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March 18, 2016

City Council
City of Oakland
1 Frank Ogawa Plaza
Oakland, CA 94612

**Re: March 22nd CED Committee Meeting – Housing Impact Fee
(Agenda Item #3) and Notice of Funding Availability
(Agenda Item #4) Recommendations**

Dear Members of the Oakland City Council's Community Economic
Development (CED) Committee:

The housing crisis in Oakland and the greater Bay Area affects hundreds of thousands of families, but people of color bear a disproportionate burden. The City has both a moral obligation and legal responsibility to proactively address racial disparities in access to housing. Under the Fair Housing Act and the U.S. Department of Housing and Urban Development's new regulations, the City must "affirmatively further fair housing" – that is, it must take affirmative steps to reduce segregation and increase housing opportunities for people of color.¹ The City has the responsibility to do so by ensuring that valuable affordable housing resources benefit Oakland's lowest-income residents, who are disproportionately people of color.

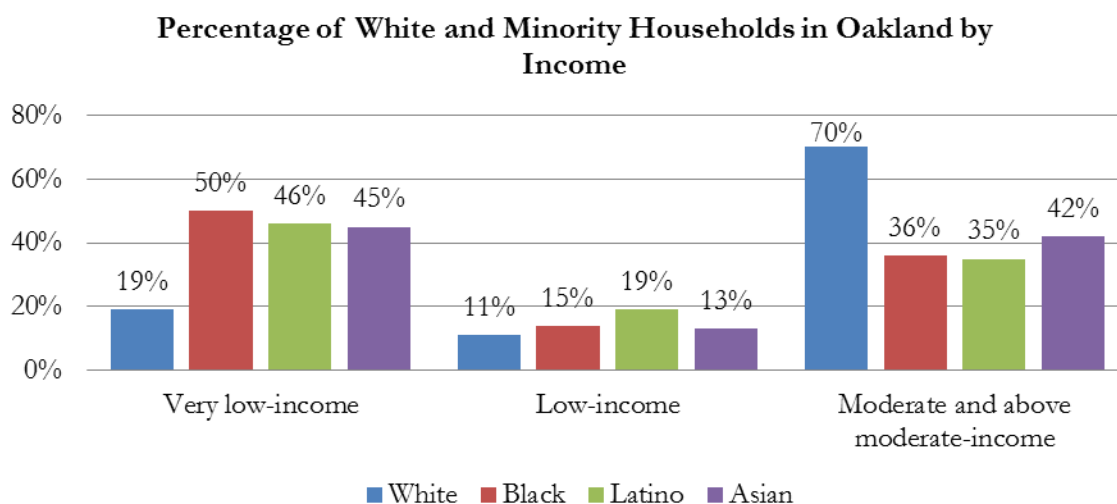
Instead, City staff has offered proposals for the CED Committee's consideration on Tuesday (for agenda items 3 and 4) that move us in the opposite direction by shifting impact fees, on-site mitigation,² and other affordable housing and first time homebuyer funds³ from serving low-income residents to serving moderate-income residents. In other words, the proposals deny crucial affordable housing resources for Oakland's lowest-income residents – who are more likely to be people of color – and

¹ 42 U.S.C. §§ 3608(c)(5), 5304(b)(2).

² City of Oakland, Agenda Report for City-Wide Impact Fees Adoption (Mar. 10, 2016), available at <https://oakland.legistar.com/LegislationDetail.aspx?ID=2598557&GUID=E1756C1A-B9FA-4F24-861A-39BCADD3A1FF&Options=&Search>.

³ City of Oakland, Agenda Report for NOFA Housing Policy Recommendations (Mar. 2, 2016), available at <https://oakland.legistar.com/LegislationDetail.aspx?ID=2553231&GUID=0AF6B91D-FA62-4523-9975-8166A6A9CB4D&Options=&Search>.

redirect those resources to benefit moderate-income residents – who are more likely to be white. (See graph below.)



Of course, the effect of the racially disproportionate burden of the housing crisis is already clear, particularly in the African American community. The City’s Analysis of Impediments to Fair Housing Choice, a requirement of the duty to “affirmatively further fair housing,” notes that even while the population is growing, “African American households are decreasing.”⁴ For example, from 2000 to 2010, Oakland lost nearly 34,000 African American residents, a 24 percent decline.⁵ People of color are being forced to the fringes of the city and the region and excluded from the benefits of new investment, recreating patterns of historical segregation. Depriving African Americans and other communities of color of housing choice and the opportunities that come with staying in Oakland presents a serious civil rights concern.

Despite the relatively high need for affordable housing among Oakland’s lowest-income families, who are disproportionately people of color, the City’s staff reports for the CED meeting on March 22nd propose harmful alternatives in the Impact Fee Ordinance and devastating changes to income targeting and funding allocations currently budgeted for the Affordable Housing Notice of Funding Availability (NOFA). To ensure that Oakland’s low-income minority communities have the affordable housing resources they so clearly need and to ensure that the City complies with its fair housing obligations, we urge you to consider the following recommendations.

For the impact fee (item #3):

1. Ensure impact fees are used only for homes for low- and very low-income families and workers.
2. Adopt an on-site mitigation (inclusionary) option that requires that at least 20 percent of units be affordable to only low- and very low-income households. If there is an option to

⁴ City of Oakland, Housing and Community Development, Analysis of Impediments to Fair Housing Choice (Oct. 2015), p.20, available at <http://www2.oaklandnet.com/oakca1/groups/ceda/documents/policy/oak056700.pdf>.

⁵ PolicyLink and City of Oakland, A Roadmap Toward Equity: Housing Solutions for Oakland, pp.7-9, available at <https://www.policylink.org/sites/default/files/pl-report-oak-housing-070715.pdf>.

include moderate-income units, it should be *in addition* to the existing lower-income requirement, not a substitute.

3. Move the entire Coliseum Area Specific Plan into Impact Fee Zone 1, and remove exemptions to Impact Fee Zone 3.

For the NOFA (item #4):

1. Reject the staff report recommendations and protect Oakland's affordable housing funding.
2. Ensure that Boomerang Funds and First Time Home Buyer programs are not redirected to serve higher income groups at the expense of Oakland's most vulnerable residents and low-income communities of color.
3. Reject the suggested reprogramming of budgeted Housing Development Funds to new programs in the middle of the budget cycle and without consulting stakeholders. New programs need more public discussion and new sources of funds.

Thank you for your leadership in taking the necessary steps to address the housing crisis and to affirmatively furthering fair housing for Oakland's most vulnerable residents.

Sincerely,



David Zisser
Staff Attorney

To: Vice Mayor Rebecca Kaplan, Council President Lynette Gibson McElhaney, CED
Committee Chair Larry Reid, and Councilmember Annie Campbell Washington

Copy: Councilmembers Dan Kalb, Abel J. Guillén, Noel Gallo, and Desley Brooks; City
Administrator Sabrina B. Landreth; Assistant City Administrator Claudia Cappio; Housing
and Community Development Department Director Michele Byrd; and Planning and
Building Department Deputy Director Darin Ranelletti