



# STRATEGY Rental Preservation

## OVERVIEW

Rental preservation helps promote and sustain mixed-income communities by ensuring the ongoing availability of quality, affordable rental homes.

## HOW IT WORKS

Affordable rentals are disappearing rapidly in many places. In the 10 years prior to the 2007 housing market downturn, more than 1.2 million unsubsidized units were lost, either to escalating rents or condominium conversions in strong markets, or to abandonment and demolition in weaker markets. The Harvard Joint Center for Housing Studies estimates that hundreds of thousands of subsidized rentals and millions more of unsubsidized rental homes affordable to lower-income households are at risk of being lost nationwide.

Rental preservation programs and policies protect affordable rental options from being lost by:

- helping mission-driven affordable housing developers purchase at-risk properties;
- providing resources to restore, maintain and operate affordable properties;
- offering incentives to owners of low-cost rentals, as well as subsidized rental properties to extend the affordability of their properties; and
- providing a right of first refusal that allows local governments or affordable housing developers to purchase properties up for sale and keep them as affordable housing.

## WHERE IT WORKS

Rental housing preservation is an important strategy for preserving income diversity in many settings, including:

- high-cost neighborhoods where replacing lost affordable homes is often difficult and expensive;
- gentrifying neighborhoods where escalating rents, demolitions, expiring subsidy contracts or conversions from apartments to condominiums threaten to displace low-income households; and
- distressed neighborhoods, where affordable rental homes are often at risk of loss to deterioration and where preservation can be part of a revitalization effort.

## POLICY AND PROGRAM TOOLS

### Inventories of At-Risk Properties

The effectiveness of even the most well-designed preservation programs depends on the timely identification of at-risk properties. A strong data collection effort can help municipalities identify which affordable rental properties appear to be at risk of loss and for what reason, and target their outreach and preservation efforts accordingly.

The recently created National Housing Preservation Database can provide states and localities with a good head start on creating their own databases of at-risk properties. This database incorporates all available data on federally subsidized housing properties and includes nine separate funding streams. It was produced by the Public and Affordable Housing Research Corporation and the National Low Income Housing Coalition and is updated tri-annually.

## **CASE STUDIES**

### **Florida Housing Data Clearinghouse**

The Florida Housing Data Clearinghouse combines federal and state housing data to produce a comprehensive picture of housing conditions in each Florida community, aiding state and local decision making. One core component of the Clearinghouse is the Assisted Housing Inventory, which contains comprehensive, property-level data about subsidized rental housing in each county and locality. The Clearinghouse is managed by the Shimberg Center for Housing Studies at the University of Florida with funding from the Florida Housing Finance Corporation and the University.

*For More Info:*

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### **Subsidized Housing Information Project (SHIP) Database (New York City)**

The SHIP database provides access to information on some 235,000 privately owned, subsidized rental properties in New York City. This includes properties developed with financing or insurance from the U.S. Department of Housing and Urban Development (HUD), HUD project-based rental assistance, New York City or State Mitchell-Lama financing, the Low-Income Housing Tax Credit or one of multiple city subsidy and property tax exemption programs. Created and administered by the NYU Furman Center for Real Estate and Urban Policy, the database, which can be explored through the Center's Data Search Tool, includes data from 50 different public and private sources that can be easily filtered and viewed on a map.

*For More Info:*

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## **Preservation Coordinating Councils**

Successful preservation efforts benefit from coordination between the wide range of stakeholders involved, such as local, state and federal officials; nonprofit and for-profit developers; property owners and potential buyers; advocacy groups; lenders and community groups.

Coordinating councils can improve the success of rental preservation efforts by facilitating data sharing, comprehensive planning, priority setting and progress monitoring.

## **CASE STUDY**

### **The Preservation Compact (Cook County, Ill.)**

The Preservation Compact brings together public, private and nonprofit leaders to address the loss of affordable rental stock in the greater Chicago area. In 2007, Compact members developed a Rental Housing Action Plan that includes a number of innovative elements, including the creation of the Cook County Interagency Coordinating Council, which works to improve communication and cooperation across agencies and levels of government involved in preservation-related activities, and a Rental Housing Data Clearinghouse that collects and maintains information on both the subsidized and unsubsidized rental stock.

