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City Hall
121 N. LaSalle St.
Room 107
Chicago, IL 60602
www.chicityclerk.com

Legislation Details (With Text)

File #: SO2019-5555

Type: Ordinance **Status:** Passed

File created: 7/24/2019 **In control:** City Council

Final action: 10/16/2019

Title: Establishment of Chicago Community Land Trust Affordable Homeownership and Housing Pilot Program to preserve affordable housing in gentrifying neighborhoods using Affordable Housing Opportunity Funds

Sponsors: Lightfoot, Lori E.

Indexes: Affordable Housing Opportunity Fund, Ch. 44 Dept. of Housing

Attachments: 1. SO2019-5555.pdf, 2. O2019-5555.pdf

Date	Ver.	Action By	Action	Result
10/16/2019	1	City Council	Passed as Substitute	Pass
10/11/2019	1	Committee on Housing and Real Estate	Substituted in Committee	
9/11/2019	1	Committee on Housing and Real Estate	Held in Committee	
7/24/2019	1	City Council	Referred	

SUBSTITUTE

ORDINANCE

WHEREAS, the City of Chicago (the "City") is a home rule unit of government under Article VII, Section 6(a) of the Constitution of the State of Illinois, and, as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City has determined that the continuance of a shortage of affordable housing to persons of low and moderate income is harmful to the health, prosperity, economic stability and general welfare of the City; and

WHEREAS, the City, through its Department of Housing ("DOH"), desires to establish an Affordable Homeownership and Housing Program (the "AHHP Program") on a pilot basis to help preserve at-risk affordable housing in gentrifying neighborhoods in Chicago through the recording of affordable covenants, ground leases and deed restrictions on specific single-family housing, such housing coming in to the AHHP Program by various means including direct acquisition and disposition by a designated agency for DOH, or voluntary opt-in to the AHHP Program by private owners, as more specifically set forth on Exhibit A attached hereto; and

WHEREAS, pursuant to an ordinance adopted by the City Council of the City (City Council") on January 11, 2006 and published in the Journal of Proceedings of the City Council ("Journal") for said date at pages 67997 through 68024, inclusive, the Chicago Community Land Trust ("CCLT") was created for the purpose of preserving the long-term affordability of housing units created through public subsidies; and

WHEREAS, pursuant to an ordinance adopted by the City Council on April 9, 2008 and published in the Journal for said date at pages 24789 through 24791, inclusive, DOH entered into a Grant and Services Agreement with CCLT on August 16, 2009, as amended ("Agreement"), to provide certain City financial

resources to support CCLT's program activities; and

WHEREAS, DOH desires to further amend the Agreement with CCLT to authorize it to administer the AHHP Program; and

WHEREAS, pursuant to Section 2-44-080(G)(1) of the Municipal Code of Chicago (the "Municipal Code"), funds deposited into the Affordable Housing Opportunity Fund ("AHOF Funds") may be used for the construction, rehabilitation or preservation of affordable housing or may be used in connection with such other housing programs as shall be specifically approved by the City Council for such revenues; and

WHEREAS, the AHHP Program directly enhances the preservation of at-risk affordable housing in gentrifying neighborhoods in Chicago long term; and

WHEREAS, the City desires to authorize the use of AHOF Funds for the AHHP Program; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The above recitals are incorporated herein and made a part hereof.

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SECTION 2. The AHHP Program, as set forth in Exhibit A attached hereto and made a part hereof, is hereby authorized.

SECTION 3. CCLT is hereby designated to administer the AHHP Program, subject to the supervision of DOH.

SECTION 4. AHOF Funds, as may be appropriated from time to time, are hereby authorized for use in connection with the AHHP Program.

SECTION 5. DOH shall issue a report to the Committee on Housing and Real Estate within 12 months of the effective date of this ordinance that provides an overview of the transactions and acquisition processes to date, recommendations for efficiencies to those processes, the feasibility of including 3-4 unit structures and mixed used structures in the land trust, and an analysis and recommendations for improved collaboration among the CCLT and local community land trusts.

SECTION 6. Subject to the approval of the Corporation Counsel for form and legality, and subject to the appropriation of funding, the Commissioner of DOH (the "Commissioner") and a designee of the Commissioner (together with the Commissioner, the "Authorized Officer") are each hereby authorized to negotiate, execute and deliver an amendment to the Agreement for the purpose of administering the AHHP Program for the City and, further, are each hereby authorized to perform any and all acts as shall be necessary or advisable in connection with the AHHP Program, as authorized by this ordinance.

