Planning Department staff work with project sponsors to select appropriate units to designate as inclusionary. The Planning Department staff use entitlements to place conditions on the location of inclusionary units prior to project approval to ensure that not all inclusionary units are located in inferior locations and that they are evenly dispersed throughout the building (but usually below the top third of floors). Once built, MOH places additional conditions on the general type and condition of fixtures. For example, there must be a new stove if such is provided to market units, but fixtures do not have to be entirely equivalent to those in market units (a high-end range may be installed in a market unit but not required in an inclusionary unit).

MOH staff also price inclusionary rental and owner-occupied units. For owner-occupied units, MOH staff prices the units to be affordable to households that are one person larger than the number of bedrooms. This sales price represents no more than 33 percent of the household income after a 10 percent down payment assumption (down payments are not a program requirement, simply a factor used in determining participant assets).

MOH has updated its requirements so that purchasers of inclusionary units generally earn approximately 90 percent of area median income, unless different targets were set during the entitlement process or for other specific reasons. For example, in the Budget and Legislative Analyst's review of three ownership and five rental units, MOH increased the income limit for one ownership unit, but not the price of the unit, to 120 percent of area median income because the units had not sold for six months. The income limit will revert to 100 percent of area median income when the owner sells the unit.

A given building may contain units whose affordability level averages 90 percent of San Francisco Area Median Income for a given household size. The median income for units is averaged across a building. This has at times required MOH staff to switch units if a given unit was chosen by a buyer with an income other than the designated income level.

For rental properties, no averaging that would permit those with incomes higher than 55 percent to rent inclusionary housing units is allowed. MOH staff also ensures that the rent is no more than 30 percent of total gross income for a given household size according to federal income standards.

Protection of tenants in rent controlled buildings is provided on a case-by-case basis. In at least two projects – 1167 Market Street (Trinity Plaza) and Park Merced – not included in the file review, tenants who lived in rent controlled units in buildings slated for demolition and replacement were guaranteed a rent controlled unit at their current rent in the new development. These units do not count towards the required number of inclusionary units in the new building; instead, the required number of on-site inclusionary units is calculated as a percentage of the units remaining after deducting the number of rent controlled units given to eligible tenants from the former building.

Impact of Auxiliary Costs on the Maximum Affordable Price

The City has adopted specific policies, implemented by MOH and the Planning Department, that insure that the burden of auxiliary costs on purchasers and tenants of inclusionary units does not bring total housing costs above the affordable level. For ownership units, MOH subtracts the cost of homeowner association (HOA) dues and property taxes from the maximum mortgage a prospective owner can be expected to carry for the unit, helping to bring the unit within affordable levels. MOH adjusts final purchase prices to reflect the cost of property taxes and HOA dues.

City policy calls for parking to be "unbundled"; that is, developers must sell or rent parking spaces separately from residential units in order to encourage residents to consider the actual cost of parking and transit alternatives. This requirement also applies to inclusionary housing units and allows lower income residents who might be less likely to need a parking space to purchase or rent a unit without the cost of parking. Further, residents in inclusionary units are offered parking at the lowest market price for a parking space. Under unbundled parking scenarios, MOH insures that HOA dues and sales or rent levels are reduced if the owner/tenant does not choose a parking place.

MOH should improve the marketing of inclusionary units to prospective tenants and purchasers

Absence of interdepartmental communication and cooperation has weakened the City's ability to provide inclusionary units to the public quickly. Further, project sponsors are not consistently notifying the MOH that their projects, which include inclusionary units, are complete and ready to be marketed to qualified occupants.

The Department of Building Inspection (DBI) does not regularly provide information on certificates of occupancy to MOH. Moreover, the public web portal maintained by DBI does not contain this information. MOH does not have access to the DBI database and, even if access were provided, MOH would need to look up each project individually by address as there is no standardized report of certificates of occupancy being granted. This lack of information has forced MOH to largely depend on project sponsors to self-report the estimated completion date of their projects.

