



Memorandum

**TO: RULES AND OPEN
GOVERNMENT COMMITTEE**

FROM: Leslye Krutko

SUBJECT: SEE BELOW

DATE: July 30, 2008

Approved

Date

7/30/08

Council District:
SNI:

**SUBJECT: SUPPORT FOR FEDERAL HOUSING LEGISLATION: H.R. 5772
(MURPHY) AND S. 2666 (CANTWELL)**

RECOMMENDATION

It is recommended that:

1. The Mayor and City Council support H.R. 5772 (Murphy) and S. 2666 (Cantwell).
2. The Committee provide a one-week turn around for Mayor and City Council review.

OUTCOME

If the Rules and Open Government Committee and the Mayor and City Council accept staff's recommendation, the City Federal lobbyist could begin seeking support for H.R. 5772 (Murphy) and S. 2666 (Cantwell).

BACKGROUND

The 2007-2008 Federal Legislative cycle has featured several bills that address affordable housing. These bills are of particular interest to the City's affordable housing program. An analysis of H.R. 5772 and S.2666 is attached to this memo for the Rules and Open Government Committee's consideration.

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ANALYSIS

A fact sheet and analysis of H.R. 5772 and S. 2666 are attached.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This legislative item does not meet any of the above criteria.

COORDINATION

This memorandum was coordinated with the City Attorney's Office, Intergovernmental Relations Director in the City Manager's Office and the City's federal lobbyist, Patton Boggs.

POLICY ALIGNMENT

The attached fact sheets and analyses are consistent with the Council-adopted 2008 Legislative Guiding Principles, and the Council-adopted guidelines.

CEQA

Not a project


LESLYE KRUTKO
Director of Housing

For more information call Leslye Krutko, Director of Housing, at (408) 535-3851

Attachments (2)

H.R. 5772 (Murphy) – Frank Melville Supportive Housing Investment Act of 2008

What issue is the bill trying to resolve?

The purpose of the Section 811 program is to create extremely affordable rental housing for non-elderly disabled people that is linked with community-based services to help them become stable and self-sufficient. Specifically, the legislation will address the enormous housing crisis faced by millions of extremely-low income people with disabilities. While Section 811 has been effective in developing permanent supportive housing, improvements to the program are needed. HR 5772 addresses some of these issues by streamlining the existing process by which Section 811 sponsors compete for new projects. Additionally, the legislation reforms Section 811 and allows for the investment of new capital resources from programs such as the Low-Income Housing Tax Credit (LIHTC) and HOME in supportive housing developments.

How would the passage of this bill affect San José?

The City of San José has taken an active role in providing affordable housing to residents with special needs and disabilities. Since 1988, the City of San José has financed 25 developments with 962 affordable units targeted to people with special needs and disabilities. The most recent is Edenvale Apartments, which provides 15 affordable units to residents with developmental disabilities. The increase in Section 811 provided under H.R. 5772 will allow the City to provide further assistance, additional supportive housing and opportunities to residents with disabilities. H.R. 5772 will help spur the creation of thousands of new units every year by:

- Authorizing a new and innovative Project Rental Assistance Contract (PRAC) Demonstration program that would create new Section 811 units each year without substantially increasing Section 811 appropriations by leveraging new set-asides of supportive housing units in LIHTC properties and HOME-funded projects. The PRAC Demonstration program will provide a rental subsidy to reduce rents to affordable levels for people receiving SSI in a significant percentage of the hundreds of thousands of units that are routinely created every year through LIHTC and HOME programs;
- Allowing Section 811 PRAC to be renewed for 5 years and increased when needed to pay for project costs, supportive services, and service coordinators. Additionally, the legislation allows for emergency increases during the contract term for conditions outside of owner's control;
- Reforming the existing Section 811 program to better leverage other capital funding and reduce barriers to "mixed-finance" Section 811 projects. These reforms will increase the number of units created each year through the current 811 production program;
- Streamlining Section 811 processing requirements and removing obsolete regulatory barriers;
- Shifting fiscal responsibility for the Section 811-funded Mainstream Housing Choice Voucher program to the Section 8 budget. Although funded and renewed from 811 appropriations, these Mainstream Housing Choice Vouchers have never created new permanent supportive housing units and are not targeted to people with the most serious and long-term disabilities. The Santa Clara County Housing Authority would administer the program.

What is staff's Proposed Position?

Staff recommends support for H.R. 5772. The enactment of HR 5772 will provide states and localities with a new infusion of critically needed Section 811 capital and project-based rent subsidy funding designed to invigorate and sustain the systematic creation of thousands of new permanent supportive housing units every year through partnerships with state housing finance agencies, county and local governments, and non-profit housing providers.

