

Document No. 2003-57

October 24, 2003

REPORT TO THE CPED EXECUTIVE DIRECTOR

FROM: Cynthia Lee, Manager, Multifamily Housing, x 5266

SUBJECT: Revised and Restated Housing Developer Fee Policy Guidelines

Approved:

Department Manager_____
Chuck Lutz, Deputy Executive Director_____
Date

PREVIOUS DIRECTIVES: The current housing developer fee policy was established in August of 1997. The Development Finance Committee reviewed and commented on this report over a period of several months in 2003.

NEIGHBORHOOD GROUP NOTIFICATION: Not applicable.

IMPACT ON MCDA BUDGET: No impact.

RECOMMENDATION: Approval of the revised and restated housing developer fee guidelines as described herein.

The question of appropriate developer fee, profit, overhead and return has been raised in relation to several recent multifamily housing projects. In response, staff, together with the Development Finance Committee, have spent some time analyzing the current policy. Feedback was also solicited from the Minneapolis Consortium of Community Developers and LISC. A comparison was made to developer fee policies from other jurisdictions.

Developer fee guidelines apply to all MCDA/CPED-assisted housing projects (as defined in the city's Affordable Housing Policy). Assistance includes direct MCDA/CPED/NRP funding (including pollution funding or other public funding administered by MCDA/CPED), TIF, bonds, and land writedowns. Developer fee limits are not imposed on market-rate land sales with no city assistance.

The current housing developer fee policy guidelines are as follows.

- The MCDA rental policy is a maximum total fee (which includes developer fee, development consultant fees, profit and overhead, Non Profit Development Assistance and all deferred fees) based on a percentage of total development costs minus developer fee as follows: first 30 units = 15%, units 31 and over = 8%.

- Rental cash flow returns are to be analyzed to determine if there is any excess available for loan repayment (especially for mixed-income projects).
- MCDA policy for developer fees for single family ownership housing is a maximum of 8% of total development costs. Higher fees possible for multifamily condo/townhouse projects based on level of risk or other factors.
- Return on equity may range from about 12-25%. This again is dependent on a number of factors.
- For ownership projects, the MCDA generally negotiates participation (40-50%) in surplus profit.

A number of questions surfaced during the analysis. The conclusion of the analysis is that although no major changes are called for, there is a need for clarity so that the policy can be applied fairly and consistently. The restated policy adds language in several areas in an effort to address all aspects of developer compensation.

A comparison to other public funder developer fee guidelines is attached. There is little consensus on this issue, ranging from no policy to extremely restrictive policies. The city needs to establish parameters resulting in good stewardship of its public resources without being so restrictive that it becomes a disincentive to development. (As noted, the city's rental fee policy continues to be more restrictive than MHFA's). The city also needs to acknowledge that developer compensation needs to recognize the growing demands on developers to prepare increasing numbers of funding applications, attend increasing numbers of neighborhood meetings, and to perform increasingly complex financial transactions.

Based on this research and analysis, the recommendation of staff and the Development Finance Committee is as follows.

Recommendations for Revised and Restated Housing Developer Fee Policy Guidelines:

Definitions:

"Developer Fee" shall mean all developer fee, profit, administration and overhead, development consultant fees, Non Profit Development Assistance and all deferred fees.

"Equity" shall mean private investment in the project from the developer or other investor, including foundations and/or documented land donations.

1. **Rental housing developer fees:** maximum total fee is based on a percentage of total development costs minus developer fee as follows: first 30 units = 15%, units 31 and over = 8% for new construction or rehabilitation. **The maximum fee shall be allowed for low income housing tax credit projects, supportive housing projects, and/or highly complex projects where the developer demonstrates extraordinary risk or other factors. Fees for stabilization projects must be proportionate to the level of assistance.**

2. **Single Family ownership housing developer fees:** maximum total fee of up to 8% of total development costs minus developer fee for single family detached.
3. **Multifamily ownership housing developer fees:** maximum total fee of up to 11% of total development costs minus developer fee for multifamily townhouse/condominium development.
The maximum fee shall be allowed for projects which demonstrate exceptional challenges including significant financial risk, major site assembly, extraordinary site improvements/utilities, and/or rezoning/replatting.
4. **CPED participation: Rental:** CPED shall negotiate a percentage return to CPED of 40-50% of surplus cash flow in all mixed-income rental housing projects.
Ownership: Similarly, the CPED shall negotiate a percentage return to CPED of 40-50% of surplus profit in all mixed-income ownership housing projects.
"Surplus" is defined as any excess cash flow/profit over and above the project expenses, allowable developer fee and allowable return on equity.
5. **Return on equity:** a private equity contribution should be pursued for mixed income housing projects where feasible. When private equity is invested, guidelines for a range of 10-20% return on equity (IRR). An outside equity investor may be at the higher end of the range.
Equity contributions by the limited partner(s) of a low income housing tax credit partnership may not be included in the calculation of return on equity.
6. **Asset management fees (or performance fees):** for rental housing, acceptable range of \$25-35 per unit per month. This fee shall be paid only after all operating expenses, debt service and reserves are paid in full.
7. **Limits on other fees:** recommend adopting MHFA guidelines. Maximum contractor/builder profit of 6%, maximum contractor/builder overhead of 2% of net construction costs for all projects. When the developer and general contractor are the same or a related entity, combined developer fee, contractor profit, contractor overhead and general requirements may not exceed 20% of total development costs.
8. **Exceptions and waivers:** none.

cc: Council Member of affected ward
Communications
Virginia Parent

Summary of Developer Fee Policies

Twin Cities LISC staff gathered the following information from other LISC sites and the Minneapolis Community Development Agency staff. This is a brief synopsis of general developer fee policies. Additional information when provided is attached.

Location	Policy	Maximum Fee	Disbursement
Boston/ Massachusetts	<p>Ownership Housing: 12.5% fees and overhead</p> <p>Rental:</p> <ul style="list-style-type: none"> • 5% of acquisition costs • 15% of first \$3 million of project costs • 12.5% of the next \$3 million • 10% of the rest of the costs 	See Policy	No info available
Minneapolis (Minneapolis Community Development Agency - MCDA)	<p>The MCDA rental policy is a maximum total fee (which includes developer fee, development consultant fees, profit and overhead, Non Profit Admin and all deferred fees) based on a percentage of total development costs minus developer fee as follows:</p> <ul style="list-style-type: none"> • first 30 units = 15%, • units 31 and over = 8%. <p>Rental cash flow returns to be analyzed to determine if there is any excess available for loan repayment (especially for mixed-income projects).</p> <p>MCDA policy for developer fees for single family ownership housing is a maximum of 8% of total development costs. Higher fees possible for multifamily condo/townhouse projects based on level of risk or other factors.</p> <p>Return on equity may range from about 12-25%. This again is dependent on a number of factors. For ownership projects, the MCDA generally negotiates participation (40-50%) in surplus profit.</p>	See policy	No info available
Minnesota (MN Housing Finance Agency)	<p>MHFA allows up to 15% on first 50 units for new construction or substantial rehab of \$5,000+/unit</p>		No info available