Key partners in the Interagency Coordinating Council include the Chicago Department of Housing, Cook County Government, Illinois Housing Development Authority and the U.S. Department of Housing and Urban Development (HUD). Members of the Coordinating Council meet monthly to develop coordinated property preservation strategies and collaborative responses to issues of shared concern. A major focus of the Council's efforts is identifying and prioritizing at-risk affordable rental buildings, linking sellers of subsidized properties with interested buyers who will preserve the properties and maintain their affordability and acting on policy issues related to preserving government-assisted properties.

*For More Info:*

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## Repair and Refinancing Programs for Subsidized Housing

Like all housing, subsidized housing will need repairs over time. Providing resources to enable necessary repairs and maintenance, and linking this assistance to extended affordability contracts, can be an effective strategy for preserving affordable rental housing at risk of being lost due to deterioration. It can also enable a property to continue serving low-income residents by addressing a backlog of repair needs without having to raise rents.

Local funds can bridge the gap between what it costs to renovate a property and what can be raised through tax credits and private financing. Local funds can also provide crucial operating support to properties to enable them to be maintained over time while serving very low-income households. In some cases, local funds can allow a property owner to refinance at a lower interest rate to fund repairs.

### CASE STUDY

#### Mitchell-Lama Preservation Program (New York City)

The New York City Housing Development Corporation (HDC) established the Mitchell-Lama Preservation Program to preserve the affordability of rental homes funded through the State's Mitchell-Lama Housing Program, which began in 1955. The Mitchell-Lama Preservation Program seeks to preserve these homes through two products:

- The Repair Loan Program preserves Mitchell-Lama developments by offering a loan to owners in order to make needed capital improvements. HDC has made \$75 million of its corporate reserves available to finance this program. Since 2004, over \$60 million in loans have been made, preserving a total of 7,000 units.
- The Mortgage Restructuring Program offers owners within the Housing Development Corporation's insured Mitchell-Lama portfolio the chance to restructure the first and second mortgages held on the properties. The mortgages are refinanced at a lower cost to the owner and for a longer period of time. Savings can be taken in the form of further reduction of payments or as funds to repair the property.

*For More Info:*

<http://www.nychdc.com/pages/Mitchell-Lama-Program.html>

## Rehabilitation of Low-Cost Rental Properties

The vast majority of affordable rental housing receives no government subsidy. Some communities are deploying resources to preserve these unsubsidized, low-cost rental properties. Much of the lower-cost rental stock is located in small properties. Local governments can partner with local financial institutions or act independently to provide owners of smaller rental properties with the skills and resources needed to renovate their properties and ensure that their units are affordable, safe and up-to-code.

### CASE STUDY

#### Mom & Pop Program (Los Angeles)

The city of Los Angeles has used data from its award-winning rental inspection program to create a rehabilitation assistance program for the "mom and pop" owner-occupants of duplexes and fourplexes, who lack funds for repairs—many of whom are low-income seniors living on retirement benefits. The Mom & Pop Program provides low-cost deferred loans and grants for lead paint removal and exterior improvements, and a related program provides fully amortized three-percent rehabilitation loans to owners of smaller properties of up to 28 units occupied by low-income tenants.

*For More Info:*

<http://lahd.lacity.org/lahdinternet/>

## Property Acquisition Funds

In many cases, the only way to preserve a property is through purchase by a nonprofit or mission-driven for-profit corporation, typically with local public financial support. Some communities have established their own predevelopment, acquisition and interim financing programs to facilitate these transactions.

Predevelopment, acquisition and interim financing help affordable housing developers compete with often deeper-pocketed market rate developers to acquire at-risk subsidized and unsubsidized properties and preserve long-term affordability:

- **Predevelopment financing** helps cover the costs associated with investigating potential leads and conducting the due diligence necessary for determining whether a particular preservation transaction can work.
- **Acquisition financing** helps a developer purchase and hold a property until additional financing is available to support redevelopment or rehabilitation activities.
- **Interim financing** provides resources to affordable housing developers to operate the property until it is recapitalized and permanent financing is put into place.

While some of these financing needs can be met by the private sector, in many cases public resources are also needed. This is especially true for smaller nonprofits that do not have as ready access to capital as larger organizations. Even larger nonprofits and for-profits may have difficulty accessing financing to purchase larger properties quickly enough to compete with other purchasers.

