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Should Dallas use developer fees to build more affordable housing?

Council member Chad West has asked the Housing Policy Task Force to discuss the option, which has seen some success in cities around the country.

 Dallas City Councilman Chad West standing on Zang Blvd. in the Oak Cliff neighborhood of Dallas Friday, November 22, 2019.

Dallas City Councilman Chad West standing on Zang Blvd. in the Oak Cliff neighborhood of Dallas Friday, November 22, 2019. (Brian Elledge / Staff Photographer)



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By Hayat Norimine
10:00 AM on Nov 28, 2019 CST

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Dallas for years has struggled with a shortage of affordable housing. And as officials continue to try to correct course, one council member wants to consider a policy for new development that other cities have turned to.

Dallas City Council member Chad West, who chairs the council’s Housing and Homelessness Solutions Committee, has asked the Housing Policy Task Force to start considering fees for developers who don’t meet the city’s affordable housing requirements. It would add more flexibility to the city’s inclusionary zoning law – which incentivizes new residential buildings to include a certain percentage of below-market-rate housing.




Cities that have implemented the fees often charge per square foot of new development without affordable housing based on the market-rate value. The developer fees would then go into a trust fund, which the city can use to build affordable housing.


West said the city’s current housing policy – which is voluntary and provides density “bonuses,” like allowing taller buildings than zoned, or subsidies for those who provide a certain amount of affordable housing – hasn’t been working. But tightening affordable housing requirements, he said, would only slow down the creation of more homes.

“I certainly don’t want to be a party to stifling the production of more market-rate housing,” West said.


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 Mayor Eric Johnson speaks during

“We’d just exacerbate the problem.”

West has also asked the task force to consider council member Lee Kleinman’s proposal for **a certificate exchange program**, an idea Kleinman has floated for years.

The policy would require all developers to obtain a certain number of certificates to build — and they can either provide affordable housing, or buy certificates from those who have an excess number, rewarding developers who create affordable units.

Kleinman said while his idea is more market-based, he believes it’s important for the city to create some type of affordability requirement. He said developers are simply “not creating enough supply to push the price point down.”

Even the density bonuses, which provide zoning exemptions for higher buildings in exchange for affordable housing, have not provided enough incentive for developers, Kleinman said.

The city also offers incentives to developers that provide at least 10% of housing in their buildings to Section 8 voucher holders. David Noguera, director of Housing and Neighborhood Revitalization, said no developers have taken that incentive since the law was implemented in 2016.

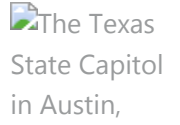
“We haven’t had any new housing projects take our incentives,” Noguera said. “The message I’ve heard is that the cost is too high.”

Setting a price

Bill Hall, chairman of the city’s Housing Policy Task Force, said fees like West is proposing can be successful, but only if cities set the right amount.

Set the price too low, and all developers would take advantage of it and won’t build more affordable units. Set the fees too high, and they could restrict residential development altogether.

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File photo.

Noguera said that's a "real fear" among city officials, to risk losing an opportunity for more low- to middle-income housing with a miscalculation.

"If you're building market-rate luxury apartments, why would you want to forgo the higher rents to provide affordable housing when you could just pay a fee?"

Noguera said.

Stephanie Reyes — state and local policy manager of Grounded Solutions Network, a national affordable housing advocacy group — analyzed the fees-in-lieu policy in cities across the country.

For the city to successfully get affordable housing units built with this approach, Reyes pointed to a few "best practices."

The first one is to collect a fee high enough to cover the cost of affordable units elsewhere. The next challenge is for the city to have enough staffing capacity to handle administering those funds and overseeing the projects.

Noguera said the ability to use those fees to build more affordable housing efficiently is critical.

"There's nothing worse than having a pot of money that you can't use," he said.

Other cities

Noguera said he began to take a "close look" at how Bloomington, Minn., has recently implemented its policy. The city in February passed an ordinance that required at least 9% of new residential development be affordable, and offered a slew of different incentives for developers to reduce their costs — including a fee-in-lieu.

Eric Anthony Johnson, Bloomington's community development director, said the city expects to have a record-breaking number of affordable housing units built next year and attributes it to the new policy.

Since the ordinance has passed, Johnson said the city has about 20 projects in the pipeline, estimated to produce 2,000 new units with 45% of them affordable. The ordinance is unusual in that it provides a host of

incentives for developers who meet the housing requirement and adjusts based on the number of affordable units they offer.

Johnson said so far, that flexibility has been critical to the ordinance's success. No developer has taken the fee-in-lieu option to pay a fee, he said, but instead has chosen other alternatives offered, such as a reduction in required parking spaces or flexibility on other design mandates. The city is building up its affordable housing trust fund through other means, he said.

"We didn't draw the line in the sand," Johnson said.

Educating City Council members and ensuring their buy-in was also important for the ordinance, Johnson said.

For now, Dallas council members are unsure of what steps they could take toward affordable housing mandates with the state's limitations on local control. **Austin's law** allows developers to exceed zoning restrictions — like height or number of units — if they provide affordable housing or sometimes pay a fee.

In Texas, cities cannot require affordable housing in new developments but can offer incentives, contract commitments or other types of voluntary programs.

Concerns voiced

Some Dallas elected officials are also skeptical about the role local government should play in development decisions. Kleinman said he believes a downside to the fees would be having the city determine which projects get the dollars from the trust fund, which can be "very subjective."

Council member Cara Mendelsohn, a member of the council's Housing and Homelessness Solutions Committee, said she's concerned the fees wouldn't help the city meet its affordability goals.

"If you're going to build something on land you own, with your own money ... I don't think we should tell you what it has to be," Mendelsohn said. "But that minute you're taking a government subsidy, then I'm going to require you to build affordable housing."

In the early stages, officials are still looking to other cities across the country for guidance. West has also mentioned Boston and Seattle as examples of cities with policies that include fees in lieu of affordable housing.

In Seattle's case, developers were allowed taller buildings in exchange for either building a certain percentage of affordable housing units or paying the fee that would contribute to a housing fund. But the policy was required for any new development in those neighborhoods.

Seattle in March passed its mandatory affordable housing policy in 27 neighborhoods throughout the city. Seattle officials said the policy, combined with other zoning changes in 2017, expects to yield a total of 6,000 income- and rent-restricted units over 10 years.

Former Seattle City Council member Rob Johnson, who championed the policy's passage during his four years on the body, said the timing was important. Seattle and Dallas have a major advantage in common, he said — they have no problem attracting development and have faced massive growth recently.

“It felt very tangible to ask developers to pay their fair share to build affordable housing,” the former councilman said. “It seems like a great time to implement a program like this with incentives.”

What cities don't want to happen, Reyes said, is to sit on the affordable housing fund and not put that money into use. Some cities that have struggled to build affordable housing have had large funds that didn't translate into development.

“That delay I think was a disappointment to people who saw a need right then for affordable housing,” Reyes said.

Updated headline on 1:50 p.m. on Dec. 5, 2019, to clarify the city's potential use of fees for an affordable housing fund.



Hayat Norimine, City Hall reporter. Hayat grew up in Eastern Washington on the border of Idaho and now

lives in southeast Dallas with her family. She previously covered three other city halls, state politics and congressional races for Seattle Met magazine. She loves long hikes in the mountains and taking late-night phone calls about her stories.

✉ hayat.norimine@dallasnews.com [@hayatnorimine](https://twitter.com/hayatnorimine)



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