Project sponsors do not consistently initiate the marketing of units in accordance with MOH guidelines. In six of eight cases reviewed for this audit, project sponsors did not begin marketing inclusionary units until 5 to 16 months after the principal project was complete. This fails to fulfill program requirements that inclusionary unit marketing begin no later than 60 days from certificate of occupancy and delays the availability of affordable units to qualifying applicants. It is unclear whether market rate units were also not being marketed during this time or all units sat idle. If in fact market rate units are sold or rented before the affordable units, this delay would represent a further compliance issue as affordable units are required to be made available at the same time as market rate units.

Once project sponsors contact MOH staff, they are able to complete the pricing process in a timely manner, usually within one month.

Marketing Plans

Project sponsors are required to submit a marketing plan to MOH for approval before any market rate or inclusionary units are advertised to the public. MOH materials emphasize that marketing should actively promote fair and open accessibility to all eligible buyers or renters. Marketing plans must ensure that:

- The size, placement and amenities of units, available parking, and the target median income and family size are correctly advertised; and

- The marketing strategy chosen by project sponsors meets program requirements, including outreach to minority and low- and moderate-income communities and to certificate of preference holders,[2] placement on MOH's website, and advertisement in area newspapers.

MOH has worked to standardize the language used in advertising to insure the size of units and the associated price and family size are stated correctly. MOH also sends out a weekly inclusionary alert to community groups, Board of Supervisors offices and to other city staff to alert them to the availability of inclusionary units, including rental units.

Property agents are required to market the units for a minimum of 28 days on MOH's website. MOH would like to expand this requirement to 90 days to strengthen outreach. Doing so would require a change to the inclusionary program's procedures manual approved by the Planning Commission.

Selection of Occupants

MOH conducts a lottery in order to select qualified applicants for inclusionary units in each project. MOH does not maintain a wait list as staff contend that these lists are an inefficient and ineffective means for selecting applicants. Therefore prospective tenants and/or purchasers must apply for each lottery. MOH lotteries give preference to certificate of preference holders, followed by those who live or work in San Francisco. Lottery winners must meet the income requirements and, for owner-occupied units, must be a first-time homebuyer and have been prequalified for a loan.

Project sponsors collect applications from lottery winners and submit them to MOH. Project sponsors may reject individual applicants after they are entered into the lottery, but only with MOH permission and only based on criteria approved in advance by MOH. MOH staff ensure

[2] City residents who hold a certificate of preference (COP) from the Redevelopment Agency because they were displaced by a redevelopment project and meet the inclusionary housing requirements.

that project sponsors do not impose unreasonable requirements on applicants, such as large deposits. No additional measures used by agents for market rate units (e.g., level of tenant debt) that are outside of MOH lottery criteria are allowed. MOH is also working to clarify criteria for rejecting a potential renter and to strengthen eviction rules to approximate just cause eviction requirements.

Of the five rental property files reviewed, three required MOH intervention to ensure program requirements were met. In these cases, MOH ensured that: (1) a request under the Americans with Disabilities Act to allow a tenant a cosigner was accommodated; (2) unreasonable rejection of tenant applicants was disallowed; (3) requirements for rental deposits in excess of 1.5 times the rent were removed; and, (4) rental units were filled at the same time as market units, as required under the program.

Monitoring Ongoing Compliance

Monitoring Owner-Occupied Units

MOH monitors owner-occupied units annually to ensure that existing owners continue to qualify for the unit. Owners of inclusionary units certify annually that they continue to reside in the unit and that no new names have been added to the title since closing. MOH staff requires owners who do not meet the residency requirements to sell their units. MOH staff has found nine non-compliant ownership units out of 756 total owner-occupied units (1.2 percent of total units) since the inception of the inclusionary housing program in 2002 because the owners were no longer living in the residence.

<u>Default and Foreclosure</u>

MOH monitoring also involves ensuring that: (1) owners are not in mortgage default; (2) property taxes and homeowner's association dues and/or insurance are current; and, (3) other loans that owners have taken out for the property without city assistance are appropriate. Foreclosures are limited because participants are not allowed to finance purchases with riskier mortgage instruments such as adjustable rate mortgages. Further, participants may only receive financing from lenders approved by MOH.