SECTION 7. To the extent that any ordinance, resolution, rule, order or provision of the Municipal Code, or part thereof, conflicts with the provisions of this ordinance, the provisions of this ordinance shall control. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance.

SECTION 8. This ordinance shall be effective as of the date of its passage and approval.

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Exhibit A

AHHP Program

Description and Budget

CHICAGO COMMUNITY LAND TRUST AFFORDABLE HOMEOWNERSHIP
& HOUSING PROGRAM (CCLT-AHHP)

PURPOSE: The purpose of the "CCLT Affordable Homeownership and Housing Program" (CCLT-AHHP) is to create long-term affordable home ownership in City of Chicago ("City") neighborhoods that are experiencing rising housing costs and property taxes and/or gentrification. With the allocation of \$3,000,000, the Chicago Community Land Trust ("CCLT") will (1) acquire and resell properties directly; (2) cooperate with partners that will acquire and resell residential properties; and (3) establish an "OPT-IN" program for existing owners, as described below. Residential properties acquired under CCLT-AHHP will be included in the CCLT portfolio and subject to the terms, restrictions, and requirements of the CCLT Deed Restriction/Covenant. The CCLT may also transfer properties in the CCLT portfolio to local community land trusts (CLTs) or other non-profits by deed, ground lease or other recorded transfer instrument for their portfolios, each subject to CCLT deed restriction, ground lease or other encumbrance as approved by the CCLT.

PROGRAM FUNDS: All funds received by the CCLT under this program are designated "Program Funds" and shall be placed by the CCLT in a separate Program Account in a financial institution approved by the City. Any interest earned on the funds in this Program Account shall be deemed "Program Proceeds" and shall be treated as Program Funds. All proceeds from the sale of residential properties or the recovery of "OPT-IN" Grants (as described below) also shall be designated as Program Proceeds and deposited into the Program Account. The CCLT will provide the City, through its Department of Housing ("DOH"), with a copy of the monthly bank statement for the Program Account, as well as an annual statement at the close of the CCLT Fiscal Year (January 1 to December 31).

ELIGIBLE PROPERTIES: Eligible properties include single-family detached homes, condominium units, townhomes, two-unit residential properties and vacant lots, all located in the City and in neighborhood areas designated as "at risk of gentrification," "gentrifying" or "gentrif ied" by the Board of Directors of the CCLT.

ELIGIBLE CCLT BUYERS: Eligible buyers of CCLT homes are home buyers who do not own other residential property; who will be owner-occupants of the property as their principal residence; and whose gross annual household income does not exceed 100% of the PMSA MedianIncome.

ELIGIBLE OWNERS ("OPT-IN" Program): Owners choosing to place their homes into the CCLT portfolio and execute the CCLT Covenant/Deed Restriction under the "OPT-IN" program will not be subject to the gross annual household income limit at the time that they "OPT-IN" to the CCLT, provided that the Owner executes the Covenant/Deed Restriction that will require that all future resales of the property must be to buyers with gross annual household income that does not exceed 100% of the PMSA Median income, and that the Maximum Resale Price shall not exceed the amount determined by formulae in the Deed Restriction/Covenant. Acceptance of an Owner for the OPT-IN program is subject to an application process, review by CCLT staff, and approval of the CCLT Board of Directors.

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ELIGIBLE PARTNERS/BORROWERS: Eligible Partners/Borrowers are not-for-profit development corporations, community-based organizations, or for-profit developers that wish to use CCLT-AHHP funds for the acquisition of properties for subsequent resale to Eligible Buyers according to the requirements of the CCLT. Full or partial repayment of funds from the CCLT will be determined by the Project Budget at the time of Application for funding, with review and approval by the CCLT Policy and Projects Committee. Any required repayment by the Eligible Partner/Borrower to the CCLT will be due upon sale of the property to an Eligible Buyer and the Eligible Buyer shall execute and be subject to the income restrictions of the CCLT and the terms of the CCLT Covenant/Deed Restriction.

CCLT-AHHP funds may be provided to Partners/Borrowers for acquisition of properties and closing costs associated with said acquisition. Any rehabilitation or repairs must be undertaken by the Eligible Partner/Borrower using other resources, and all rehabilitation or repair work must be performed in compliance with all City requirements regarding building codes, zoning and permits. Eligible Partners/Borrowers must submit a written request and project budget for consideration before funds can be approved.

