South of Downtown Affordable Housing Subcommittee

Final Report Submitted to the South of Downtown Coordinated Steering Committee

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Appendix

Available online:
https://lincoln.ne.gov/city/urban/reports/pdf/AffordableHousing-Appendix-2019.pdf

The Appendix contains the Coordinated Steering Committee membership roster, the Subcommittee membership roster, meeting agendas, minutes, and materials.

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1. Introduction

Housing affordability is an issue that is being addressed on many levels, from the National or State level, to the local level. The Lincoln Chamber of Commerce made housing affordability one of their six key issues for 2019. Earlier this year the Omaha World Herald penned an editorial describing affordability and its impact on the state's economy.

Seattle has been at the forefront of addressing what they term a "crisis" of affordable housing. Lincoln is not experiencing a "crisis" to the degree of cities like Denver or San Francisco where neglect of the issue has led to the disappearance of affordable housing. Realizing the urgency to address the housing adequacy and affordability issue can help resolve the problem before it worsens. Lincoln is approximately 5,000 housing units short of available rental housing units accessible to households at 50% or below of the area median income (AMI) (Source: US Department of Housing and Urban Development (HUD) CHAS data).

a. History of affordable housing initiative in South of Downtown

In 2016, community stakeholders, with the assistance of H-3 Planning Consultants, formulated the South of Downtown Revitalization Plan (the H-3 Plan). The H-3 Plan compiled a wealth of planning data for the area. One of its key recommendations has been implemented - the creation of the South of Downtown Community Development Organization (CDO). Building on the community input and data analysis of the H-3 Plan, and in response to housing and other issues in the area, the CDO and the City of Lincoln are partnering to enhance South of Downtown attributes and qualities, while addressing important neighborhood concerns and issues. To carry out this purpose, the South of Downtown Coordinated Steering Committee was formed to work with the CDO, the City of Lincoln and other key stakeholders and community members in defining and collaborating on action strategies and redevelopment projects for the South of Downtown area: 10th to 17th, A to L Streets (Census Tracts 20.01 and 20.02). Steering Committee members are included in the Appendix. Several Subcommittees were formed to focus on areas of concern including quality affordable housing; neighborhood blight and deterioration; zoning and land use regulations and incentives; economic opportunity; actual and perceived sense of safety; CDO sustainability; and recreational opportunities.

This report summarizes the work and recommendations of the Affordable Quality Housing Subcommittee. Beginning in November 2018, the Subcommittee met twice a month with City Departments, local stakeholders, attorneys, the University of Nebraska- Lincoln and neighborhood activists to craft "strategies" to get out in front of this issue before it becomes a "crisis". Subcommittee members and meeting

minutes are included in the Appendix. An Executive Committee comprised of the Subcommittee Chair and staff also met every two weeks to prepare agenda items and carry out other work and research of the Subcommittee.

b. Defining affordability

Subcommittee members discussed defining affordability, i.e., affordable to whom? After considerable discussion and review of data (see Appendix, December 18, 2018 Meeting 2 Meeting Notes) there was consensus that defining affordable housing for this group will be focused on households with incomes between 30-80% of Area Median Income (AMI). The Lincoln Homeless Coalition's focus is on households with incomes at 30% or less of AMI and a member of the Subcommittee is involved in the Homeless Coalition and served as a liaison between that group and the Subcommittee. AMI of 60% or less is considered low income. Housing cost burden (over 30% of income paid for housing, including utilities) and severe cost burden (over 50% of income paid for housing) were also discussed by the Committee and data reviewed indicated that households in the 30-80% AMI range are likely to be cost burdened.

c. Housing quality

ALL SECTIONS TODAY'S E-EDITION NEWSLETTERS BUY & SELL

City of Omaha: 2,500 code violations and counting at the Yale Park apartment complex

By Erin Duffy and Emily Nohr / World-Herald staff writers Sep 26, 2018 2

Housing affordability cannot be addressed only on the issue of apartment rental rates. Affordable ***quality*** housing is a significant issue identified by the Subcommittee and also through public outreach efforts by various groups including the CDO, NeighborWorks Lincoln, and Collective Impact Lincoln. Code enforcement to provide living standards that avoid subjecting residents to living in slum conditions was also a priority of the Subcommittee. This too is not unique to Lincoln. Omaha has experienced multiple cases of egregious code violations in "affordable housing" units.