To date, only three units of 756 total owner occupied units in the program have experienced foreclosure, with one additional unit pending. MOH receives any and all notices of default from lenders and is beginning to collect foreclosure information from the Assessor's Office. In these instances, MOH will connect owners to mortgage assistance programs, such as those that allow owners to defer payments if they are unemployed. MOH also intervenes when a property goes into foreclosure to ensure it is sold to a buyer qualified for the inclusionary program.

<u>Resale</u>

While owner incomes may rise above the median income, owners of inclusionary housing units may only sell their homes at a price adjusted by formula, which allows for inflation and recouping of some capital costs. Long-term affordability of owner-occupied units is ensured by liens on behalf of the City that prevent owner-occupants from selling their units above the allowable adjusted price. MOH staff now collect information from the Assessor's Office to ensure units are not sold to unqualified buyers outside of the lottery process.

MOH staff carefully monitors re-sales, which have a 14 day marketing period, to ensure purchasers are qualified, prices are set correctly and parking is correctly transferred based on its bundled or unbundled status. However, unlike in some other cities, MOH staff does not coordinate and review home inspections and appraisals of the unit, prepare paperwork for selling units, or ensure units are in sellable condition, which can cost from $500 to $20,000 in contractor or agent fees. In San Francisco these fees are considered the responsibility of the individual homeowner.

Monitoring Rental Units

MOH monitors inclusionary rental units to ensure that (1) units comply with affordability guidelines; (2) vacant units are rented to eligible tenants; and (3) existing tenants remain eligible based on their income level and household size. Ongoing affordability of rental units is protected by annual rent adjustments set by MOH.

MOH does not have formal procedures to ensure that inclusionary rental units are re-rented according to program guidelines. MOH staff primarily relies on building managers to manage compliance with City eligibility guidelines. MOH monitoring is dependent on (1) policies directing building managers to confirm new tenant eligibility with MOH and (2) the presence of professional managers in most buildings with inclusionary units.

There is no specific marketing plan or lottery for subsequent rental of inclusionary units. Instead, MOH staff relies on potentially interested parties to monitor its website for openings. MOH staff sends out a weekly inclusionary alert to community groups, Supervisors' offices, and other City staff to alert them to available inclusionary units, including rentals.

Since the inclusionary housing program was introduced in 2002, there has been insufficient monitoring of the ongoing eligibility of existing tenants of inclusionary units. In contrast, other cities in California annually monitor the income level of these tenants to ensure that they remain income eligible. For their inclusionary units, San Francisco's and San Jose's Redevelopment Agencies and the City of San Diego collect annual information from building managers that includes inclusionary tenant names, numbers of people in the household, household income, and unit size. Tenants who fall far outside income qualifications may be asked to leave or the unit may be converted to market rate with a comparable market rate unit in the facility changed to below market on vacancy.[3]

[3] In projects also funded with tax credits, the IRS will not allow tenants to be evicted because they rise above the income threshold. The San Jose Redevelopment Agency reports that in these instances the Agency works with the developer to insure rents are raised to the maximum extent allowable by the funding source in order to encourage the tenant to voluntarily move out.

San Francisco requires that project sponsors provide the number, location, size and description of inclusionary units in their project's entitlement application, but project sponsors do not at that time have to provide the details of how they will comply with marketing, tenant selection and inclusionary unit eligibility monitoring requirements once the project is complete and inclusionary units are available for sale or rent.[4] The City of San Diego's inclusionary housing program requires building owners to create a compliance monitoring plan upon initiation of inclusionary projects, which enhances inclusionary resident eligibility monitoring. The City of Salinas requires that developers submit a marketing and monitoring proposal that details how the developer will satisfy ongoing requirements including a plan for marketing the units, criteria to be used for selection of residents and the mechanisms that will be used to preserve affordability of ownership units.

Requiring plans for these activities upfront (at least two years before a project is completed) would place additional burdens on project sponsors, some of whom may not move ahead with their projects. However, it would also ensure that project sponsors are aware of the monitoring requirements and are prepared and able to implement them and that MOH is better prepared to enforce them. A preferred alternative would be to require project sponsors to address monitoring prior to the issuance of the certificate of occupancy, when they are expected to begin pricing and marketing the units.

