COUNCIL OF THE CITY OF PHILADELPHIA

COMMITTEE ON HOUSING, NEIGHBORHOOD

DEVELOPMENT AND THE HOMELESS

Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, November 14, 2019
1:59 p.m.

PRESENT:
COUNCILMAN ALLAN DOMB, CHAIR
COUNCILWOMAN JANNIE L. BLACKWELL
COUNCILMAN DEREK S. GREEN
COUNCILWOMAN HELEN GYM
COUNCILMAN AL TAUBENBERGER

BILL 190860 - An ordinance amending Title 7 of The Philadelphia Code, entitled "Housing Code," by adding a new Chapter 7-200, entitled "Preservation of Affordable Housing"...

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COUNCILMAN DOMB: Good afternoon. This hearing is called to order, and I want to recognize the presence of a quorum of Committee members. Members of the Committee in attendance are, to my far left, Councilmember Al Taubenberger, Councilmember Helen Gym. To my immediate right, Vice Chair of this Committee, Councilmember Jannie Blackwell, and to my far right, Councilmember Derek Green.

This is the public hearing of the Committee on Housing, Neighborhood Development and the Homeless. The purpose of this public hearing is to hear testimony on Bill No. 190860 sponsored by Councilmember Derek Green.

I'd like to ask the Clerk to please read the title of the bill before this Committee today.

THE CLERK: Bill No. 190860, amending Title 7 of The Philadelphia Code, entitled "Housing Code," by adding a new Chapter 7-200, entitled

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"Preservation of Affordable Housing;" all under certain terms and conditions.

COUNCILMAN DOMB: Councilmember Green, would you like to make a statement on this bill?

COUNCILMAN GREEN: Thank you, Mr. Chair. This is a piece of legislation that some organizations in the affordable housing community, from Regional Housing Legal Services as well as LISC, had talked to me about the need for this issue.

We have a significant affordable housing concern in the City of Philadelphia. I've seen, from my work and experience from being an attorney for the Office of Housing and Community Development over 15 years ago, have seen the reduction in affordable housing units in the City of Philadelphia, especially units where the City and/or state or federal government provide some sort of subsidy to get those units developed. At that time, we were not having the same

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level of construction that we do now, and what's happening, that a number of these units are transitioning to market-rate housing.

As someone that has a background of small business, a former small business lender, entrepreneur, I definitely don't want to impact the market, but to the extent that we can preserve affordable housing units when we're losing so many, that's the goal of this piece of legislation.

I know there's going to be some additional amendments that are being proposed by the Administration. I'm open to working with a number of parties and stakeholders on this legislation to provide the best bill going forward.

Thank you, Mr. Chair.

COUNCILMAN DOMB: Thank you. Thank you very much.

Will the Clerk please call the first panel of witnesses.

THE CLERK: Anne Fadullon,

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Department of Planning and Development.

(Witness approached witness table.)

MS. FADULLON: Sorry about that. Working on the next 35 pieces of legislation.

Good afternoon, Chairperson Domb, Councilmember Green, and members of the Housing, Neighborhood Development and the Homeless Committee. I'm Anne Fadullon, Director of the Department of Planning and Development, and I'm here to testify on Bill No. 190860.

The bill amends the Philadelphia Housing Code by adding a new Chapter on the Preservation of Affordable Housing. The bill provides a regulatory framework through which extended notice would be required for developers of government subsidized housing projects of an impending action that may result in the loss of affordable units. Further, the bill defines a mechanism by which eligible parties would be offered the

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opportunity to purchase the property in order to maintain affordability.

The Department of Planning and Development is open to a variety of mechanisms to preserve affordable rental housing, and we believe further discussion is warranted on the proposed bill to ensure it achieves its intended goal. The Department looks forward to working with City Council, affordable housing developers, and the Administration to consider how to operationalize this bill in the most effective manner.

I'm happy to answer any questions. Thank you.

COUNCILMAN DOMB: Councilmember Green.

COUNCILMAN GREEN: Thank you, Mr. Chair.

Ms. Fadullon, thank you for your testimony. Also thank you for the work that your office is doing in reference to this legislation.

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Can you give us some perspective on your thoughts regarding affordable housing in the City and some of the challenges that are currently going on.

MS. FADULLON: I'm sorry. Can you repeat the last part of your question.

COUNCILMAN GREEN: If you could give some perspective on your thoughts based on your experience currently in your current role and also in your prior role in development of some of the challenges we have regarding affordable housing in the City.

MS. FADULLON: Challenges that we've had regarding affordable housing?

COUNCILMAN GREEN: Just in general, yes.

MS. FADULLON: So I think I've talked about this a little bit or a lot a bit. I think a lot of our challenges are different than sort of what is taking a lot of energy on the national level,

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which is really about very high-cost cities and having a limited supply. We don't necessarily have those exact same issues here, so we don't -- our issue isn't necessarily that we just need to build more, more, more, more. Our issue is more that we have very old housing stock and we have very low incomes. So a lot of it is about how do we preserve the existing stock we have.

For example, if you consider housing or our buildings similar to how you consider other infrastructure, we're a 350-year-old city. We're talking about how do we replace our roads, our bridges, our sewer system, all those things that are starting to deteriorate, because they've been around a long time. The same thing is true of our buildings.

A huge percentage of our buildings are not only 40 years old, but they're 50 years old, 60 years old, 70 years old. So our buildings are starting to -- are more than starting to

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deteriorate. So a lot of our effort is around how do we preserve that.

I think another issue for us around affordable housing, particularly preservation, is that we used to get a lot more federal dollars, so we were able to produce a lot more units. A lot of those units are now starting to age out of their compliance periods, and they are at risk of being lost, because we don't have the same amount of dollars to recapitalize. And so I think we are working very diligently with a lot of the advocates about how do we come up with different solutions in order to be able to preserve those units.

And I have to say one other thing. I'm sorry. And, again, getting to very old units with very low incomes, we have to really continue to push on the income issue, because costs are not going to go down for producing housing, and if income continues to stay flat or decline, that disconnect, that disparity, it's

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only going to get greater and greater and greater.

