



## HOUSING COMMITTEE

**DATE: Wednesday, February 12, 2020**

**TIME: 5:30 PM**

**LOCATION: Room 209**

### AGENDA

1. Review and accept Minutes of previous meeting held on January 9, 2020
  - a. Draft Minutes of previous meeting held on January 9, 2020
2. Rental Housing Advisory Committee Policy Recommendation
  - a. Rental Housing Advisory Committee Recommendation re: Rental Housing Application Fees
3. Review and Recommendation to the City Council re: FY 2021 Housing Program Budget  
*This is an actionable item and public comment will be taken.*
  - a. Proposed FY21 Housing Program Budget
4. Review and Recommendation to the City Council re: Renewal of the Cumberland County HOME Consortium  
*This is an actionable item and public comment will be taken.*
  - a. Memo re: Renewal of the Cumberland County HOME Consortium
5. Review and Recommendation to the City Council re: 2020 Housing Trust Fund Annual Plan  
*This is an actionable item and public comment will be taken.*
  - a. Proposed 2020 Housing Trust Fund Annual Plan
6. Review and Approval by the Committee to issue the 2020 Affordable Housing Development Application  
*This is an actionable item and public comment will be taken.*
  - a. Draft 2020 Affordable Housing Development Application

7. Review and Approval by the Committee to issue the 2020 Affordable Housing Tax Increment Financing Application  
*This is an actionable item and public comment will be taken.*
  - a. Draft 2020 Affordable Housing TIF Application
8. Update on City-Owned Property
  - a. Memo re: City-Owned Property
9. Review and Discussion of 2020 Work Plan
  - a. Draft 2020 Housing Committee Work Plan

**Next Meeting Date: March 4, 2020 at 5:30, City Hall Room 24, Joint Meeting with the Economic Development Committee**

## Housing Committee

### Minutes of January 9, 2020 Meeting

**NOTE: The Housing Committee meetings are now live-streamed, which can be viewed at this link: [http://townhallstreams.com/stream.php?location\\_id=42&id=16398](http://townhallstreams.com/stream.php?location_id=42&id=16398) These minutes provide a record of those in attendance, general discussions taking place, and motions made.**

A meeting of the Portland City Council's Housing Committee (HC) was held on Thursday, January 9, 2020 at 5:30 P.M. in Council Chambers of Portland's City Hall. Councilors present at the meeting included Committee members Councilor Kim Cook, Councilor Pious Ali and Councilor Jill Duson, Chair of the Committee. City staff present included Christine Grimando, Planning and Urban Development Director, Mary Davis, Division Director Housing and Community Development, Victoria Volent, Housing Program Manager.

#### **Item 1: Review and accept Minutes of previous meetings held on November 13 2019**

Motion by Councilor Ali to move for adoption of the minutes from November 13 2019. Motion was seconded by Councilor Cook and minutes were approved 3-0.

#### **Item 2: 2020 Work Plan Discussion Session**

Councilor Duson introduced this item for the public. Public comment is not anticipated, as this is not an action item.

Christine Grimando introduced this item for the Housing Committee. She provided a highlight of each item starting with Inclusionary Zoning, lodging houses, ReCode activity (Phase I and Phase II), (flagging items that are connected to Housing), street standards, resiliency, funding models, city-owned property, rental housing advisory committee, community engagement, City Council proposed 2020 Housing Goals, and next steps.

Christine discussed the ReCode schedule and the process by which it goes through Planning Board review.

Mary Davis discussed the 2020 Work Plan template, which includes mandatory items, some that may be moved in the calendar while other items are fixed to meet specific deadlines set by HUD or MaineState Housing. Staff is looking for direction from the Committee on the time line and other expectations.

Councilor Duson referred to staff's memo with the following questions/comments:

Lodging houses- preference is to coordinate timing with ReCode and the Planning Board. She does not want a separate review with the Housing Committee if it slows down the process. She would like to be reminded of upcoming meetings.

Street standards- does not feel Housing Committee involvement is necessary as the Sustainability and Transportation Committee will be reviewing this item, but does wish to remain informed through updates.

Resiliency- same comments as above.

City-Owned Property- would like to see the map of City-owned property kept up to date.

Community Engagement- would like to know if Housing Committee would like to start a new community engagement initiative. Would like a context to have a conversation.

Councilor Ali questions and comments:

Community Engagement- not sure if the Housing Committee or the entire Council should take this up. Invite developers and community groups, to have a conversation. Find a way to collaborate. Do not need a task force.

Councilor Duson:

Community Engagement- supports a housing forum or forums to discuss ideas. Would like staff to reach out to have others organize it.

Councilor Cook questions and comments:

Community Engagement- values hearing from the community. Supports a broader community engagement on these issues. Joint community engagement on housing that includes a broad range of issues. A regional discussion is expected from the State level.

Councilor Duson:

Asked staff when a forum could be brought together. Wants something for June. Asked Christine to bring back a proposal by April.

Mary noted this could be tied into the five year consolidated plan that needs to be brought forward to HUD by September. Christine supports the Committee's suggestion.

Councilor Ali- suggested inviting others (outside of the City who have expertise in a certain area) take on the lead and follow-up with discussions.

Councilor Cook:

Inclusionary Zoning - not interested in a major review, but supports a quick fix. Wants to review whether we continue to use HUD area median income or use the Portland median income, open to comments on the fee-in-lieu.

Lodging houses- okay with changing the definition under ReCode. Would only wish to look at the residential piece of this item and direct commercial uses to the Economic Development Committee.

Street Standards- is awaiting a comprehensive approach report from staff. Is interested in this issue (unaccepted streets/paper streets). Is open to this topic being reviewed by the Sustainability and Transportation Committee or the Housing Committee. She would like to know what has happened since she spoke with Corporation Counsel in 2017. Would like to see progress on this item during this year. Sees opportunity to place this item in a phase of ReCode. Christine would provide updates (to either the Housing Committee or full Council) as work is completed. Per Councilor Duson, updates for the Housing Committee would be good to have- staff should add them to the Work Plan. Councilor Cook would like to know where sprinkled house discussion ties into this issue. Suggested a possible joint meeting with Health and Human Services and Public Safety.

Resiliency – not interested in working on this item. Allow the Planning Board and, the Sustainability and Transportation Committee to work on this

City-owned property - very interested in proposed rezoning for the three properties recently disposed then getting additional properties to the Council for disposal (top priority). Land Bank or Cooperative models should be reviewed (maybe with Economic Development) during the disposition. Wants to look at these other models besides RFP. Wants to look at City-owned parking lots and other City-owned parcels.

Rental Housing Advisory Committee (RHAC) - is interested in how security deposits are administered by private insurance policies. Councilor Cook explained how tenants purchase security deposit policy that is meant to cover the amount of the security deposit and refunds. Would like landlords to take cash or a certificate of security deposit insurance. Councilor Duson would like the RHAC take this on. Staff should draft the recommendation for the RHAC for the Housing Committee's review prior to submitting this to them.

Would like to know how other communities ensure new housing units become primary residences as opposed to vacation properties. She is not asking Planning and Urban Development staff to research this. What data does City show regarding the ownership (residence/ non residence) of newly constructed buildings?

Councilor Duson:

Lodging House- asked if a workshop is necessary to discuss potential approaches, or have you looked at it enough to provide recommendations to the Housing Committee.

Christine Grimando:

Staff feels it is early to land on a process to tackle this. We will report on the progress of this item and bring it back if it becomes a residential item more than commercial.

The Committee had clarifying questions. Members will determine which of the suggestions from staff will be incorporated into the 2020 Work Plan. Councilor Duson would like to attend ReCode meetings when housing items appear.

Councilor Duson noted the first three disposed properties might be good for land bank or cooperative housing.

Councilor Ali agrees with a land bank or cooperative consideration.

Councilor Cook would like a formal joint meeting with the Economic Development Committee (EDC) on disposition of City-owned property. The Housing Committee could join EDC at one of their scheduled meetings.

Councilor Duson sees the Housing Committee as a co-branch for disposition of land and wants to be part of the decision on how to put housing on the property. She would also like to the Housing Committee to join the EDC during one of their meetings.

Councilor Duson would like the Work Plan to reflect the comments and suggestions provided by the Housing Committee.

Per Mary Davis, the next meeting of the EDC is March 3 in room 24.

**Item 3: Communication Items:**

Councilor Duson invited the Committee the opportunity to discuss the communication items. The Committee members did not have any comments.

Councilor Duson opened the meeting to the public for items not on the Agenda.

Victoria Morales- Executive Director, Quality Housing Coalition. She handed out a letter addressed to the Housing Committee members introducing the Quality Housing Coalition and their dedication to creating and supporting quality housing opportunities through philanthropy and policy work in the Greater Portland area. She hopes to present policy ideas for the Council during their February meeting.

Tyler Plante- Portland Housing Authority. He reflected on Portland Housing Authority's priorities, the start of the Rental Assistance Demonstration (RAD) process, and provided an update on Washington Gardens' housing renovation and the Front Street project. He also mentioned the complexity of developing housing and thanked the City for its partnership.

Karen Snyder of Waterville Street- 30 to 40 Munjoy Hill property owners have ideas and concerns regarding affordable housing. She presented those concerns to the Council during their January 6 2020 meeting. She is interested in the long-term lease of City-owned property (as opposed to the sale of the property) and a vacancy tax options.

Councilor Duson closed the opportunity for public comment on items not on the agenda.

Motion to adjourn was not recorded. The meeting adjourned at 7:39 P.M.

Respectfully submitted,

Victoria Volent

## MEMORANDUM

**FROM:** Rental Housing Advisory Committee  
**DATE:** February 5, 2020  
**SUBJECT:** Rental Application Fees

### **I. SUMMARY**

The Rental Housing Advisory Committee recommends that the City enact an ordinance to ban application fees for rental housing units.

### **II. BACKGROUND**

The Rental Housing Advisory Committee (RHAC) is charged with providing the Housing Committee with recommendations or proposals for improvements, modifications, or changes regarding landlord and tenant policy issues and identifying education opportunities, seminars, and materials that would be useful to landlords and tenants.

At the RHAC's first meeting on September 24, 2019, group members brainstormed issues of concern to landlords and tenants. Several members expressed concern that rental housing application fees are a significant barrier preventing low and moderate income residents from securing housing in Portland. City staff informed the committee that staff in the Housing and Community Development Division had heard concerns about application fee fraud and abuse and had made the Housing Committee aware of that issue. City staff informed the group that the Housing Committee suggested that application fees might be a topic the RHAC could take up.

The RHAC discussed the fact that there is no state law or city ordinance limiting application fees. There is no requirement that a fee charged be linked to the landlord's cost in running a background check. Tenants are generally not in a position to know whether they have actually been considered for an apartment for which they have paid an application fee. Mindful that RHAC's charge includes education, members of the group discussed whether there are education solutions to these issues.

At the October 28, 2019 meeting of the RHAC members of committee articulated several areas of concern: landlords who collect application fees with no intention of renting to the applicant, landlords who collect application fees from multiple applicant and do not conduct background checks, and landlord who do not supply copies of reports to applicants who are not selected as tenants. The group discussed the concern that application fees price low and moderate income tenants out of Portland at multiple meetings.

The RHAC discussed several ways to address application fees. Proposals included a limitation on the amount that could be charged, a requirement that fees collected be refunded to tenants, a requirement that landlords provide copies of background checks to tenants, a prohibition on charging application fees when a tenant provides a landlord with a copy of a recent background check, and a ban on application fees.

Members of the Committee expressed concern that landlords could continue charging application fees by giving those fees another name and the proposed language banning fees is phrased to allow only a security deposit and first month's rent to be charged at the beginning of a tenancy.

On December 16, 2019 the RHAC voted 5-3 to recommend to the Housing Committee that the City prohibit landlords from charging application fees. (the committee currently has 8 members because a tenant member resigned) The RHAC drafted a resolution at the December 16<sup>th</sup> meeting to accompany the recommendation to explain the committee's rationale and the RHAC approved the resolution 6-2.

### **III. ANALYSIS AND BACKGROUND**

RHAC understands that the Housing Committee would like to see “more than anecdotal” evidence demonstrating that application fees are a significant problem in the community. RHAC members have researched this issue and we have not found any studies that are responsive to this request.

Pine Tree Legal Assistance (PTLA) was asked whether they track calls about application fees. RHAC member Katherine McGovern explained that PTLA tracks cases based on the legal issue involved and so can provide data on the number of tenants who called about issues like evictions or security deposits but because there are no state or local laws limiting application fees, inability to afford application fees is not categorized or tracked as a legal problem. Ms. McGovern shared throughout the RHAC’s discussion about this issue that PTLA’s clients struggle to find affordable housing in Portland and application fees are a significant problem for PTLA’s clients.

RHAC co-chair Meredith Cook, who has worked as a housing specialist at Through These Doors and is currently employed by Preble Street as the Maine Hunger Initiative Social Change Advocate, told the committee that application fees are such a significant barrier for low-income tenants that Preble Street caseworkers searching for housing with clients do not even apply with landlord who charge application fees.

RHAC member Wendy Harmon conducted a survey of members of the Southern Maine Landlord Association regarding members’ practices regarding application fees. Ms. Harmon submitted the results of the survey to the group and these results are attached. Some members reported not charging application fees and those that charge application fees reported that they charge between \$25 and \$50 per adult applicant. Landlords who charge application fees reported collecting those fees from somewhere between one and nine applicants per available apartment.

Each RHAC meeting has included time for public comment. At the November 25, 2019 RHAC meeting three members of the public offered their views and testimony about their experiences with application fees. Jenna Dorr described her family’s experience of scrambling to find new housing and spending more than \$500 in application fees without know whether background checks were actually being conducted or whether they were truly being considered for apartments. Alyssa Floyd described paying application fees and never knowing why she was not offered an apartment. Jim Devine encouraged the committee to propose rules that are easy to understand and coherent. (Public comment for this meeting is summarized the meeting minutes and in the Bangor Daily News story attached).

### **IV. RECOMMENDATION**

RHAC recommends that the following provision be added to Chapter 6 of the City’s ordinances:

“At or prior to the commencement of any tenancy, no lessor may require a tenant or prospective tenant to pay any amount in excess of the following:

- (i) Rent for the first full month of occupancy; and
- (ii) A security deposit as defined in 14 MRS 6032”

### **V. LIST ATTACHMENTS**

1. Resolution including proposed ordinance language submitted to the Housing Committee
2. “Renters say application fees a barrier to living in Portland’s pricey housing market.” Bangor Daily News article by Nick Schroeder, December 2, 2019
3. “Unregulated application fees make Portland’s housing crisis even more expensive for renters.” Maine Beacon, October 17, 2019

4. Examples of ordinances/statutes from other jurisdictions: Minnesota, Oregon, Minneapolis
5. Survey of Southern Maine Landlord Association members conducted by Wendy Harmon.

Prepared by: Katherine McGovern and approved by the Rental Housing Advisory Committee on a vote of 5-3

Date: February 5, 2020

## **Resolution**

**WHEREAS**, application fees are a significant barrier to low and moderate income people in finding housing in the City of Portland; and

**WHEREAS**, tenants are likely to pay multiple fees before finally securing housing, and

**WHEREAS**, there are no laws in Maine regulating application fees.

**THEREFORE BE IT RESOLVED**, the Rental Housing Advisory Committee sees application fees as a significant burden on tenants when securing housing; and

**THEREFORE BE IT FURTHER RESOLVED**, the Rental Housing Advisory Committee recommends to the City Council Housing Committee to address this concern through the recommended policy change in City ordinance, below.

### **Application Fee Ban:**

At or prior to the commencement of any tenancy, no lessor may require a tenant or prospective tenant to pay any amount in excess of the following:

- (i) Rent for the first full month of occupancy, and
- (ii) A security deposit as defined in 14 MRS 6032

# Renters say application fees a barrier to living in Portland's pricey housing market

<https://bangordailynews.com/2019/12/02/news/portland/renters-say-application-fees-a-barrier-to-living-in-portlands-pricy-housing-market/>

By [Nick Schroeder](#), BDN Staff • December 2, 2019 2:00 am

Updated: December 2, 2019 6:28 am

PORTLAND, Maine — A newly formed rental-housing committee is discussing how and whether to regulate application fees landlords charge tenants.

In a city with a rental-housing market as competitive as Portland, the push to regulate application fees, otherwise known as screening fees, has sparked debate in a new committee comprised of landlords and renters. Social service officials say some landlords have abused the practice of charging tenants for fees for background checks, which can be as high as \$75 an application.

“Moving is a very expensive process for low-income people generally and the situation is worse when people have to spend their limited income on these fees,” said Katherine McGovern, an attorney with Pine Tree Legal Assistance who sits on the city’s Rental Housing Advisory Committee.

The abuse of application fees was the first item on the agenda for the committee on Nov. 25.

Because there aren’t limits on application fees at the state or local level, there is no requirement that any fee be tied to expenses a landlord actually incurs when running a background or credit check, McGovern said. Tenants may suspect but not be able to prove that some landlords are pocketing fees without seriously considering tenants for apartments.

“We know from talking with our clients that it has been getting harder and harder to find affordable housing, especially in the greater

Portland area, and low-income tenants can end up spending a lot of money on application fees before finding a unit,” McGovern said.

The Rental Housing Advisory Committee wants to crack down on landlords collecting fees with no intention of renting to the applicant and those who don’t run background checks; commercial property owners charging multiple screening fees per applicant or for units in the same building; and landlords charging screening fees to immigrants and “new Mainers” for background checks when they have not yet been given Social Security numbers — in other words, they have no credit report to check.

Social services agencies and city officials have so far called instances of the abuses “anecdotal” and not necessarily widespread. Tenants have no recourse besides showing proof of abuse through the legal system, an option which many renters won’t pursue because it can be costly and consumer protection laws make such evidence hard to obtain.

Citizens say that onerous fees serve as a barrier in Portland’s increasingly pricey rental market. Jenna Dorr said she saw firsthand how rental fees limited her apartment search when she paid more than \$500 on them during a two-week period in May.

“We paid all this money and then never heard from all these landlords who did these checks on us,” Dorr said during the committee’s public comment period last month. “We really have no way to know if these checks have been done.”

Dorr said she contacted more than 40 landlords, treating each application process like a job interview. She would pay the nonrefundable application fee, and then send an immediate follow-up, thanking the landlord or lessor for their time and that she looked forward to hearing back from them either way.

Dorr’s family eventually found housing. But the process was hard enough that it gave her reason to speak up.

“We felt desperate. We have a 2-year-old daughter. We were also lucky compared to a lot of people, [because we] had considerable savings to cover those fees.

Crow Jonah Norlander, a landlord representative on the Rental Housing Advisory Committee, said that landlords are essentially business owners, and that running a background check on a potential tenant should be considered part of the cost of doing business.