In creating property acquisition funds, communities often build partnerships with Community Development Financing Institutions (CDFIs) that bring additional financing capital and services. CDFIs such as Enterprise Community Partners, the Low Income Investment Fund (LIIF) and the Local Initiatives Support Corporation (LISC) are partnering with local governments and regional bodies in a handful of expensive housing markets nationwide to expand the availability of lending capital for the acquisition of rental properties, often with an emphasis on transit-served neighborhoods.

## CASE STUDIES

### New York City Acquisition Fund

A major element of New York's preservation strategy is the city's Acquisition Fund. The fund provides \$230 million in affordable financing for the acquisition and preservation of affordable homes. The fund was capitalized with \$8 million in city funds, combined with \$32 million in loan guarantees from private philanthropic organizations, to leverage more than \$190 million in private financing. The fund, which provides bridge financing for the acquisition of properties, has preserved or created over 7,000 affordable housing units as of 2015.

*For More Info:*

<http://www.nycacquisitionfund.com/>

### Denver Regional Transit-Oriented Development (TOD) Fund

The Denver Regional TOD Fund is a land acquisition fund supporting the preservation and creation of affordable housing near current and future transit stations in the Denver region. Since 2010, this partnership between the Urban Land Conservancy, Enterprise Community Partners and the City and County of Denver, along with several other investors, has facilitated the preservation or creation of more than 626 affordable units by extending \$13.5 million in capital available at a low interest rate to enable the purchase and holding of sites by affordable housing developers for up to five years. Originally limited to acquisitions within Denver County, the fund was expanded in 2015 into a \$24 million regional resource that can also be used to preserve affordable properties or future affordable development opportunities throughout the Denver region.

*For More Info:*

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### Oregon Housing Acquisition Fund

The city of Portland and the state of Oregon have worked together since 2007 to offer a revolving loan fund to finance the purchase of at-risk, affordable properties and preserve their affordability until permanent financing is available. The Oregon Housing Acquisition Fund offers two types of loans: one for at-risk, subsidized properties and the other for market rate properties that will be converted to affordable units. The Fund also has a Green Pilot program that offers financial support for integrating green and sustainable building practices into the renovation of preserved properties, to help minimize operating costs and create healthier living environments for tenants.

The Housing Acquisition Fund is part of an umbrella initiative known as the Oregon Housing Preservation Project, which aims to preserve 6,000 at-risk units statewide (80% of the state's estimated at-risk stock). As of 2013, OHPP had achieved 78 percent of this goal. The Acquisition Fund and the Oregon Housing Preservation Project are both administered by the Network for Oregon Affordable Housing.

*For More Info:*

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## Notification and Right of First Refusal Laws

A number of states and localities have established policies that require owners of rental properties to give residents advance notice of any intention to sell the property or convert to condominium ownership. When combined with a right of first refusal allowing a preservation buyer to match a legitimate offer to purchase the property, the notice provisions can set in motion a process that leads to the successful transfer of ownership—either to the residents or to another entity willing to preserve the property as affordable over the long term.

Right of first refusal laws vary in the length of time that they provide to designated buyers to make an offer to purchase, but typically range from 30 to 90 days. In some cases, existing residents can preserve the property as affordable by agreeing to waive their rights to purchase the property in exchange for a promise by the purchaser to keep some or all of the units affordable for a certain number of years. In other cases, the tenants either purchase the property themselves or transfer their rights to a nonprofit or mission-driven for-profit company that agrees to maintain the property as affordable rental housing.

For a right of first refusal to be successfully exercised, two factors need to be put into place very quickly. First, there must be a capable buyer, which typically involves residents partnering with an entity that has experience purchasing and operating rental housing. Second, the buyer needs quick access to capital to close the transaction. Government funding programs that can respond quickly and flexibly to requests from nonprofits and tenant groups seeking to purchase and rehabilitate at-risk housing can therefore enhance the effectiveness of notification and purchase rights laws.

### CASE STUDIES

#### Tenant Opportunity to Purchase Act (Washington, D.C.)

The District of Columbia's Tenant Opportunity to Purchase Act (TOPA) states that, before any rental housing unit in the city may be sold, the owner must give notice to each tenant and to the mayor. The tenants then have a right of first refusal to purchase the property. The tenants may assign this right to a third party. The tenants have at least 120 days to negotiate a sale. This time period can be extended for another 120 days if a lending institution provides written notice that the tenant association has applied for financing. Some Washington, D.C., affordable housing developers have partnered with tenant groups to purchase and rehabilitate properties, often in complex transactions using tax credit financing.