OPT-IN: "OPT-IN" is a program available to existing owners of Eligible Properties who wish to ensure that their property will remain affordable for Eligible Buyers in the future. Owners participating in this strategy will irrevocably execute the CCLT Covenant/Deed Restriction. The CCLT will obtain a fair market appraisal (at the CCLT's expense) at the time the Owner agrees to "OPT-IN"; determine a fair "affordable value" at the same time (typically affordable for a household at 100% AMI); and incorporate both the fair market value and the affordable value into the Covenant/Deed Restriction as the basis for determining a future Maximum Resale Value.

INCENTIVES FOR ELIGIBLE "OPT-IN" OWNERS: Eligible Owners choosing the "OPT-IN" program will be eligible to receive a Grant of up to \$30,000, for any or all of the following purposes:

- 1) Correct health/safety hazards in the home;
- 2) Make exterior repairs/improvements (such as new roof, windows, porches, etc.);
- 3) Make energy-efficiency improvements (such as insulation & air-sealing, new efficient heating system, etc.);
- 4) Upgrade interior features if none of the prior three uses is necessary, with the approval of the CCLT.

The work performed using these Grants is subject to the CCLT's prior approval of the scope of work and inspection by a CCLT designee prior to any disbursement of Grant funds for work completed.

Execution and recording of the CCLT Covenant/Deed Restriction are prerequisites for commitment and/or distribution of the Grant to an "OPT-IN" Owner. Owners must obtain written proposals for the work from licensed and insured contractors prior to the approval of the Grant.

Owners choosing to "OPT-IN" will benefit from the CCLT's agreement with the Cook County Assessor's Office, whereby CCLT properties are assessed according to the affordable price or value at the time that the owner opts in (as determined by the CCLT) rather than the market value.

ACQUISITION OF PROPERTIES: CCLT shall use funds to acquire Eligible Properties in neighborhood areas designated by the CCLT Board of Directors. The acquisition may be made by the CCLT directly, or by an Eligible Partner with the review and approval of the CCLT.

ACQUISITION OF LAND: CCLT shall have the option to use funds to acquire vacant land in the City from the Cook County Land Bank, the City, or private parties, in anticipation of future development by either the CCLT or Partners/Borrowers.

REHAB OF PROPERTIES: The use of CCLT-AHHP funds by the CCLT for rehabilitation or repair of properties will be allowed, provided that the rehabilitation complies with City building codes; is performed under permit; that the property is sold to an Eligible Buyer; and the funds are recovered (in whole or in part) upon the sale of the property.

SALE OF PROPERTIES: Properties acquired by the CCLT or an Eligible Partner/Borrower are to be sold to Eligible Buyers who must occupy the property as their principal residence. Maximum Sale Prices will be determined by the CCLT in order to be affordable to Eligible Buyers. Net proceeds of the sale will be returned to the CCLT as Program Proceeds.

ELIGIBLE EXPENSES FOR PROPERTY ACQUIRED BY ELIGIBLE PARTNER/BORROWER, OR BY CCLT ON BEHALF OF ELIGIBLE PARTNER/BORROWER: Eligible Expenses for which CCLT-AHHP funds can be used by an Eligible Partner/Borrower are the Acquisition Price and closing costs to acquire an Eligible Property for resale to an Eligible Buyer, and other costs that may include, but are not limited to, holding costs of the CCLT or nonprofit, board-up, trash-out, security, lawn care, snow removal, insurance, property management, real estate taxes, etc., and rehabilitation costs, transaction/closing costs, and reasonable developer fee (not to exceed 5% of TPC without developer fee), as approved by the CCLT.

ELIGIBLE EXPENSES FOR PROPERTY ACQUIRED DIRECTLY BY THE CCLT: Eligible Expenses for which the CCLT itself can use CCLT-AHHP funds are the Total Project Costs of an individual property and include:

- Acquisition of property;
- Rehabilitation/repair of property;
- Real Estate Sales Commissions paid upon acquisition and disposition of the property;
- Permit fees, zoning certifications, water certifications, recording fees, transfer stamps and any other municipal, county or state fees associated with property transfers;
- Title charges upon either acquisition or sale;
- Inspection fees;
- Appraisal of property at point of acquisition;
- Third-party contractors engaged by CCLT to perform property inspections, prepare scopes of work, monitor/inspect work as completed;
- Up to 10% contingency for rehabilitation/repairs;
- New construction on vacant land acquired using AHHP funds;
- CCLT attorney fees for acquisition of property and resale of property;
- Other reasonable project-related costs not herein described;
- Holding costs of the CCLT, including board-up, trash-out, security, lawn care, snow removal, insurance, property management, real estate taxes, etc.;
- CCLT administrative costs and overhead (allocated or direct).