“It’s a customer acquisition cost,” Norlander said. “If I want someone to live in my home, it’s my responsibility to vet them.”

That’s not a universally shared view among property owners. Rents might be even higher if the cost of application fees is absorbed by the landlords, said Travis Heynan, director of property management for Avesta Housing, and a landlord representative on the committee.

Landlords, however, can also write off most screening fees on their taxes.

Another potential solution proposed by the committee would force landlords to accept a copy of a background check run on a prospective tenant in the previous 30 days, limiting the number of times a tenant’s credit would be run.

A survey conducted by the Southern Maine Landlord Association found that 57 percent of apartments in the Portland area come tied to application fees of some kind.

Among the respondents, 59 landlords and property owners said they did not charge rental application fees for the 644 units they owned.

The committee meets again on Dec. 16, and hopes to submit a recommendation to the Portland City Council’s Housing Committee soon after.

“I don’t understand how a city [of] this size with this kind of competition doesn’t have guidelines of this sort,” advisory committee member Nora Givens said.



  October 17, 2019  Cara DeRose

## Unregulated application fees make Portland's housing crisis even more expensive for renters

For renters who earn minimum wage or are just starting out in the workforce, affordable housing options in Maine — which has one of **the least affordable** rental markets in the country — are increasingly limited. In the Portland area, renters compete with dozens, if not hundreds, of others for apartments that often cost 33 percent or more of their income and require the payment of a security deposit, along with first and last month's rent.

Adding to the stress and expense of finding somewhere to live are fees that some landlords now charge simply to apply to rent an apartment.

No laws in Maine currently regulate how much can be charged for these fees, what they can be used for and from how many applicants they can be accepted for the same property, a system that affordable housing advocates say can create a significant obstacle for low-income renters and a situation ripe for abuse.

“As the rental market has gotten more challenging, as rents have gone up and the number of affordable units has gone down, people have ended up spending more on application fees because they're having to apply to more units before they find a place,” explained Katherine

McGovern, directing attorney for legal advocacy organization Pine Tree Legal's Portland office. "It's a real barrier for low- and moderate-income tenants."

While New England neighbors [Massachusetts](#) and [Vermont](#) have outlawed application fees, most states have no laws addressing these costs.

Application fees vary landlord to landlord and are usually not refundable. Two of Portland's biggest property management companies, [Port Property](#) and [Schneider Management](#), charge a non-refundable \$35 application fee, close to the \$40 McGovern says is the average in Portland.

Portland residents have raised concerns to McGovern about paying these fees, which can quickly add up to hundreds of dollars in the search for a single apartment. McGovern said her clients often feel like they are being cheated by property owners.

"You may be paying fees without any real prospect of getting an apartment," McGovern said.

### **Paying without prospect**

There are anecdotal reports that abuses of these fees may already be occurring, with some landlords accepting fees from applicants to whom they have no intention of renting.

Housing advocate Adam Rice told *Beacon* that when he worked for his family's business, the Portland-based property owner Apartment Mart, he observed that the company would often settle on a desired tenant while still collecting fees of up to \$40 from other applicants.

"Say you have somebody come in, they look like they're a clean-cut person, well-kept. They're probably going to take care of the apartment. They apply for it," he said. "And then [Apartment Mart] could have that apartment booked all day long, every hour, and every person comes in and applies for that. And [Apartment Mart] knows only one person is going to get it."

This practice, Rice noted, contributes to the "false hope" that potential renters competing for a dwindling stock of affordable units feel when applying for an apartment.

"It's weird that you wouldn't say, 'Hey, somebody's already viewed this. I'm going to give it until the end of the day to see if their application passes,'" Rice said. "You could at least not be giving everyone false hope when you already know maybe five or six of these people aren't going to get it regardless."

### **Already beyond affordability**

A recent [housing report](#) drafted by Portland's Division of Housing and Community Development highlights the economic situation facing low-wage workers in the city. The report, presented at

an Oct. 9 meeting of the city council's Housing Committee, warns about the lack of rental options for the city's low-wage residents and the financial burden this places on many Portlanders.

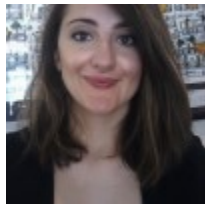
As much as 47 percent of Portland's renter households reported paying more than 30 percent of their income towards rent and utilities, which is considered unaffordable according to the rubric used in the report. A survey of city residents found that the median rent for a two-bedroom unit in 2018 was \$1,380. In order for this to be affordable, a renter must make \$26.67 an hour or \$55,480 per year. The median income for an individual renter is \$33,654 per year.

(Photo: [Kurt Bauschardt](#) | Creative Commons via flickr)

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## ABOUT AUTHOR



**Cara DeRose** 211 posts

Cara DeRose is a staff writer for Beacon. A graduate of the University of Southern Maine, she served as writer and copy editor for the USM Free Press and interned at the Portland Press Herald.

## COMMENTS

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# Office of the Revisor of Statutes

## 2019 Minnesota Statutes

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### 504B.173 APPLICANT SCREENING FEE.

Subdivision 1. **Limitations.** A landlord may not:

- (1) charge an applicant a screening fee when the landlord knows or should have known that no rental unit is available at that time or will be available within a reasonable future time;
- (2) collect or hold an applicant screening fee without giving the applicant a written receipt for the fee, which may be incorporated into the application form, upon request of the applicant; or
- (3) use, cash, or deposit an applicant screening fee until all prior applicants have either been screened and rejected, or offered the unit and declined to enter into a rental agreement.

Subd. 2. **Return of applicant screening fee.** (a) The landlord must return the applicant screening fee if:

- (1) the applicant is rejected for any reason not listed in the disclosure required under subdivision 3; or
  - (2) a prior applicant is offered the unit and agrees to enter into a rental agreement.
- (b) If the landlord does not perform a personal reference check or does not obtain a consumer credit report or tenant screening report, the landlord must return any amount of the applicant screening fee that is not used for those purposes.
- (c) The applicant screening fee may be returned by mail, may be destroyed upon the applicant's request if paid by check, or may be made available for the applicant to retrieve.

Subd. 3. **Disclosures to applicant.** If a landlord accepts an applicant screening fee from a prospective tenant, the landlord must:

- (1) disclose in writing prior to accepting the applicant screening fee:
  - (i) the name, address, and telephone number of the tenant screening service the landlord will use, unless the landlord does not use a tenant screening service; and
  - (ii) the criteria on which the decision to rent to the prospective tenant will be based; and
- (2) notify the applicant within 14 days of rejecting a rental application, identifying the criteria the applicant failed to meet.

Subd. 4. **Remedies.** (a) In addition to any other remedies, a landlord who violates this section is liable to the applicant for the applicant screening fee plus a civil penalty of up to \$100, civil court filing costs, and reasonable attorney fees incurred to enforce this remedy.

(b) A prospective tenant who provides materially false information on the application or omits material information requested is liable to the landlord for damages, plus a civil penalty of up to \$500, civil court filing costs, and reasonable attorney fees.

**History:** 1999 c 150 s 1; 1999 c 199 art 1 s 174; 2010 c 315 s 4

## 2017 ORS 90.295<sup>1</sup>

### Applicant screening charge

- **limitations**
  - **notice upon denial of tenancy**
  - **refund**
  - **remedy**
- (1) A landlord may require payment of an applicant screening charge solely to cover the costs of obtaining information about an applicant as the landlord processes the application for a rental agreement. This activity is known as screening, and includes but is not limited to checking references and obtaining a consumer credit report or tenant screening report. The landlord must provide the applicant with a receipt for any applicant screening charge.
- (2) The amount of any applicant screening charge shall not be greater than the landlord's average actual cost of screening applicants. Actual costs may include the cost of using a tenant screening company or a consumer credit reporting agency, and may include the reasonable value of any time spent by the landlord or the landlord's agents in otherwise obtaining information on applicants. In any case, the applicant screening charge may not be greater than the customary amount charged by tenant screening companies or consumer credit reporting agencies for a comparable level of screening.
- (3) A landlord may not require payment of an applicant screening charge unless prior to accepting the payment the landlord:
- (a) Adopts written screening or admission criteria;
  - (b) Gives written notice to the applicant of:
    - (A) The amount of the applicant screening charge;
    - (B) The landlord's screening or admission criteria;
    - (C) The process that the landlord typically will follow in screening the applicant, including whether the landlord uses a tenant screening company, credit reports, public records or criminal records or contacts employers, landlords or other references; **and**
    - (D) The applicant's rights to dispute the accuracy of any information provided to the landlord by a screening company or credit reporting agency;

- (c) Gives actual notice to the applicant of an estimate, made to the best of the landlord's ability at that time, of the approximate number of rental units of the type, and in the area, sought by the applicant that are, or within a reasonable future time will be, available to rent from that landlord. The estimate shall include the approximate number of applications previously accepted and remaining under consideration for those units. A good faith error by a landlord in making an estimate under this paragraph does not provide grounds for a claim under subsection (8) of this section;
  - (d) Gives written notice to the applicant of the amount of rent the landlord will charge and the deposits the landlord will require, subject to change in the rent or deposits by agreement of the landlord and the tenant before entering into a rental agreement; **and**
  - (e) Gives written notice to the applicant whether the landlord requires tenants to obtain and maintain renter's liability insurance and, if so, the amount of insurance required.
- (4) Regardless of whether a landlord requires payment of an applicant screening charge, if a landlord denies an application for a rental agreement by an applicant and that denial is based in whole or in part on a tenant screening company or consumer credit reporting agency report on that applicant, the landlord shall give the applicant actual notice of that fact at the same time that the landlord notifies the applicant of the denial. Unless written notice of the name and address of the screening company or credit reporting agency has previously been given, the landlord shall promptly give written notice to the applicant of the name and address of the company or agency that provided the report upon which the denial is based.
- (5) Except as provided in subsection (4) of this section, a landlord need not disclose the results of an applicant screening or report to an applicant, with respect to information that is not required to be disclosed under the federal Fair Credit Reporting Act. A landlord may give to an applicant a copy of that applicant's consumer report, as defined in the Fair Credit Reporting Act.
- (6) Unless the applicant agrees otherwise in writing, a landlord may not require payment of an applicant screening charge when the landlord knows or should know that no rental units are available at that time or will be available within a reasonable future time.
- (7) If a landlord requires payment of an applicant screening charge but fills the vacant rental unit before screening the applicant or does not conduct a screening of the applicant for any reason, the landlord must refund the applicant screening charge to the applicant within a reasonable time.
- (8) The applicant may recover from the landlord twice the amount of any applicant screening charge paid, plus \$150, if:
- (a) The landlord fails to comply with this section and does not within a reasonable time accept the applicant's application for a rental agreement; **or**

- (b) The landlord does not conduct a screening of the applicant for any reason and fails to refund an applicant screening charge to the applicant within a reasonable time. [1993 c.369 §26; 1995 c.559 §10; 1997 c.577 §11; 1999 c.603 §14; 2011 c.42 §2; 2013 c.294 §6]

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<sup>1</sup> Legislative Counsel Committee, *CHAPTER 90—Residential Landlord and Tenant*, [https://www.oregonlegislature.gov/bills\\_laws/ors/ors090.html](https://www.oregonlegislature.gov/bills_laws/ors/ors090.html) (2017) (last accessed Mar. 30, 2018).

judgment has been duly stayed by such a court. This subsection shall become effective January 1, 2008.

(12) There is no active arrest warrant for a Minneapolis Housing Maintenance Code or Zoning Code violation pertaining to any property in which the licensee, applicant or property manager has a legal or equitable ownership interest or is involved in management or maintenance.

(13) a. Any person(s) who has had an interest in two (2) or more licenses revoked pursuant to this article or canceled pursuant to section 244.1925 or a combination of revocations or cancellations shall be ineligible to hold or have an interest in a rental dwelling license or provisional license for a period of five (5) years.

b. Any person(s) who has had an interest in a license revoked pursuant to this article or canceled pursuant to section 244.1925, shall be ineligible from obtaining any new rental dwelling licenses for a period of three (3) years.

(14) No new rental dwelling license shall be issued for the property during the pendency of adverse license action initiated pursuant to section 244.1940.

(15) The licensee or applicant must have a current, complete, and accurate rental dwelling application on file with the director of inspections in accord with the provisions of section 244.1840.

(16) a. Before taking a rental application fee, a rental property owner must disclose to the applicant, in writing, the criteria on which the application will be judged.

b. Application forms must allow the applicant to choose a method for return of the application fee as either 1) mailing it to an applicant's chosen address as stated on the application form, 2) destroying it 3) holding for retrieval by the tenant upon one (1) business-day's notice.

c. If the applicant was charged an application fee and the rental property owner rejects the applicant, then the owner must, within fourteen (14) days, notify the tenant in writing of the reasons for rejection, including any criteria that the applicant failed to meet, and the name, address, and phone number of any tenant screening agency or other credit reporting agency used in considering the application.

- d. The landlord must refund the application fee if a tenant is rejected for any reason not listed in the written criteria.
  - e. Nothing in this section shall prohibit a rental property owner from collecting and holding an application fee so long as the rental property owner provides a written receipt for the fee and the fee is not cashed, deposited, or negotiated in any way until all prior rental applicants either have been screened and rejected for the unit, or have been offered the unit and have declined to take it. If a prior rental applicant is offered the unit and accepts it, the rental property owner shall return all application fees in the manner selected by the applicant, pursuant to section (b).
  - f. Violation of this subsection, 244.1910(16), may result in an administrative citation, or may contribute to the denial or revocation of a rental license.
  - g. This subdivision shall become effective December 1, 2004.
- (17) An owner shall not have any violations of Minnesota Rule Chapter 1300.0120 subpart 1, related to required permits, at any rental dwelling which they own or have an ownership interest. A violation of Minnesota Rule Chapter 1300.0120 subpart 1 shall result in a director's determination of noncompliance notice being sent, pursuant to 244.1930 to the owner regarding the rental dwelling where the violation occurred. A second violation, at any rental dwelling in which the owner has an ownership interest, of Minnesota Rule Chapter 1300.0120 subpart 1, related to required permits, shall result in the issuance of a director's notice of denial, non-renewal, or suspension of the license or provisional license, pursuant to 244.1940 of the Code, for the rental dwelling where the second violation occurred.
- (18) The owner, where the owner pays the water bill for a rental dwelling, shall not allow the water to be shut off for non-payment. If water to a rental dwelling has been turned off, for lack of payment by the owner it shall be sufficient grounds to deny, revoke, suspend or refuse to renew a license or provisional license.
- (19) The provisions of this section are not exclusive. Adverse license action may be based upon good cause as authorized by Chapter 4, Section 16 of the Charter. This section shall not preclude the enforcement of any other provisions of this Code or state and federal laws and regulations.

Southern Maine Landlord Association Survey re: Application Fees

How many rental units do you own?	Do you currently charge an application fee?	If so, what amount do you charge?	On average, how many background and credit checks do you collect fees for before you find an appropriate tenant?
0	No	N/A	0
1	No	N/A	1
1	No	N/A	None will use airbnb for week long rentals on lake
1	No	N/A	0
1	No	N/A	1
1	No	N/A	0
1	No	N/A	2
2	No	N/A	0
2	No	N/A	I Air BNB my units
2	No	N/A	0
2	No	N/A	0
2	No	N/A	0
2	No	N/A	4
2	No	N/A	3
2	No	N/A	0
2	No	N/A	1
2	No	N/A	

How many rental units do you own?	Do you currently charge an application fee?	If so, what amount do you charge?	On average, how many background and credit checks do you collect fees for before you find an appropriate tenant?
2	No	N/A	
3	No	N/A	0
3	No	N/A	0
3	No	N/A	0
3	No	N/A	
3	No	N/A	1
3	No	N/A	2
3	No	N/A	0
3	No	N/A	
4	No	N/A	
4	No	N/A	
5	No	N/A	0
5	No	N/A	0
5	No	N/A	2-3
5	No	N/A	0
5	No	N/A	0
5	No	N/A	

How many rental units do you own?	Do you currently charge an application fee?	If so, what amount do you charge?	On average, how many background and credit checks do you collect fees for before you find an appropriate tenant?
6	No	N/A	0
6	No	N/A	0
6	No	N/A	
7	No	N/A	
8	No	N/A	0
8	No	N/A	1
8	No	N/A	0
8	No	N/A	0
8	No	N/A	0
9	No	N/A	0
10	No	N/A	0
10	No	N/A	0
10	No	N/A	0
11	No	N/A	2-3, we usually wait until we find a candidate that is likely to meet our standards, before we do reference checks.
13	No	N/A	0
14	No	N/A	0
14	No	N/A	0

How many rental units do you own?	Do you currently charge an application fee?	If so, what amount do you charge?	On average, how many background and credit checks do you collect fees for before you find an appropriate tenant?
15	No	N/A	3
16	No	N/A	0
21	No	N/A	
25	No	N/A	
30	No	N/A	0
31	No	N/A	1
60	No	N/A	0
70	No	N/A	0
130	No	N/A	3
1	No	We have used a tenant finder and have paid a fee!	When we have used a tenant finder service—it usually takes 2 to 3 credit credit and background checks time find someone
1	Yes	Cost of TenantNet	8
2	Yes	\$25 - \$35	1
3	Yes	\$50	2
3	Yes	\$50	1-2
3	Yes	\$29	1 to 5 - but I reimburse the fees to the tenant who ultimately signs a lease.
4	Yes	\$39.99 for one applicant. \$49.98 for two.	1-2
4	Yes	\$40	1

How many rental units do you own?	Do you currently charge an application fee?	If so, what amount do you charge?	On average, how many background and credit checks do you collect fees for before you find an appropriate tenant?
4	Yes	\$35	2
5	Yes	\$25	9
5	Yes	\$30	1
5	Yes	\$35	3
5	Yes	Whatever RentPrep charges	So far, 1
5	Yes	\$30	2
6	Yes	\$25 per adult applicant	Usually just one. If applicant is approved, the app. fee is credited to their sec. dep. If rejected, it is refunded, unless lies on the app. I use judgement experience to
6	Yes	\$45	8
6	Yes	\$40	2 max - I have a conversation before collecting \$
6	Yes	\$35	
7	Yes	\$25	2
7	Yes	\$30	5

How many rental units do you own?	Do you currently charge an application fee?	If so, what amount do you charge?	On average, how many background and credit checks do you collect fees for before you find an appropriate tenant?
8	Yes	\$35	3
9	Yes	\$30	2
10	Yes	Tenant net/\$25	1-2
10	Yes	\$30	1
12	Yes	\$30	2
14	Yes	\$35	1
16	Yes	\$25	One or two
18	Yes	\$30	4
36	Yes	\$35	2 max
47	Yes	\$35	3-4
50	Yes	\$25	1
50	Yes	\$40	Only the ones we want to rent to - so NO extra
62	Yes	\$38	6
74	Yes	\$30	4
83	Yes	\$35	1-3
100	Yes	\$30	1-2
180	Yes	\$40	4



**CITY OF PORTLAND**  
**Planning & Urban Development Department**  
**Housing and Community Development Division**

**TO:** Councilor Duson, Chair  
Members of the Housing Committee

**FROM:** Mary Davis, Division Director  
Housing and Community Development Division

**DATE:** February 5, 2020

**SUBJECT:** 2020-2021 Housing Program Budget

**SUMMARY OF ISSUE**

Review and recommendation to the City Council of the 2020-2021 Housing Program Budget.