MOH has redirected a portion of an existing staff member's time to the inclusionary housing unit, in part to strengthen monitoring of inclusionary rental properties. MOH plans to have property managers collect documentation that current tenants' incomes have not risen to above twice the allowed area median income by a percentage amount currently being determined (e.g., twice the allowed area median as is the standard used by Redevelopment), that household size and composition has not changed such that tenants would be ineligible and that tenants have not subleased the units. This process, once implemented, will also insure that units re-rented by agents without MOH knowledge will be identified.

Recovery of Monitoring Costs

San Francisco does not charge a monitoring fee for its rental properties and therefore does not recover the administrative costs of monitoring such properties. Other California cities, including San Diego and Salinas charge an annual fee to owners of inclusionary rental units. Annual monitoring fees generally range from $40-$65 per unit per year; the City of San Diego also charges a one-time $500 fee at project initiation. If San Francisco were to charge an annual monitoring fee of $60 per unit, it could collect $18,000 annually in fees, an amount that would grow as participation in the rental program and the subsequent burden on City staff increases and as the balance in the affordable housing fund declines.

[4] As discussed above, a marketing plan is to be submitted by project sponsors once units are ready to be advertised.

Training Managers of Inclusionary Rentals

MOH does not currently provide monitoring training to owners or managers of rental units that are a part of the City's inclusionary housing program. (It does provide training on program rules and applicant qualifications.) Providing training to building owners that addresses program monitoring and fair housing requirements could enhance compliance with program requirements and ensure that the inclusionary housing program serves those most in need. This approach is taken in Arlington, Virginia.

Enforcement for Pre-Existing Inclusionary Units

Prior to the current program management, a small number of units had been sold or rented to non-qualifying tenants or left vacant for lengthy periods by building management or owners, rendering them out of compliance. Some of these units were constructed while the program was voluntary prior to 2002; all non-compliant units were constructed prior to 2005. In one example, 55 Page Street, the project sponsor completed a rental property with 17 inclusionary units in 2008 but the inclusionary units were never occupied. In May, 2011, the Planning Commission approved allowing the owner to convert them to inclusionary ownership units.

Over the last year, MOH has worked to reduce the number of non-compliant units from 60 to 36 (16 owner-occupied units and 20 rental units) in three buildings. In the past, rental unit compliance issues were identified through complaints from neighbors or came to the attention of Planning or MOH in other ways. MOH staff has taken some steps to enhance its monitoring of compliance including redirecting a portion of an existing staff person's time to the program to free up the program manager to work on compliance issues and opening enforcement cases for each non-complying property. To date, one notice of violation has been filed. MOH staff reports that some of the non-compliant properties are in receivership, hampering the City's ability to enforce the requirements.

Conclusion

MOH has been effective in working with the Planning Department to ensure that developers comply with inclusionary housing requirements and that inclusionary ownership and rental units are distributed by location and unit size throughout the development. However, MOH could improve marketing of inclusionary ownership and rental units, and monitoring of inclusionary rental unit tenants to ensure continued eligibility. Although MOH has begun to enforce program requirements, requiring a monitoring plan from rental agents at the time of certificate of occupancy and training building owners and managers in the program requirements as is done in other cities would also enhance monitoring.

MOH does not recover the costs of monitoring inclusionary rental units. Charging a rental monitoring fee, as is done in other jurisdictions, would provide the City with approximately $18,000 in the first year to offset program management costs. The application of these fees retroactively to properties already in the program will need to be examined for consistency with state law.

Recommendations:

The Director of MOH should:

6.1 Develop mechanisms to enforce the requirement that project sponsors contact MOH to price and market the units within 60 days of receiving their Certificate of Occupancy from the Department of Building Inspection.

6.2 Require marketing plans and conduct lotteries, develop a wait list or take other steps to insure broad opportunities for eligible applicants to rent inclusionary units after the initial tenant leaves.

6.3 Require a monitoring plan from project sponsors before the Certificate of Occupancy is issued and training building owners/managers in the program's monitoring requirements.

6.4 To the extent consistent with state law, charge a per unit rental monitoring fee beginning at Certificate of Occupancy in order to recover administrative costs relating to the monitoring of rental units and to encourage project sponsors to sell or rent units as soon as possible after project completion.