COUNCILMAN GREEN: Right. I would agree with you. I think the number one issue in the City of Philadelphia is poverty. One of the best ways to address poverty is by increasing jobs, and the best creator of jobs are small businesses.

And I also -- well, before I go to my next point, what's the current amount of dollars, without giving a specific number but just a range, of dollars that the City receives under the Consolidated Plan?

MS. FADULLON: So from the federal government, we receive about, between HOME dollars and Community Development Block Grant, I'd say it's in the area of about 50 million. Then we get another 33 and a half million from continuum of care that ends up going to the Office of Housing -- I'm sorry; Office of Supportive Housing, which I

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think is Liz Hersh's shop. So all told from the federal government, we probably get in the vicinity of about $100 million.

From the state, our shop doesn't get as much money. We get a few million, which is kind of a passthrough. And then from our Housing Trust Funds, thanks to this body and the Administration, we have about, I would say, $13 to $15 million a year coming through the recording fee piece and then we have gotten $20 million over the last two years in the other fund.

COUNCILMAN GREEN: And part of the issue of why we've had to create a Housing Trust Fund, and actually I have another bill to try to provide additional dollars to the Trust Fund, especially for the lowest income individuals with regard to a density bonus, but part of that is that we at the local level have had to make up for the lack of resources that we've been receiving at the federal level.

When I used to represent the Office of Housing and Community Development, we were probably getting in the Con Plan well over $200 million. So I can only imagine -- that's just City of Philadelphia. When you look at other cities around the nation, the lack of resources we've been receiving through the Community Development Block Grant or our Consolidated Plan has gone down dramatically.

I participate as part of the large City Council for the National League of Cities, and I talk to my colleagues in a number of cities about the fact that we are not receiving the dollars that we used to to address affordable housing, and I'm specifically concerned in reference to cities on the East Coast who are old like Philadelphia and also have the same level of resources. Whereas, Boston, they have more resources than we do per capita, but

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other cities like Baltimore, Philadelphia, you look at Wilmington, there's other cities, East Coast cities, that have an older infrastructure having the same issues.

So willing to work with you on addressing some of these issues, and I agree that because we have such an older housing stock, things become much more expensive and the dollars that we can use to support affordability in our city is very important.

So thank you.

MS. FADULLON: Thank you.

COUNCILMAN DOMB: Thank you, Councilman Green.

I have a question for you, Ms. Fadullon. Very nice testimony, by the way. Thank you.

Do we offer financial literacy courses to people in these programs or entrepreneurship courses to anyone in any affordable housing units, that they could take those courses for free to help them

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advance their own personal position in life?

MS. FADULLON: So we do offer some financial literacy services through our housing counseling agencies. We have increased the funding for that. It's not sufficient funding to be able to do it with everybody, but, yes, that is something that we have been working on to expand that.

And then also I would say with our tax credit projects, they are required to have supportive services as a component of that, and oftentimes part of that supportive services that they offer is financial counseling, budget training, those kinds of things to help people increase their income, be able to budget, and hopefully build some up to eventually potentially have the ability to move out of a tax credit unit into a homeownership unit. And I know Andy Frishkoff is here with LISC, and they do a lot of that work as well.

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COUNCILMAN DOMB: Okay. Thank you. Thank you for your testimony today. Thank you.

MS. FADULLON: Thanks. Thank you.

THE CLERK: The next witness is Andrew Frishkoff, who is the Executive Director of the Local Initiatives Support Corporation, or LISC.

(Witness approached witness table.)

MR. FRISHKOFF: Good afternoon, Chairman Domb, members of the Committee, especially Councilwoman Blackwell, who represents the district in which I live, and Councilmember Green. My name is Andrew Frishkoff. I'm the Director of LISC Philadelphia, Local Initiatives Support Corporation, and I would like to present testimony regarding Bill No. 190860 specifically about preservation of affordable housing through Right of Notice and Right of First Refusal.

I would like the permission, if

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it's okay, to bring up two colleagues from Community Legal Services and Regional Housing Legal Services in case there are questions that they would be better able to answer than I.

COUNCILMAN DOMB: That's fine.

(Witnesses approached witness table.)

MS. SCHLOSSBERG: Good afternoon. Thank you to the panel and to particularly Councilmember Green and Chairman Domb. My name is Dina Schlossberg and I am a Deputy Director of Regional Housing Legal Services, and our organization is an active member of the Preservation Network that I believe Andy is going to talk about.

MS. GARLAND: Good afternoon. My name is Rachel Garland. I'm the Managing Attorney in the Housing Unit at Community Legal Services and also a member of the Preservation of Affordable Housing Network.

MR. FRISHKOFF: So I'd like to

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thank Councilmember Green for his leadership in introducing this bill, to all the Councilmembers on the Committee for your commitment to preserving affordable housing in the City of Philadelphia.

These are precarious times for lower-income families and individuals, making the need for affordable housing development and preservation especially acute. One in four households in Philadelphia struggle to pay rent. Philadelphia lost nearly 24,000 market-rate apartments with rents of $750 or less in the past 15 years, and an estimated 10,000 units of affordable housing may be at risk of loss in the next 20 years in Philadelphia due to expiring funding contracts from federal agencies or through Low Income Housing Tax Credit expirations.

As most of you are aware, safe, quality, affordable housing creates opportunities for stable employment,

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serves as a foundation for educational advancement, and continuity of healthcare provision. With the disappearance of naturally occurring affordable housing, preservation of publicly assisted affordable housing becomes increasingly crucial. Publicly assisted affordable rental housing uses federal subsidies such as the Section 8 project-based program and the Low Income Housing Taxing Credit program to support construction and affordable rents for seniors, people with disabilities, and other lower- and moderate-income households.

Unfortunately, publicly assisted housing is also at risk due to expiring subsidy contracts and affordability requirements. Data from the National Housing Preservation Database suggests by 2035 as many as 10,000 units may be at risk, and every Council district in the City of Philadelphia may have at least 100 at-risk units. This is especially

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sobering when we consider the publicly assisted properties that have been lost previously.