**REASON FOR SUBMISSION**

The Housing Committee recommends the Housing Program Budget to the City Council for final approval.

**HOME Program:** The Home Investments Partnerships Program (HOME) was established by Congress in 1992. Since 1992, the City of Portland and the Cumberland County HOME Consortium have received over \$21 million dollars in HOME funding. In 2009 the City became the lead entity in the Cumberland County HOME Consortium (CCHC). The Consortium is a partnership of the communities in Cumberland County that administers HOME Program funds in Cumberland County. The creation of the consortium expanded the financial resources for affordable housing activities in the region. The City retains independent operation of its HOME program. Because the City serves as the “Lead Entity” and City staff administers the County portion of the funding, all administrative funds are retained by the City. The County’s Municipal Oversight Committee controls the allocation of the County’s portion of the HOME funds.

When the Consortium was formed in 2009, it included a “hold harmless” clause to ensure that the City, as an existing HOME grantee, would continue to receive funding equal to its allocation prior to the formation of the consortium. The “hold harmless” formula was based on a comparison ratio to the HOME funding for the Lewiston/Auburn (L/A) Consortium. The formula identified Portland’s “hold harmless” amount at 118% of the HOME allocation for the L/A Consortium. The Cumberland County HOME Agreement did allow for adjustments to be made if the current level of funding to the L/A HOME

Consortium varied from historic levels. Over the years the L/A allocation has decreased which has resulted in the Portland “hold harmless” amount to decrease. As a result, by agreement with the other members of the CCHC, the annual allocation is divided with 57% of allocation, after the administrative set-aside, to the City and 43% of the funding to the County.

As a point of reference, if the City were a stand-alone grantee, the estimated HOME allocation for Portland (using a HUD HOME Allocation estimated calculation) would be approximately \$567,149. Of that amount 10% would be set aside for administrative costs (\$56,715) leaving \$510,434 for program funding. Under the current consortium agreement, the city receives the administrative set-aside (\$102,069) along with approximately \$524,000 in program funds. Participation in the HOME consortium benefits Portland as well as the county as a whole.

**HUD has not announced the allocation amount for FY 2020-2021.** Since we do not have the final allocation amounts, we are estimating the HUD HOME allocation at the same level as the previous year (\$1,020,693). \$395,008 is reserved for County projects. The budget proposal was developed after a historical review of HOME funding allocations, previous year’s budget allocations, program expenditures and program income (loan repayments) received. Currently, the City’s HOME Program is divided into three funding categories:

1. Administration
2. Tenant Based Rental Assistance (TBRA)
3. Affordable Housing Development [including the required Community Housing Development Organization (CHDO) set-aside mandated by HUD]

HOME Program Budget	FY 2019-2020 Budgeted (entitlement + program income)	<b>FY 2020-2021 Budget proposal (entitlement + program income)</b>
Administration	\$109,558	\$109,569
Tenant Based Rental Assistance	\$143,571	\$143,571
Affordable Housing Development includes CHDO requirement	\$493,265	\$497,545

**CDBG/HOUSING DEVELOPMENT FUND:** HDF is the program income account funded by CDBG housing loan repayments. These funds can only be used for CDBG eligible housing activities. The FY21 budget proposal would fund an emergency loan program to assist eligible households (at or below 80% of the area median income) with repairs that are determined to be an immediate danger to the health or safety of the occupants of the household. This would supplement the remaining balance in the Housing Rehabilitation budget above. In future years, we are exploring moving from the current housing rehabilitation model to an emergency loan model that would focus smaller investments where significant health, safety or related issues exist. FY20 funding would allow us to explore this model while still retaining some Housing Rehabilitation funds.

Housing Development Fund (HDF) Budget	FY 2019-2020 Budgeted	FY 2020-2021 Budget Proposal
Administration	\$0	\$0
Housing Rehabilitation	\$93,242	\$166,003*

\*\$34,338 of program income from FY19 + unencumbered fund balance of \$131,665

**LEAD SAFE HOUSING (Program Income):** Lead Safe Housing Program Income is generated through repayment of loans given under prior Lead Safe Housing Grants. These funds can only be used for lead safe housing eligible activities. The City also has a new Lead Hazard Reduction Grant that will provide \$2,038,041 in funding for lead paint remediation and \$503,655 in funding to assist with code and life safety improvements

Lead Safe Housing Program Income	FY 2019-2020 Budgeted	FY 2020-2021 Budget Proposal
	\$268,741	\$197,871

**HOUSING TRUST FUND:** Revenue for the Housing Trust Fund is generated from fees triggered by the City’s Housing Preservation and Replacement Ordinance, fee-in-lieu contributions from the Inclusionary Zoning Ordinance and Hotel Inclusionary Zoning fee. Including the current balance of the Housing Trust Fund in the Housing Program Budget gives budget authority for the use of the funds. There are no projects or activities currently identified for these funds. The amount budgeted is the maximum that might be expended in FY21. However, staff continues to recommend a minimum balance in the Trust, so the effective budget would be \$477,331 (\$977,331 less \$500,000.) If additional funds are allocated to the Trust based on current discussions, this number might be adjusted based on the outcome.

Housing Trust Fund (HTF) Budget	FY 2019-2020 Budgeted	FY 2020-2021 Budget Proposal
	\$1,275,820	\$979,031

**STAFF ANALYSIS AND RECOMMENDATION** – The proposed Housing Program Budget will adjusted when HUD announces the fiscal year allocation for the HOME Program. This budget will be forwarded to the full City Council for two Public Hearings (tentatively scheduled for April), as part of the overall HCD budget. Typically the final budget allocations and Annual Action Plan are submitted to HUD 45 days in advance of the start of the fiscal year (May 15 for the fiscal year beginning July 1, 2020).

At this time staff is requesting Committee approval and recommendation to the City Council of the FY 20/21 Housing Program Budget as outlined above and summarized in the attached spreadsheet. If the HUD allocation amount is different from the estimate used in this budget, program budgets will be adjusted proportionately.

**FY 20/21 Housing Program Budget - Attached**

**2020-2021 HOUSING PROGRAM BUDGET HUD Final Allocation Date: XXXXXX, 2020**

Total HUD HOME Entitlement Allocation	1,020,693
Portland Program Portion	523,616
Portland Admin Portion	102,069
County Program Portion	395,008

Recommended by HC (X-X) XXXXXXXX, 2020  
 Approved by Council XXXXXXXX, 2020  
**HUD Allocation XXXXXXXXXX, 2020**  
 Adjusted for Final HUD Allocation XX.XX.2020

**REVENUES- Housing Programs**

2020-21 HOME Consortium Admin (10% of allocation)	
2020-21 HOME Consortium Programming	
2019-20 HOME Estimated Program Income	
2019-20 HOME Estimated Program Income Recaptured Funds	
2019-20 HOME Estimated Program Income and Recapture Deduction for County	
Re-Allocated HOME Funds (funding from previous years)	
2020-21 CDBG Administration	
2020-21 CDBG Programming	
2019-2020 Housing Trust Fund	
2018-19 HDF Program Income**	
2018-19 Lead Safe Housing Program Income**	
<b>REVENUE TOTALS (Portland)</b>	

HOME	CDBG	HDF**	LEAD Safe Housing Program Income**	Housing Trust Fund	TOTAL BUDGET
102,069					102,069
523,616					523,616
75,000					75,000
75,000					75,000
-25,000					-25,000
					0
					0
				979,031	979,031
		166,003			166,003
			197,871		197,871
750,685	0	166,003	197,871	979,031	2,093,590

\*\* Includes previous unallocated program income + program income received in FY19

**2020-21 HOUSING Budget by Activity (Portland)**

Administration 243021QQ01 (includes 10% of PI)	
Housing Rehabilitation/Emergency Loan Program	
Tenant-Based Rental Assistance 443021QT01	
Affordable Housing Development 243021QA00	
CHDO 243021QA00	
Lead Safe Housing 243019PLL1 (PLL036)	

HOME	CDBG	HDF**	LEAD Safe Housing Program Income**	Housing Trust Fund	TOTAL BUDGET
109,569		0			109,569
0		166,003			166,003
143,571					143,571
410,276				979,031	1,389,307
87,269					87,269
0			197,871		197,871
750,685	0	166,003	197,871	979,031	2,093,590

**2020-21 HOME Consortium COUNTY - approved by MOC on XX.XX.2020**

County HOME Program budget provided for reference only; adjusted for final HUD Allocation XX.XX.2020

Allocation of County funds is done by the County's Municipal Oversight Committee

**REVENUES- Housing Programs**

2020-21 HOME Consortium Non-Portland Programming	395,008
2019-20 HOME County Program Income and Recapture	25,000
	<hr/> 420,008

HOME
County
395,008
25,000
<hr/> 420,008

**2020-21 HOUSING Budget by Activity**

Housing Rehabilitation (# projects @ \$15,000/project)	0
Home Ownership	0
Affordable Housing Development 243021QC00	354,173
CHDO 243021QC00	65,835
	<hr/> 420,008

HOME
County
0
0
354,173
65,835
<hr/> 420,008



**CITY OF PORTLAND**  
**Planning & Urban Development Department**  
**Housing and Community Development Division**

**TO:** Councilor Jill Duson, Chair  
Members of the Housing and Community Development Committee

**FROM:** Mary Davis, Division Director  
Housing and Community Development Division

**DATE:** February 4, 2020

**SUBJECT:** Renewal of the Cumberland County HOME Consortium

**I. SUMMARY OF ISSUE**

The Cumberland County HOME Consortium will soon be entering the last year of its fourth three-year Consortium contract period. The current Consortium agreement is due to expire on June 30, 2021. Each member of the Consortium must confirm their participation in the next three-year term and notify HUD by June 30.

**II. REASON FOR SUBMISSION**

We are required to submit our consortium renewal request to the U.S. Department of Housing and Urban Development by June 30 for the contract period July 1, 2021 through June 30, 2024.

**III. INTENDED RESULT**

Confirm Portland's participation in the Cumberland County HOME Consortium for the period beginning July 1, 2021 through June 30, 2024. The Consortium makes available more funds for affordable housing activities throughout the region and provides the opportunity to address housing issues on a regional level.

**IV. COMMITTEE GOAL/COUNCIL GOAL ADDRESSED**

Increase access to safe, location-efficient rental and ownership housing that is affordable for working and low-income families.

**V. FINANCIAL IMPACT**

In FY 2019-2020, the Cumberland County HOME Consortium received \$1,020,693 in HOME program funds from the U.S. Department of Housing and Urban Development. Based on the funding formula established in the Mutual Cooperation Agreement between

the City of Portland and the other Consortium Members, the City receives 10% of the grant (\$102,069) for administrative costs and \$523,616 for project programming. The remaining funds (\$395,008) are allocated to the other Cumberland County communities.

## **VI. STAFF ANALYSIS AND RECOMMENDATION**

The concept of forming a City of Portland/Cumberland County HUD HOME Consortium was first discussed in April 2007. The Consortium was designed to expand financial resources for eligible affordable housing activities throughout Cumberland County. Prior to 2009, Portland received an annual allocation of HUD HOME funds but the communities of Cumberland County did not. The creation of the Consortium brought additional funding for affordable housing activities into the region. The Consortium agreement includes a “hold harmless” clause that ensures that Portland receives funding in an amount equivalent to the amount the City would have received if the Consortium did not exist. Portland retains independent operation of its HUD HOME program. As the “Lead Entity” of the Consortium, Portland receives 100% of the administrative funds allowed under the HOME Program.

The consortium has been a successful collaboration in support of affordable housing throughout Cumberland County. From July 2009 through January 2020, over 1100 units have been assisted by or created with HOME funds. The City of Portland has been a recipient of HOME funds since 1992. However, the county communities did not receive HOME funds until the creation of the Consortium in 2009. Through a formula calculation agreed upon by the members of the Consortium, Portland continues to receive our typical expected allocation, retains independent operation of its HOME program and serves as “Lead Entity” for the Consortium, retaining 100% of the allowable administration funds as compensation for this responsibility. (See attached “Hold Harmless” statement). If the City were not a part of the consortia, the City’s HOME allocation is estimated to be \$567,149, which would represent administrative funds and program funds (see copy of HUD funding estimate calculator)

Staff requests the Committee approve and recommend to the City Council that the City of Portland renew its participation in the Cumberland County HOME Consortium.

## APPENDIX "A"

### City of Portland, "Hold Harmless" Calculation

#### Introduction

A central premise in the creation of the Cumberland County HOME Consortium is that the City of Portland, as an existing HOME Program Participating Jurisdiction, will continue to receive funding equal to its allocation prior to the formation of the Consortium. Portland will be "held harmless". Its base funding, prior to any added allocation owing to participation in the Consortium, as outlined in other sections of the Agreement, will remain neutral.

#### The Standard

Portland's base, "hold-harmless" allocation under the Cumberland County HOME Consortium for 2012-2014 will be 118% of the HOME allocation for the Lewiston/Auburn HOME Consortium.

It is possible, though highly unlikely, the funding allocation for Lewiston/Auburn may vary from its historic established patterns. This could be due to penalties imposed by HUD, demographic shifts or other events unrelated to the federal HOME budget or HUD's general distribution of funds to participating jurisdictions. If this occurs, Consortium members will examine all available data to establish a hold harmless allocation for Portland in the fairest manner possible.

<i>GEO GROUP</i>	<i>STUSAB</i>	<i>GEO NAME</i>	<i>COUNTY NAME</i>	<i>VACRENT</i>	<i>ALLRENTALS</i>	<i>FAMPOV</i>	<i>P50RHP</i>	<i>TRHC4</i>	<i>AMTRHC4</i>	<i>POPPCI</i>
Places	ME	Portland city	Cumberland County	630	17,910	1,975	2,940	8,400	7,483	63,455

<i>Estimated value of the FAMILIES IN POVERTY factor:</i>	\$56,842
<i>Estimated value of the PRE-1950 RENTAL HOUSING OCCUPIED BY THE POOR factor:</i>	\$245,126
<i>Estimated value of the RENTAL HOUSING WITH 1 OF 4 PROBLEMS factor:</i>	\$86,506
<i>Estimated value of the COST INDEXED RENTAL HOUSING WITH 1 OF 4 PROBLEMS factor:</i>	\$74,275
<i>Estimated value of the VACANCY ADJUSTED RENTAL HOUSING WITH PROBLEMS factor:</i>	\$80,006
<i>Estimated value of the POPULATION INDEXED BY PER CAPITA INCOME factor:</i>	\$24,394
<b>Estimated TOTAL:</b>	<b>\$567,149</b>

**DISCLAIMER**

Deviations from these estimates WILL occur for any number of reasons including, but not limited to the final appropriated amounts and final HOME Consortia participation rosters. CPD has no obligation or liability, legal or otherwise, if there is a discrepancy between these estimates and any final calculated formula grant amounts. CPD maintains no responsibility for personal loss or injury due to usage of this excel workbook.



**CITY OF PORTLAND**  
**Planning & Urban Development Department**  
**Housing and Community Development Division**

**TO:** Councilor Duson, Chair  
Members of the Housing Committee

**FROM:** Mary Davis, Division Director  
Housing and Community Development Division

**DATE:** February 7, 2020

**SUBJECT:** 2020 Housing Trust Fund Annual Plan

The Housing Trust Fund is established by Section 14-489 of the City's Code of Ordinances. Section 14-489 (e) states that "the city council shall adopt a housing trust fund annual plan" and that the "housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action." The plan establishes the priorities in which the current balance of the Housing Trust Fund will be allocated.

Proposed Revisions to Housing Trust Fund Annual Plan from 2019 to 2020

- Funding Priorities: support public/private partnerships that create workforce housing units affordable to households earning 80% to 120% of the area median income.
- Point System for Evaluating and Scoring Applications: adjusted the point allocations in Section IV.A. to provide more emphasis on developments that are consistent with city goals, meet market demand and create economic diversity.

Staff Recommendation

Staff is requesting that the Housing Committee recommend to the City Council approval of the 2020 Housing Trust Fund Annual Plan.

**HOUSING TRUST FUND**  
**202019 ANNUAL PLAN**

**BACKGROUND**

The Housing Trust fund is established by Section 14-489 of the City’s Code of Ordinances. Section 14-489 (e) states that “the city council shall adopt a housing trust fund annual plan” and that the “housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action.”

The Annual Plan will establish the priorities in which the current balance of the Housing Trust Fund will be allocated. The plan is in line with the 2019 Housing Committee objective of increasing access to rental and ownership housing that is safe, affordable, and accessible for working and low-income families.

This budget is based on the balance in the Housing Trust Fund as of ~~January 2, 2020~~ ~~March 1, 2019~~. At this time, Housing Trust Fund revenue is generated from fees triggered by the Housing Preservation and Replacement Ordinance, a portion of revenue from the Short Term Rental Registration Program, fee-in-lieu contributions from the Inclusionary Zoning Ordinance (including the hotel inclusionary zoning fees), and other funding resources under Council consideration. The current unencumbered balance of the Housing Trust Fund is \$~~979,031~~~~1,275,820~~. While staff anticipates increases in revenue in the Housing Trust Fund as a result of the Inclusionary Zoning Ordinance and other sources being considered by the City Council, those anticipated resources are not included in the ~~202019~~ Annual Plan.