Code violations have forced some communities to address mandatory inspection of rental properties. The Subcommittee looked at ordinances in South Sioux City and Omaha that are a reaction to difficulty in code enforcement. Omaha's City Council recently passed such legislation.

2. Housing Subcommittee Recommendations

a. Summary report

The Subcommittee looked at a number of housing related issues and soon decided that one size does not fit all in addressing housing affordability. Instead, the Subcommittee looked at "strategies" to address various forms of housing affordability and equally important, its quality.

Small and large group discussions occurred for several meetings to identify strategies. To assist in this effort, case studies were used to examine the four common types of properties that have potential to best address the issues of adequacy and affordability.

Recommendations are summarized below. The strategies are classified into two categories: 1) those that increase the supply of affordable housing, and 2) those that preserve and protect existing affordable housing. See Section b. Case Studies, for more details about the discussion. After completing the Case Studies exercise, additional strategies were identified and are not included in the discussion in Section b. Those strategies are indicated below with an asterisk. Finally, the Subcommittee completed a prioritization process through a dot exercise (discussed in Section c.). In the recommended strategies summarized below, numbers in parenthesis indicate the number of dots received. It should be noted that all of the strategies listed are recommended by the Subcommittee but those with numbers were identified as higher priority. It is important to note that Subcommittee members recognized there are divided opinions on certain strategies without full consensus, particularly where more information is needed. Chief among these are inclusionary zoning, land banks, and up-zoning in the rest of the city.

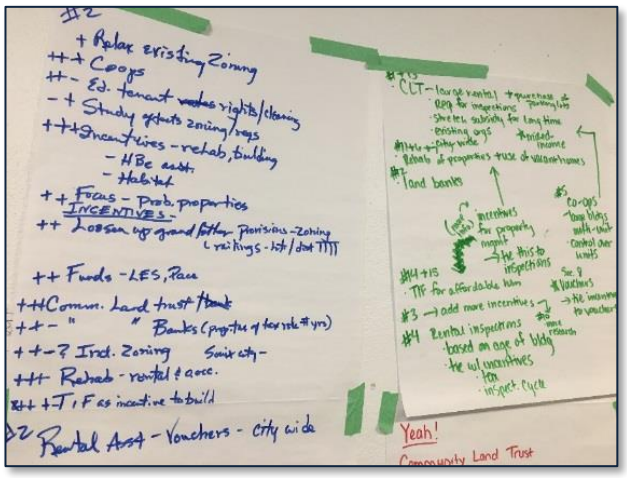
i. Strategies that increase supply

- Increase the city's affordable housing fund, funded by TIF administration fees, Turnback Tax, and other sources. (9)
- Establish a Community Land Trust to purchase parking lots, existing property, and vacant properties. (8)
- Use a layered approach to financing developments including federal HOME funds, Federal Home Loan Bank AHP (Affordable Housing Program) funds, trust funds, CDBG, NIFA (Workforce Housing), Low Income Housing Tax Credits (LIHTC) and charitable sources. (8)
- Identify city sources of funding for acquisition, demolition, and rehabilitation programs. (8)
- Develop a registry of vacant properties: (7)
  - Define criteria for registration
  - Create a system to measure/keep inventory
  - Define timelines/strategies for review of vacant properties
  - Develop a plan of action for addressing vacant properties
- Expand code enforcement services: (7)
  - Strengthen the implementation of the Neglected Building Ordinance
  - Identify funding for additional code inspectors

- Notify mortgage holder & insurer to resolve or move to foreclosure or purchase and tie foreclosure and purchase to Community Land Trust and/or Land Bank