6.5 Strengthen monitoring of voluntarily-built inclusionary units created before the Inclusionary Housing Ordinance was adopted, as developers received concessions from the City in exchange for designating Below Market Rate units.

6.6 Revise the Inclusionary Affordable Housing Program's Procedure Manual to extend the required marketing period from 28 days to 90 days to strengthen outreach.

6.7 Submit an annual report to the Board of Supervisors concerning progress made in monitoring compliance of inclusionary rentals with program requirements.

Costs and Benefits

MOH should implement these recommendations within existing staff resources. While MOH has largely directed staff resources to monitoring owner-occupied affordable housing units, MOH should have sufficient staff resources to increase monitoring of rental units. Because MOH responsibilities and staffing resources will change due MOH's assumption of housing assets and functions formerly the responsibility of the San Francisco Redevelopment Agency (SFRA), including SFRA's inclusionary housing units, MOH will need to evaluate the best use of staff resources overall.

The monitoring fee is estimated to bring in approximately $18,000 in the first year of instituting it. Fee revenues will increase as the number of units monitored and MOH workload increases.

Written Responses to the Audit Report and Recommendations and List of Accomplishments from the Director of Planning and Director of the Mayor's Office of Housing

MEMORANDUM

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From:	John Rahaim, Planning Director
Subject:	Housing Audit Findings for the Planning Department

Pursuant to your request, this is confirmation that the Planning Department has received and reviewed the draft Housing Audit. As we noted in the response section of the report, we intend to take action on the recommendations of the report. We certainly appreciate your efforts as the audit findings help us to improve our mission at the Planning Department.

MAYOR'S OFFICE OF HOUSING
CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

OLSON LEE
DIRECTOR

MEMORANDUM

DATE: January 18, 2012

TO: Harvey Rose, Budget and Legislative Analyst

FROM: Olson Lee, Mayor's Office of Housing Director

RE: Affordable Housing Policies and Programs Audit Findings for the Mayor's Office of Housing

Pursuant to your request, this is confirmation that the Mayor's Office of Housing has received and reviewed the draft Performance Audit of San Francisco's Affordable Housing Policies and Programs. As we noted in the response section of the report, we intend to take action on the recommendations of the report. We certainly appreciate your efforts as the audit findings help the Mayor's Office of Housing improve upon its mission.

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Recommendation Priority Ranking

Based on the performance audit findings, the Budget and Legislative Analyst has made 26 recommendations, as listed below, which are ranked based on priority for implementation. The definitions of priority are as follows:

Priority 1: Priority 1 recommendations should be implemented immediately.

Priority 2: Priority 2 recommendations should be completed, have achieved significant progress, or have a schedule for completion prior to June 30, 2012.

Priority 3: Priority 3 recommendations are longer term and should be completed, have achieved significant progress, or have a schedule for completion prior to December 31, 2012

	Recommendation	Priority	Department Response	Implementation Status/ Comments
The Director of Planning should:				
1.1	Report to the Planning Commission on the regional housing needs determination and assessment process and organize co-jointly with ABAG a workshop or tutorial on the regional housing needs determination and assessment process for the San Francisco Planning Commission and other interested Bay Area Planning Commissioners in late 2012 or early 2013.	2	Agree	<u>Planning Department:</u> The Department, along with the Mayor's Office of Housing, is participating in the region's SCS/ RHNA Housing Methodology Committee, and will organize this workshop at the conclusion of that process.
1.2	Present an informational report to the Planning Commission on San Francisco's housing need allocation prior to final adoption by ABAG of the next regional housing allocation.	3	Agree	<u>Planning Department:</u> The Department, along with the Mayor's Office of Housing, is participating in the region's SCS/ RHNA Housing Methodology Committee, and will prepare this report, along with the above workshop, at the conclusion of that process.
1.3	Direct staff members to revise staff report templates to the Planning Commission so that they include data on the expected unit type and income level of any proposed projects or area plans under review, including how such units would address the City's fair share of the Regional Housing Need.	2	Agree	<u>Planning Department:</u> The Department is moving forward on this revision, and will develop a template to detailing unit mix and affordability to include in staff submittals; with changes in place by spring 2012.