**Sources and Uses of Housing Trust Fund:**

YEAR	DEPOSITS	YEAR	EXPENDITURES
2002/03	Maine Medical Center HRO	2011	Avesta Oak Street Lofts
2002	Sportsman’s Grill HRO	2014	Housing First Pre-Development RFP
2009	Berlin City Auto HRO	2015	65 Hanover & 52 Alder Sts Feasibility Study
2010	Stop n Shop HRO 2010	2017	65 Munjoy Street
2012	Rockbridge/Eastland Park HRO	2019	60 Parris Terr. Downpayment Assistance
2012	Riverwalk/Ocean Gateway HRO	2018	977 Brighton Avenue
2012	118 Congress LLC Easement	2018	37 Front Street (not yet spent)
2017	91 & 97 Belfort Street (sale of TAP)	2019	83 Middle Street (not yet spent)
2017	116 Upper A Street (sale of TAP)	2019	47 Boyd Street (not yet spent)
2017	443 Congress Street IZ	2019	18 Luther Street (not yet spent)
2018	62 India Street IZ		<b>Total Expenditures</b>
2018	Short Term Rental Fee transfer		\$ (2,486,569.00)
2018	0 Thames Street (WEX) sale		
2019	20 Thames Street IZ & Easement		
2019	20 Thames Street (for balcony overhang)		
2019	Short Term Rental Penalty		
2020	Short Term Rental Penalty		
2019	Short Term Rental Fee transfer		
2019	56 Hampshire Street Easement fee		
2019	17 Sumac Street (sale of TAP)		
2019	121 Middle Street (HOTEL IZ)		
	Previous INTEREST EARNED		
	<b>Total Deposits</b>		<b>BALANCE</b>
	\$3,465,600.20		\$979,031.20

HRO - Housing Replacement Ordinance; IZ = Inclusionary Zoning Fee-in-lieu; TAP = Tax Acquired Property  
as of 2-5-2020

City Ordinance requires that the Housing Trust Fund Annual Plan include a description of the programs to be funded, a budget for each program and identify how the funds will be distributed among very-low (at or below 50% of the area median income), low (at or below 80% of the area median income) and moderate income (at or below 120% of the area median income) households.

The Housing Trust Fund is a valuable tool that can assist the City in meeting the goal of providing increased availability in all segments of the housing market. While the City has other resources such as the HUD HOME and CDBG Programs, those funds are limited in amount and scope. The proposed Housing Program budget for FY 2020-2021 includes \$497,549,545 in HOME funding for affordable housing development. The HOME program restricts rental housing assistance to households at or below 60% of the area median income and home ownership assistance to households at or below 80% of the area median income. The CDBG program is restricted to households at or below 80% of the area median income. City Ordinance allows the Housing Trust Fund to assist households at or below 120% of area median income.

As always, the City should act prudently when deciding to invest these funds. The Housing Trust Fund should maintain a minimum balance of \$500,000 in order to have resources to act quickly when there is an emergency, such as a need to cure a potential mortgage default that could result in loss of an affordable unit. This right to cure will be included in the affordable housing covenants that are recorded in the Cumberland County Registry of Deeds for each affordable unit.

### **FUNDING PRIORITIES**

The purpose of the Housing Trust Fund is the "...promotion, retention and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the City." and "To serve as a vehicle for addressing very low, low and median income housing needs...". In an effort to ensure that these purposes are met, the Housing Trust Fund Annual Plan may identify specific priorities that support other city goals and priorities, for example goals from the Comprehensive Plan or the City Council Common Goals. A 2020 priority will be to support public/private partnerships that create workforce housing units that are affordable to households earning 80% to 120% of the area median income. A 2019 priority will be to support the creation of workforce housing units through a public/private partnership to add rental and/or ownership units to the City's housing inventory, as outlined in the Housing Committees 2019 Priorities.

### **Allocation Process**

Housing Trust Funds will be distributed through a competitive application process. A Notice of Funding Availability will be issued at a minimum of an annual basis to notify potential applicants that the application is available. Applications will be reviewed by an evaluation team of City of Portland staff who will evaluate and score each application utilizing the scoring factors outlined in Attachment #1 in order to recommend the most qualified application based on the information submitted. This information will also be included in the Affordable Housing Development Application.

Recommendations will be forwarded to the City Council's Housing Committee for review. Housing Committee recommendations will be forwarded to the City Council for final review and approval.

### Eligible Activities

Activities eligible for funding from the Housing Trust Fund are those that promote, retain, and create an adequate supply of housing, particularly affordable housing for all economic groups, and to limit the net loss of housing units in the city. Eligible activities may include: new construction, preservation/rehabilitation of existing affordable housing, adaptive reuse, acquisition, housing first.

In this Plan, adaptive reuse is defined as creating housing in an existing building that was originally built or designed for a use other than housing.

The Housing Trust Fund resources are also intended to promote the retention of affordable housing. Staff recommends that Housing Trust Fund resources be made available, if necessary, to exercise the City's right of first refusal in connection with potential foreclosure issues with affordable homeownership units. This is unlikely to occur in the near future but may come up as more workforce homeownership units are created through Portland's inclusionary zoning ordinance. The City shall have a right of first refusal if an affordable unit is forced to sell due to increased fees or has become delinquent in its payments and is in risk of foreclosure or any other legal threats to the Unit's affordability restrictions. The City shall also have the option of using City funds to support affordable units facing large special assessments that may pose a risk to the owner household's ability to maintain their unit's affordability. The City of Portland shall have the right of first refusal to purchase any affordable unit that is in jeopardy of losing its affordability restrictions due to foreclosure, delinquency of condominium fee payments, or any other cause outside of the agreed upon term of restriction. The City's Right of First Refusal is not intended to infringe upon the ability of a mortgage lender to recapture any money owed by the affordable unit owner. The intent is to ensure affordability of the unit for eligible households.

### Financing Parameters

Housing Trust Funds should be a resource of last resort and should be focused on opportunities where other funding sources do not work or are not effective. Applicants requesting financial assistance from the Housing Trust Fund must provide document efforts made to obtain other private, federal, state or local resources for the project.

**Form of Awards:** A variety of funding mechanisms will be utilized including no-interest loans, below-market loans, forgivable loans, and grants. Type of funding will be determined after review of a number of factors including amount necessary to make the project feasible, the project type, income targeting, number of affordable units, and duration of the affordability period.

**Maximum Award Amount:** Awards will be determined on a per affordable unit basis. The average City investment per unit, excluding TIF financing, is approximately \$10,000. The City contribution per unit will not exceed \$18,000. This amount may be adjusted at the discretion of the City Council, only for unusual circumstances where a larger amount is the only way a project

that meets other City goals is needed. In those cases, the higher cost per unit ratio must be tied into the goals outlined in the City's Comprehensive Plan.

### Income Targeting

Housing Trust Fund resources should be focused on opportunities where other funding sources do not work or are not effective, such as projects designed to create housing affordable to households earning at or below 50% of the area median income, or projects designed to create housing affordable to households earning 80% to 120% of the area median income. Often, other funding sources, such as the Low Income Housing Tax Credit Program or the HOME Program, have restrictions or requirements that limit or prohibit the creation of housing affordable to those in the very low and moderate income ranges.

Affordable means that the percentage of income a household is charged in rent and other housing expenses, or must pay in monthly mortgage payments (including insurance and taxes), does not exceed 30% of a household's income, or other amount established in city regulations that does not vary significantly from this amount.

### Affordability Restrictions

Affordability restrictions are required. In the case of rental or cooperative units, the units must remain affordable for the life of the housing unit which is presumed to be a minimum of thirty (30) years.

Homeownership units must include resale restrictions that maintain an "equitable balance" between the interests of the owner and the City. These restrictions must be documented and recorded in the Cumberland County Registry of Deeds.

Sales must be made through an arms-length arrangement. No employee, agent, stockholder, officer, director, servant, or family member of the Owner or its Management Company, or its employees, agents, or servants thereof, related either by blood, marriage, or operation of law may qualify for a unit financed with Housing Trust Funds or receive any benefit related in any way to the administration or compliance with the conditions contained therein.

### Affordable Housing Agreement

The owner of each affordable unit will be required to sign and record in the Cumberland County Registry of Deeds an Affordable Housing Agreement (AHA) with the City and to include the affordability restrictions as a covenant to the project's deed. The Affordable Housing Agreement shall be referenced directly in the property's deed unless prohibited by federal, state, or local law. In order to guarantee affordability in homeownership units, this recorded covenant will limit increases in sales price according to the calculation defined by the City as defined in the implementation regulations. It will limit the incomes of subsequent buyers to the same income limits initially applied. It will also provide a right of first refusal and other purchase rights to the City or its designee (e.g. another eligible household, or a nonprofit corporation).

## Right of First Refusal

The City of Portland shall have the right of first refusal to purchase any affordable unit that is in jeopardy of losing its affordability restrictions due to foreclosure, delinquency of condominium fee payments, or any other cause outside of the agreed upon term of restriction. The City's Right of First Refusal is not intended to infringe upon the ability of a mortgage lender to recapture any money owed by the affordable unit's owner. The intent is to ensure affordability of the unit for eligible households.

## Implementing Regulations

Regulations to further specify the details of the parameters outlined in this Annual Plan, shall be developed, including, but not limited to:

1. Specific methodology for income verification; and
2. Underwriting criteria.

## Attachments

#1 Point System for Evaluating and Scoring Applications

## Attachment #1

### Point System for Evaluating and Scoring Applications (Max 100)

Policy Objectives: Total 50 Points

Proposed use of funds to achieve the City of Portland's goals and address demonstrated need. 26 points

Maximum points will be awarded for those applications that:

1. Market Demand— ~~42~~ points
  - a. ~~42~~ points high demand, meets the City's income targeting priority.
  - b. ~~21~~ point moderate demand,
  - c. 0 points does not demonstrate sufficient market demand
2. Zoning – ~~810~~ points
  - a. ~~810~~ points Development requires no zoning amendments or contract or conditional zone
  - b. ~~57~~ points development requires a zoning amendment which is consistent with the City Comprehensive Plan
  - c. 0 points development requires rezoning that is not consistent with the City's Comprehensive Plan
3. Economic diversity – ~~64~~ points
  - a. ~~64~~ points creates housing options which promote economic diversity in the neighborhood in which the development is located
  - b. 0 points does not promote economic diversity
4. CHDO – ~~24~~ points
  - a. ~~24~~ points Developer and owner are both controlled by CHDO
  - b. ~~12~~ points either developer or owner are controlled by CHDO
  - c. 0 points neither developer nor owner are controlled by CHDO
5. City Subsidy – 6 points
  - a. 6 points investment from City is <\$10,000/unit
  - b. 5 points investment from City is > or = \$10,000 and <\$12,000/unit
  - c. 4 points investment from City is > or = \$12,000 and <\$14,000/unit
  - d. 3 points investment from City is > or = \$14,000 and <\$16,000/unit
  - e. 2 points investment from City is > or = \$16,000 and <\$18,000/unit
  - f. 0 points investment from City is > or = \$18,000/unit

Impact on surrounding neighborhood, including design compatibility and environmental issues. 24 points

Maximum points will be awarded for those applications where:

- 1) site selection -- 7 points
  - i) 7 points -- fully appropriate for use,
  - ii) 5 points – appropriate, some concerns
  - iii) 0 points – significant concerns
- 2) Exterior Design -- 5 points
  - i) 5 points -- the design is fully consistent with neighborhood design characteristics,
  - ii) 3 points – the design is an adequate fit with the neighborhood design,
  - iii) 0 points – the design is a significant outlier
- 3) Amenities and unit design -- 7 points
  - i) 7 points – amenities & unit design are well thought out and appropriate for residents,

- ii) 5 points -- amenities & unit design are adequate,
  - iii) 0 points – amenities and unit design raise significant concerns that resident needs will not be adequately addressed
- 4) Environmental -- 5 points
- i) 5 points – Phase I identifies no environmental issues
  - ii) 3 points – Phase I identifies an environmental issue, but a Phase II shows a feasible, economically viable resolution which is included in the budgets;
  - iii) 0 points – there are significant unresolved environmental issues, or no Phase I has been received.

Underwriting Criteria: Total 50 Points

Financial feasibility, including cost, development budget operating pro forma and the provision of secured and leverage funds. 20 points

Maximum points will be awarded for those applications that:

1. Development budget & sources and uses – 10 points
  - a. 10 points – EVERY development budget line item for which there is a City of Portland guideline complies with that guideline AND all other line items are reasonable and customary;
  - b. 8 points – ONE budget line item falls outside City guidelines or outside the standard of “reasonable & customary”;
  - c. 6 points – TWO budget line items item falls outside City guidelines or outside the standard of “reasonable & customary”;
  - d. Zero points – more than two budget items fail to meet City guidelines or fall outside “reasonable and customary”
2. Operating pro forma – 10 points
  - a. 10 points – EVERY operating pro forma line item for which there is a City of Portland guideline complies with that guideline AND all other line items are reasonable and customary;
  - b. 8 points – ONE budget line item falls outside City guidelines or outside the standard of “reasonable & customary”;
  - c. 6 points – TWO budget line items item falls outside City guidelines or outside the standard of “reasonable & customary”;
  - d. Zero points – more than two budget items fail to meet City guidelines or fall outside “reasonable and customary”

Applicant's ability to complete project, including development team experience, capacity, project readiness and timeframe for completion. 30 points

Maximum points will be awarded for those applications that:

1. Readiness to proceed – 10 points
  - a. 10 points – at least one letter of commitment or interest is included and ALL projected sources are projected at terms and conditions consistent with the City’s prior experience with the funder.
  - b. 5 – ALL projected sources of funding include letters of commitment, letters of interest, or, if no letter is included, are projected at terms and conditions consistent with the City’s prior experience with this funder.

- c. 0 – one or more sources are projected on terms that are not consistent with the City’s prior experience with the funder and are not documented by letter(s) from funder(s).
- 2. Track record of development team – 10 points
  - a. 10 – every development team member has a successful track record with this type of project and at this scale
  - b. 7 – all but one development team members have a successful track record with this type of project and at this scale; one development team member has relevant experience but at a smaller scale or not of this project type
  - c. 3 – two development team members, while having relevant experience, are new to this type of project or this scale of development
  - d. 0 – the development team does not meet the criteria above
- 3. Current Capacity of development team – 10 points
  - a. 10 – development team members have exceptional depth of human and financial resources to complete this project;
  - b. 8 -- development team members have the human and financial resources to complete this project;
  - c. 3 – development team has a staffing gap in a significant role and a plan to address that gap, OR there are some concerns about the financial resources of the team to move the development forward;
  - d. 0 - the development team does not meet the criteria described above



**CITY OF PORTLAND**  
**Planning & Urban Development Department**  
**Housing and Community Development Division**

**TO:** Councilor Duson, Chair  
Members of the Housing Committee

**FROM:** Mary Davis, Division Director  
Housing and Community Development Division

**DATE:** February 7, 2020

**SUBJECT:** 2020-2021 Affordable Housing Development Application

It has been the policy of the City of Portland to utilize an annual application and/or RFP process for the allocation of city resources budgeted for the development of affordable housing. The 2020-2021 Affordable Housing Development Application will make available an estimated \$976,576 from the 2020-2021 HOME (\$497,545, including CHDO budget allocations) and Housing Trust (\$479,031) funds budgeted for affordable housing development. The anticipated annual production rate of housing units is 55 - 95 units.

If the committee endorses the proposed application, it will be released with a notation that the estimated funding available may be adjusted pending receipt of the final HOME allocation amount from HUD and approval by the City Council of the Housing Program Budget in April.

Revisions made to the 2020 Application

- There were several minor clarifying edits made to the application.
- Section I.B. - Priority for the use of Housing Trust Funds will be to support public/private partnerships that create workforce housing units that are affordable to households earning 80% to 120% of the area median income. Priority for the use of HOME Program funds will be given to developments that provide units households earning 60% of area median income and below.
- Point System for Evaluating and Scoring Applications: adjusted the point allocations in Section IV.A. to provide more emphasis on developments that are consistent with city goals, meet market demand and create economic diversity.

Staff Recommendation

Staff is seeking Committee approval of the application criteria for the 2020-2021 Affordable Housing Development Application and requesting committee approval to make minor amendments to the application prior to its release.

# City of Portland

## Affordable Housing Development Application



**July 1, 2020 – June 30, 2021**

**Applications will be accepted until all budgeted funds have been allocated.**

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# **I. GENERAL INFORMATION**

## **A. Availability of Funding**

The City of Portland has made the development of affordable housing a priority, as identified in the City of Portland's 2016-2020 HUD 5-year Consolidated Plan, City Council Common Goals and the Comprehensive Plan. To accomplish this priority, the City of Portland will accept applications for the development of affordable housing in the City of Portland.

Certified Community Housing Development Organizations (CHDO's) or organizations eligible for CHDO certification are strongly encouraged to apply. The HUD definition of a CHDO organization is attached as Exhibit #1 entitled Definition of a Community Housing Development Organization (CHDO).

The City of Portland's Division of Housing and Community Development uses an application process to ensure that public funds are utilized for maximum public benefit to accomplish specific objectives and provide fair access to all applicants. Applications will be accepted until all budgeted funds are allocated. The City of Portland reserves the right to partially fund application requests or deny any application that does not meet the application criteria.

The City of Portland is making a combination of FY 20~~2019~~-20~~21~~20 HUD Home Investment Partnership Program (HOME) funds (which includes a mandatory set-aside for CHDO organizations or organizations eligible for CHDO certification) and local Housing Trust Funds (HTF). The Housing and Community Development Division is utilizing a single application process for these funds. City staff will determine which funding source is best for each project and then make funding recommendations to the City Council for final approval.

Total Funding Available: \$~~976,5761,269,085~~.

## **B. General Guidelines**

Developments shall provide units to households earning no more than 120%~~up to 100%~~ of the area median. Priority for the use of Housing Trust Funds will be to support public/private partnerships that create workforce housing units that are affordable to households earning 80% to 120% of the area median income. Priority for the use of HOME Program funds will be given to developments that provide units households earning 60% of area median income and below. Projects with mixed income targeting and a mix of bedroom size are strongly encouraged. The minimum term of affordability depends on the funding source, but is not generally less than 30 years, and in some cases may~~much~~ be 90 years. The affordability term is to be secured by a declaration of covenants and restrictions recorded in the Cumberland County Registry of Deeds.

This application outlines the selection criteria which all projects applying for these funds must meet, as well as scoring factors which will be used by the City of Portland to evaluate the applications.

## **C. Federal Requirements**

These requirements will apply for any project that is awarded HOME or other federal funding.

## Environmental Review Requirements

Projects receiving HOME funding are subject to environmental review, clearance and release of funds by the U.S. Department of Housing and Urban Development. Once an application has been submitted to the City of Portland, the applicant cannot take any “*choice limiting actions*” prior to receiving notification from the City that the environmental review process, including historic preservation review and clearance, has been completed and a release of funds has been received. A Phase I ESA along with a lead and asbestos testing report is required before HUD Environmental Review Requirements can be completed.

*Choice limiting actions include, but are not limited to, (1) actions having an adverse impact – e.g., demolition, dredging, filling, excavation, including soliciting bids for these activities; (2) actions limiting the choice of reasonable alternatives – e.g., execution of a legally binding agreement, signing a purchase and sale agreement, signing an option agreement that does not allow the purchaser to elect to terminate the option agreement if the property is not desirable; entering into real property acquisition (including making bids on auctioned properties), leasing, rehabilitation, demolition, environmental remediation, related site improvements, relocating buildings or structures, conversion of land or buildings/structures (including soliciting bids to undertake these activities).*

## Federal Labor Standards

As may be applicable, projects receiving HOME funding must ensure that they and all contractors and subcontractors meet requirements for federal prevailing wage rates specified under the Davis-Bacon Act. The Act requires all laborers and mechanics employed by contractors or subcontractors in the performance of construction work over \$2,000, financed in whole or in part with assistance received under HUD programs, shall be paid the prevailing wage as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-5). Projects that include 12 or more HOME-assisted units must meet the requirements of the Davis-Bacon Act.

