

# Affordable Housing Bonus Program

## Public Questions and Answers - #2

January 26, 2016

The following questions about the Affordable Housing Bonus Program were submitted by the public to the Planning Department between October 1, 2015 and December 31, 2015 via email and at community meetings in December 2015 (Planning Association for the Richmond Community Meeting, December 9, 2015; and, District 5 Community Meeting, December 10, 2015). The Department received 95 questions total; 66 of these questions were answered on January 15, 2015 and are listed in the Public Questions and Answers #1 document. Here are responses to the remaining questions and answers, which are organized into broad categories for easier reference. In the case where a question was asked twice, the two questions have been combined and one answer is provided.

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## Program Implementation

### 1. The AHBP would apply to more than 30,000 parcels throughout the City. Yet, you predict only about 240 parcels are "soft sites" that might take advantage of this program. Why are you subjecting 30,000 parcels to a program that really applies to less than 1% of them?

The State Density Bonus Law applies to any residential development in the State of California that includes 5 or more units.

The Planning Department's State Analyzed and Local Programs of the AHBP only apply to parcels that allow residential uses and control density by a ratio of units to lot size. In addition, parcels in RH-1 and RH-2 districts are not eligible for the State Analyzed and Local Programs. Roughly 30,500 parcels out of the city's 150,000+ parcels meet these criteria.

When changes to zoning regulations are studied and proposed, they are generally imposed on an area-wide basis, rather than by individual parcel (e.g. Market-Octavia, Eastern Neighborhoods, Central SOMA). Even when changes to zoning regulations are made on a district-wide scale, the overwhelming majority of properties within the district are not redeveloped for many reasons, including:

- Regulations preserving historic resources
- Demolition of existing residential units is extremely difficult and time consuming
- Land owners must elect to sell properties
- Existing buildings are often too valuable for a demolition and new construction to be feasible

Generally, only new construction projects will reflect any changes made to the zoning regulations. Past experience has shown that the vast majority of residential development over the past 10 years has occurred on soft sites with similar characteristics as the 240 identified as part of the AHBP analysis. The 240 soft sites are therefore only an estimate of where development could occur, not a determination of where development will occur.

### 2. Does the AHBP override height limit restrictions? If so, is there a limit on how much additional height can be added?

The Local Program of the AHBP allows developers to add two floors of height above the existing height restrictions, provided they make 30% of units in the building permanently affordable. For 100% affordable housing projects, developers may add three floors of height above the existing height restrictions. The State Analyzed Program only allows height if additional height is necessary to fit the increased density awarded, but only to a maximum of two stories. The State Density Bonus Law does not limit the number of floors that would be allowed to be added if additional height is necessary to achieve the allowed density and number of incentives or concessions.. Therefore, the State Individually Requested Program of the AHBP does not include a specific limit on the additional height that can be added.

## Projects that Qualify for the AHBP

### 3. Are Single Resident Occupancy (SRO) units principally permitted?

The AHBP makes no changes to existing regulations regarding where SROs are allowed as a principal use.

Single Room Occupancy is a characteristic of residential uses (Section 102, Residential Use). They are permitted where residential uses are permitted. An SRO Unit is defined as follows in Section 102: "A dwelling unit or group housing room consisting of no more than one occupied room with a maximum gross floor area of 350 square feet and meeting the Housing Code's minimum floor area standards. The unit may have a bathroom in addition to the occupied room. As a dwelling unit, it would have a cooking facility and bathroom. As a group housing room, it would share a kitchen with one or more other single room occupancy unit/s in the same building and may also share a bathroom. A single room occupancy building (or "SRO" building) is one that contains no residential uses other than SRO units and accessory living space." Thus, under existing law, on a RH-1 lot, one SRO unit could be built as long as it was a maximum of 350 square feet. For the Local and State Analyzed AHBP programs, group housing is not allowed.

Under the Local Program, project sponsors must provide at least 40% two bedroom units or have at least 50% of the bedrooms in larger units; the remainder of the units in the building could be studios or one-bedroom units.

Group housing and micro-units are not permitted.

**4. Will residential rental projects not receiving a direct financial contribution or any other form of assistance per Ch. 4.3, Div. 1 of Title 7 of Gov't. Code or subject to a development agreement be eligible for the AHBP?**

Rental projects not receiving a direct financial contribution or other form of assistance under the State Density Bonus Law, and projects entering into a development agreement will be eligible to participate in the AHBP. The specific terms of a development agreement would be determined on a case-by-case basis.