For example, in 2016, nearly 220 lower-income seniors were displaced when the building owner of Overmont House converted the property to student housing. The property had been subsidized through Federal Housing Finance Funding and provided Section 8 subsidies to seniors for 40 years.

Foundation for the Future: Developing Philadelphia's Housing Action Plan is the companion to the City's Housing Action Plan that was released earlier this year. It includes core recommendations and strategies to address at-risk properties and preserve affordable rental housing in the City, which include improving available and actionable data about publicly assisted affordable rental properties so we can actually know more clearly what the state of properties are and when they may

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actually be coming up for subsidy renewal or expiration; strengthen the capacity of residents, owners, and others to repair, recapitalize, and manage properties; develop new financing options and revenue streams to preserve at-risk properties; and enact new laws and regulations to support long-term preservation of affordable rental housing.

Bill No. 190860 falls within this fourth strategy. The goal of this bill is twofold:

Right of Notice: Owners to provide a 24-month notice when affordability periods or rent subsidy contracts expire so the City and interested advocates and purchasers have time to develop a preservation plan.

Right of First Refusal: Opportunity for a qualified non-profit developer, government agency, and/or a tenant association to purchase the property and commit to keeping it affordable.

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The two-year process will create an opportunity for developers and building owners to engage in an open and transparent process for preserving affordable housing. The timeline provides owners with -- that owners will provide notice to the City. The City will have ten days to forward the list of properties to eligible parties and post publicly. Eligible entities have 180 days to provide bona fide offers to owners. And if no bona fide offer is received, the owners can secure a purchaser and must notify the City of purchase price. Eligible entities have an additional 60 days to reach a matched agreement of sale. And throughout the process, owners can market the property and sell to an entity that agrees to affordability restrictions.

Through discussions within the Preservation Network, I am aware that there are requests to clarify some of the proposed timelines in the bill and that

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the Administration is proposing some technical amendments. LISC is not opposed to any such friendly amendments that will strengthen the bill. I would also support language that specifies the need for a regulatory framework that can be completed prior to the date that the provisions of Bill 190860 would take effect.

As we know, Philadelphia is experiencing a period of economic and population growth. In tandem with the other three preservation strategies included in Foundation for the Future, Bill No. 190860 will further Philadelphia's prosperity by helping residents stay in their homes and neighborhoods while they seek further economic opportunities.

Thank you.

COUNCILMAN DOMB: Thank you for your testimony.

And the Chair would like to recognize Councilmember Green.

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COUNCILMAN GREEN: Thank you, Mr. Chair.

I've heard some perspective regarding this legislation, that it would impact the ability for the City to have additional affordable housing going into the future. I wanted to get your perspective on that position and also how this legislation may impact in a negative way the affordable housing market.

MR. FRISHKOFF: I don't know that there's any clear indication and no data that I'm aware of from other cities that enactment of these provisions would have a deterrent effect on creation of new affordable housing proceeding forward. This simply creates a regulatory framework to allow for a disposition of properties, if the owners choose to sell, which would allow for new owners to maintain affordability.

I think the other thing I would just state is that, generally speaking, preservation of affordable rental housing

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generally is a less expensive task than creation of new affordable rental housing for the same residence. Generally it may take $350,000 per unit to create a new affordable rental unit, and it may take as little as 40,000 or up to 200,000 typically for preservation.

So the other thing I think we would want to look at in the calculus is maintaining affordability of these units is greater than creation of new just in terms of the cost benefit to the public.

COUNCILMAN GREEN: So you're saying from a cost-benefit analysis, it's more expensive to build additional affordable housing units than to preserve existing affordable housing units. And considering that we have a declining number of affordable units and a limited amount of resources, anything that we can do to maintain the number of our existing units, even though that number is not enough, is something that you would be supportive of?

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MR. FRISHKOFF: Yeah. So I would say so we don't have enough affordable units, but a reduction in the existing number is a cost that we cannot afford for our city, and it simply would cost almost twice as much to keep pace for any units that we lose to create a new replacement unit.

COUNCILMAN GREEN: Any other commentary from members of the panel?

MS. GARLAND: I think the other important aspect is that the affordable housing that we stand to lose right now is often in neighborhoods of opportunity, and in order to build new affordable housing, we're not going to be able to build them in the same neighborhoods of opportunity. And so in an attempt to stop the concentration of poverty in certain neighborhoods, it's really important that we are able to hold onto the affordable housing in the neighborhoods -- sorry. I believe it's important that we be able to hold onto

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the affordable housing that currently exists in neighborhoods of opportunity, such as University City.

COUNCILMAN GREEN: When you say "neighborhood," just for the record can you define how you view neighborhoods of opportunity. It can be a different phrase for different people.

MS. GARLAND: So neighborhoods of opportunity are neighborhoods that are close to public transportation, close to jobs, close to good schools, close to people's places of employment that help lift families out of poverty as opposed to neighborhoods that are further away from these other opportunities. And for children, there are statistics that show that if you grow up in a neighborhood where you have access to a good education, to food, to your parents being able to go to work, you're much more likely to be able to pull yourself out of poverty than if you live in a neighborhood where you're far away from

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these things.

And so it's important that we as a city be able to look holistically where we currently do have affordable housing and how do we continue to preserve affordable housing in those specific neighborhoods and not just look in totality at the City and say, well, we have X number of affordable housing units and it doesn't really matter where they are in the City.

MS. SCHLOSSBERG: Thank you. Yes. I just want to echo what Rachel has just described. We are very concerned that residents that are living in neighborhoods that are moving towards stability, moving towards transforming -- particularly transforming kind of economics, that the people who live in those units have an opportunity to reside in that community over a longer period of time.

We can answer also if there are any technical questions about this bill.

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I know it -- we'd be happy to answer any of the technical questions as we -- if you have any questions about what eligible party or Right of First Refusal, et cetera.

COUNCILMAN GREEN: If you could maybe just for the sake of the record just walk through the kind of timeline to give a little perspective on the thinking that went into the aspects of notice as well as the aspect of the Right of First Refusal.

MS. SCHLOSSBERG: Sure. I'll start. You guys chime in.