- Acquire parking lots for PUDs (Planned Unit Developments) that include mixed-use redevelopment with affordable and market rate housing and commercial community needs such as groceries, daycare, social services, etc. (5)
- Allow flexibility of zoning/setbacks and easements to allow construction of affordable housing on non-buildable lots. (5)
- Pursue private investors to use Opportunity Zone tax credits. (2)
- Relax restrictions such as parking requirements that prevent affordable housing. (1)
- Explore Inclusionary Zoning. (1)
- Explore a land bank to better use vacant lots and properties, including acquisition.
- Use TIF for a combination of affordable and market rate housing as well as commercial uses.
- Require development of affordable housing for the use of TIF.
- Remove barriers for co-op housing models.
- Explore assisting elderly homeowners in transitioning to non-single family homes and connecting new homebuyers to available properties.
- Incentivize developers by providing subsidies for new development as well as rehab.

ii. Strategies that preserve and protect existing affordable housing



- More focused code enforcement on unsafe, unhealthy and improperly maintained properties within a specific geographic area. (7)
- Develop a Supplemental Property Management Training program led by Building and Safety, Lincoln Police Department, and the Commission on Human Rights. (6)
    - Training should include content on landlord responsibilities including fair housing, information that should be relayed to new

tenants, and further explanation of landlord and tenant responsibilities.

- Increase Tenant Education including both literature and trainings available in multiple languages. (6)
  - Provide interpreters for the Building and safety Department.
- Create/expand rehabilitation programs and incentives tied to other strategies. (5)
- Explore a Proactive Inspection Program. (3)
- Modify the LES sustainable energy fund to benefit more rental properties. (2)
- Add content on adequacy of property management to Landlord Education/Real Estate Licensees and Broker Licensing education requirements. (1)
- Explore increasing fees and penalties for code violations and for properties on the Neglected Building Registry. (1)
- Increase awareness of and encourage more reporting of code violations through code violation notices to tenants in the case of valid complaints. (1)
- Expand the use of co-op housing to preserve existing housing choices. (1)
- Pursue letter-writing campaign partnerships to encourage property owners and managers to better maintain their properties. (1)
- Explore multi-generational housing models that allow aging in place; i.e., caregiver moves in to care for elderly person(s) allowing elder(s) to remain in home while providing housing for care giver. (1)
- Partner with nonprofit legal aid organizations to provide legal representation for tenants in eviction proceedings.
- When 3 valid complaints inside a rental unit trigger inspection of an entire building, require the landlord to attend Supplemental Property Management Training.
- Adopt the International Property Maintenance Code (building codes specific to rehabilitation) to increase investment in older properties.
- Expand use of the “small TIF” program with preferences for affordable housing.

b. Case studies

Case studies were used to examine the four common types of properties that have potential to best address the issues of adequacy and affordability. As mentioned above, a one-size-fits-all approach will not be effective in addressing the nuances of the housing issue in Lincoln and South of Downtown. Multiple strategies need to be employed and some strategies work better in different instances of preserving affordability and improving adequacy of housing. The case studies encompassed the following topics that were discussed by the Subcommittee: Vacant Properties; Opportunities to Add Density; Code Enforcement; and Preservation of Existing Affordable Housing.

i. Vacant properties

Vacant properties: a solution to access and supply of affordable housing

Vacant properties are not new to cities, including Lincoln. Unfortunately, there are not streamlined standards to measure the scope of the issue in Lincoln. According to census figures, which measure "other vacant" units, it is defined as those neither on the market, held for future occupancy, nor used only seasonally. There is a need by the City of Lincoln to define vacant properties and to identify the extent of the problem of vacant properties.

Usually, most redevelopment plans and projects focus on addition—new housing, transportation, and public spaces and do not focus on vacant properties as a solution to addressing decency, access and supply of affordable housing. With vacant properties placing severe fiscal strain on cities, the properties that are in disrepair have the following effects: reducing property tax revenue while costing thousands of dollars for policing; repeated inspections; continual cleaning and upkeep; and in many cases, demolition. On the other hand, properties that are not in such extreme states of disrepair could provide opportunities for increasing affordable housing if there was a catalog of where these vacant properties were, how to get in contact with property owners, and efforts to explore the possibility of sale to a land bank, a community land trust, or other housing entities.