	Recommendation	Priority	Department Response	Implementation Status/ Comments
The Director of Planning should:				
1.4	Resume providing the Planning Commission with a Quarterly Housing Production Report once the Department's Information and Analysis Unit is again fully staffed.	2	Agree	Planning Department: The Department will revise the quarterly report submitted to the Planning Commission to include, if available, information on affordability of proposed housing projects. Please note that while a decision to pay in-lieu fees or build off-site BMR housing must be confirmed prior to first project approval, project sponsors have the ability to choose the on-site option until issuance of building permit, and therefore full information on fulfillment of inclusionary requirements is not available until issuance of building permit.
1.5	Direct staff to coordinate with MOH as necessary in order to report to the Planning Commission within the next and subsequent annual Housing Inventories on the use of affordable housing fees including the location, tenure (ownership or rental) and affordability level of housing built with funding from affordable housing fees.	2	Agree	Planning Department: The Department will expand the existing section on "Inclusionary Housing" in the *Housing Inventory* to include a discussion of the allocation of in-lieu fees collected (i.e., which projects are partially funded and the income categories served). In addition to the existing table listing In-Lieu Fees collected by year in Appendix E, a separate list will be added detailing the distribution of In-Lieu housing Fees Collected.
1.6	Include in the annual Housing Inventory an evaluation of (a) contribution of residential projects entitled in the preceding calendar year contributed to the City's housing goals for each income level and to the Housing Element's policies and objectives; (b) how entitled housing projects met inclusionary housing or affordable housing fee requirements, and their expected impact on achieving the City's housing goals for each income level; (c) whether entitled housing projects advanced various Area Plan goals and objectives and (d) the current and projected status of housing development in the City compared to the City's housing goals.	2	Agree	Planning Department: The Department already includes this information in Part 1 of the Housing Element, which is published every five years, and will increase its reporting by including them in the annual Housing Inventory. The Department's quarterly submittal to the Planning Commission includes a column detailing the number of units required in order to meet the City's regional housing needs production, and will also note the number of affordable units when possible

	Recommendation	**Priority**	**Department Response**	**Implementation Status/ Comments**
The Director of Planning should:				
2.1	Submit a report at least annually, or more often depending on the development market, to the Planning Commission and to the Board of Supervisors, evaluating (a) net development of market rate and affordable housing in transit-oriented districts, and (b) approval of Conditional Use permits with higher parking ratios than initially permitted in transit-oriented zoning districts	2	Agree	Planning Department: The Department already reports on these issues as a part of the mandated Market & Octavia and Eastern Neighborhoods Monitoring Reports, and will expand the "New Housing Units Added by Zoning Districts," in the annual *Housing Inventory* to include a bullet highlighting new developments in transit-oriented districts. While the Housing Inventory already includes a breakdown of housing production by zoning districts, including transit-oriented zoning districts, the section only highlights areas or zoning districts where the majority or bulk of new units were built. Under approvals, a bullet point will highlight the number of projects approved in transit oriented districts. Information about parking approvals will be included in this section. An appendix detailing approvals in transit oriented districts, including the number of parking permitted and the number of parking approved, will be added. Tables A-1 and A-2 of the annual *Housing Inventory*, which provides detailed information on housing projects built in the reporting year, will also be revised to include the zoning district.
2.2	Include the San Francisco Municipal Transpiration Agency and San Francisco County Transportation Authority as early as possible in the planning and development of San Francisco Planning Area Plans.	2	Partially Agree	Planning Department: The Central Corridor Plan is the only Area Plan currently under development in the Planning Department. Representatives from the San Francisco Municipal Transpiration Agency and San Francisco County Transportation Authority currently sit on the Central Corridor Plan's Technical Advisory Committee, and meet quarterly with the Department. Additionally, the Department meets regularly with these agencies on the implementation of adopted Area Plans, as a part of the legislated Interagency Plan Implementation Committee.