So the way it's perceived or the way it's described is that if a party who has a covered or protected action is interested in, say, selling their building or perhaps deciding in advance that they're no longer interested in having a long-term contract for, say, project-based Section 8, they're required to give notice that -- it would be as Andy Frishkoff has described, 24 months,

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in advance of the action that you intend to take.

That notice has to be provided to the City of Philadelphia, to the local -- the District Councilperson, to the Office of Department of Planning at the City, and also has to go to Community Legal Services and to the tenants. And that notice is simply to advise that the party is interested in taking that action; that once that notice has been provided, the City has ten days to provide that notice to a group of already pre-qualified parties who have been pre-qualified to be able to enter into an agreement and the opportunity to purchase their property, if that is the action, if the party is intending to sell.

For the first six months after the notice has been provided, the seller may only enter into an agreement with one of those pre-designated eligible parties. It doesn't stop a seller from marketing. It doesn't stop a seller from having conversations. It's simply asking the sellers to take a pause and allow the coordinated, I guess, network to find a buyer who might be interested in keeping the property affordable for a longer period of time.

At the end of that six-month period if there is not an eligible party that has come forward that has reached an agreement with the seller -- we can't make a seller enter in an agreement they don't want to enter into, but if at the end of that six-month period if there is no agreement, the seller or the property owner is free to take other action.

If that property owner enters into a contract or an agreement with another party who is not an eligible party, they are then required to give those material terms back to the City so the City has another 60 days -- that's the Right of First Refusal -- to try to find a purchaser who would be willing to keep the property or interested in

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keeping the property affordable over a longer period of time.

COUNCILMAN GREEN: I have no other questions.

Thank you, Mr. Chair.

COUNCILMAN DOMB: Thank you, Councilmember Green.

Thank you for your testimony. I do have one or two questions I wanted to ask you.

The 8,600 affordable homes and apartments that you currently have in Philadelphia, what's the average rent of those properties?

MR. FRISHKOFF: So these are the ones where LISC has financed or done equity investments in the National Equity Fund. So I would say typically they are in the range of $750. That will vary both by the age -- so some of them we did 30 years ago. Others more recently will probably have a higher rent, and it will also depend on the unit size.

COUNCILMAN DOMB: And the other

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question, just as a suggestion, because it's something that's important to all of us. Are you familiar with Benefits Data Trust?

MR. FRISHKOFF: Yes.

COUNCILMAN DOMB: So I have carried this chart, it's pretty ratty, in my pocket. But it shows there's $450 million of federal money that we leave on the table, and I'm just wondering if there's any way that you could connect those people, the 8,600 people, to these programs, or maybe you're already doing that, but the more we can get this money in their hands, the better it will be for everybody.

MR. FRISHKOFF: I think we can all do a better job. There have been efforts, some of which were led by HUD, to try to create information networks for both Housing Authority residents as well as residents in other federally assisted properties. I don't know the current status of those. We try to do it in

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partnership, but I think we could do better. And I do think if the Benefits Data Trust were able to have the contact list -- that's all the key for them in their model -- then it would be possible for their model to be --

COUNCILMAN DOMB: So would it be okay for us to set up something with Benefits Data Trust and your firm to see if we can get a better --

MR. FRISHKOFF: So the only caveat being since we're the lender and not the owner of record, we would be able to do referrals, but we wouldn't have the list of the residents. But, yes, we'd be happy to be an intermediary in that conversation.

COUNCILMAN DOMB: Because the more we can get this money out, the better.

Thank you. Thank you for your testimony.

Any other questions?

(No response.)

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COUNCILMAN DOMB: Seeing none, thank you for your testimony.

(Thank you.)

THE CLERK: The next witness will be Jacob Fisher, Regional Vice President of Pennrose, LLC.

(Witness approached witness table.)

MR. FISHER: Good afternoon, Chairman Domb, Vice Chair Blackwell, Councilman Green, distinguished members of the panel. Thank you very much for the opportunity to testify today. My name is Jacob Fisher. I'm Regional Vice President with Pennrose, LLC. On behalf of my company and its owners, Richard Barnhart, Mark Dambly, and Tim Henkel, I'm here to speak in opposition to the proposed legislation. As developers and proponents of affordable housing, we recognize that the intent of this bill is to extend affordability, but we feel that the legislation takes the wrong approach.

First, the bill presumes that

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any sale or expiration of an affordability covenant means that the project will inevitably become market rate. This has not historically been the case. Over Pennrose's 40-year history, we have developed 1,559 units of affordable housing in 34 separate developments in Philadelphia. Over that time period, we have occasionally sold or otherwise transferred ownership of our properties to our non-profit partners. In some cases, rather than sell, we have secured new resources to renovate a property and extend its affordability; for example, Regent Terrace in Southwest Philadelphia. In 1988, we converted a dilapidated, vacant historic building into 80 affordable housing units. Then 17 years later, in 2005, we secured resources to renovate it and extend the affordability for another 30 years. We did the same thing a few years later with 96 units in Strawberry Mansion. And in only one case have we sold a property

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which was then converted to market rate, which was Cloisters in West Philadelphia in Councilwoman Blackwell's district. It consisted of 110 units which went to market rate, which means that 1,449 of the units that we have developed in Philadelphia remain affordable.

The second problem that we have with the bill is that it interferes with the design of the Low Income Housing Tax Credit program. The tax credit program, which is hands down the most successful engine for the development of affordable housing in the history of this country, has helped to fund almost all of Pennrose's Philadelphia developments. Participation in this program requires many trade-offs. The tax credit developer foregoes the potential short-term gain from developing, leasing, and selling a market-rate property. Instead, commits to keeping the property affordable for a minimum period of 30 years, maintaining the property,

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investing in capital improvements, funding operating deficits as needed, and basically doing the right thing for that period of time. In doing so, the developer earns a fee and earns the opportunity that at the end of 30 years, the property would have the potential, under the right conditions, to be sold at a market price, with minimal regulatory impediment. This bill, which would be applied to any affordable property regardless of when it was developed and how much time is left on its affordability covenant, reneges on this original premise of the tax credit program.