**Notice: Any project approved for a site-specific tax increment financing district utilizing a credit enhancement agreement must ensure that any firms employed in the construction phase of a TIF-assisted project compensate all employees the current wage rates and fringe benefits as required under applicable state prevailing wage law under 26 M.R.S.A. §1306, or Portland City Ordinance Ch. 33, §33-1 to 33-12, whichever is greater. State prevailing wage rates may exceed Davis-Bacon wage rates.**

## Section 3

All HOME projects must comply with Section 3 of the Housing and Urban Development Act of 1968. Contractors and subcontractors performing work on Section 3-covered projects must provide, to the greatest extent feasible, opportunities for the employment of low- and very low-income residents of the local community and the businesses that substantially employ these persons.

## Minority and Women Owned Business (MWBE) Participation

All HOME projects must complete, track and report on outreach and contracts given to women- and minority-owned businesses to ensure their inclusion, to the maximum extent possible, in the procurement of property and services. Applicants are encouraged to utilize firms certified as a Minority Business Enterprise or Woman’s Business Enterprise as part of the development team. The development team members include the developer, architect, attorney, general contractor and management agent.

## **Lead-Based Paint**

All HOME funded residential rehabilitation, adaptive re-use and construction activities must comply with 24 CFR Part 35 and Section 401(b) of the Lead-Based Paint Poisoning Prevention Act.

## **Access to the Internet**

All new construction and substantial rehabilitation projects of multifamily rental housing will be required to provide the installation of broadband internet access to its residents to help narrow the digital divide for households in need.

## **Fair Housing and Equal Opportunity**

[Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.) (HUD implementation regulations 24 CFR Part 1); The Fair Housing Act (42 U.S.C. 3601-3620)(24 CFR Part 100-115); Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259)(24 CFR Part 107); Age Discrimination Act of 1975, as amended (42 U.S.C. 6101)(24 CFR Part 146).]

The Fair Housing Act prohibits discrimination in all housing-related transactions based on race, color, national origin, religion, sex, disability, age or familial status. It also includes minimum accessibility design requirements for all new construction and rehabilitation projects and requires that reasonable accommodations be made in rules, policies, practices, services and reasonable structural modifications. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability and requires that everyone have equal opportunity to obtain housing built with federal funds.

## **Affirmative Marketing**

Developers must have tenant selection policies and criteria to ensure that tenants are selected for occupancy at the property in a fair and equitable manner. Tenant selection policies must be based on objective criteria that expressly prohibit bias. Tenant selection procedures should be clear and easily understood by prospective tenants. An affirmative marketing plan is required to ensure that the property serves a diverse cross-section of the population of the market area, must consist of actions to provide information and otherwise attract eligible persons in the housing market area that might not otherwise apply without special outreach, and ensure that the housing is available to qualified applicants without regard to race, color, national origin, religion, sex, disability, or familial status.

## **Violence Against Women Act**

Developers must comply with the Violence Against Women Act (VAWA) requirements in 24 CFR §92.359 and 24 CFR Part 5, subpart L. VAWA provides protections and options for victims of domestic violence, dating violence, sexual assault and stalking.

### ***D. Goals for the Distribution of Funds***

The goal for the distribution of these funds is to increase, preserve, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents. Development should be consistent with the City of Portland's Comprehensive Plan and the HUD Five-Year Consolidated Plan. The City of Portland seeks development projects that create contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods. Projects should not require

a contract or conditional zone (although other rezoning consistent with the City's Comprehensive Plan may be considered). Resolution of any zoning issues is required before City Council approval of the applicants funding request. Developments should incorporate quality, sustainable design.

## II. SCOPE OF SERVICES

### A. *General Specifications*

All applications submitted for this funding must meet the following selection criteria to be considered further in the review process.

#### Eligible Projects

- 1) Projects must create rental housing units which promote economic diversity in the neighborhood in which the development is located. New construction, conversion of non-residential property to housing and rehabilitation of existing rental units that creates accessible or maintains affordable units is eligible. Projects that have previously received HOME funds are not eligible for additional HOME assistance.
- 2) All projects must provide rental units to households earning no more than 120% ~~up to 100%~~ of the area median income and meet the income and rent restrictions of the HOME and/or Housing Trust Fund Programs.
- 3) Projects must ensure that the affordable units within a mixed income development will be equal in square footage and comparable to the market rate units.
- 4) *Housing First* developments are encouraged.
- 5) Single Room Occupancy (SRO) and other supportive housing projects specifically for special needs populations are eligible under this application.
- 6) Projects receiving funding through this application must include a written occupancy policy that prohibits smoking in the units and the interior common areas of the project in addition to including a non-smoking clause in the lease for every household and making educational materials on tobacco treatment programs available to residents through the residence service coordinator, occupancy specialist, or property manager, such as the phone number for the statewide Maine Tobacco HelpLine.
- 7) Projects receiving funding through this application must set aside 10% of the units in the project for individuals or families residing in a Portland shelter. The City's Health and Human Services Department would be responsible for providing referrals, providing or coordinating supportive services and financial resources to assist with monthly rent payments. A Supportive Housing Agreement between the City and the Developer would document the services and expectations. At the time of loan closing or prior to disbursement of the City's funding, the requirements would be secured by a Declaration of Covenants which will be recorded in the Cumberland County Registry of Deeds.

## ***B. Site Information and Criteria***

- 1) Site Control: Land or buildings proposed as part of a project under this application must have site control at the time the application is submitted in the form of title, purchase and sale agreement, option, long-term lease for a minimum of 90 years, or other acceptable method. At a minimum, site control must extend through December 31, 20~~2019~~.
- 2) Local Approvals: Local land use approval is not required prior to submittal of the application, however approval is required before the City Council will approve the funding request. The applicant must submit an analysis of the project in relation to local land use regulations and site feasibility.
- 3) Applications must not require a contract or conditional zone. Resolution of any zoning issues is required before City Council approval of the applicants funding request.

## ***C. Financial Feasibility***

- 1) Financial applications must be developed in accordance with the underwriting guidelines of the primary funding source, including adequate cash flow and debt coverage ratio, and conform to the City of Portland's underwriting criteria.
- 2) Use of Funds: All projects will be reviewed for the proposed use of funds compared to other resources. Applicants must describe the proposed mortgage and security position for the City of Portland's funding. The average City investment per unit, excluding TIF financing, is approximately \$10,000. The City contribution per unit will not exceed \$18,000. This amount may be adjusted at the discretion of the City Council, only for unusual circumstances where a larger amount is the only way a project that meets other City goals is needed. In those cases, the higher cost per unit ratio must be tied into the goals outlined in the City's Comprehensive Plan.

## ***D. Market Demand***

Applicants must provide an analysis and discussion of market demand justifying the need for the proposed project.

## ***E. Applicant Capacity***

All applicants must demonstrate capacity to develop, own and manage the proposed project. All applications must provide evidence of a development team with the capacity to successfully complete the project including:

- 1) Key staff members assigned to the project with the abilities and experience to successfully complete the project within the proposed timeframe.
- 2) An architect, general contractor and professionals on the team with the experience and capacity to complete the project.

- 3) A management team with qualified personnel and the capacity and experience to operate, manage and maintain the affordable rental property of size and mix of the proposed project.
- 4) Qualified staff with the capacity to perform ongoing property ownership requirements such as budgeting, tax accounting and oversight of management and maintenance.
- 5) A portfolio of current affordable housing projects that are financially sound and meeting their established goals.
- 6) Support Services: Applications containing rental units targeted to special needs populations must include commitments for support services to be provided to the residents and have in place a policy to make accessible units available when needed if units are occupied by someone that does not need the accessible features.

### ***F. Term of Affordability***

All projects must have a minimum affordability period of 90 years, secured by a land use restriction covenant in the deed.

Projects receiving HOME funding ~~may~~ will be charged an annual fee to cover the actual costs of federally required HOME monitoring, per 24 CFR 92.214(b)(1)(i).

### ***G. Financing Terms***

The following are general guidelines and the City reserves the right to adjust the terms of funding on a case-by-case basis based on changes in conventional lending and other financing sources.

The City's funding is generally in the form of soft "gap" financing. To allow for future investment in affordable and workforce housing, the City seeks to achieve a reasonable return of capital and where possible a return on investment based on the financing features of each funding request. The City allows flexibility for creativity by development teams by establishing funding terms based on the financial structure of each development project.

Funding in the form of loans may range from 30 years non-amortizing, deferred at 0% interest, to 30 year, amortizing loans based on a financial analysis of the development project. A key tool used to perform the financial analysis is the Debt Coverage Ratio (DCR). Projects with a DCR greater than or equal to 1.25 will be considered for a fully amortizing loan with a corresponding rate that either achieves a DCR of 1.15. Other DCR features are as such:

- Projects that have a DCR of less than 1.25 will be considered for interest only loans. The interest rate will be set at a percentage rate that will achieve a DCR of 1.15.
- Projects that are submitted at a DCR of 1.15 will be considered for a deferred cash flow loan.
- Grants may be considered when a project serves a substantially underserved population.
- A project with a sustained DCR greater than 1.5, after the application of a fully amortizing loan will be considered over subsidized. The funding request will be reduced to achieve a sustained DCR of no

more than 1.4. This may result in the funding request being reduced to zero. Projects of this nature are candidates for private financing.

## ***H. Design Compatibility***

Projects must be designed to contribute to the character of their neighborhood and adhere to the following general guidelines.

Project designs:

- 1) **MUST** comply with the City's Green Building Ordinance (Chapter 6, Article VII, Sec. 6-165) (<http://www.portlandmaine.gov/DocumentCenter/Home/View/1070>). **Please note** that the Green Building Ordinance may be more restrictive than the requirements in Maine Housing's Quality Standards and Procedure Manual. **Applicant must provide evidence reasonably satisfactory to the City of Portland demonstrating that the project was designed, constructed and rehabilitated in accordance with the Green Building Ordinance.**
- 2) Should establish a building form, scale, massing and rhythm appropriate for the surrounding neighborhood.
- 3) Should provide a quality design that, where possible, reinforces the public realm of open space, sidewalks and streets through appropriately scaled entries that orient to the street instead of interior blocks or parking lots, and incorporate porches, fenestration, landscaping, and architectural details.
- 4) **MUST** meet the accessibility requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973, and the Maine Human Rights Act for multi-family housing. Provide for universal accessibility to the extent possible.
- 5) Should provide visual and acoustical privacy between units while maximizing natural light and ventilation within units.

## ***I. Timeframe***

The applicant must describe projected dates by which commitments will be obtained; the closing will take place, construction start-up, substantial completion, final completion and occupancy. Timeframes must be realistic and achievable. All funded projects must be able to start construction within 12 months of notice of award.

## **III. APPLICATION REQUIREMENTS**

Complete responses to this application, should include one (1) original printed version of the application with original signatures **plus** one (1) **full** electronic version, submitted via email, USB drive or CD. Printed version must be signed by an officer or employee having authority to bind the organization.

Applications must be submitted electronically and in paper form to:

City of Portland: Housing and Community Development Division  
Attention: Victoria Volent  
389 Congress Street, Room 313  
Portland, ME 04101  
[vvolent@portlandmaine.gov](mailto:vvolent@portlandmaine.gov)  
207-482-5028

All applicants are encouraged to apply by ~~April 30~~~~May 31~~; 2020~~19~~. Those who require a conditional commitment of funds as part of other financing applications, such as the Low Income Housing Tax Credit Program, must apply no later than ~~April 30, 2020~~~~May 31, 2019~~. The City of Portland will consider applications received after ~~April 30, 2020~~~~May 31, 2019~~ if funds are available. Applicants applying after ~~April 30, 2020~~~~May 31, 2019~~ should contact the City of Portland to confirm the availability of funds prior to submitting an application.

### **A. Project Summary**

A brief description of the project, no longer than two pages, to include the number and type of units, tenants or owners to be served, special features, the impact on the neighborhood and other ways the application meets the selection criteria and preference guidelines.

Photographs and maps of the site and area are required.

*Note: All respondents should investigate legal and zoning requirements for proposed projects prior to submission of application.*

### **B. All Applications Must Provide The Following:**

- 1) Evidence of site control
- 2) A zoning opinion from an attorney or land use professional indicating if the project meets current zoning, or if zoning amendments will be required.
- 3) Conceptual architectural and site plans
- 4) A project schedule showing critical path events and their timeframe for completion;
- 5) Map showing location of site
- ~~6)~~ Corporation/partnership articles and by-laws
- ~~7)~~ Organizational Chart
- ~~7)~~ Organization's DUNS Number

~~8~~9) Applicant's audits for 3 most recent years. (If audits are not available, applicant must submit 3 years of internally prepared or CPA compiled statements AND 3 years of tax returns WITH attachments).

~~9~~10) Most recent quarterly income and expense report (management prepared).

~~10~~11) Documentation demonstrating certification or eligibility to obtain certification as a CHDO (if seeking the CHDO funds)

~~11~~12) A brief development team summary, including:

- The type of organization/ownership structure and organization chart if developer is not the same legal entity as the ultimate owner of the project
- The names of Board of Directors, Corporate Officers, or Owners, as appropriate
- Name, title and relevant experience of individuals involved in managing the business entity and this proposed project. A copy of the 501(3)(c) exemption certification
- Brief description of similar projects completed for developer, architect, and General Contractor (if selected)
- A list of all projects currently in development with status and projected timeframe

~~12~~13) A sources and uses funding statement \*

~~13~~14) A detailed development budget including all acquisition, construction, and soft costs, including any prefunded reserves and developer fee\*

~~14~~15) Cost estimates for construction, signed by architect or GC

~~15~~16) For renovation projects, a capital needs assessment completed by an independent party, including their qualifications to perform such assessment

~~16~~17) Preliminary operating budget identifying rents and expenses for the first year\*

~~17~~18) Projected prefunded project reserves and annual contributions to reserves\*

~~18~~19) Debt service coverage ratio over the ~~2015~~-year operating pro forma timeline\*

~~19~~20) A ~~2015~~-year operating pro forma for the project with inflators of 2% on income and 3% on expenses\*

~~20~~21) Evidence of financial commitments, or explanation of the ability and timing to secure those commitments. A statement describing the applicant's capacity for and experience in raising the type of capital needed to finance projects of this size and type.

~~21~~22) Projects serving special needs populations must provide evidence of commitments of support services, and a description of the service provider and funding cycle for those services.

~~22~~23) Applicant must include a management plan for the long-term management of the project including manager's experience and capacity.

~~23~~24) An analysis and discussion of market demand justifying the need for the proposed project.

~~24~~25) **For Renovation of Operational Projects (or projects with operational components) the following items are also required:**

- Relocation plan and budget
- Description of all current debt, operation subsidies, and services provided (as applicable)
- Current rent roll
- 2 years of audits for project property (if available) OR 2 years of management income and expense statements for project property
- Most recent Quarter internally prepared income and expense statement.

\*Please use the Maine Housing Underwriting spreadsheet or its tax credit equivalent

## IV. SELECTION PROCESS

Selection criteria will be used in reviewing and scoring the applications.

### A. *Point System for Evaluating and Scoring Applications (Max 100)*

**Policy Objectives: Total 50 Points**

**Proposed use of funds to achieve the City of Portland's goals and address demonstrated need.**

**26 points**

Maximum points will be awarded for those applications that:

1. Market Demand— ~~42~~ points
  - a. ~~42~~ points high demand, meets the City's income targeting priority
  - b. 1 point moderate demand,
  - c. 0 points does not demonstrate sufficient market demand
2. Zoning – ~~84~~ points
  - a. ~~84~~ points Development requires no zoning amendments or contract or conditional zone
  - b. ~~57~~ points development requires a zoning amendment which is consistent with the City Comprehensive Plan
  - c. 0 points development requires rezoning that is not consistent with the City's Comprehensive Plan
3. Economic diversity – ~~64~~ points
  - a. ~~64~~ points creates housing options which promote economic diversity in the neighborhood in which the development is located
  - b. 0 points does not promote economic diversity
4. CHDO – ~~24~~ points
  - a. ~~24~~ points Developer and owner are both controlled by CHDO
  - b. ~~12~~ points either developer or owner are controlled by CHDO
  - c. 0 points neither developer nor owner are controlled by CHDO
5. City Subsidy – 6 points

- a. 6 points investment from City is <\$10,000/unit
- b. 5 points investment from City is > or = \$10,000 and <\$12,000/unit
- c. 4 points investment from City is > or = \$12,000 and <\$14,000/unit
- d. 3 points investment from City is > or = \$14,000 and <\$16,000/unit
- e. 2 points investment from City is > or = \$16,000 and <\$18,000/unit
- f. 0 points investment from City is > or = \$18,000/unit

**Impact on surrounding neighborhood, including design compatibility and environmental issues. 24 points**

Maximum points will be awarded for those applications where:

- 1. **S**ite selection -- 7 points
  - a. 7 points -- fully appropriate for use,
  - b. 5 points – appropriate, some concerns
  - c. 0 points – significant concerns
- 2. Exterior Design -- 5 points
  - a. 5 points -- the design is fully consistent with neighborhood design characteristics,
  - b. 3 points – the design is an adequate fit with the neighborhood design,
  - c. 0 points – the design is a significant outlier
- 3. Amenities and unit design -- 7 points
  - a. 7 points – amenities & unit design are well thought out and appropriate for residents,
  - b. 5 points -- amenities & unit design are adequate,
  - c. 0 points – amenities and unit design raise significant concerns that resident needs will not be adequately addressed
- 4. Environmental -- 5 points
  - a. 5 points – Phase I identifies no environmental issues
  - b. 3 points – Phase I identifies an environmental issue, but a Phase II shows a feasible, economically viable resolution which is included in the budgets;
  - c. 0 points – there are significant unresolved environmental issues, or no Phase I has been received.