## Eligibility for Affordable Units

**\*\*Please refer to the AHBP's [Affordability Defined](#) web page for more information\*\***

**5. Tracking dislocated rent control residents and monitoring incomes for AHBP tenants will add administrative costs to monitor – by Mayor's office? Have these staff and program costs been completed? How will these costs be paid for?**

Under recently proposed amendments to the legislation from Supervisor Breed (and supported by the Department), no residents living in rent controlled units will be displaced by the Local and State Analyzed Programs, because properties containing rent-controlled units will not be eligible for redevelopment under those two programs. . \*

*\* The State Density Bonus law does not prohibit the demolition of rent controlled units, but requires that any rent controlled units lost as part of a project using the State law must be replaced 1 for 1 in the*

*project with an affordable unit. Tenants would receive the same protections they currently receive under San Francisco's Rent Ordinance.*

Monitoring incomes of residents in new affordable units built under the AHBP will be done by the Mayor's Office of Housing and Community Development. MOHCD currently monitors approximately 1,800 affordable units citywide. Planning staff have worked closely with the Mayor's Office of Housing and Community Development to understand staffing needs and believe there is adequate staff to monitor units created by the AHBP, as these units will be added to the City's affordable housing stock on a gradual basis. If a large number of new units requiring monitoring are developed at one time, the Mayor's Office will adjust staffing levels accordingly.

#### **6. Are the "affordable" income targets right?**

In rental properties, the Local Program requires 12% of the building's units be affordable to households earning less than 55% AMI, and 18% of the building's units be affordable to households earning between 55% and 120% AMI.

In ownership properties, the Local Program requires 12% of the building's units be affordable to households earning less than 90% AMI, and 18% of the building's units be affordable to households earning between 90% and 140% AMI.

The income thresholds are defined by Mayor's Office of Housing and Community Development using data from the federal Department of Housing and Urban Development (HUD). The eligibility targets were determined by the City's policy priorities. The Local Program uses the same AMI targets as other affordable housing programs in the City.

Under the State Analyzed and State Individually Requested Programs, the definitions of very low, low, and moderate income are set forth in the State Health and Safety Code as 50%, 80% and 120% of AMI respectively with the AMI established by the State Housing and Community Development Department (HCD) through State Regulations.

The AHBP is one of many affordable housing programs, proposes to increase the number of units created to service low and moderate income households, and establishes the City's first middle income housing program.

#### **7. City's median income is \$75-77,000 – why providing affordable housing for people earning 200% of median income?**

The AHBP will provide affordable housing for households at 55%, 90% 120% and 140% of the Area Median Income.

Median income is determined by household. The current Area Median income (AMI) is \$71,350 for one person and \$101,900 for a family of four. The top income bracket eligible for the Local Program is 120% AMI for rental units and 140% AMI for ownership units. For detailed information on maximum

qualifying income by household size for AMI, please refer [here](#) for qualifying limits for the Local and State Analyzed programs, and [here](#) for the State Individually Requested program.

## Project Review and Notification Process

### **8. What is the administrative process which expedites projects? When is it used, who decides which projects are eligible?**

In the proposed legislation, projects electing to use the AHBP are still subject to the Department's review processes – including CEQA review, design review and approval processes.

Projects with 30% or more affordable housing are proposed to have a modified approval process. Projects that elect to use the Local Program will have a new entitlement process, which is mirrored after the Large Project Authorization in Eastern Neighborhoods (Planning Code section 329). The idea behind the new process recognizes that design of these new AHBP buildings will be important in the context of individual neighborhoods. The new approval process offers both the public and the Planning Commission the opportunity to comment on the design of a project while also providing some certainty to the developer. This new process still requires a pre-application meeting - a meeting with impacted neighbors - before the project can be submitted to the Planning Department.

Projects that elect to use the State Analyzed Program and Individually Requested Program, will be subject to the current rules of the Planning Code.

Amending the requirements for neighborhood notification to allow for email notice requires an amendment of the Planning Code in an ordinance adopted by the Board of Supervisors. Over the years, several efforts to improve neighborhood notification have been proposed, however no additional methods have been adopted.