One challenge for Lincoln is that there is no consistent survey, method, or practice to measure the extent of the vacant property problem and its significance. Creating a way to track or measure vacant properties would be a valuable

first step to identifying effective strategies to address the city's affordable housing needs.

Vacant neglected properties

Seen as eyesores, public safety hazards, and crime magnets, abandoned houses represent a real financial drain on both neighbors, sense of community, and Lincoln at large. Neighborhood fragmentation and community isolation— the sense no one cares, and things are not getting better—are powerful side effects. Though harder to quantify, the community is impacted by vacant properties in their neighborhood.

True costs to cities have been examined in various studies, and it can be staggering. As an example, a study of vacant property in Toledo found that they cost the city $3.8 million annually in direct cost, as well as $2.7 million in lost tax revenues. But the impact they have on their surroundings was even more significant: $98.7 million in lost property value, and an estimated $2.68 million in lost property tax value due to the perceived decline in value from being near vacant buildings. This is just one example of costs to cities that, like Lincoln, continue to take on as a result of not addressing the issue.

Currently, the city has a neglected building ordinance which requires property owners to pay a fee to register their property as a neglected building and must submit a two-year improvement plan for the property. Liens can be placed on the property if non-compliant. However, there are not sufficient city resources and processes to ensure property is improved or that property is sold. Property then often gets bogged down in the court system. This current ordinance is limited in scope due to property identification through the complaint-only basis and does not apply to all vacant, dilapidated properties within the city. Furthermore, having a vacant, dilapidated property is not found to be unlawful by current code if it is "properly" secured and exterior code violations are corrected. The committee affirmed that criteria for vacant and nuisance properties must be defined and new thresholds, standards, and processes be established.

The South of Downtown Affordable Housing Subcommittee discussed a diverse set of solutions to addressing vacant properties. Possible solutions include:

Recommendations:

- Establish Community Land Trust for vacant lots and properties
- Explore a land bank
- Identify city sources of funding for acquisition, demolition, inspections and rehabilitation programs
- Develop a registry of vacant properties
    - Define criteria for registration
    - Create a system to measure/keep inventory

- Define timelines/strategies for review of vacant properties
- Develop a plan of action for addressing vacant properties

- Expand code enforcement services:
  - More focused code enforcement on dilapidated properties within a specific geographic area.
  - Strengthen the Neglected Building Ordinance (liens, fines, additional inspection triggers).
  - Identify funding for additional code inspectors
  - Notify mortgage holder and insurer to resolve or move to foreclosure or purchase and tie foreclosure and purchase to Community Land Trust and/or Land Bank.
- Allow flexibility of zoning/setbacks/easements for non-conforming property lots.
- Expand rehabilitation programs and tie incentives to other strategies.

ii. Opportunities to add density

Another charge of the Subcommittee is to consider policies and actions that encourage a variety of housing choices including affordable and market rate housing for both homeownership and rental opportunities. The Subcommittee members discussed acquiring large vacant parcels – particularly surface parking lots – to grow the supply of affordable housing, market rate housing, and create mixed-use development. While parking lots serve a purpose in the South of Downtown neighborhoods, they are also an opportunity for higher density use considering the lack of buildable lots and property. Recognizing that neighborhoods need a range of housing options, the acquisition and redevelopment of parking lots provides that opportunity. Many of these surface lots run along 11th and 12th street. The Downtown Master Plan envisions 11th Street as a "Greenway" corridor that connects to the Everett Neighborhood.