	Recommendation	Priority	Department Response	Implementation Status/ Comments
The Director of MOH should:				
3.1	Report annually to the Board of Supervisors on (1) completed and planned supportive housing units for chronically homeless individuals and families, including populations served, and (2) funding strategies for planned units.	2	Agree	MOH: MOH will prepare such a report as part of its Annual Housing Report.
3.2	Enter into 15-year local operating subsidy agreements with supportive housing operators, which are subject to Board of Supervisors approval.	1	Agree	MOH: All new LOSP contracts will be 10 years or longer, depending the financial circumstances of the project and will be presented to the Board of Supervisors as part of the annual budget process.
3.3	Evaluate the cost containment findings of the Tax Credit Allocation Committee, when completed, and report to the Board of Supervisors on how these findings impact affordable housing development in San Francisco.	3	Agree	MOH: MOH will prepare a report upon TCAC's completion of its cost containment findings.
The Director of MOH should:				
3.4	Consistent with Recommendation 4.3, report to the Board of Supervisors in Spring 2012 on the impact of the Inclusionary Affordable Housing Ordinance on the types, sizes, target demographics, and geographic distribution of housing produced.	2	Partially Agree	MOH: MOH will prepare a report in Summer 2012.

	Recommendation	Priority	Department Response	Implementation Status/ Comments
The Board of Supervisors should:				
4.1	Consider the impact of the affordable housing fee deferral on incentives to either pay the affordable housing fee or build inclusionary affordable housing units when reviewing whether the development impact fee deferral program should be allowed to sunset in 2014.	3		
4.2	Consider the impact of the affordable housing fee deferral on the amount and timing of funding available to the City as leverage for affordable housing projects when reviewing whether the development impact fee deferral program fee deferral should be allowed to sunset in 2014.	3		
The Director of MOH should:				
4.3	Analyze the impact of the Inclusionary Affordable Housing Ordinance on the types, sizes, target demographics and distribution of housing produced as part of the pending study on the impact of the Ordinance and submit a written report to the Board of Supervisors no later than the Spring of 2012.	1	Partially agree	MOH: MOH will prepare a report in Summer 2012.
The Board of Supervisors should:				
5.1	Consider adopting a policy that development of affordable housing would be a priority use of volatile revenues, including Real Estate Transfer Taxes that exceed the five year average (the portion of volatile revenues not assigned to the City's budget stabilization reserve).	3		
5.2	Consider adopting a policy that a portion of non-recurring revenues would be allocated to affordable housing development.	3		

	Recommendation	Priority	Department Response	Implementation Status/ Comments
The Director of MOH should:				
5.4	Track State proposals to authorize local governments to issue affordable housing general obligation bonds with 55 percent voter approval, evaluate the feasibility of issuing affordable housing general obligation bonds in San Francisco, and report to the Board of Supervisors regularly on the status of the State proposal, but at least once prior to June 30, 2012.	2	Agree	MOH: MOH will review the State proposals to allow GO bond issuances and possible GO bond or other financing options possible locally.
5.5	Work with HUD and private developers to promote Section 220 or Section 221 (d) (4) financing for housing development in San Francisco neighborhoods in need of revitalization, including (a) working with HUD officials to facilitate the application process; and (b) working with developers to combine Section 220 or Section 221 (d) (4) financing with non-competitive tax credits and tax-exempt bonds to pay for inclusionary housing.	2	Agree	MOH: MOH will meet with HUD about the Section 220 and 221(d)(4) financing and review how programs can be promoted in San Francisco.
The Director of MOH should:				
6.1	Develop mechanisms to enforce the requirement that project sponsors contact MOH to price and market the units within 60 days of receiving their Certificate of Occupancy from the Department of Building Inspection.	1	Partially Agree	MOH: MOH will refine its enforcement mechanisms of its BMR programs.
6.2	Require marketing plans and conduct lotteries, develop a wait list or take other steps to insure broad opportunities for eligible applicants to rent inclusionary units after the initial tenant leaves.	3	Partially Agree	MOH: MOH will review and revise its Procedures Manual as needed to implement this recommendation after reviewing the optimal re-rental process with stakeholders.