Finally, the timelines required by this bill create problems for tenants, owners, and potential buyers. Providing a two-year Notice of Intent to Sell will cause unnecessary stress for residents. It creates an atmosphere of uncertainty, where in reality the property may never become market and the tenant may not have anything to be concerned about.

The required two-year notice may also impact an owner's ability to sell and a buyer's interest in buying. Whether you're selling an apartment complex or selling a house, time is of the essence in any real estate transaction. An offer available today may not be there in six to eight months because market conditions may have changed, interest rates have gone up, or buyers moved on to another property. The bill slows things down too much. It requires that the owner delay the wider marketing of their property for six months. Then it requires that the owner offer a Right of First Refusal to a group of eligible buyers that already did not buy the property during the initial period. These waiting periods may diminish the value of the property by making buyers less interested or it may kill the possibility of a sale by turning buyers off completely.

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It's not clear how distorting the market in this way serves the intent of extending affordability. Rather, it penalizes developers and creates a more inhospitable environment for developing affordable housing in the City.

If the goal is to preserve affordable housing, here are some suggestions to modify the bill or to introduce a new program. One is to create a fund that helps firms to acquire properties coming out of compliance or to help owners re-syndicate their properties and extend the affordability period, as Pennrose did with Regent Terrace and in Strawberry Mansion.

Second, provide housing vouchers to tenants in properties that might be subject to sale and conversion to market rate to ensure that they have ongoing opportunities to pay an affordable rent either in their current community or another one.

Finally, consult with

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developers to determine appropriate timelines that work with market conditions and do not impede developers' ability to sell.

Pennrose would be pleased to work with this Committee and others to design -- on the design of any program or bill that would create new and preserve existing affordable housing, but we feel that this proposed bill is not the answer as drafted.

Thank you very much for the opportunity to present to this Committee.

COUNCILMAN DOMB: Thank you for your testimony.

Councilmember Green, I think you have some comments.

COUNCILMAN GREEN: Thank you, Mr. Chair.

Mr. Fisher, thank you for being here to testify. If I'm correct, you previously worked for at that time I think it was the City's Office of Housing and Neighborhood Preservation; is that

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correct?

MR. FISHER: No. I worked under Mayor Street on the Neighborhood Transportation Initiative.

COUNCILMAN GREEN: Right. But part of the Street Administration under NTI, which was working closely, which was the Office of Neighborhood Transportation Initiative, which also worked closely with the Office of Neighborhood Preservation, which was the name after it was the Office of Housing and Community Development, and now it's Department of Community Development. The names have changed quite a bit.

MR. FISHER: If you say so, I'm agreeing.

COUNCILMAN GREEN: But clearly you've worked in City government, worked with a number of different housing agencies over time and very familiar with the work that's done by the various departments in your previous role before you joined Pennrose as a Regional Vice

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President.

So I'm looking at your testimony, and I just had a few questions, if you can maybe provide some more clarity. In the second paragraph of your testimony, you make reference to the fact that the bill presumes that any sale or expiration of an affordable covenant means that the project will inevitably become market rate. Can you give some perspective on that?

MR. FISHER: Well, so when Andy Frishkoff testified earlier, he cited some statistics that basically talked about, I think he said, 10,000 units or -- correct me if the number, but those are properties that I guess will be coming out of compliance -- either coming out of a compliance period or coming out of some long-term subsidy contracts, and the potential is there, to sort of the mind of the drafters of the bill, that any one of those properties could become market rate. And so it presumes that the

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end of a compliance period means that there is a move towards that property becoming market rate.

COUNCILMAN GREEN: So the fact that this legislation as currently drafted -- and I'm open to working with some amendments. I know the Administration has some amendments that will be forthcoming. But the mere notion that legislation that requires some type of notice and a Right of First Refusal, you're saying that the legislation, just by having those two steps, presumes that all LIHTC properties become market rate?

MR. FISHER: Yeah, or presumes that they're in danger or susceptible to becoming market rate.

COUNCILMAN GREEN: But they are susceptible to become market rate, because if you look at your second paragraph -- I'm sorry; the third paragraph of your testimony, you talked about your second problem with the bill is that it interferes with the design of the Low Income Housing Tax Credit program. So give me some perspective how it interferes.

MR. FISHER: So the Low Income Housing Tax Credit program, which was established in 1986 as part of the Tax Reform Act, creates the incentive for a public-private partnership, and that partnership is built on a private entity, which could be a for-profit or a non-profit, developer to find a piece of land, put together the financing for a deal that will be affordable in exchange -- and then present that project to the financing agencies. The financing agencies award tax credits to that program, to that project, and the developer has the opportunity to sell those credits to a private investor, and in exchange for the resources that come from that sale, the developer is agreeing to a number of things.

One, they're agreeing to provide all of the guarantees, the

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operating deficits, the construction guarantees, completion guarantees that you're going to lease it up to people that are in fact income qualified, for a period of time, and that period of time is 30 years. And in exchange for those resources, the developer is making that commitment for 30 years. And the way that the program is drafted is that after that 30 years, the compliance and the deed restrictions are lifted, and so the developer has choices of what to do with that property, whether it's to sell it, whether it's to continue to own it, keep it affordable, whether it's to convert it to market rate if the conditions in the neighborhood where it is allow for it. They have options. And this would -- this legislation would seem to not eliminate those options, but certainly slow them down and make it more difficult and more onerous at the back end of that compliance period for the developer to take the next step, whatever that's going to be.

COUNCILMAN GREEN: Right. Slow down the options to sell it from a market-rate perspective.

MR. FISHER: Correct. Or sell it at market, whether it's to -- because it also --

COUNCILMAN GREEN: Well, sell it at market and market rate, aren't they synonyms?

MR. FISHER: Well, there's market for affordable. There's market for market rate. Those might be two different numbers. They could be the same number. And it also limits the pool of potential buyers at the outset, and this bill requires that those potential buyers are all non-profits. Well, there's plenty of for-profits out there that buy and sell affordable housing and maintain affordability. So this seems to create a pretty tight circle of who could be your potential buyer.