For further information please read <http://www.sfbos.org/index.aspx?page=18712>

## Existing Tenants

### **9. What is the projected increase in market value for San Francisco apartment buildings eligible for this program? Do you perceive this as an incentive for owners to "Ellis Act" their buildings without actually going through the Ellis Act?**

Under amendments to the legislation proposed by Supervisor Breed, and supported by the Planning Department staff, parcels containing residential buildings with rent controlled units (either now, or at any time in the past five years) are not eligible to use the Local or State Analyzed Programs.\* Generally, any potential increase in market value provided by the Local or State Analyzed Programs on existing residential buildings would be outweighed by the significant costs to evict tenants, demolish the existing building, and redevelop a new building.

Read more about the Ellis Act here: <http://sfrb.org/topic-no-205-evictions-pursuant-ellis-act>

*\* The State Density Bonus law does not prohibit the demolition of rent controlled units, but requires that any rent controlled units lost as part of a project using the State law must be replaced with affordable units 1 for 1 in the project.*

**10. If non-rent-controlled tenants are evicted so that the owner can tear down to build a larger building, is there any assistance for those forced to move?**

Displaced commercial and residential tenants will be referred to [existing relocation services](#) provided by nonprofit and City agencies. Residential tenants could also be eligible for \$5,551 per tenant for relocation costs (capped at \$16,653 per unit), paid by the owner. Rental buildings not subject to rent control generally were built after 1980, and are not anticipated to be candidates for redevelopment in the near future due to their age.

## Impact on Rent Control

**11. What will happen to rent-controlled apartments and tenants?**

**What happens to existing residents in rent controlled units? Will there be replacement of rent controlled units with affordable units (not “counted” as bonus units), temporary relocation?**

Under amendments to the legislation proposed by Supervisor Breed, and supported by the Planning Department staff, properties containing rent controlled units will not be eligible for redevelopment under the Local and State Analyzed Programs.\* San Francisco’s [Rent Ordinance](#) provides tenants a right to relocation for no-fault evictions.

*\*The State Density Bonus law does not prohibit the demolition of rent controlled units, but requires that any rent controlled units lost as part of a project using the State law must be replaced 1 for 1 in the project with an affordable unit.*

**12. Since this is new construction, would all resulting units be exempt from rent control?**

The affordable units created under the AHBP will be permanently affordable to households at specific income levels for the life of the building..

Buildings that receive density bonuses, concessions, or incentives under the State Density Bonus law are exempt from the restrictions on new rent control found in the Costa Hawkins Act\*. Under the State law, the units are required to be traditional “affordable units,” in that the units are restricted to tenants or owners at specified rents or sales prices for a minimum of 55 years.

*\* The Costa-Hawkins Rental Housing Act ("Costa-Hawkins") is the California State law that prohibits municipal rent increase limitations on certain kinds of dwelling units, allows rent increases on subtenants following departure by tenants of rent-controlled tenancies, and prohibits "[vacancy control](#)" - the regulation of rental rates on units that have been voluntarily vacated by the previous renters at an amount other (presumably lower) than what the open market would bear.*

**13. While nothing is decided, is it possible that a building with rent controlled units can be built into a hybrid rent control and market rate ownership units?**

The Local and State Analyzed Programs of the AHBP apply to new construction, not the conversion of existing housing stock. In addition, under amendments proposed by Supervisor Breed and supported by

the Planning Department staff, any existing building with rent controlled units would not be allowed to redevelop using the Local or State Analyzed Programs.

*\*The State Density Bonus law does not prohibit the demolition of rent controlled units, but requires that any rent controlled units lost as part of a project using the State law must be replaced 1 for 1 in the project by an affordable unit.*

## **AHBP Analyses, Data, and Reports**

### **14. Why is there discrepancy between the AHBP data and HUD data?**

It is unclear which specific data set the questioner is referring to in the question. Generally, however, the data generated for the AHBP is a projection of potential future housing units over the next 20 years, if the 240 soft sites chose to participate in the programs. HUD has not generated data on this topic.