Subcommittee members recognized that cost of acquisition presents a barrier to redeveloping surface parking lots. High land costs create a barrier to building affordable housing units. As a result, many strategies and actions focus on funding in addition to other aspects of the issue:

Recommendations:

- Establish a Community Land Trust to purchase surface parking lots.
- Use Low Income Housing Tax Credits (LIHTC) for development of affordable housing
- Use TIF for a combination of affordable and market rate housing as well as commercial uses.
- Require the development of affordable housing for the use of TIF.
- Explore establishing a Land Bank for property acquisition.
- Use a layered approach to financing developments including federal HOME funds, Federal Home Loan Bank AHP (Affordable Housing Program) funds, trust funds, CDBG, NIFA (Workforce Housing), and charitable sources.
- Pursue private investors to use Opportunity Zone tax credits.
- Use parking funds for a parking garage.
- Acquire parking lots for PUDs (Planned Unit Developments) that include mixed-use redevelopment with affordable and market rate housing and commercial community needs such as groceries, daycare, social services, etc.

- Recruit necessary community needs like a grocery store and health clinic.

The Subcommittee also discussed increasing density in the existing neighborhood and put forth the following recommendations:

Recommendations:

- Use PUDs to adjust setbacks to allow construction of affordable housing on non-buildable lots, allow mixed uses, and relax parking requirements.
- Remove barriers for co-op housing models

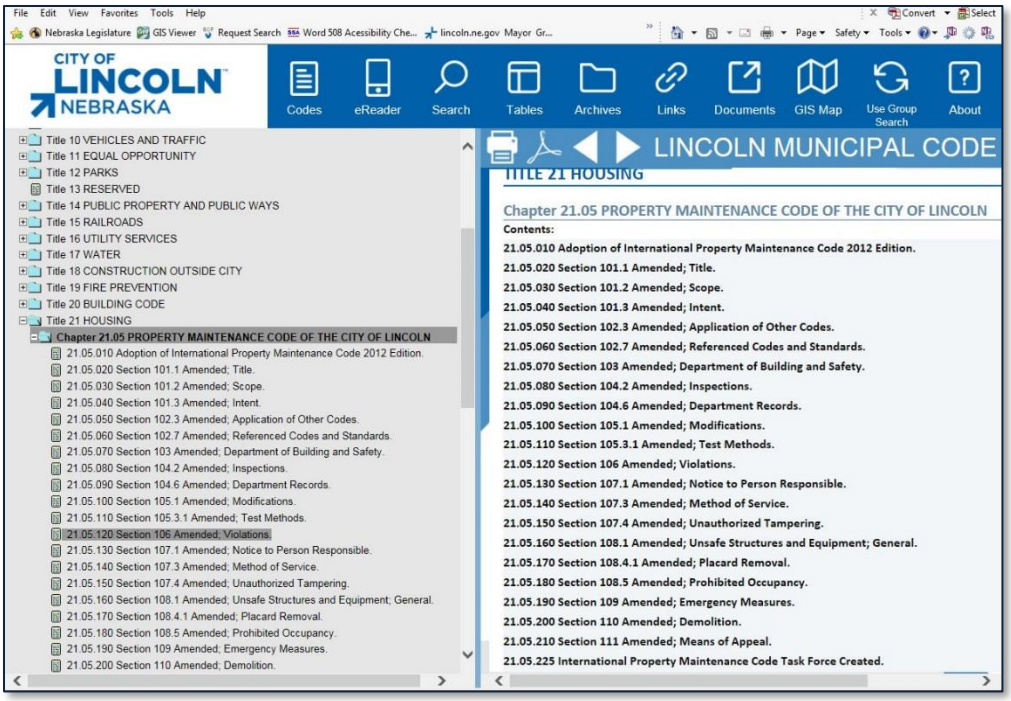
- Establish a Community Land Trust to purchase vacant properties and lots.

iii. Code enforcement

The topic of enforcement is of special concern to the South of Downtown focus area, as the area contains the highest percentage of rental units in the city and is the oldest, most historic housing stock in Lincoln. Substandard conditions are exacerbated by the area's concentration of slip-in apartment buildings, constructed in the 1960s and 1970s. Many of these apartment buildings contribute to the high density of rental units in the area, which are affordable but are substandard to dangerously unhealthy in health and safety qualities. The committee looked to expanding Lincoln's code enforcement through a variety of options and strategies that addressed both tenant and landlord responsibilities, as well as the city's obligation to enforce current codes for healthy living.

