

3 Pillars of Affordable Housing Advocacy

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Tenant Protection

Limiting exclusionary rental practices.

Prohibiting discrimination against Section 8 voucher holders and other recipients of government programs. Although landlord participation in the Section 8 Housing Choice Voucher program is generally considered voluntary, a number of local and state laws have prohibited excluding applicants simply because they use a rent subsidy (often referred to as source of income discrimination). Minneapolis has passed such an ordinance. The ultimate impact of such laws is not clear, though they do seem to dramatically reduce the number of landlords advertising “No Section 8.” To be maximally effective, these laws need to include the Minneapolis provision that the prohibited discrimination is based on status with regard to public assistance or any requirement of a public assistance program.

Unfair or exclusionary admission standards. Though this may be partly a function of the tight market and the ability landlords have to choose among many tenants, there does seem to be a trend toward tightening admission standards. In some cases these standards go too far. HUD recently issued a guidance setting out situations where overly broad criminal background checks may violate the Fair Housing Act. Standards around minimum income requirements and minimum credit scores could be regulated through local ordinance or state legislation if a consensus can be developed on reasonable versions of these standards. Several of the larger nonprofit housing providers are currently jointly reviewing admission standards.

Just Cause Eviction. This would establish a standard incorporated into leases requiring landlords to only evict for good cause, similar to the standard in most subsidized housing leases. Minnesota law also establishes a good cause standard for evictions from manufactured home parks, and two states and 16 cities have enacted similar laws to prevent arbitrary evictions. A recent legal analysis concluded that a local government just cause requirement would not conflict with or be preempted by Minnesota law. Minneapolis and St. Louis Park are researching/ considering this policy.

Production

Supporting the development of new affordable housing.

Inclusionary Housing. This is a strategy often recommended for areas experiencing growth in their residential real estate market—cities that are anticipating new development proposals can leverage market activity with an effective Inclusionary Housing policy. Inclusionary Housing (or Mixed Income Housing) is a local government policy that either requires or incentivizes owners building what otherwise would be market rate apartments to include a portion of affordable units. In exchange for receiving some form of city assistance, zoning adjustment, density bonus, or other financial incentives, the developer agrees to include affordable units. The policy can also apply to construction of ownership units (townhomes, condos and single family detached). Typically cities are asking for-profit, market rate developments to include 20% affordability, for lower income families and individuals. Several cities in the metropolitan area have utilized inclusionary practices and policies to generate affordable housing opportunities, including St. Louis Park, Minnetonka, and Chaska. Golden Valley is considering passing an Inclusionary Housing policy, while Minneapolis and St. Paul are interested in strengthening their policies.

One for One Replacement. This would impose on the owner an obligation to replace any affordable units removed or rendered no longer affordable. Minneapolis has a policy like this for the limited situation where an owner eliminates SRO housing with the help of city financial assistance. Brooklyn Park has experimented with this practice.

Preservation

Ensuring current affordable homes remain available to low wealth individuals and families.

Identifying buildings as soon as they come on the market and, if possible, before that. Identification as early as possible is critical if a preservation purchase is to be negotiated. Brokers typically market these units through broadcast emails to potential buyers, which then requires quick analysis and response with a purchase offer.

Helping preservation buyers to buy at risk buildings. Several non-profit housing providers are actively competing in the market for these properties, but they are disadvantaged in competing against for profit purchasers on price and on timing (the long delay in assembling funding from public and philanthropic sources). The Greater Minnesota Housing Fund is currently leading an effort to create a fund of low cost financing which will allow preservation buyers to compete more effectively.

Policies which can help facilitate preservation purchases. These would be actions by local governments or other agencies designed to help preservation purchasers buy these properties.

Right of First Refusal. When owners offer their buildings for sale, they would be required to notify the tenants and a designated unit of government of any purchase agreement entered into. The tenants or the government unit would then have a defined period of time to meet the price and purchase the building themselves. Minnesota has a ROFR for the sale/closure of manufactured home parks, though it doesn't work very well, primarily because the time to respond to the purchase price is only 45 days. A Minneapolis ordinance provides that when apartments are converted to condos, the renter has the first right to purchase the unit, for a 60 day period.

Notice period. A softer approach than ROFR, this would be a local requirement that for certain defined buildings, the tenants and local government must be given advance notice prior to the sale of any building. The tenants or local government would have the opportunity to attempt to negotiate a purchase with the seller, though they would not have a legal right to match any price negotiated by another buyer. Several cities have taken this approach, including Denver and Portland. In addition, both the city of Minneapolis and Hennepin County are concerned with the lack of advance notice when rent controls are expiring on locally assisted housing developments, such as bond deals. The City and County both want to explore imposing notice requirements in such situations in the future. St. Louis Park is considering how a Notice policy could be applied in their community to assist efforts to purchase and preserve affordable apartment buildings.

Creating incentives for a 'socially responsible' business model. The reality is that many of these properties are as affordable as they are due to long deferred investment and upgrades. Such investments are necessary in the long run. The goal, though, could be to encourage an alternative business model to simply upscaling the building and driving out those who most need the housing. Governmental agencies can create incentives for owners or buyers to invest in their buildings while maintaining long-term affordability by providing:

Property tax and rent subsidy incentives. Minnesota's 4d property tax program provides a 40% tax break for subsidized rental properties. However, this benefit could be extended to any properties receiving local "financial assistance" as long as the owner agrees to rent and income restrictions. One idea is that the local government provides a modest rent subsidy for some share of the units, meeting the "financial assistance" requirement, thus making those units also eligible for the 4d tax break. In return, the owner would commit to keeping that share of the units affordable for an agreed upon period of time.

Local programs offering rehab financing in return for affordability commitments. Some cities offer attractive financing to multifamily property owners in exchange for affordability covenants.

Increasing local government leverage through zoning. A city could perhaps structure its zoning so as to require an owner engaging in certain conversion actions from doing so before obtaining the city's zoning related approval. Standards would have to be defined to spell out the scope of the city's approval requirements in this situation but it could provide the city with substantial leverage to influence the outcome of the building changes. In Washington State, for example, some cities have expressly zoned manufactured parks as such, so that attempts to change use would require a zoning change and city approval.