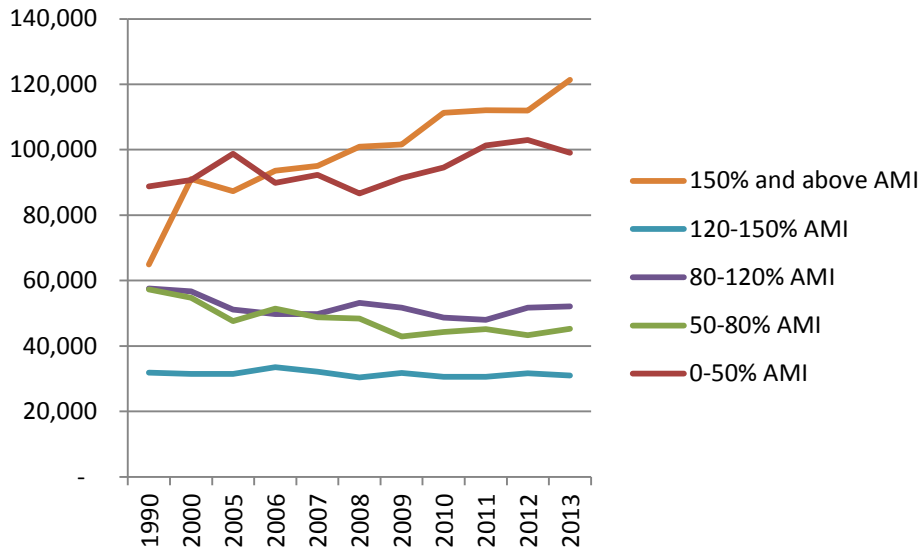
There are many different methodologies to measure housing affordability. HUD generally looks at housing markets from a federal perspective, the California Office of Housing and Community Development (HCD) from a state perspective, the Association of Bay Area Governments (ABAG) from a regional perspective, and San Francisco's offices from a local perspective. At each geographic level the agencies start with the analysis completed for the larger geography, and then further account for specific economic trends.

### **15. What are the SF demographics (aging population and incomes, by race would be interesting) and what local policies directly address those demographics?**

One of the primary goals of the AHBP is to provide more housing for households earning less than 140% of Area Median Income. If approved, the AHBP would be, to date, the ONLY program that seeks to provide stable, permanently affordable housing options for middle income families making between 120-140% of AMI. Statistics show that this middle-income category, which includes, among others, police, firefighters, and teachers, are a smaller and smaller share of San Francisco's population.

Census data shows that middle-income households (120-150% AMI, shown in blue, below), while holding steady in absolute numbers, represent an increasingly smaller share of the city's growing population.

**San Francisco's Households by AMI, 1990-2013**



The last several Regional Housing Needs Assessment (RHNA) cycles show that San Francisco has historically under-produced housing for this income category.<sup>1</sup>

From the 2014 Housing Element:

Household Affordability	Housing Goals 2007-2014	Actual Production 2007-Q1 2014	% of Production Target Achieved 2007-Q1 2014	Production Deficit as of Q1 2014
	Total	Total		
Low Income (under 80% AMI)	12,124	4,978	41%	7,146
Moderate Income (80% - 120% AMI)	6,754	1,107	16%	5,647
Above Moderate (over 120% AMI)	12,315	11,993	97%	322
<b>TOTALS</b>	<b>31,193</b>	<b>18,078</b>	<b>58%</b>	<b>13,115</b>

**Table I-64**  
Annual Production Targets and Average Annual Production, San Francisco, 2007-Q1 2014

SOURCE: SF Planning Department; ABAG

<sup>1</sup> Because the City does not currently have a program that guarantees affordability for households above 120% of the Area Median Income, there is no reliable data on the production of housing for that housing type. However, based on current data regarding sales prices and rental rates, the Department concludes most new housing is not affordable to middle income households.



**Table I-63**  
Annual Production Targets and Average Annual Production, San Francisco, 1999-2006

Household Affordability	Housing Goals 1999-2006	Actual Production 1999-2006	% of Production Target Achieved	Production Deficit (Surplus)
	Total	Total		
Very Low Income (below 50% AMI)	5,244	4,342	82.8%	902
Low Income (50% - 79% AMI)	2,126	1,113	52.4%	1,013
Moderate Income (80% - 120% AMI)	5,639	725	12.9%	4,914
Market Rate (over 120% AMI)	7,363	11,293	153.4%	(3,930)
TOTALS	20,372	17,473	85.8%	

From the 2004 Housing Element:

**TABLE I-65**  
*Annual Production Targets and Average Annual Housing Production, 1989-1998\**

Affordability Categories	Housing Goals 1989-June 1995 (6.5 years)		Actual Production 1989-1998 (10 years)*		% of Annual Target Achieved
	Total	Annual Targets	Total	Annual Average	
Very Low Income (below 50% AMI)	5,392	830	2,202	220	26.5%
Low Income (50% - 79% AMI)	3,595	553	1,515	152	27.4%
Moderate Income (80% - 120% AMI)	4,493	691	557	56	8.1%
Market Rate (over 120% AMI)	8,987	1,383	9,893	989	71.6%
Annual Production Target, 1989 - June 1995	22,467	3,456	14,167	1,417	41.0%

\*ABAG Reporting Period

The Local Program of the AHBP aims to increase the amount of housing available to middle-income households, and create more opportunities for public school teachers and public safety employees, among others to live in San Francisco.