<u>Current codes</u>

The City of Lincoln has an inspection program in the Building and Safety department. Currently, all rental buildings containing three or more units are required to be registered with the City of Lincoln and are subject to annual inspection of the exterior and common areas inside the building (hallways, etc.). Furthermore, rental properties are subject to both exterior and interior inspections when the property is sold or changes hands. Tenants have the ability to report a code violation in their building through the Building and Safety department. Tenants can report violations by calling (402) 441-7521 or through the City's UPLNK mobile phone app. The City of Lincoln currently has a complaint-based system in which the interior of units

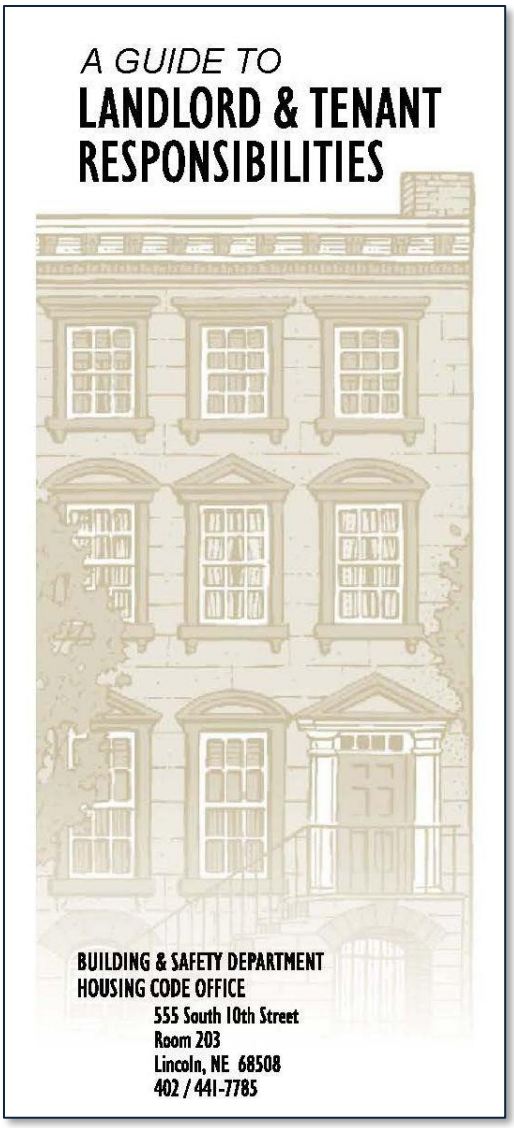


are not proactively inspected, but instead relies on complaints to be made for code enforcement. While tenants do not necessarily have to make complaints themselves, the city requires a specific home/apartment address to be supplied in order to know which unit has to be inspected.

The committee discussed at length adding more capacity and triggers for inspection to the City's current processes. Adding more reasons for inspections of individual units and entire buildings would be done with the intention of targeting landlords and property owners who are not fulfilling their responsibilities. This would need to be done in conjunction with more capacity for Building and Safety to carry out inspections and enforce standards of housing.

Barriers to reporting code violations

The current complaint-driven system is a barrier for tenants in many different aspects. One such aspect is the lack of tenant knowledge on what is acceptable and what is a code violation. While currently landlords are obligated to give their tenants a copy of "A Guide to Landlord & Tenant Responsibilities", prepared by the City's Building & Safety Department, Housing Code Office, some tenants and landlords are unaware of this obligation. Furthermore, the Guide is only available in English, making it inaccessible to non-English speakers. Likewise, the City's staff who take complaints via phone do not have language resources to interpret the tenant's complaint if they choose to call in, leaving the tenant to be responsible for an interpreter if they wish to file a complaint.



Making sure that tenants know their rights as well as their responsibilities was a popular topic of discussion. Many property owners and managers on the committee expressed a desire to be made aware of issues within units, but acknowledged that tenants do not always know how to approach them with problems. Reaching into diverse populations

was also a component of increasing tenant education, as the committee acknowledged that reaching out to trusted spaces for different communities would be key to spreading tenants' rights knowledge to all residents of South of Downtown and the City of Lincoln. Such places include cultural centers, Community Learning Centers, and other community hubs and service providers.