**Underwriting Criteria: Total 50 Points**  
**Financial feasibility, including cost, development budget operating pro forma and the provision of secured and leverage funds. 20 points**

Maximum points will be awarded for those applications that:

- 1. Development budget & sources and uses – 10 points
  - a. 10 points – EVERY development budget line item for which there is a City of Portland guideline complies with that guideline AND all other line items are reasonable and customary;
  - b. 8 points – ONE budget line item falls outside City guidelines or outside the standard of “reasonable & customary”;
  - c. 6 points – TWO budget line items item falls outside City guidelines or outside the standard of “reasonable & customary”;
  - d. Zero points – more than two budget items fail to meet City guidelines or fall outside “reasonable and customary”
- 2. Operating pro forma – 10 points

- a. 10 points – EVERY operating pro forma line item for which there is a City of Portland guideline complies with that guideline AND all other line items are reasonable and customary;
- b. 8 points – ONE budget line item falls outside City guidelines or outside the standard of “reasonable & customary”;
- c. 6 points – TWO budget line items item falls outside City guidelines or outside the standard of “reasonable & customary”;
- d. Zero points – more than two budget items fail to meet City guidelines or fall outside “reasonable and customary”

**Applicant's ability to complete project, including development team experience, capacity, project readiness and timeframe for completion. 30 points**

Maximum points will be awarded for those applications that:

1. Readiness to proceed – 10 points
  - a. 10 points – at least one letter of commitment or interest is included and ALL projected sources are projected at terms and conditions consistent with the City’s prior experience with the funder.
  - b. 5 – ALL projected sources of funding include letters of commitment, letters of interest, or, if no letter is included, are projected at terms and conditions consistent with the City’s prior experience with this funder.
  - c. 0 – one or more sources are projected on terms that are not consistent with the City’s prior experience with the funder and are not documented by letter(s) from funder(s).
2. Track record of development team – 10 points
  - a. 10 – every development team member has a successful track record with this type of project and at this scale
  - b. 7 – all but one development team members have a successful track record with this type of project and at this scale; one development team member has relevant experience but at a smaller scale or not of this project type
  - c. 3 – two development team members, while having relevant experience, are new to this type of project or this scale of development
  - d. 0 – the development team does not meet the criteria above
3. Current Capacity of development team – 10 points
  - a. 10 – development team members have exceptional depth of human and financial resources to complete this project;
  - b. 8 -- development team members have the human and financial resources to complete this project;
  - c. 3 – development team has a staffing gap in a significant role and a plan to address that gap, OR there are some concerns about the financial resources of the team to move the development forward;
  - d. 0 -- the development team does not meet the criteria described above

***B. Evaluation and Selection Process and Timeframe***

Applications will be reviewed by an evaluation team that will include City of Portland staff. The following process will be used:

- 1) All applications will be reviewed for completeness. Only complete applications will be reviewed under the scoring factors in order to recommend the most qualified applications based on the information submitted. The application review team may confer with the applicants and/or third parties to clarify or verify information and request additional information.
- 2) Recommendations, along with all applications and scoring information, will be forwarded to the City Council's Housing Committee for review and approval. Their recommendations will be forwarded to the City Council for final review and approval.
- 3) Applicants will be kept informed throughout the review process, specifically in regard to recommendations and funding levels.
- 4) The evaluation and review process should be substantially complete within 30 days of receipt of complete application. Applicants will be notified of their application status as soon as possible.
- 5) Based on City Council approval, successful applicants will receive a letter of funds reservation. A letter of funds reservation is not a commitment letter but an agreement to set aside budgeted funds for up to six months, to allow the project sponsor to proceed with securing other commitments.

## **V. Instructions and Other Information**

The City of Portland reserves the right, at its sole discretion, to award all, a portion, or none of the available funding from this application, as well as reject any and all applications for city funding, based on the quality and merits of the applications received, or when it is determined to be in the public interest to do so. Furthermore, the City of Portland may extend deadlines and timeframes, as needed.

**Confidentiality:** Applications received by the City of Portland shall become a matter of public record subject to public inspection, except to the extent, which an applicant designates in writing, proprietary data to be confidential and submits that data under separate cover, such information may be held from public inspection, as provided in Maine law: 5 MRSA Sections 13119-A and 13119-B.

**Compliance with Federal Law:** The selected applicant will be required to certify that the development and management of the proposed housing will be in compliance with all applicable laws, executive orders, OMB Circulars and federal regulations, including but not limited to: Fair Housing Act, Equal Opportunity and Non-discrimination, National Environmental Policy Act (NEPA), the Uniform Relocation Assistance and Real Property Acquisition Policies Act, the Davis-Bacon Act, the Lead-Based Paint Poisoning Prevention Act, Flood Disaster Protection Act, Conflict of Interest, Contractor Debarment and Cost Principles.

Projects funded through HOME must meet the rules and regulations of the HOME Program as noted in 24 CFR Part 92, as amended, and the requirements of the Consolidated and Further Continuing Appropriations Act of 2012 and 2013. Any costs incurred by the City to meet HOME Program regulations, such as newspaper advertisements, underwriting fees, etc., shall be passed along to the selected applicant.

## VI. Equal Employment Opportunities

Vendor shall comply fully with the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998, as amended (WIA, 29 CFR part 37); the Nontraditional Employment for Women Act of 1991; title VI of the Civil Rights Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; title IX of the Education Amendments of 1972, as amended; and with all applicable requirements imposed by or pursuant to regulations implementing those laws, including but not limited to 29 CFR part 37.

## VII. Reservation of Rights

The City of Portland reserve the right, at its sole discretion, to award all, a portion, or none of the available funding from this application, as well as reject any and all applications based on the quality and merits of the applications received, or when it is determined to be in the public interest to do so. Furthermore, the City of Portland may extend deadlines and timeframes, as needed.

The selection of a proposal through this application process does not guarantee any other City approvals. All projects will be subject to the City's standard development review process. Similarly, *selection of a proposal through this application process does not signify that the City will not request modifications to the proposed development plan or negotiate additional details, covenants or terms that are not specifically outlined in this application.*

The City of Portland reserves the right to substantiate any proposers' qualifications, capability to perform, availability, past performance records and to verify that the applicant is current in its financial obligations to the City of Portland.

All materials and equipment used as well as all methods of installation shall comply at a minimum with any and all Federal, OSHA, State and/or local codes, including applicable municipal ordinances and regulations.

The successful applicant shall agree to defend, indemnify and save the City of Portland harmless from all losses, costs or damages caused by its acts or those of its agents, and, before signing the contract, will produce evidence satisfactory to the City of Portland's Corporation Counsel of coverage for General Public and Automobile Liability insurance in amounts not less than \$400,000 per person, for bodily injury, death and property damage, protecting the contractor and the City of Portland, and naming the City of Portland as an additional insured from such claims, and shall also procure Workers' Compensation insurance.

Pursuant to City of Portland procurement policy and ordinance, the City of Portland is unable to contract with businesses or individuals who are delinquent in their financial obligations to the City of Portland. These obligations may include but are not limited to real estate and personal property taxes and sewer user fees. Applicants who are delinquent in their financial obligations to the City of Portland must do one of the following: bring the obligation current, negotiate a payment plan with the City of Portland's Treasury office, or agree to an offset which shall be established by the contract which shall be issued to the successful applicant.

The City of Portland, Maine, reserves the right to waive any informalities in applications, to accept any application or portion thereof, and, to reject any and all applications, should it be in the best in the best interest of the City of Portland to do so.

It is the custom of the City of Portland, Maine to pay its bills 30 days following the receipt of correct invoices for all items covered by the approved application.

## **VIII. Appendices**

Exhibit #1. HUD definition of a Community Housing Development Organization (CHDO)

**IX. APPLICATION SIGNATURE PAGE \*THIS PAGE MUST BE INCLUDED\***

The UNDERSIGNED hereby declares that he/she or they are the only person(s), firm or corporation interested in this application as principal, that it is made without any connection with any other person(s), firm or corporation submitting an application for the same.

The UNDERSIGNED hereby declares that they have read and understand all conditions as outlined in the invitation for bids, and that their application is made in accordance with same.

The UNDERSIGNED hereby declares that any person(s) employed by the City of Portland, Maine, who has direct or indirect personal or financial interest in this application or in any portion of the profits that may be derived there from, has been identified and the interest disclosed by separate attachment. (Please include in your disclosure any interest which you know of. An example of a direct interest would be a City of Portland employee who would be paid to perform services under this application. An example of indirect interest would be a City of Portland employee who is related to any officers, employees, principal or shareholders of your firm or to you. If in doubt as to status or interest, please disclose to the extent known).

The proposer acknowledges the receipt of Addenda numbered \_\_\_\_\_  
If Applicable

COMPANY NAME: \_\_\_\_\_  
(Individual, Partnership, Corporation, Joint Venture)

AUTHORIZED SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
(Officer, Authorized Individual or Owner)

PRINT NAME & TITLE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

FEDERAL TAX ID #: \_\_\_\_\_ DUNS #: \_\_\_\_\_

In your organizations preceding completed fiscal year, did the organization receive:  
(1) 80 percent or more of its annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements; and  
(2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?  Yes  No

Does the public have access to information about the compensation of the executives in the organization through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (18 U.S.C. 78m(a), 78o(d) or section 6104 of the Internal Revenue Code of 1986?  Yes  No

NOTE: All bids must bear the handwritten signature of a duly authorized member or employee of the organization making the bid. **This sheet must be signed and returned with the application package.**

## **X. EXHIBIT #1 - DEFINITION OF A COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (24 CFR §92.2 and §92.300-303)**

1. Is a private nonprofit organization under State or local laws;
2. Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;
3. Is neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization. A community housing development organization may be sponsored or created by a for-profit entity, but:
  - i. The for-profit entity may not be an entity whose primary purpose is the development or management of housing, such as a builder, developer, or real estate management firm.
  - ii. The for-profit entity may not have the right to appoint more than one-third of the membership of the organization's governing body. Board members appointed by the for profit entity may not appoint the remaining two-thirds of the board members; and
  - iii. The community housing development organization must be free to contract for goods and services from vendors of its own choosing;
  - iv. The officers and employees of the for-profit entity may not be officers or employees of the community housing development organization;
4. Has a tax exemption ruling from the Internal Revenue Service under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 (26 CFR 1.501(c)(3)-1 or 1.501(c)(4)-1)), is classified as a subordinate of a central non-profit under section 905 of the Internal Revenue Code of 1986, or if the private nonprofit organization is a wholly owned entity that is disregarded as an entity separate from its owner for tax purposes (e.g., a single member limited liability company that is wholly owned by an organization that qualifies as tax-exempt), the owner organization has a tax exemption ruling from the Internal Revenue Service under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 and meets the definition of “community housing development organization”;
5. Is not a governmental entity (including the participating jurisdiction, other jurisdiction, Indian tribe, public housing authority, Indian housing authority, housing finance agency, or redevelopment authority) and is not controlled by a governmental entity. An organization that is created by a governmental entity may qualify as a community housing development organization; however, the governmental entity may not have the right to appoint more than one-third of the membership of the organization's governing body and no more than one-third of the board members may be public officials or employees of governmental entity. Board members appointed by a governmental entity may not appoint the remaining two thirds of the board members. The officers or employees of a governmental entity may not be officers or employees of a community housing development organization;
6. Has standards of financial accountability that conform to 24 CFR 84.21, "Standards for Financial Management Systems;"

7. Has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons, as evidenced in its charter, articles of incorporation, resolutions or bylaws;
8. Maintains accountability to low-income community residents by:
  - i. Maintaining at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community residents, or elected representative of low-income neighborhood organizations. For urban areas, "community" may be a neighborhood or neighborhoods, city, county or metropolitan area; for rural areas, it may be a neighborhood or neighborhoods, town, village, county, or multi-county area (but not the entire State); and
  - ii. Providing a formal process for low-income program beneficiaries to advise the organization in its decisions regarding the design, siting, development, and management of affordable housing;
9. Has a demonstrated capacity for carrying out housing projects assisted with HOME funds. A designated organization undertaking development activities as a developer or sponsor must satisfy this requirement by having paid employees with housing development experience who will work on projects assisted with HOME funds. For its first year of funding as a community housing development organization, an organization may satisfy this requirement through a contract with a consultant who has housing development experience and will advise and train appropriate key staff of the organization. An organization that will own housing must demonstrate capacity to act as owner of a project and meet the requirements of §92.300(a)(2). A nonprofit organization does not meet the test of demonstrated capacity based on any person who is a volunteer or whose services are donated by another organization; and
10. Has a history of serving the community within which housing to be assisted with HOME funds is to be located. In general, an organization must be able to show one year of serving the community before HOME funds are reserved for the organization. However, a newly created organization formed by local churches, service organizations or neighborhood organizations may meet this requirement by demonstrating that its parent organization has at least a year of serving the community.



**CITY OF PORTLAND**  
**Planning & Urban Development Department**  
**Housing and Community Development Division**

**TO:** Councilor Duson, Chair  
Members of the Housing Committee

**FROM:** Mary Davis, Division Director  
Housing and Community Development Division

**DATE:** February 5, 2020

**SUBJECT:** 2020 Affordable Housing TIF Application

In an effort to coordinate and streamline the process for the allocation of city resources, the Housing and Community Development Division created an application for the Affordable Housing Tax Increment Financing (AHTIF) Program. Maine State Housing Authority requires specific information to review and approve an AHTIF request from the City of Portland. The application form presented here will ensure that all AHTIF applicants provide the required information.

If the committee endorses the proposed application, it will be released no later than March 2 in order to accommodate the review process with MaineHousing and the LIHTC QAP process.

# **City of Portland**

## **Affordable Housing Tax Increment Financing Application**



**January – December, 2020**

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## **I. GENERAL INFORMATION**

### ***A. Availability of Funding***

The Affordable Housing Tax Increment Financing (AHTIF) Program is a financing tool authorized under state law (30-A M.R.S.A. §§5245-5250-G) to support the implementation of affordable housing development programs. The City of Portland has made the development of housing a priority, as identified in the City of Portland's 2016-2020 HUD 5-year Consolidated Plan, City Council Common Goals and the Comprehensive Plan. To accomplish this priority, the City of Portland will accept applications to designate an affordable housing development district for the creation or maintenance of affordable housing in the City of Portland.

The City of Portland's Division of Housing and Community Development follows a three-step process to approve establishment of an Affordable Housing TIF District. First, the City Council's Economic Development and Housing Committees provide a recommendation to the City Council regarding the establishment of an Affordable Housing TIF district. If the City Council approves the recommendation, the City submits an application to the Maine State Housing Authority. MaineHousing reviews the application from the City to ensure compliance with the Affordable Housing Tax Increment Financing Statute. The process begins with the submittal of a completed Affordable Housing Tax Increment Financing application to the City of Portland. The City of Portland reserves the right to deny any application that does not meet the application criteria.

### ***B. General Guidelines***

Developments shall provide decent, safe and sanitary dwellings such as single-family homes, apartments, condominiums, or other living accommodations for households whose income does not exceed 120% of the median income for the area as defined by the U.S. Department of Housing and Urban Development (HUD). Affordable housing does not include facilities such as shelters, nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, student dormitories, or unattached mobile homes, regardless of income level. Projects must show that the development meets an identified community housing need, the City's participation is financially necessary in order for the project to proceed, and the applicant has the financial capacity to support their project. The ongoing affordability period for a single-family, owner-occupied unit is 10 years and 30 years for rental units. The affordability term is to be secured by a declaration of covenants and restrictions recorded in the Cumberland County Registry of Deeds. A minimum of \$500,000 in new taxable investment property value for affordable housing development is needed to qualify for an Affordable Housing TIF.

**The following sections outline the information to be included in the Affordable Housing TIF application.**

### ***C. Conditions for Approval***

Designation of an Affordable Housing Development District is subject to the following conditions.

- i. At least 25%, by area, of the real property within an Affordable Housing Development district must be suitable for residential use; or be a blighted area; or in need of rehabilitation or redevelopment.
- ii. The Affordable Housing Development program must show that the development meets an identified community housing need.

- iii. The district must be primarily a residential development on which at least 33% of the dwelling units are affordable for households at or below 120% of Area Median Income (AMI) and that may be designed to be compact and walkable and to include internal open space, other common open space and one or more small-scale nonresidential uses of service to the residents of the development.
- iv. Projects approved for a site-specific tax increment financing district utilizing a credit enhancement agreement must ensure that any firms employed in the construction phase of a TIF-assisted project compensate all employees the current wage rates and fringe benefits as required under applicable state prevailing wage law under 26 M.R.S.A. §1306, or Portland City Ordinance Ch. 33, §33-1 to 33-12, whichever is greater. State prevailing wage rates may exceed Davis-Bacon wage rates.

***D. Goals for the designation of an Affordable Housing TIF***

Authorized by state statute as a public purpose for the development of affordable, livable housing, the goal for the designation of an Affordable Housing TIF is to increase, preserve, and modify the overall supply of housing citywide to meet the needs, preferences and financial capabilities of all Portland residents. Development should be consistent with state law and the City of Portland’s Comprehensive Plan. The City of Portland seeks development projects that create contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods. Projects should not require a contract or conditional zone (although other rezoning consistent with the City’s Comprehensive Plan may be considered). Resolution of any zoning issues is required before City Council approval of the applicants funding request. Developments should incorporate quality, sustainable design.

**II. SCOPE OF SERVICES**

***A. General Specifications***

Eligible projects must create permanent structures such as single-family homes, apartments or condominium units and provide housing for households whose income does not exceed 120% of the median income for the area as defined by the U.S. Department of Housing and Urban Development (HUD).

***B. Site Information and Criteria***

- 1) Site Control: Land or buildings proposed as part of a project under this application must have site control at the time the application is submitted in the form of title, purchase and sale agreement, option, long-term lease for a minimum of 90 years, or other acceptable method. At a minimum, site control must extend through December 31, 2020.
- 2) Local Approvals: Local land use approval is not required prior to submittal of the application, however approval is required before the City Council will approve the Affordable Housing TIF request. The applicant must submit an analysis of the project in relation to local land use regulations and site feasibility.
- 3) Applications must not require a contract or conditional zone. Resolution of any zoning issues is required before City Council approval of the applicants Affordable Housing TIF request.

### ***C. Financial Feasibility***

- 1) Financial applications must be developed in accordance with the underwriting guidelines of the primary funding source, including adequate cash flow and debt coverage ratio, and conform to the City of Portland's underwriting criteria.
- 2) All projects will be reviewed for the cost of improvements made within the Affordable Housing Development district.

### ***D. Market Demand***

Applicants must show that the development meets an identified community housing need.

### ***E. Applicant Capacity***

All applicants must demonstrate capacity to develop, own and manage the proposed project. All applications must provide evidence of a development team with the capacity to successfully complete the project including:

- 1) Key staff members assigned to the project with the abilities and experience to successfully complete the project within the proposed timeframe.
- 2) An architect, general contractor and professionals on the team with the experience and capacity to complete the project.
- 3) A management team with qualified personnel and the capacity and experience to operate, manage and maintain the affordable rental property of size and mix of the proposed project.
- 4) Qualified staff with the capacity to perform ongoing property ownership requirements such as budgeting, tax accounting and oversight of management and maintenance.
- 5) A portfolio of current affordable housing projects that are financially sound and meeting their established goals.
- 6) Support Services: Applications containing rental units targeted to special needs populations must include commitments for support services to be provided to the residents and have in place a policy to make accessible units available when needed if units are occupied by someone that does not need the accessible features.