COUNCILMAN GREEN: Granted. I

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mean, that's one of the revisions I'm looking in the legislation, that if you're a for-profit or non-profit entity committed to keeping a Low Income Housing Tax project affordable, you should be able to purchase the property at market, and that's something that we're looking to amend.

But looking at your testimony, when you say it interferes, it gives a perspective that it's a presumption that market-rate developers -- well, those who want to sell this project at market rate will be interfered with. So that contradicts with your initial perspective of the presumption.

MR. FISHER: How does it --

COUNCILMAN GREEN: Well, you're saying that the legislation presumes that any project will inevitably become a market-rate project, but then you're also saying that we don't want to have restrictions on the ability for options for a developer that takes a 30-year commitment to then be able to sell to a market-rate developer. So your presumptions are somewhat in contradiction, because you can't say in the first set that this legislation believes that all projects that have a tax credit project become market rate, but then you're also concerned about the option to be able to sell at a market-rate perspective.

MR. FISHER: Well, it seems to treat -- I mean, we can certainly debate what the testimony says. I mean, it seems to treat the potential that properties will go -- like the potential that any of these properties coming out of their compliance period will go market rate and uses, I would say, a sledgehammer approach to say before you -- once that compliance period comes off, we want to take -- we're worried that you're going to take this market rate, and so here's a whole system of regulations and notice periods and Rights

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of First Refusal that will sort of limit for a period of time your flexibility as the owner of this property that's owned it for 30 years and done the right thing to take whatever the next step is with your property.

COUNCILMAN GREEN: And so your perspective is that this legislation in reference to both a notice requirement of Right of First Refusal is a sledgehammer approach that Pennrose does not support?

MR. FISHER: Yes.

COUNCILMAN GREEN: Okay. Is that a new perspective?

MR. FISHER: New to?

COUNCILMAN GREEN: Is it new that Pennrose does not support this type of dynamic of Right of First Refusal?

MR. FISHER: No. So I think what Pennrose is in support of is flexibility to take whatever approach to disposition or the retention or the re-syndication or the extension of affordability periods that we have at our

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disposal when these compliance periods expire and not to be limited by sort of a change of the rules from when we started -- for when we built the property and what was expected at the tail end, not to be limited by that. And that's, again, not to say that it goes market. There's much more -- there are many examples of these properties staying affordable without the advent of some other system of regulations that sort of limits how the property is disposed of.

COUNCILMAN GREEN: I guess my point is that you now believe that a Right of First Refusal is a sledgehammer approach?

MR. FISHER: Well, so I think that the sledgehammer side of it is you have to wait six months to -- you have to market for six months to this limited group of non-profit buyers, which, by the way, I disagree that it takes six months to figure out whether you want to buy a property or not, and then after six

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months, go and market that widely, either as -- you're now opening the circle of who you're marketing to and saying, hey, what's the price, whether it's market, whether it's affordable, figuring out what that price is and then going back to this group that already didn't buy it the first time and say, here's another bite at the apple. That buyer in the middle who waited the six months and then made the offer, what's their incentive to make an offer, whether they're offering for market or affordable, if they know someone can come and scoop it out from under them based on this Right of First Refusal?

COUNCILMAN GREEN: Well, we can go back and forth on that, but I just find it interesting, and I'll somewhat close, that Pennrose now is taking the perspective that this is a negative approach. Back in the mid '90s, Pennrose worked with Center in the Park for Maple Village, and in that development there

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was a Right of First Refusal included in that project. That was done some years ago. And so Pennrose was willing to participate in the Right of First Refusal then. You would think they would want to participate in similar projects for other developments around the City of Philadelphia for a Right of First Refusal, which similarly just provides an opportunity for the non-profit entity to try to purchase the project and keep it affordable. And it's something that I think that we need to do going forward because of the lack of affordable housing units that we have in the City of Philadelphia. It's just interesting that it was okay then, but it's not okay now.

Mr. Chair, I'm finished my question.

MR. FISHER: May I respond to that? And, Councilman, and this is I think an important distinction to say that, yes, we have accepted and we continue to accept Rights of First

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Refusal on projects with non-profit partners, with housing authorities, with cities all the time. I think that the difference here and the reason that it's objectionable is that it wasn't part of the project and now it's being imposed later on by the City after the fact to a project that is already at some stage of its compliance period. So it is for that purpose changing what the deal was with respect to that particular project.

But I agree that we have accepted Rights of First Refusal on deals and continue to do so if that's what's negotiated up front and that's the terms of getting into the project.

COUNCILMAN GREEN: I was going to finish my question, but since you opened the door. So it seems like in those situations where you have a non-profit that may have counsel or they themselves have the perspective that they need to negotiate a Right of First Refusal at the time of the project,

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that's okay in order for it to be acceptable for Pennrose, but for other organizations that may not have that same level of expertise, it's not okay. So it's good if you're negotiating a Low Income Housing Tax Credit project and you have a non-profit partner that has the skill set and expertise to say we want to have a Right of First Refusal of this project to make sure that we have the ability to purchase this project when the 30-day time period is up, that's okay in that perspective, but for others who may not have the same level of expertise to request that at the negotiating and bargaining table, that's not okay.

I mean, you don't have to answer, but that's clearly what I'm gathering, that if some non-profits have that ability, then we'll be forced to negotiate that because we're now bargaining, but for others that may not have the same level of expertise, so be it. We want to be able to have the

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options to be able to sell it if we need to at market rate, even though we've made an investment in this project through public dollars to make this project go forward for affordable housing.

Thank you, Mr. Chair.

COUNCILMAN DOMB: Thank you, Councilman Green.

I have a few questions. I'm not that familiar, so I'm going to ask you some basic questions.

Pennrose, give me an example of your company. When you sell a property, you said most of the properties you've sold are going back into affordable or are you redoing them into affordable housing?

MR. FISHER: Correct.

COUNCILMAN DOMB: When you made those decisions to stay with affordable housing versus going and selling one of the properties for profit, what's the analysis you use to determine that?

MR. FISHER: So it's based on

the situation and the opportunities. So if there is -- in a lot of cases, just back to the last set of questions from Councilman or statements from Councilman, we have an investment in a neighborhood, we have a non-profit partner, we have some other reason why it's really important that it needs to stay affordable, then that unit will stay affordable. In the one case where we sold a development, there was a market opportunity and the developer wanted to purchase it and convert the units to for-sale units.