Who are the bill's supporters and opponents?

As of May 15, 2008 the following groups support H.R. 5772: National Alliance on Mental Illness (NAMI), National Alliance to End Homelessness, and the Consortium for Citizens with Disabilities. There is no registered opposition.

What is the current status of the measure?

H.R. 5772 was introduced on April 10, 2008 and was referred to the House Financial Services Committee.

S. 2666 (CANTWELL) – AFFORDABLE HOUSING INVESTMENT ACT

What issue is the bill trying to resolve?

The Affordable Housing Investment Act of 2008 would modernize the Low-Income Housing Tax Credit (LIHTC) Program and implement changes to encourage investment in the program. S. 2666 would streamline the program by eliminating obsolete and burdensome requirements. In addition, it will allow for greater flexibility to the State agencies that administer the program so they can meet local housing challenges and needs. The changes and updates to the LIHTC program introduced by Senator Cantwell will do the following:

Encourage the Development of More Housing for Low-Income Families

- Create a single 9% tax credit for all projects. Currently, the 9% credit amount is reduced to 4% for projects financed with federal dollars.
- Exempt affordable housing tax credits from the alternative minimum tax, which would permit some individuals and corporations to utilize housing credits to reduce their alternative minimum tax liability.

Increase Credit that Properties Are Able to Access

- Set the LIHTC credit percentage at the greater of: 1) current law or 2) 9 percent and 4 percent, rather than using a discounted rate. This provision would replace the current law floating rate and would increase the amount of resources available for each project relative to current law as long as the interest rates remain low.
- Give the state allocating agency authority to award 130% credits for properties that meet state-specified geographic or income targeting. Currently, properties located within very low income census tracts, or within areas where housing costs are high relative to income are eligible for a credit that is 130% of the amount that would otherwise apply. S. 2666 would give state allocating agencies broader authority to apply this credit to projects based on the state's determination of need.
- Allow HOME-assisted properties located in qualified census tracts or difficult development areas to receive a 30% increase in eligible basis permitted other properties. Currently, HOME-assisted properties are not eligible for the 130% credit amount. S. 2666 would allow HOME-assisted properties to receive the 30% basis boost permitted to all other credit properties, facilitating construction of the most difficult properties.

How would the passage of the bill affect San José?

The LIHTC program is regarded as the country's largest contributor to affordable housing. In San José alone, this program has helped finance the development of more than 13,000 housing units and more than 800 single-room occupancy units. The changes proposed by Senator Cantwell would help the City continue to build much needed affordable housing. This will be particularly helpful since, over the next seven years, the City is expected to produce more than 13,000 low-income units as part of its Regional Housing Needs Allocation (RHNA) issued by the Association of Bay Area Governments.

In addition, the provision in S. 2666, which would eliminate the restriction on the use of credits for Section 8 moderate rehabilitation projects, would be useful because new money is not

available to assist with the financing of these projects. Many of these properties are in need of recapitalization and it is difficult to raise capital without the use of housing credits.

Lastly, the provision which would give the state allocating agency 130% credits for properties that meet state-specified geographic or income targeting would be beneficial for San José since the City no longer has its designation as a "Difficult Development Area" (DDA) for the low-income housing tax credit program. DDA is a designation by HUD for areas with high construction, land, and utility costs relative to the Area Median Income. If this provision is passed, it could in essence restore San José's DDA designation and again qualify the City's affordable housing projects to receive additional dollars.

What is staff's Proposed Position?

Staff is recommending support of S. 2666. The City of San José has had great success with the LIHTC program, with well over \$300 million in tax credits supporting the construction of affordable housing since 2000. If passed, the provisions made in this bill would help the City continue to finance the construction of affordable housing.

Who are the bill's supporters and opponents?

The bill is supported by the Non-Profit Housing Association of Northern California, National Council of State Housing Agencies, the Affordable Housing Tax Credit Coalition, the Housing Development Consortium, Local Initiatives Support Corporation, Enterprise Community Partners, and Impact Capital, National Association of State and Local Equity Funds. The original co-sponsors of the bill are Senators Gordon Smith, John Kerry, Norm Coleman and Ken Salazar. As of May 15, 2008, there is not registered opposition.

What is the current status of the measure?

The bill was introduced on February 25, 2008. It has been referred to the Senate Finance Committee. As of July 2008, the Congressional Leadership is working on including the provisions of S. 2666 in the final version of HR 3221, the "Foreclosure Prevention Act of 2008," which has been passed by the House and the Senate and is awaiting signature from the President.