### ***F. Term of Affordability***

The ongoing affordability period for a single-family, owner-occupied unit is 10 years and 30 years for rental units. The affordability term is to be secured by a declaration of covenants and restrictions recorded in the Cumberland County Registry of Deeds.

### ***G. Financing Terms***

During the term of the Affordable Housing District and the Development Program, tax increment revenues from the Affordable Housing District claimed by the City as captured assessed value may be used to pay authorized project costs. Authorized project costs are noted in 30-A M.R.S.A. §5249, a list of which is attached. Tax increment revenues will be paid by the City to the Project owner pursuant to a

Credit Enhancement Agreement to be entered into by and between the City and the Project owner.

### ***H. Design Compatibility***

Projects must be designed to contribute to the character of their neighborhood and adhere to the following general guidelines. Project designs:

- 1) **MUST** comply with the City's Green Building Ordinance (Chapter 6, Article VII, Sec. 6-165) (<https://www.portlandmaine.gov/DocumentCenter/Home/View/1070>). **Please note** that the Green Building Ordinance may be more restrictive than the requirements in Maine Housing's Quality Standards and Procedure Manual. Applicant must provide evidence reasonably satisfactory to the City of Portland demonstrating that the project was designed, constructed and rehabilitated in accordance with the Green Building Ordinance.
- 2) Should establish a building form, scale, massing and rhythm appropriate for the surrounding neighborhood.
- 3) Should provide a quality design that, where possible, reinforces the public realm of open space, sidewalks and streets through appropriately scaled entries that orient to the street instead of interior blocks or parking lots, and incorporate porches, fenestration, landscaping, and architectural details.
- 4) **MUST** meet the accessibility requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973, and the Maine Human Rights Act for multi-family housing. Provide for universal accessibility to the extent possible.
- 5) Should provide visual and acoustical privacy between units while maximizing natural light and ventilation within units.

### ***I. Timeframe***

The applicant must describe projected dates by which commitments will be obtained; the closing will take place, construction start-up, substantial completion, final completion and occupancy. Timeframes must be realistic and achievable. All funded projects must be able to start construction within 12 months of notice of award.

## **III. APPLICATION REQUIREMENTS**

Complete responses to this application, should include one (1) original printed version of the application with original signatures **plus** one (1) **full** electronic version, submitted via email, USB drive or CD. Printed version must be signed by an officer or employee having authority to bind the organization.

Applications must be submitted electronically and in paper form to:

City of Portland: Housing and Community Development Division  
Attention: Victoria Volent  
389 Congress Street, Room 312, Portland, ME 04101  
[vvolent@portlandmaine.gov](mailto:vvolent@portlandmaine.gov); 207-482-5028

All applicants are encouraged to apply by April 30, 2020. Those who require a conditional commitment as part of other financing applications, such as the Low Income Housing Tax Credit Program, **must** apply no later than April 30, 2020.

### **A. Project Summary**

A narrative description of the project that includes:

- Property address
- Tax chart, block and lot number
- Total district acreage
- Zoning designation where district is located, including allowed uses in that zone
- Description of municipal housing need addressed by the creation of the district and how the district addresses that need
- Percentage of district acreage that is suitable for residential use, blighted, or in need of rehabilitation/redevelopment;
- Number and type of units to be constructed or rehabilitated; (level of affordability, rental, homeownership, single-family home, condominium unit; number of bedrooms in each unit, etc.);
- Description of residential and non-residential uses in the district and acreage of each;
- Description of accessory uses relating to residential use, if any;
- Description of how housing and facilities in the district will be operated after completion;
- Description of planned uses of tax increment revenues from the district;

***Note: All respondents should investigate legal and zoning requirements for proposed projects prior to submission of application.***

### **B. All Applications Must Provide The Following:**

- 1) Evidence of site control
- 2) A zoning opinion from an attorney or land use professional indicating if the project meets current zoning, or if zoning amendments will be required.
- 3) Conceptual architectural and site plans
- 4) A project schedule showing critical path events and their timeframe for completion;
- 5) A municipal map showing district boundaries
- 6) A tax map showing district boundaries
- 7) Corporation/partnership articles and by-laws
- 8) Organization's DUNS Number
- 9) Applicant's audits for 3 most recent years. (If audits are not available, applicant must submit 3 years of internally prepared or CPA compiled statements AND 3 years of tax returns WITH attachments).
- 10) Most recent quarterly income and expense report (management prepared).

- 11) A brief development team summary, including:
  - The type of organization/ownership structure and organization chart if developer is not the same legal entity as the ultimate owner of the project
  - The names of Board of Directors, Corporate Officers, or Owners, as appropriate
  - Name, title and relevant experience of individuals involved in managing the business entity and this proposed project. A copy of the 501(3)(c) exemption certification
  - Brief description of similar projects completed for developer, architect, and General Contractor (if selected)
  - A list of all projects currently in development with status and projected timeframe
- 12) A sources and uses funding statement \*
- 13) A detailed development budget including all acquisition, construction, and soft costs, including any prefunded reserves and developer fee\*
- 14) Cost estimates for construction, signed by architect or GC
- 15) Applicant must provide evidence reasonably satisfactory to the City of Portland demonstrating that the project was designed, constructed and rehabilitated in accordance with the City's Green Building Ordinance ([Chapter 6, Article VII, Sec. 6-165](#)).
- 16) For renovation projects, a capital needs assessment completed by an independent party, including their qualifications to perform such assessment
- 17) Preliminary operating budget identifying rents and expenses for the first year\*
- 18) Projected prefunded project reserves and annual contributions to reserves\*
- 19) Debt service coverage ratio over the 15-year operating pro forma timeline\*
- 20) A 15-year operating pro forma for the project with inflators of 2% on income and 3% on expenses\*
- 21) Evidence of financial commitments, or explanation of the ability and timing to secure those commitments. A statement describing the applicant's capacity for and experience in raising the type of capital needed to finance projects of this size and type.
- 22) Projects serving special needs populations must provide evidence of commitments of support services, and a description of the service provider and funding cycle for those services.
- 23) Applicant must include a management plan for the long-term management of the project including manager's experience and capacity.
- 24) An analysis and discussion of market demand justifying the need for the proposed project.
- 25) For Renovation of Operational Projects (or projects with operational components) the**

**following items are also required:**

- Relocation plan for persons temporarily or permanently displaced by the development activities
- Relocation budget
- Description of all current debt, operation subsidies, and services provided (as applicable)
- Current rent roll
- 2 years of audits for project property (if available) OR 2 years of management income and expense statements for project property
- Most recent Quarter internally prepared income and expense statement.

\*Please use the Maine Housing Underwriting spreadsheet or its tax credit equivalent, if applicable.

#### **IV. SELECTION PROCESS**

Selection criteria will be used in reviewing the applications.

##### ***A. Evaluation and Selection Process and Timeframe***

Applications will be reviewed by an evaluation team that will include City of Portland staff. The following process will be used:

- 1) All applications will be reviewed for completeness. Only complete applications will be reviewed in order to recommend the most qualified applications based on the information submitted. The application review team may confer with the applicants and/or third parties to clarify or verify information and request additional information.
- 2) Recommendations, along with all applications, will be forwarded to the City Council's Economic Development and Housing Committees for review and approval. Their recommendation will be forwarded to the City Council for final review and approval prior to submission to MaineHousing.
- 3) Based on City Council approval, successful applications must be reviewed by MaineHousing to ensure the proposed district and development program comply with the Municipal Affordable Housing Development District statute, 30-A M.R.S.A. §§5245 – 5250 – G.
- 4) Applicants will be kept informed throughout the review process.
- 5) The evaluation and review process should be substantially complete within 30 days of receipt of the completed application. Applicants will be notified of their application status as soon as possible.

#### **V. Instructions and Other Information**

The City of Portland reserves the right, at its sole discretion, to award all, a portion, or none of the available funding from this application, as well as reject any and all applications for city funding, based on the quality and merits of the applications received, or when it is determined to be in the public interest to do so. Furthermore, the City of Portland may extend deadlines and timeframes, as needed.

Confidentiality: Applications received by the City of Portland shall become a matter of public record

subject to public inspection, except to the extent, which an applicant designates in writing, proprietary data to be confidential and submits that data under separate cover, such information may be held from public inspection, as provided in Maine law: 5 MRSA §§ 13119-A and 13119-B.

Compliance with Federal Law: The selected applicant will be required to certify that the development and management of the proposed housing will be in compliance with all applicable laws, executive orders, OMB Circulars and federal regulations, including but not limited to: Fair Housing Act, Equal Opportunity and Non-discrimination, National Environmental Policy Act (NEPA), the Uniform Relocation Assistance and Real Property Acquisition Policies Act, the Davis-Bacon Act, the Lead-Based Paint Poisoning Prevention Act, Flood Disaster Protection Act, Conflict of Interest, Contractor Debarment and Cost Principles.

Projects must meet the rules and regulations of MaineHousing as noted in their Affordable Housing Tax Increment Financing Application. Any costs incurred by the City to meet Maine Housing AHTIF Application regulations, such as newspaper advertisements, underwriting fees, etc., shall be passed along to the selected applicant.

## **VI. Equal Employment Opportunities**

Vendor shall comply fully with the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998, as amended (WIA, 29 CFR part 37); the Nontraditional Employment for Women Act of 1991; title VI of the Civil Rights Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; title IX of the Education Amendments of 1972, as amended; and with all applicable requirements imposed by or pursuant to regulations implementing those laws, including but not limited to 29 CFR part 37.

## **VII. Reservation of Rights**

The City of Portland reserve the right, at its sole discretion, to designate an affordable housing development district and adopt an affordable housing development program for the district based on the quality and merits of the applications received, or when it is determined to be in the public interest to do so. Furthermore, the City of Portland may extend deadlines and timeframes, as needed.

The selection of a proposal through this application process does not guarantee any other City approvals. All projects will be subject to the City's standard development review process. Similarly, *selection of a proposal through this application process does not signify that the City will not request modifications to the proposed development plan or negotiate additional details, covenants or terms that are not specifically outlined in this application.*

The City of Portland reserves the right to substantiate any proposers' qualifications, capability to perform, availability, past performance records and to verify that the applicant is current in its financial obligations to the City of Portland.

All materials and equipment used as well as all methods of installation shall comply at a minimum with any and all Federal, OSHA, State and/or local codes, including applicable municipal ordinances and regulations.

The successful applicant shall agree to defend, indemnify and save the City of Portland harmless from all losses, costs or damages caused by its acts or those of its agents, and, before signing the contract, will

produce evidence satisfactory to the City of Portland's Corporation Counsel of coverage for General Public and Automobile Liability insurance in amounts not less than \$400,000 per person, for bodily injury, death and property damage, protecting the contractor and the City of Portland, and naming the City of Portland as an additional insured from such claims, and shall also procure Workers' Compensation insurance.

Pursuant to City of Portland procurement policy and ordinance, the City of Portland is unable to contract with businesses or individuals who are delinquent in their financial obligations to the City of Portland. These obligations may include but are not limited to real estate and personal property taxes and sewer user fees. Applicants who are delinquent in their financial obligations to the City of Portland must do one of the following: bring the obligation current, negotiate a payment plan with the City of Portland's Treasury office, or agree to an offset, which shall be established by the contract, which shall be issued to the successful applicant.

The City of Portland, Maine, reserves the right to waive any informalities in applications, to accept any application or portion thereof, and, to reject any and all applications, should it be in the best interest of the City of Portland to do so.

It is the custom of the City of Portland, Maine to pay its bills 30 days following the receipt of correct invoices for all items covered by the approved application.

**VIII. APPLICATION SIGNATURE PAGE \*THIS PAGE MUST BE INCLUDED\***

The UNDERSIGNED hereby declares that he/she or they are the only person(s), firm or corporation interested in this application as principal, that it is made without any connection with any other person(s), firm or corporation submitting an application for the same.

The UNDERSIGNED hereby declares that they have read and understand all conditions as outlined in the Affordable Housing Tax Increment Financing Application, and that their application is made in accordance with same.

The UNDERSIGNED hereby declares that any person(s) employed by the City of Portland, Maine, who has direct or indirect personal or financial interest in this application or in any portion of the profits that may be derived there from, has been identified and the interest disclosed by separate attachment. (Please include in your disclosure any interest which you know of. An example of a direct interest would be a City of Portland employee who would be paid to perform services under this application. An example of indirect interest would be a City of Portland employee who is related to any officers, employees, principal or shareholders of your firm or to you. If in doubt as to status or interest, please disclose to the extent known).

COMPANY NAME: \_\_\_\_\_  
(Individual, Partnership, Corporation, Joint Venture)

AUTHORIZED SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
(Officer, Authorized Individual or Owner)

PRINT NAME & TITLE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

FEDERAL TAX ID #: \_\_\_\_\_ DUNS #: \_\_\_\_\_

NOTE: All bids must bear the handwritten signature of a duly authorized member or employee of the organization making the bid. **This sheet must be signed and returned with the application package.**

**§5249. Project costs**

**1. Authorized project costs.** The director shall review proposed project costs to ensure compliance with this subsection. Authorized project costs are:

A. Costs of improvements made within the affordable housing development district, including, but not limited to:

(1) Capital costs, including, but not limited to:

(a) The acquisition of land or construction of public infrastructure improvements for affordable housing development;

(b) The demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures;

(c) Site preparation and finishing work; and

(d) All fees and expenses that are eligible to be included in the capital cost of such improvements, including, but not limited to, licensing and permitting expenses and planning, engineering, architectural, testing, legal and accounting expenses;

(2) Financing costs, including, but not limited to, closing costs, issuance costs and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity;

(3) Real property assembly costs;

(4) Professional service costs, including, but not limited to, licensing, architectural, planning, engineering and legal expenses;

(5) Administrative costs, including, but not limited to, reasonable charges for the time spent by municipal employees in connection with the implementation of an affordable housing development program;

(6) Relocation costs, including, but not limited to, relocation payments made following condemnation;

(7) Organizational costs relating to the establishment of the affordable housing district, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the creation of affordable housing development districts and the implementation of project plans;

(8) Costs of facilities used predominantly for recreational purposes, including, but not limited to, recreation centers, athletic fields and swimming pools;

(9) Costs for child care, including finance costs and construction, staffing, training, certification and accreditation costs related to child care located in the affordable housing development district;

(10) Costs of case management and support services; and

(11) Operating costs, including but not limited to property management and administration, utilities, routine repairs and maintenance, insurance, real estate taxes and funding of a projects capital reserve account; and [PL 2013, c. 312, §4 (AMD).]

B. Costs of improvements that are made outside the affordable housing development district but are directly related to or are made necessary by the establishment or operation of the district, including, but not limited to:

(1) That portion of the costs reasonably related to the construction, alteration or expansion of any facilities not located within the district that are required due to improvements or activities within the district, including, but not limited to, sewage treatment plants, water treatment plants or other environmental protection devices; storm or sanitary sewer lines; water lines; electrical lines; improvements to fire stations; and amenities on streets;

(2) Costs of public safety improvements made necessary by the establishment of the district;

(3) Costs of funding to mitigate any adverse impact of the district upon the municipality and its constituents. This funding may be used for funding public kindergarten to grade 12 costs and public facilities and improvements; and

(4) Costs to establish permanent housing development revolving loan funds or investment funds. [PL 2003, c. 426, §1 (NEW).]

[PL 2013, c. 312, §4 (AMD).]

**2. Limitation.** Tax increments received from any affordable housing development program may not be used to circumvent other tax laws.

[PL 2003, c. 426, §1 (NEW).]

#### SECTION HISTORY

PL 2003, c. 426, §1 (NEW). PL 2013, c. 312, §4 (AMD).

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**CITY OF PORTLAND**  
**Planning & Urban Development Department**  
**Housing and Community Development Division**

TO: Councilor Duson, Chair  
Members of the Housing Committee

FROM: Victoria Volent, Housing Program Manager  
Housing and Community Development Division

DATE: January 20, 2020

SUBJECT: City-Owned Property Review

**Introduction**

During the Housing Committee meeting on November 13, 2019, the Committee requested staff provide information regarding four City-Owned Properties. Each of these parcels has been previously reviewed by the City Council during a presentation by the Health and Human Services Committee in regards to proposed site locations for homeless services in Portland.

A summary of each parcel follows.

**33 Portland Street**

The .3204 acre (13,956 sq. ft.) parcel located in the Bayside area at 33 Portland Street is an active surface level parking lot used by the School Department's Central Office located at 351 Cumberland Avenue.

The property is collectively comprised of three separate abutting parcels located in the B2b zone. Moderate to high-density housing is a character of the B2b zone. The minimum lot area per dwelling unit is one unit for every 435 sq. ft., which would allow for 32 units of housing on the parcel. The assessed value is currently \$227,980.

A department-wide survey by the City-owned and Tax Acquired Property Committee (COTAPC) has never been requested on this parcel.

### **157 Brackett Street**

The .1942 acre (8,460 sq. ft.) parcel located in the West Bayside area at 157 Brackett Street is an active 20-space surface level parking lot used as employee and visitor parking for Reiche School, parking for customers of area businesses, and off-street parking after hours.

As a result of an inquiry from a developer and responding to a request from the Housing and Community Development Division, the City-Owned and Tax Acquired Property Committee (COTAPC) reviewed the possible disposition of city-owned property at 157 Brackett Street in July, 2014. A draft RFP was presented to the Housing Committee on September 29, 2014. After much public comment regarding Reiche School, safety issues, and area parking concerns, the Housing Committee postponed action until city staff could coordinate a neighborhood meeting to discuss these issues. As a result of a meeting coordinated through the West End Neighborhood Association, several safety improvements were made including installation of two new crosswalks, four brick curb extensions/curb ramps for ADA compliance and better pedestrian visibility, four new pedestrian/school crossing signs and the installation of granite curbing to create a treed esplanade along a portion of the school frontage. An RFP for sale of the property was issued on July 9, 2015. The only respondent who replied to the RFP did not consummate the sale.

The property is located in the B-1 zone, which supports mixed-use buildings. The minimum lot area per dwelling unit is one unit for every 435 sq. ft., which would allow for up to 19 units of housing on the parcel. The assess value is currently \$126,300.

### **176 Clark Street**

The .1678 acre (7,313 sq. ft.) parcel located in the West Bayside area at 176 Clark Street is an active 16-space surface level parking lot used as employee and visitor parking for Reiche School, parking for customers of area businesses, and off-street parking after hours.