For example, Somerset Development and NHT/Enterprise Preservation Corporation worked with tenants to acquire and rehabilitate Galen Terrace, a federally subsidized 84-unit community in serious disrepair and threatened with sale. The D.C. Housing Finance Agency provided \$5.6 million in tax-exempt bonds and \$4.65 million in tax credit equity toward the acquisition and renovation, while the city's Department of Housing and Community Development provided \$3.25 million in CDBG funds. HUD renewed the complex's Section 8 rental assistance contract for another 20 years.

To help tenant groups purchase properties themselves, the District operates a First Right Purchase Program, which makes low-interest loans and technical assistance available directly to tenant groups for the purchase and rehabilitation of their buildings. A 2013 analysis found that this program has helped to preserve nearly 1,400 units of affordable housing over the past decade.

*For More Info:*

<http://ota.dc.gov/page/tenant-opportunity-purchase-act-topa>

#### Right of First Refusal to Buy Rental Housing (Montgomery County, Md.)

By law, Montgomery County and its combined public housing and housing finance agency, the Housing Opportunities Commission (HOC), have the right to match contracts on rental facilities built before 1981 or on rental buildings being sold for conversion to condominiums. Certified tenant associations also have the right to match the contract on rentals built prior to 1981. The right can be waived if the purchaser commits to preserving the building as a rental property for five years with rent acceptable to the county, or makes a cash contribution to the county's Housing Initiative Fund, which supports affordable housing countywide.

The county, either through HOC or a designated nonprofit housing developer, has exercised the right of first refusal at least six times. For example, to preserve some naturally occurring affordable units and hard-to-find three-bedroom units, the HOC bought an unsubsidized 1950s apartment building and is renovating it for moderate-income tenants. The county also recently used this right to purchase a rental property in the high-opportunity community of Bethesda, where the county has otherwise struggled to build new, affordable rental housing.

*For More Info:*

<http://www.montgomerycountymd.gov/dhca/>

## Condominium Conversion Ordinance (Boston)

Boston's condominium conversion ordinance gives tenants a right of first refusal to purchase their units, along with several other protections. Before converting a rental unit to condominium, Boston requires developers and property owners to give a five-year notice to senior, disabled and low-income tenants. If the lease expires within the notice period, the owner must extend the lease to allow the tenant to stay for the entire notice period. Also, throughout the notice period, annual rent increases cannot exceed 10 percent of the Consumer Price Index. Owners must provide displaced tenants a relocation stipend of up to \$10,000 if they are low-income, elderly or disabled.

*For More Info:*

<http://www.cityofboston.gov/news/Default.aspx?id=17914>

## Tax Incentives for Preservation

States and localities have adopted various types of tax incentives to encourage owners to preserve the affordability of subsidized and unsubsidized affordable rental homes. Some incentives are intended to make it financially feasible for owners of low-cost rentals to bring their properties up to current living standards without raising rents to levels unaffordable to low-income residents. Others seek to encourage property owners receiving federal, project-based Section 8 assistance to continue to participate in the program.

Tax incentive programs often work by freezing or lowering the real estate tax assessments for properties that preserve affordability over a designated period of time. Preservation tax incentives tend to be most compelling for property owners in neighborhoods in which rents are not yet rising significantly, and in which the real and perceived benefits of non-participation (such as charging market rate rents or widening the applicant pool beyond holders of housing choice vouchers) are outweighed by the benefits of the tax incentives.

### CASE STUDIES

#### Class S and Class 9 programs (Cook County, Ill.)

Cook County's Class S program encourages owners of project-based Section 8 multifamily housing in high-cost markets to keep their units affordable by reducing the tax assessment by up to 33 percent. The Class 9 program offers a similar reduction to owners of unsubsidized properties who complete new construction or major rehabilitation of multifamily buildings and reserve 35 percent of the units as affordable. In 2001, Cook County extended the Class 9 program from just low-income census tracts to all areas of the county, an important strategy for encouraging mixed-income development. In 2008, to reduce incentives for converting rentals to condos, the county lowered the property tax assessment for apartment buildings from 26 percent to 20 percent, and to 16 percent in 2009. Each program is administered by the Cook County Assessor's Office.