Another barrier to code enforcement is the identification of the tenant in making a complaint. Because the City does not allow for a complaint to be filed for an entire building but instead asks that specific units be identified, this identifies the individuals living in the unit making the complaint. The landlord can then identify who made the complaint. Many tenants also do not know their rights in terms of anti-discrimination and anti-retaliation protections that the city and state already have in place. While such protections do exist for tenants, many are not aware or are not sure of the extent of those protections.

Making other tenants aware of code violations in their building was explored as a way to create a safer and more comfortable environment for tenants to report code violations. In community conversations, tenants had expressed not wanting to be singled out by their landlord, so the committee discussed making all other tenants aware and encouraged to report violations in their own unit, possibly prompting an entire building inspection if the complaints are deemed valid. Upon receiving a valid complaint, Building and Safety should leave a card at the door of other residents within the building to alert them that there was an issue in one of the apartments and that here is how to go on line or phone if there are issues within another apartment.

While not all property owners or landlords are actively neglecting their properties, many properties in the South of Downtown area do not receive proper attention and maintenance. Some property owners are not responsive or attentive to the condition of their properties because they do not live in the area or may not even live in the city or state. This contributes to the lack of attention or concern for the property or tenants' living conditions. Property managers are required to have such a license to manage properties they do not own. Continuing education is required of broker managers including passing an ethics course, with renewal of fair housing and ethics every two years. The committee discussed incorporating some landlord education on anti-discrimination and anti-retaliation emphases in these continuing education requirements. Landlord education was acknowledged as important for the committee because it would also benefit the property owner to maintain their investment.

Also discussed was a proactive inspection program to be adopted within Building and Safety's current inspection process. A proactive inspection model exists in South Sioux City, Nebraska, where properties are inspected on both interior and exterior on a regular basis. Currently, two valid complaints of the interior of two separate units are required to trigger a full

building inspection. The proactive inspection model would take the onus off the tenant to report, and remove the need to put themselves in a vulnerable position with their landlord, and would instead be an expectation of all rental properties. However, implementing this strategy would require more capacity for Building and Safety for administration, inspectors, and enforcement of building codes.

Lastly, the South of Downtown area boasts a largely diverse population, with high concentrations of New Americans and refugees due to the affordability of the units in the area. Given that the City's processes and materials for code enforcement are not translated into different languages, large demographics are not even able to access the information necessary to maintain a safe, healthy place to live. However, the City is limited in funding for services such as interpretation, translation, and even building inspectors to enforce codes in a timely and appropriate manner. Funding for additional support to address these barriers should be explored in future budget conversations.

Recommendations:

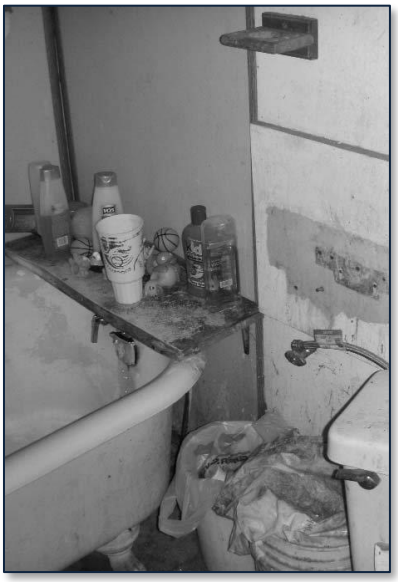
- Add content on adequacy of property management to Landlord Education/Real Estate Licensees and Broker Licensing education requirements.
- Expand code enforcement services.
- Create a Proactive Inspection Program.
- Increase Tenant Education.
- Code Violation Notices to Tenants.