The developer who inquired into the 157 Brackett Street lot (see above) approached City staff with the proposal to use the city-owned lot at 176 Clark Street for housing development and create parking on the 157 Brackett Street lot and adjacent property at 1 Joy Place, which the developer had under an option to purchase. The intent being to create one parking area to accommodate the parking currently existing at 176 Clark Street and 157 Brackett Street. A department-wide survey was conducted by COTAPC during July, 2014. Due to the complicated nature of the transaction, the developer did not pursue the request. COTAPC did not move forward with a RFP for 176 Clark Street.

The property is located in the R-6 zone, which supports high-density residential development characterized by multi-family dwellings. The minimum lot area per dwelling unit is one unit for every 725 sq. ft., which would allow for up to 10 units of housing on the parcel. The assess value is currently \$79,500.

### **431 Commercial Street**

The 1.29 acre (56,245 sq. ft.) parcel located in the West End near the Casco Bay Bridge at 431 Commercial Street is a parking lot used regularly by the City for various purposes, including placing cars there during snow bans.

The property was acquired by the City of Portland in the Order of Condemnation dated August 18, 1997 for the purpose of permitting the expansion of the facility at the International Marine Terminal. A payment of \$590,000 was remitted to the previous owner (Angelo Ciocca of Bridgeport Associates).

The property is located in the B-5b zone, which is characterized by urban commercial mixed-use. There does not exist a minimum lot area per dwelling unit in the B-5b zone. The assess value is currently \$562,500.

A department-wide survey by the City-owned and Tax Acquired Property Committee (COTAPC) has never been requested on this parcel.

#### Attachments:

- 33 Portland Street parcel view
- 33 Portland Street Assessor's database
- 157 Brackett parcel view
- 157 Brackett Street Assessor's database
- 176 Clark Street parcel view
- 176 Clark Street Assessor's database
- 431 Commercial Street parcel view
- 431 Commercial Street Assessor's database

33 Portland Street



Assessor's Office | 389 Congress Street | Portland, Maine 04101 | Room 115 | (207) 874-8486

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**Current Owner Information:**



Best viewed at 800x600, with Internet Explorer

**CBL** 033 C012001  
**Land Use Type** GOVERNMENTAL  
 Verify legal use with Inspections Division  
**Property Location** 33 PORTLAND ST  
**Owner Information** CITY OF PORTLAND  
 389 CONGRESS ST  
 PORTLAND ME 04101  
**Book and Page** 31315/267  
**Legal Description** 33-C-12-23-27  
 PORTLAND ST 33-39  
 OXFORD ST 267 HANOVER ST 39  
 13956 SF  
**Rental Registration** No  
**Acres** 0.3204

**Current Assessed Valuation:**

<b>TAX ACCT NO.</b>	10005	<b>OWNER OF RECORD AS OF APRIL 2019</b>
<b>LAND VALUE</b>	\$190,600.00	CITY OF PORTLAND
<b>BUILDING VALUE</b>	\$37,380.00	
<b>MUNICIPAL TYPE</b>	(\$227,980.00)	389 CONGRESS ST
<b>NET TAXABLE - REAL ESTATE</b>	\$0.00	PORTLAND ME 04101
<b>TAX AMOUNT</b>	\$0.00	

Any information concerning tax payments should be directed to the Treasury office at 874-8490 or [e-mailed](#).

**Building Information:**

**Building 1**

**Year Built**  
**Style/Structure Type**

**Outbuildings/Yard Improvements:**

**Building 1**

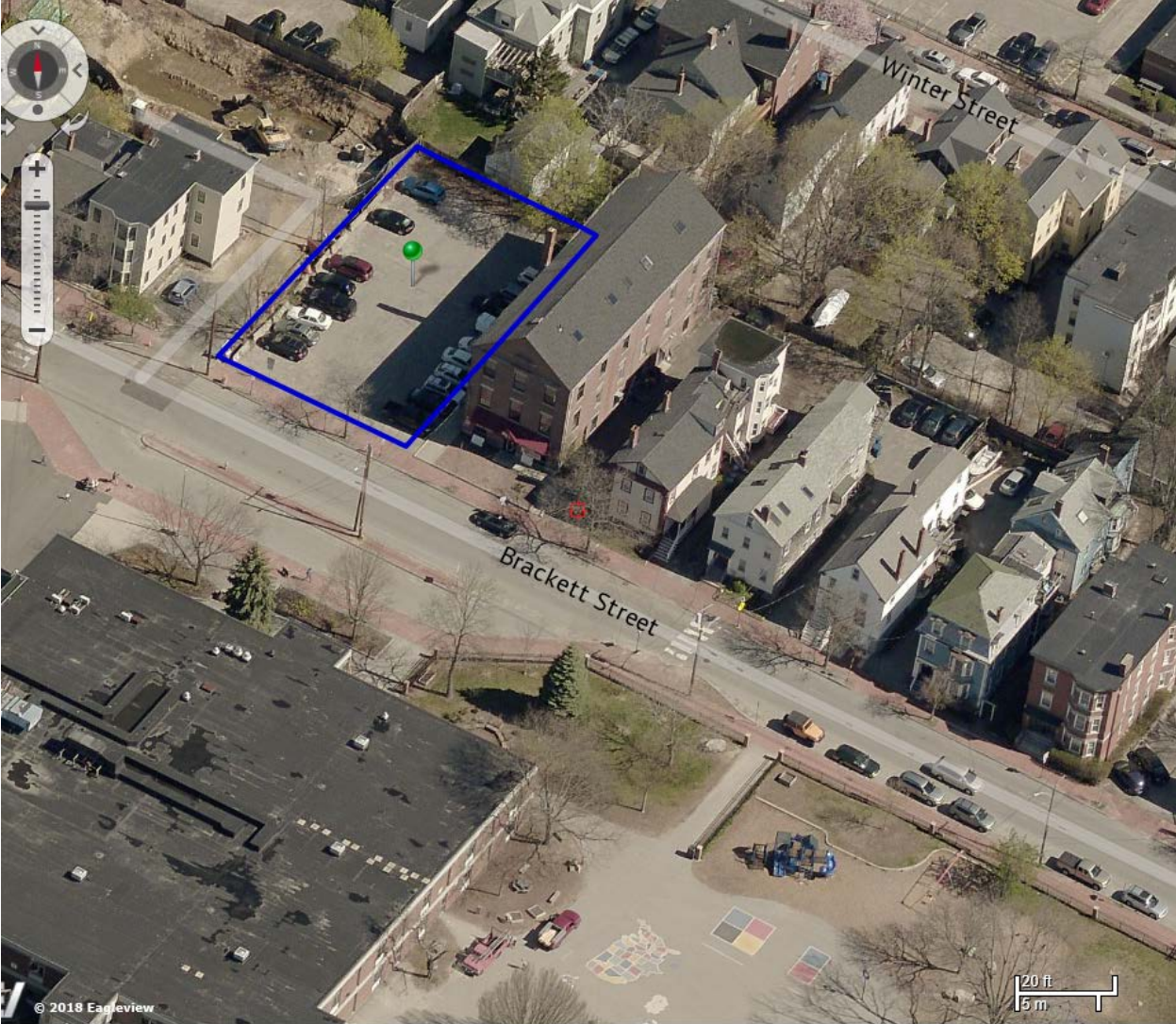
**Year Built** 1989  
**Structure** ASPHALT PARKING  
**Size** 13000  
**Units** 1  
**Grade** C  
**Condition** 3

**Sales Information:**

Sale Date	Type	Price	Book/Page
1/31/2014	LAND + BUILDING	\$2,700,000.00	31315/267
7/1/1991	LAND + BUILDING	\$130,000.00	9663/120
12/1/1989	LAND + BUILDING	\$130,000.00	/

New Search!

157 Brackett Street



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**Current Owner Information:**



Best viewed at 800x600, with Internet Explorer

**CBL** 045 E031001  
**Land Use Type** GOVERNMENTAL  
 Verify legal use with Inspections Division  
**Property Location** 157 BRACKETT ST  
**Owner Information** CITY OF PORTLAND  
 389 CONGRESS ST  
 PORTLAND ME 04101  
**Book and Page**  
**Legal Description** 45-E-31  
 BRACKETT ST  
 157-161 8460 SQ FT  
**Rental Registration** No  
**Acres** 0.1942

**Current Assessed Valuation:**

<b>TAX ACCT NO.</b>	10005	<b>OWNER OF RECORD AS OF APRIL 2019</b>
<b>LAND VALUE</b>	\$126,300.00	CITY OF PORTLAND
<b>BUILDING VALUE</b>	\$0.00	
<b>MUNICIPAL TYPE</b>	(\$126,300.00)	389 CONGRESS ST
<b>NET TAXABLE - REAL ESTATE</b>	\$0.00	PORTLAND ME 04101
<b>TAX AMOUNT</b>	\$0.00	

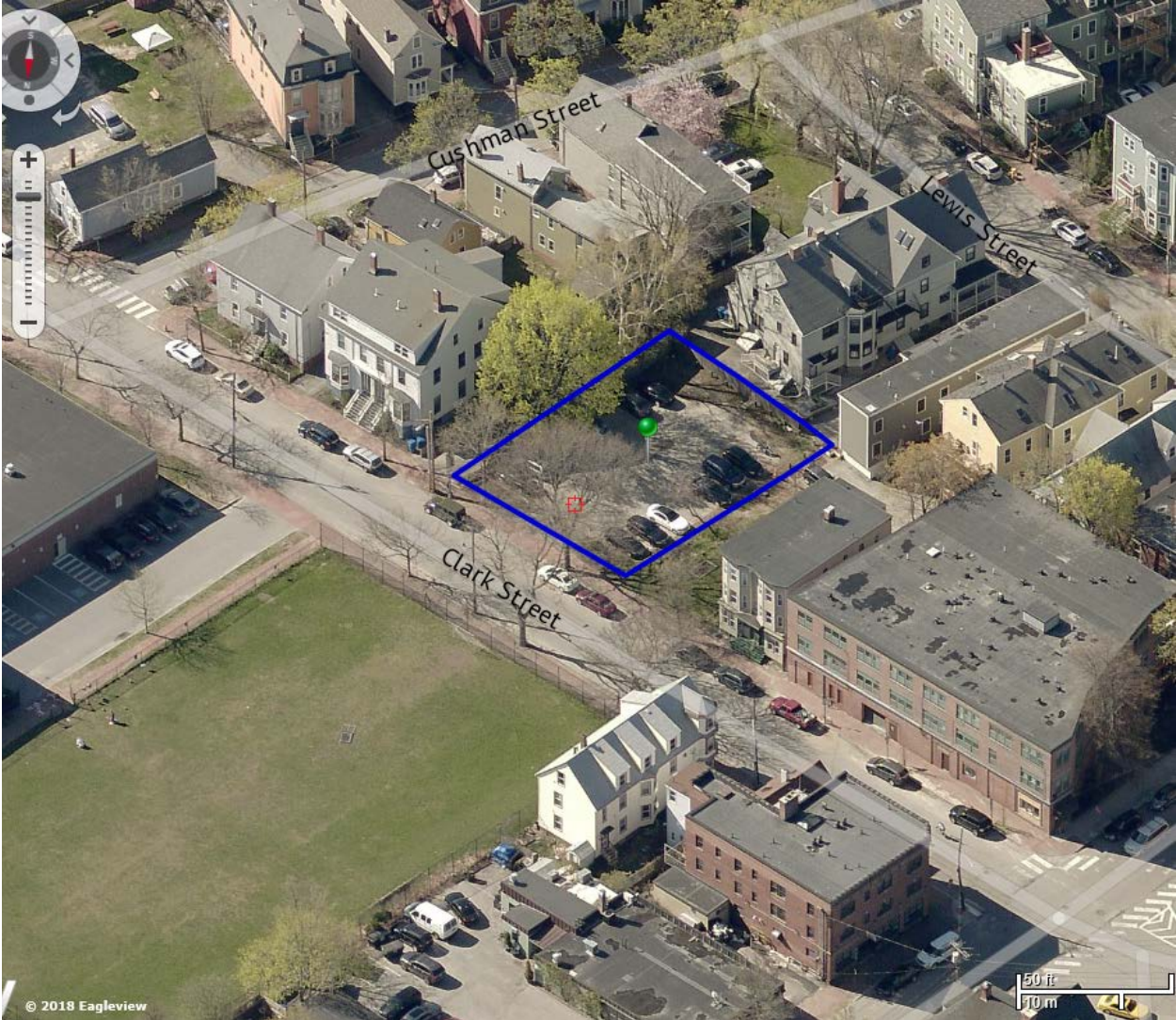
Any information concerning tax payments should be directed to the Treasury office at 874-8490 or [e-mailed](#).

**Building Information:**

**Building 1**  
**Year Built**  
**Style/Structure Type**

[New Search!](#)

176 Clark Street



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**Current Owner Information:**



Best viewed at 800x600, with Internet Explorer

**CBL** 056 B012001  
**Land Use Type** GOVERNMENTAL  
 Verify legal use with Inspections Division  
**Property Location** 176 CLARK ST  
**Owner Information** CITY OF PORTLAND  
 389 CONGRESS ST  
 PORTLAND ME 04101  
**Book and Page**  
**Legal Description** 56-B-12 CLARK ST  
 176-178  
 7313SF  
**Rental Registration** No  
**Acres** 0.1679

**Current Assessed Valuation:**

<b>TAX ACCT NO.</b>	10005	<b>OWNER OF RECORD AS OF APRIL 2019</b>
<b>LAND VALUE</b>	\$79,500.00	CITY OF PORTLAND
<b>BUILDING VALUE</b>	\$0.00	
<b>MUNICIPAL TYPE</b>	(\$79,500.00)	389 CONGRESS ST
<b>NET TAXABLE - REAL ESTATE</b>	\$0.00	PORTLAND ME 04101
<b>TAX AMOUNT</b>	\$0.00	

Any information concerning tax payments should be directed to the Treasury office at 874-8490 or [e-mailed](#).

**Building Information:**

**Building 1**

**Year Built**  
**Style/Structure Type**

[New Search!](#)

431 Commercial Street



Parcel 043 C007

P



Parcel 043 C009

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**Current Owner Information:**



Best viewed at 800x600, with Internet Explorer

**CBL** 043 C006001  
**Land Use Type** GOVERNMENTAL  
 Verify legal use with Inspections Division  
**Property Location** 431 COMMERCIAL ST  
**Owner Information** CITY OF PORTLAND  
 389 CONGRESS ST  
 PORTLAND ME 04101  
**Book and Page** 13437/27  
**Legal Description** 43-C-6-7-9  
 COMMERCIAL ST 431-461  
 PARK ST 4-12  
 56245 SF  
**Rental Registration** No  
**Acres** 1.2912

**Current Assessed Valuation:**

<b>TAX ACCT NO.</b>	10005	<b>OWNER OF RECORD AS OF APRIL 2019</b>
<b>LAND VALUE</b>	\$562,500.00	CITY OF PORTLAND
<b>BUILDING VALUE</b>	\$0.00	
<b>MUNICIPAL TYPE</b>	(\$562,500.00)	389 CONGRESS ST
<b>NET TAXABLE - REAL ESTATE</b>	\$0.00	PORTLAND ME 04101
<b>TAX AMOUNT</b>	\$0.00	

Any information concerning tax payments should be directed to the Treasury office at 874-8490 or [e-mailed](#).

**Building Information:**

**Building 1**

**Year Built**  
**Style/Structure Type**

**Sales Information:**

<b>Sale Date</b>	<b>Type</b>	<b>Price</b>	<b>Book/Page</b>
11/13/1997	LAND + BUILDING	\$0.00	13437/27
9/1/1994	LAND	\$281,225.00	11621/184

[New Search!](#)

**Draft 2020 Housing Committee Work Plan  
as of February 6, 2020**

February 12, 2020

1. Rental Housing Advisory Committee Policy Recommendation
2. (Action Item) Housing Program Budget - Review and Recommendation to the City Council
3. (Action Item) Renewal of Membership in the Cumberland County HOME Consortium
4. (Action Item) Review and Recommendation to the City Council of the 2020 Housing Trust Fund Annual Plan
5. (Action Item) Affordable Housing Development Application - Review and Approval to Issue by the Committee
6. (Action Item) Affordable Housing TIF Application – Review and Approval to issue by the Committee
7. Presentation of City-Owned Property for Review
8. 2020 Work Plan Discussion – Housing Committee Goals for 2020

March 4, 2020 – Joint Meeting Economic Development

1. Presentation on Limited Equity Co-Operative Housing Model
2. Update on HCD Eligible Areas Map
3. Executive Session to discuss disposition of City-Owned Property – Joint Meeting with Economic Development Committee
4. (Action Item) Review and Recommendation regarding Rental Housing Advisory Committee Policy Recommendation
5. 2020 Work Plan Discussion

April 8, 2020

1. Communication Item: Community Development Week – April 13-18/Fair Housing Month
2. 2020 Work Plan Discussion

May 13, 2020

1. Communication Item FY21 HUD Annual Allocation Plan
2. 2020 Work Plan Discussion

May or June, 2020 (Possible Joint Meeting with Economic Development Committee)

1. (Action Item) Review and Approval of Affordable Housing TIF Applications

June 10, 2020

1. (Action Item) Review and Approval of Funding Requests Received from the Affordable Housing Development Applications
2. 2020 Work Plan Discussion

July 8, 2020

1. 2020 Work Plan Discussion

August 12, 2020

1. 2020 Work Plan Discussion

September 9, 2020 (need to reschedule due to conflict with City Council Meeting)

1. Presentation, Overview and Integrated Report from Permitting and Inspections and Fire Department re: Short-term and Long-term Rental Housing Safety & Inspection Program - Implementation and Financial Report (Public Comment)
2. Presentation, Overview and Report from the Rental Housing Advisory Committee (Public Comment)
3. Communication Item: FY20 HUD Consolidated Annual Performance Report
4. 2020 Work Plan Discussion

October 14, 2020

1. Presentation of 2020 Interim Housing Report
2. 2020 Work Plan Discussion

November 11, 2020 (Veterans Day – will need to reschedule meeting date)

1. Review of 2020 Annual Housing Committee Report
2. 2020 and 2021 Work Plan Discussion (new and/or updated recommendations to forward to the 2021 Housing Committee)

December 9, 2020 – no December meeting?

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WORK PLAN TOPICS DISCUSSED AT JANUARY 9, 2020 MEETING

Coordinate and be kept aware of ReCode Committee process, meetings, etc.

Street Standards  
City-Owned Property  
Housing Forum  
Inclusionary Zoning – minor process/clarifying language updates

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COMPLETED WORK

January 9, 2020 (Thursday)

1. 2020 Work Plan Discussion
2. Communication Item(s): Follow-up Response to Comments regarding the 2019 Housing Report, and Bayside Village Follow-up