RESERVATION OF FUNDS: Identification of properties to be acquired by the CCLT itself is the responsibility of the CCLT staff. Approval of identified properties is the responsibility of the CCLT Projects & Policy Committee, with the concurrence of the CCLT Board of Directors.

Properties to be acquired by an Eligible Partner/Borrower through the use of CCLT-AHHP funds will require approval by a simple majority of the CCLT Projects and Policy Committee (phone or email approval is acceptable). Upon approval of an identified property, funds will be reserved. The reservation will be held for ninety (90) days and if the transaction does not close within that period of time, the reservation will expire.

APPLICATION PROCESS FOR ELIGIBLE CCLT BUYERS: In order to be certified to purchase a CCLT property, potential Buyers must submit to the CCLT:

- Completed CCLT Application;
- Proof of income in a form determined by and acceptable to the CCLT;
- Prior two years' federal tax return and all schedules; Mortgage pre-approval in an amount sufficient to complete the purchase; Proof of assets sufficient to complete the purchase; Certificates for completion of approved Home Buyer Education classes, CCLT; Orientation, Condominium Training (if necessary), and Landlord Training (if subject property is a two-unit property); Executed Income Affidavit for all household members; Executed Affidavit for Child Support Compliance; Scofflaw checks for outstanding municipal obligations and Child Support payments; Economic Disclosure Statement for Eligible Buyers and Eligible Partners/Borrowers.

APPLICATION PROCESS FOR ELIGIBLE PARTNERS/BORROWERS: In order to apply for CCLT funds to acquire a property, Eligible Partners/Borrowers must submit to the CCLT:

- A Comparative Market Analysis for the property;
- A property listing with the sales price;
- A budget/pro-forma for the acquisition and any repairs/rehabilitation;
- A calculation of final sales price;
- A timetable for the full acquisition/construction/rehab/resale process;
- Proof of the Eligible Partner's funds for anticipated rehabilitation or repairs;
- A brief narrative (no more than three (3) pages) describing the Eligible Partner's experience in prior development and/or real estate sales and identifying the source of funds to complete the transaction;
- A request to the CCLT for a specific amount of funding for the acquisition costs of the property.

USE OF OTHER FUNDS: Eligible Partners/Borrowers are expected to have access to and the use of funds other than CCLT-AHHP funds for each project (and particularly for any rehabilitation or repairs), provided that the use of such funds does not preclude the execution and recording of the CCLT Covenant/Deed Restriction as the primary encumbrance on the property.

REPORTING: The CCLT shall report to the City on the use of all program funds on a quarterly basis, detailing the use of Program Funds, the addresses of residential properties acquired and sold, and the status of residential properties as yet unsold.

For any properties requiring repair/rehabilitation using CCLT-AHHP funds for construction, the Eligible Partner/Borrower using the CCLT funds will be responsible for all reporting on

MBE/WBE, prevailing wage, etc. to the City according to the City's schedule. Eligible Partners/Borrowers must submit monthly update reports to the CCLT, outlining progress on repairs/rehabilitation and sale of properties.

CCLT staff will report on the acquisition and disposition of properties and the use of funds to the CCLT Board of Directors at regular Board meetings, and as part of the Quarterly Report on the City's Five-Year Housing Plan.

BUDGET: The initial \$3,000,000 Affordable Housing Opportunity Fund allocation is earmarked as follows, but the sub-budget amounts may be revised from time to time by mutual agreement of the City and CCLT for the efficient and successful implementation of the program.

- Home Improvement Grants for Opt-In Owners with these funds reserved for a period of three (3) years for this purpose:

\$ 500,000

- *Acquisition/Rehab Program (a portion of these funds may be earmarked for particular neighborhood areas by the CCLT Board of Directors):*

\$ 1,700,000

- Land-Banking/Vacant Land Acquisition/Holding Costs for a period not to exceed five (5) years:

\$ 300,000

- **Reserves:**

\$ 300,000

- **Administrative Expenses*:**

\$ 200,000

** may include, but not limited to holding costs of the CCLT, including board-up, trash-out, security, lawn care, snow removal, insurance, property management, real estate taxes, etc., and CCLT administrative costs and overhead (allocated or direct), and transaction costs.*