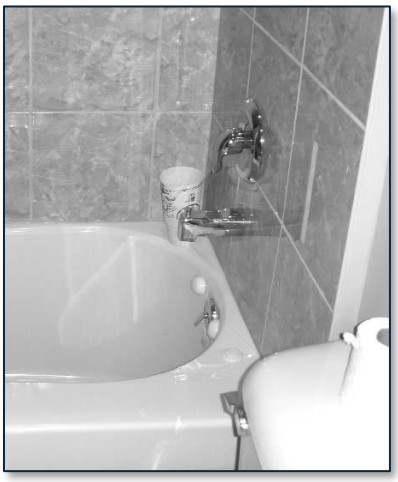
iv. Preservation of existing affordable housing

The committee looked at the wealth of existing affordable housing units already in the neighborhood. Many of these apartments were built 50 to 90 years ago. Many of the rents in these buildings are affordable for households in the 30 - 80% of Area Median Income range the Subcommittee identified to address.

With the properties that were older and affordable but did not pose chronic code violations, the committee looked at strategies that would help preserve these housing units for the next 50 years.

One presentation to the committee suggested a PUD overlay would allow a more flexible zoning standard. The committee was shown pictures of Austin, Texas (Rainey Street) where older residential buildings on the edge of downtown had been converted into commercial spaces. This conversion allowed the properties to afford renovations to the remaining residential spaces. In some cases, kitchens and outdoor dining were used and the neighborhood's density and walkability made these very successful operations.





In a series of charrettes starting on March 12 the large Subcommittee broke into three sub groups. The small groups were tasked with addressing a number of issues, including the issue of zoning changes that would change residential spaces into commercial uses. Two of the three sub-groups rejected this plan principally because it ran counter to the committees charge of preserving or adding affordable housing.

Members of the executive committee attended a meeting with City Law and Building and Safety Departments to review the possible adoption of what was said to be a more flexible building code. Building and Safety is reviewing an adoption of a remodeling building code. The discussion in the larger Subcommittee about changes to the building codes allowing renovation of older buildings that did not directly impact health and safety issues generally were accepted as a positive step towards encouraging investment that would preserve older apartments.

In February, both the large group and the executive committee discussed the LES sustainable energy program that was designed to bend demand, which causes LES to add additional generating capacity. LES, in their budget, had not found applicants for a million dollars of sustainable energy funds. The group and LES discussed possible modifications of this program to make better use of these funds for their intended purpose and at the same time allow the funds to help preserve this large stock of affordable housing within the city. LES agreed to do an energy audit of several of the buildings within the Everett Neighborhood and report back their findings. The Subcommittee felt that alterations of some of the criteria that would allow expanded funding in a targeted manner would allow LES a means to determine if they could get a greater bang for their buck. The mission of preserving existing affordable housing would also be more successful.

<u>Recommendations:</u>

- Adopt the International Property Maintenance Code (building codes specific to rehabilitation) to increase investment in older properties.

- Create incentive programs for rehabilitation tied to preservation of affordable housing.
- Modify the LES sustainable energy fund.
- Expand the use of co-op housing to preserve existing buildings.
- Expanded use of the "small TIF" program with preferences for affordable housing.
- Restrict on street parking during certain hours to residents of the neighborhood.
- Address parking regulations and requirements that prevent affordable housing.

c. Prioritization

At the May 21st meeting, the Subcommittee approved all the strategies listed in this report. Subcommittee members had the opportunity (at the May 21st meeting) to nominate and approve additional strategies. Also at the May 21st meeting, a dot exercise was completed to help prioritize those previously approved strategies. Each member was given six dots and was instructed to place three dots on strategies that increase the supply of affordable housing and three on those that help preserve and protect existing affordable housing. An on-line follow up for those strategies added on May 21st was done and has been included in the Summary Report.

3. Conclusions

The Subcommittee discussed the next steps to implement the strategies identified in this report. It was recommended that "Champions" be identified to implement each of the strategies. "Champions" are individuals, groups or government departments that will spearhead each or several of the strategies. The Subcommittee identified this as a task for the South of Downtown Coalition Steering Committee and would also fall under the purview of the consultant chosen to implement the Lincoln Affordable Housing Coordinated Action Plan.

All the Subcommittee members felt that the success of the South of Downtown Affordable Housing Subcommittee recommendations require a rapid implementation of multiple strategies.