COUNCILMAN DOMB: Is the long-term goal of people who do this Low Income Housing Tax Credit program after 30 years to sell it at market rate?

MR. FISHER: It's not, no. No. I think that certainly for us and for other developers, we're committed to doing affordable housing, and it's hard to build a business based on, hey, in 30 years, I might have an opportunity to do

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something with the property. That's not how we work. It's much more calculated. We want to build. We, by the way, have an affiliated property management company, so we manage and maintain the properties that we develop, and our ability and our business is really built on being able to do more affordable housing developments. And so the care that we take to maintain our properties is really what enables us to get more resources to do more of these projects in the future.

COUNCILMAN DOMB: Can you explain to myself and anyone else who might be listening in simple terms the Low Income Housing Tax Credit program, how does that actually work.

MR. FISHER: So the Low Income Housing Tax Credit, as I mentioned, it's a public-private partnership, and the key pieces of it are a site and a developer. So the developer secures a site and then applies for tax credits, and the tax

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credits are allocated by a housing finance agency. In Pennsylvania it's the Pennsylvania Housing Finance Agency, which is a steward of the tax credits, which come from the federal government, from the IRS.

COUNCILMAN DOMB: Give me an example of tax credits. What are you talking about? Is this a dollar-for-dollar?

MR. FISHER: So the tax credit is a reduction in the tax bill of the corporate entity that purchases that.

COUNCILMAN DOMB: Is that a dollar-for-dollar reduction?

MR. FISHER: So it's a dollar-for-dollar reduction, and it's typically purchased at a discount. So the buyer of the tax credits might pay 95 cents for a dollar's worth of tax credits, and the tax credits when monetized, they will provide something like 60 to 70 percent of the equity needed to build a project. So it's a

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significant resource. It's a scarce resource. It's allocated to states based on population. $2.15 of tax credits are allocated per person in a state, and there's a lot of competition. There's a lot of great developers, both for-profit and non-profit, that are competing for these resources all over Philadelphia and all over the Commonwealth.

COUNCILMAN DOMB: And after 30 years, if you owned one of these properties, could you go back in and try to reapply for tax credits again, or you can't, if you did some renovation work?

MR. FISHER: You can. You can, yeah.

COUNCILMAN DOMB: So that's the motivation to keep doing, I guess, then, right?

MR. FISHER: Right. And in doing that and the trade-off there -- and this was one of the suggestions at the end of my testimony. There's frequently other dollars that are really needed to

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help make that deal work, but the public benefit there is that not only are you getting a re-up of the property and a freshening up, but signing on to an additional 30 years of affordability for that property.

COUNCILMAN DOMB: Okay. Thank you.

I'd like to recognize my colleague Councilman Taubenberger.

COUNCILMAN TAUBENBERGER: Thank you, Mr. Chairman.

The tax credits you spoke of, they are federal tax credits, correct?

MR. FISHER: Correct.

COUNCILMAN TAUBENBERGER: And then they would go to the entity who owns the property?

MR. FISHER: They're awarded to the property owner and then sold to an investor, and the proceeds from that sale are what fund the development.

COUNCILMAN TAUBENBERGER: And who would then be the buyer of those?

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MR. FISHER: So the buyer could be anybody. The buyer could be utility companies, it's banks, it's retirement funds. It's a whole --

COUNCILMAN TAUBENBERGER: Always being private entities?

MR. FISHER: They're always private because you need a tax liability in order to have the tax credit be meaningful.

COUNCILMAN TAUBENBERGER: Right. Okay. Very good. Thank you very much.

MR. FISHER: Thank you.

COUNCILMAN TAUBENBERGER: Mr. Chairman, thank you.

COUNCILMAN DOMB: Thank you, Councilman.

Seeing there's no other questions, thank you for your testimony today.

MR. FISHER: Thank you for your time.

THE CLERK: The next witnesses

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are Miltreda Kress and Jennifer Bennetch.

(Witnesses approached witness table.)

COUNCILMAN DOMB: Good afternoon, and thank you for your patience, and please state your name for the record and go forward with your testimony.

MS. KRESS: Good afternoon. My name is Miltreda Kress. I'm here because as of October 24th, I was living in my home for four years, three months. October 24th I was unlawfully locked out of my home by a slumlord, Yup Lin Sun, who owns many different properties in Philadelphia, who does not -- she does not have a license for any of her properties, no rental suitability.

We went through court and everything. There was a judgment placed on me because I did lawfully hold the rent for two months due to toxic black mold that has made me, my fiance, his father, and my children sick. Two of my

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kids have now been put on asthma pumps, and I have difficulties where I'm now seeing specialists for the toxic black mold that I've been breathing in for the past four years. I never realized how bad it was until just recently, so I started to try to do something about it so we can maintain our health while being in the property. And there's also fire codes on the house now that were just placed on after we started this process of going back and forth with the landlord.

The judge in the case, I satisfied the judgment that was imposed against me so that I could stay in my home. The judge satisfied the judgment, but denied me repossession of the house, even though state law says if we pay the judgment, we stay.

To this date, we're still homeless. I have been given list after list after list of places to go for affordable housing and resources. I have

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not been able to get help nowhere. I work two jobs. During the day I work for the City of Philadelphia and at night I work for a pizza shop doing pizza deliveries. My fiance works, and my father-in-law is a disabled vet who gets a pension check. So he gets about $2,000 a month for disability and his pension.

My concern here is that the resources we're being told are out there, I don't seem to qualify for the resources, yet I have nowhere to live. I have nobody that's willing to help me. I've been reaching out to people. I've been going to places for almost a month now. I have one week to get my stuff out of this house, and they're not even letting me in the house to get my belongings. I've been there for over four years. I have a lot of stuff there.