*For More Info:*

<http://www.chicagorehab.org/policy/county.htm>

#### J-51 Program (New York City)

New York City's J-51 Program provides real estate tax exemptions and abatements to multifamily buildings that are renovated or rehabilitated according to certain requirements. Property owners renovating their properties can generally receive a 34-year exemption from the higher real estate assessments resulting from the work if they agree to subject the renovated units to the city's rent stabilization policy, which limits the annual rate at which rent can increase. These property owners can also receive a property tax abatement reducing existing taxes by a percentage of the cost of the renovations. According to the city, between 70,000 and 100,000 housing units are renovated under New York City's J-51 Program each year.

*For More Info:*

<http://www1.nyc.gov/site/hpd/developers/tax-incentives-j51.page>

# RESOURCES

## Research and WebTools

- Preservation of Affordable Homes Near Transit Toolkit (California Housing Partnership Corporation, 2015)
- Preserving, Protecting, and Expanding Affordable Housing: A Policy Toolkit for Public Health (ChangeLab Solutions, 2015)
- The Challenge of Rising Rents: Exploring Whether a New Tax Benefit Could Help Keep Unsubsidized Rental Units Affordable (NYU Furman Center for Real Estate and Urban Policy, 2015)
- Comparing the Costs of New Construction and Acquisition-Rehab In Affordable Multifamily Rental Housing (Maya Brennan, Amy Deora, Anker Heegaard, Albert Lee, Jeffrey Lubell and Charlie Wilkins, 2013)
- HUD PD&R Edge: Preserving Affordable Rental Housing (U.S. HUD, 2013)
- The Preservation Guide—Federal Housing and Homelessness Plans: Potential Tools in the Affordable Housing Preservation Toolbox (National Low Income Housing Coalition, 2010)
- Taking Stock: The Role of “Preservation Inventories” in Preserving Affordable Rental Housing (National Housing Conference’s Center for Housing Policy, 2009)
- Preserving Affordable Housing Near Transit: Case Studies from Atlanta, Denver, Seattle and Washington, D.C. (National Housing Trust, Enterprise Community Partners and Reconnecting America, 2007)
- An Analysis of the Strengths and Deficiencies of Washington, D.C.’s Tenant Opportunity to Purchase Act (Harrison Institute for Public Law, Georgetown University Law Center)
- Florida Assisted Housing Inventory (Shimberg Center for Housing Studies at the University of Florida)
- National Housing Preservation Database (Public and Affordable Housing Research Corporation and the National Low Income Housing Coalition)
- New York City Subsidized Housing Information Project (SHIP) Database (NYU Furman Center)

## ORGANIZATIONS

- **California Housing Partnership Corporation.** A private nonprofit organization that helps housing agencies and nonprofits preserve and expand the supply of affordable homes in California.
- **Chicago Rehab Network.** A citywide coalition of neighborhood and community-based development organizations advancing the development and preservation of affordable housing in Chicago and the state of Illinois through training, technical assistance, research and advocacy.
- **Community Economic Development Assistance Corporation (CEDAC).** Massachusetts’ public-private community development finance institution that provides technical assistance, pre-development lending and consulting services to nonprofit organizations involved in affordable rental preservation and other community development activities.
- **National Housing Trust.** A national nonprofit engaged in housing preservation through public policy advocacy, real estate development and lending. Website features a wealth of resources related to housing preservation, including best practices, case studies and additional resources.
- **Housing Justice Center.** A public interest advocacy and legal organization headquartered in St. Paul, Minnesota, formerly known as the Housing Preservation Project.

- **The Network for Oregon Affordable Housing.** A nonprofit consortium of Oregon banks that administers the Oregon Housing Acquisition Fund and manages the Oregon Housing Preservation Project.
- **NYU Furman Center for Real Estate and Urban Policy.** Provides academic and empirical research on a wide range of housing issues affecting New York City, and manages the city's Subsidized Housing Information Project (SHIP) database.
- **Preservation Compact.** Brings together public, private and nonprofit leaders to address the loss of affordable rental stock in the greater Chicago area.
- **The Shimberg Center for Housing Studies at the University of Florida.** Provides data and applied research on housing preservation and development, and manages the Florida Housing Data Clearinghouse, which includes data on the subsidized housing stock in each Florida community. Also has produced an interactive map of preservation data collection efforts in each state.