	Recommendation	Priority	Department Response	Implementation Status/ Comments
The Director of MOH should:				
6.3	Require a monitoring plan from project sponsors before the Certificate of Occupancy is issued and training building owners/managers in the program's monitoring requirements.	1	Agree	MOH: MOH will review and revise its Procedures Manual as needed to implement this recommendation.
6.4	To the extent consistent with state law, charge a per unit rental monitoring fee beginning at Certificate of Occupancy in order to recover administrative costs relating to the monitoring of rental units and to encourage project sponsors to sell or rent units as soon as possible after project completion.	2	Partially Agree	MOH: MOH will review if charging a per unit rental monitoring fee is logistically possible and cost effective.
6.5	Strengthen monitoring of voluntarily-built inclusionary units created before the Inclusionary Housing Ordinance was adopted, as developers received concessions from the City in exchange for designating Below Market Rate units.	2	Agree	MOH: MOH will review and revise its Procedures Manual as needed to implement this recommendation.
6.6	Revise the Inclusionary Affordable Housing Program's Procedure Manual to extend the required marketing period from 28 days to 90 days to strengthen outreach.	2	Partially Agree	MOH: MOH will review and revise its Procedures Manual as needed to implement this recommendation after reviewing the optimal marketing period with stakeholders.
6.7	Submit an annual report to the Board of Supervisors concerning progress made in monitoring compliance of inclusionary rentals with program requirements.	2	Agree	MOH: MOH will prepare such a report as part of its Annual Housing Report.

Planning Department Accomplishments

The Planning Department has provided a list of accomplishments already achieved, as related to the scope of the Housing Audit, as follows:

- The Planning Department has instituted numerous reporting procedures that provide information on the City's housing needs and production trends, including:
    1. The recently completed *2009 Housing Element*, which contains a comprehensive analysis of San Francisco's population and employment trends; existing housing characteristics; overall housing needs; and capacity for new housing based on land supply and site opportunities;
    2. The annual *Housing Inventory*, which has reported on housing production trends in San Francisco since 1967, documents changes in the City's housing stock, including housing construction, demolition, and alterations. This report provides detailed information on housing projects built in the reporting year and also details affordable housing construction trends.
    3. The *Quarterly Pipeline Report*, which reports on proposed development projects, including projects that would add residential units to the City, based on applications for which have been formally submitted to the Planning Department or the Department of Building Inspection (DBI).
- The Planning Department regularly participates in the regional Housing Need Determination and Allocation process, which determines San Francisco's share of regional housing needs. The Department is also currently participating in the advisory Sustainable Communities Strategy and Housing Methodology Committee for the 2014-2022 RHNA process, which will develop the region's method for assigning housing responsibility for housing to local jurisdictions.
- The Planning Department's Information and Analysis Group recently began providing the Planning Commission with a Quarterly Housing Production Trends Report which summarizes project entitlements granted, building permits issued, and units completed in the previous quarter. This report also notes the number of units currently under construction at the end of each quarter.
- With the adoption of several Area Plans in the past few years, the Planning Department began regular reporting on housing, transit-oriented development and parking, as well as other development-related issues for each Plan Area.

Mayor’s Office of Housing Accomplishments

The Mayor’s Office of Housing has accomplished the following, as related to the scope of the Performance Audit of San Francisco’s Affordable Housing Policies and Programs:

- The Mayor’s of Housing is incorporating a number of the report’s recommendations into its annual housing report, including the number of completed and planned supportive housing units and monitoring compliance of inclusionary rentals.
- The Mayor’s Office of Housing is in the process of revising the term of the Local Operating Subsidy Program for forthcoming agreements that will be presented to the Board of Supervisors with its annual budget submission.
- Mayor’s Office of Housing staff has already been assigned to monitor the Tax Credit Allocation Committee’s cost containment study and will prepare a report of the study’s findings upon completion.
- The Mayor’s Office of Housing is continuing to compile data on housing produced through the Inclusionary Affordable Housing Ordinance and will be able to produce a report in Summer 2012.
- The Mayor, as part of his inauguration speech, has tasked the Mayor’s Office of Housing to work on developing a local affordable housing funding source, which will include reviewing the feasibility of issuing general obligation bonds in San Francisco.
- The Mayor’s Office of Housing is currently working with a private developer to utilize a HUD Section 220 loan for a potential project in San Francisco.
- The Mayor’s Office of Housing is in the process of reviewing and revising its Inclusionary Housing Program’s Procedures Manual, which will include reviewing marketing and monitoring procedures.