I don't know what I'm going to do. My fiance's father, he's disabled and he's a vet, and he can't even get us help. So one of the concerns that I have

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here today that needs to be addressed, that one of the issues to homelessness in the City is when you are being unlawfully evicted from your home and you're supposed to be served papers and the Sheriff's Department isn't serving you, the courts aren't serving you, the landlords aren't serving you, why is the courts and the judges helping these landlords, these slumlords, put people and families out on the streets and nobody seems to help and there's nothing -- nowhere for me to go to even get help. I've been to everywhere, and I don't know where else to go. So I just figured I'd come down here and put that on the record.

Thank you.

COUNCILMAN DOMB: Thank you. I would like to say this: After this hearing, if you give us your name and phone number, we'll see what we can do to help you. I'm not sure we can, but we will try our best.

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MS. KRESS: I really appreciate it. Thank you.

COUNCILMAN DOMB: Thank you.

COUNCILWOMAN BLACKWELL: I will as well.

MS. KRESS: Thank you so much, Mrs. Blackwell.

COUNCILMAN DOMB: Can you please state your name for the record. Thank you very much.

MS. BENNETCH: Jennifer Bennetch.

Okay. So I'm not really actually opposed to the legislation and I do believe that it's well intended and will prove to be beneficial, and I do think that this legislation should pass. However, I just wanted to come and talk about really shifting perspectives when we're talking about affordable housing.

As this woman sitting next to me just said, like government subsidized housing is not affordable housing, and that's the thing that we cannot sit back

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and do, is allow a city to be created where the only place for poor, low-income, and middle-income families to live is in government subsidized housing, because not everybody qualifies for it. Not everybody has somewhere to stay while they're waiting for it.

We have a Housing Authority, who I have their eviction data from the years 2013 to 2018. They're evicting between 8,000 to over 10,000 families a year. So this is 10,000 families a year being evicted from public housing. So now they're not going to qualify for any other low-income housing programs. So where do people go?

We can't keep only focusing on this aspect. We need to incentivize the private landlords who are providing affordable housing. There's nothing for them and they're being targeted by L&I, they're being fined, they're being taxed out, and that's how like the situation that this woman is in.

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You can't take your paycheck and find a place to go, but you're probably $200 annually over the limits to qualify for any of these subsidies and these assistances, and even if you do qualify, where do you go while you're waiting on it?

But we're not talking about the Housing Authority. Why are we making any legislation about this Housing Authority that's selling and auctioning and bartering and just playing with the lives of poor people in our neighborhoods? They have eradicated affordability in North Philadelphia. In my neighborhood five years ago, you could come and you could get an apartment with your paycheck. Now there's nowhere to be afforded in North Philadelphia. They seized 1,330 properties through eminent domain in 2015. Since they've seized these properties, they have sold and auctioned off almost 800 or disposed of in other ways properties that are all

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within walking distance of the land that was seized through eminent domain.

So when we're talking about preserving affordability, that we need to talk about preserving affordability for folks who don't qualify for or can't wait for public housing. We need to talk about putting some accountability on this Housing Authority, because this Housing Authority is just selling everything off and they don't care. And it's not only affecting the people that live in PHA, but it's also affecting the people that live outside of PHA, like how my taxes have quadrupled in the past four years.

So we can't just keep just talking about this, like government subsidized housing should not be the only affordable housing. People shouldn't be cordoned off where everybody with a mental disability lives here and everybody who has been incarcerated before lives here and everybody who is a single mother lives in this building and

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everybody who is a veteran lives in this building. Like what are we, in Nazi Germany? Like we need to just really raise the perspective of this.

I think that there should be a moratorium against the Philadelphia Housing Authority buying, purchasing, acquiring, obtaining, or otherwise disposing of any land until they can house the people on the waiting list. If they're evicting between 8,000 and 10,000 people a year and the application process has been closed since the year 2013, how do they still have over 40,000 people on this housing list? Like what is happening in this Housing Authority? And then they're spending $45 million on the headquarters, but they can't even get to the people on their waiting list.

So we just need to really open the perspective on this whole affordable housing thing.

Thank you.

COUNCILMAN DOMB: Thank you for

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your testimony.

Any questions from the panel?

(No response.)

COUNCILMAN DOMB: Thank you very much for your testimony. Thanks for coming in today. Thank you.

Is there anyone else here to testify today on any of these bills?

(No response.)

COUNCILMAN DOMB: Seeing none, we're just waiting for a quorum.

(Brief pause.)

COUNCILMAN TAUBENBERGER: I'm here.

COUNCILMAN DOMB: I realize the benefit of being the Chair of a committee, nicer arms and the chairs are on wheels. I didn't realize that.

Okay. Thank you. We'll now move into our public meeting, and the Chair recognizes Councilmember Blackwell for a motion on the amendment to Bill No. 190860.

COUNCILWOMAN BLACKWELL: Thank

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you very much, Mr. Chairman. I move that the amendment to Bill No. 190860 be approved.

COUNCILMAN DOMB: Do I hear a second?

(Duly seconded.)

COUNCILMAN DOMB: It's been moved and properly seconded that the amendment to Bill No. 190860 be approved.

All in favor?

(Aye.)

COUNCILMAN DOMB: The ayes have it, and Bill No. 190860 has been amended.

The Chair again recognizes Councilmember Blackwell for a motion on the bill before the Committee today.

COUNCILWOMAN BLACKWELL: Thank you, Mr. Chairman. I move that Bill No. 190860, as amended, be voted out of this Committee with a favorable recommendation. Furthermore, I move that the rules of Council be suspended so as to permit first reading of said bill at our next session of Council.

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(Duly seconded.)

COUNCILMAN DOMB: It's been moved and properly seconded.

All in favor?

(Aye.)

COUNCILMAN DOMB: Any opposed?

(No response.)

COUNCILMAN DOMB: The ayes have it, and Bill No. 190860, as amended, will be reported out of Committee with a favorable recommendation and with a suspension of the rules so as to allow for the first reading of said bill at our next session of Council.

This concludes our public meeting, and thank you. Thank you all for being here too. Thank you very much.

(Committee on Housing, Neighborhood Development and the Homeless concluded at 3:00 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the proceedings, evidence and objections are contained fully and accurately in the stenographic notes taken by me upon the foregoing matter, and that this is a true and correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

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