**16. To allow this development in 75% of the Richmond makes it appear that our district is expected to bear an unfair and unreasonable burden of the city's affordable housing problem. How is it possible that luxury skyscrapers are going up as fast as they can be built in the southern area of the city but there is no room for affordable housing there where, architecturally, it would integrate much better with the existing buildings?**

Many affordable housing units are currently being built within projects in the southern area of the city. These developments must comply with the [Inclusionary Housing Program](#). The City's Inclusionary Housing Program ([Section 415 of the SF Planning Code](#)) requires all market-rate residential projects of 10 housing units or more to contribute to San Francisco's affordable housing supply. This can generally happen by:

- Contributing to the City's Affordable Housing fund commensurate with the number of total project units;
- Building 12 percent of the units on site as affordable housing units to low- and moderate-income households (higher percentage requirements exist in Eastern Neighborhoods Plan Areas); or

- Building 20 percent of the units off-site as affordable housing units to low- and moderate-income households.

Learn more about the [Inclusionary Housing Program](#).

### **17. Why is SOMA not increasing the percentage of units?**

Many housing units are currently being built in SOMA. However, the Local and State Analyzed Programs of the AHBP do not apply in area plan areas; almost all of SOMA was rezoned as part of the Eastern Neighborhoods and Western SOMA Area Plan processes. It is possible that some future projects in SOMA will choose to develop under the State Individually Requested program, as the State Law can apply to any development in California with 5 or more units.

## **Design Guidelines**

### **18. How do the AHBP Design Guidelines coordinate with the Residential Design Guidelines?**

The Residential Design Guidelines (RDGs) apply to all residential projects in RH (Residential House) and RM (Residential Mixed) zoning districts. They do not apply to NC (Neighborhood Commercial) Districts or to commercial or institutional buildings within residential districts.

In RH-3 and RM districts the RDGs would apply to all AHBP projects, except where the RDGs directly conflict with the AHBP Guidelines. In cases where the two conflict, the AHBP Design Guidelines would supersede the RDGs.

### **19. How will AHBP distinguish between different building/parcel types, i.e. corner vs mid-block? Any power to guide development based on needs of the area?**

The primary way that the Department and Planning Commission can influence the design of buildings and respond to different parcel conditions is through the Department's various Design Guidelines. The Department is currently drafting Universal Design Guidelines, which will apply across the city. The current draft of the UDGs includes sections concerning the need to highlight corner lots through rough architectural elements as expressions of local variation and patterns.

## **The State's Affordable Housing Bonus Law**

### **20. State vs local option: which one fosters greater density?**

Whether the State Analyzed or Local Program would allow greater density will depend on the location and the size of the site to be developed. Generally, where existing density regulations are more restrictive (lower density), or on larger parcels, the Local Program would likely yield more units on a site. Where existing density regulations are less restrictive (higher density) or where parcel sizes are small, the Local Program's 40% 2-bedroom requirement can constrain the number of units that may be built, and more units may be able to be built under the State Analyzed Program. The State Density Bonus Law (and the State Analyzed or Individually Requested Program) allows a maximum of 35 percent increase in density over existing regulations.

## Other

### **21. What developers have contacted you who are interested in supporting this program?**

To date, the Planning Department has received several PPAs (Preliminary Project Assessments) for projects requesting a density bonus, including:

- 333 12<sup>th</sup> Street
- 2070 Folsom Street
- 1296 Shotwell

All PPA applications and responses are searchable on our Property Information Map at:

<http://ec2-50-17-237-182.compute-1.amazonaws.com/PIM/>

Or on our website at: <http://www.sf-planning.org/index.aspx?page=2786>

### **22. What will you do to make sure that developers don't use the "threat" of seeking benefits under the AHBP to get neighborhoods to support zoning exemptions for new market rate development?**

The Department views the AHBP as one important tool, not a threat, to create more affordable housing in San Francisco and help the City achieve the Mayor's goal of 10,000 new units for low-income and working class families by 2020. The AHBP is a completely voluntary program. The Local Program only is available to developments that provide 30% of units as affordable on-site. The State Analyzed and Individually Requested Programs are only available to developments that provide 5% or more affordable units on-site. If a sponsor wanted to construct only market rate units, they would be required to pay an affordable housing fee (for projects of 10 or more units).