

By email to:

CouncilPresident@BaltimoreCity.gov

March 3, 2021

The Honorable President and
Members of the Baltimore City Council
c/o Natawna Austin, Executive Secretary
City Hall, Room 400
Baltimore, MD 21202

**Re: 21-0001R, Investigative Hearing –
Affordable Housing Trust Fund**

Dear President and Members of the City Council:

I write regarding 21-0001R calling for an investigative hearing on the Affordable Housing Trust Fund. I do so as a private citizen who once worked in City Hall, both as a lawyer and in city operations. I started my career at the Legal Aid Society in New York City representing low-income tenants facing eviction and have some familiarity with the issue of affordable housing.

Because the February 9 hearing on this Resolution ran short on time, Councilmember Middleton, as Chair of the Economic & Community Development Committee, suggested I put my questions in writing. I hope the Committee finds them useful in a future work session.

This Resolution begs the question, what is the city's affordable housing strategy? The answer should start with a hard truth: this Fund was first created in 2016, it is now 2021, and

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based on the February 9 hearing, I gather that *not one unit* of affordable housing has been built in that time. Surely there are many reasons for this, good and bad.

From the perspective of an interested outsider, the Fund has privileged process over results, and while that process is often described as “community-driven,” the current list of priorities are clearly the result of debate and deal-making between a handful of advocates and whoever is left at HCD.

I ask the Council as well as all those who supported the Fund’s creation to consider where they expected to be after five years. It can’t be here.

As a former employee of the administration that provoked advocates to create the Fund in the first place, I thought we might be reviewing a map of projects underway, target areas ripe for investment, and a list of potential projects in the pipeline that might merit funding. I also hoped creating the Fund would lead us to a deep, forthright analysis of the obstacles to affordable housing creation – since there are quite a few – and what to do about them.

I particularly hoped the Fund would be situated to address the catastrophic consequences of recent changes in federal rules that make it next to impossible to build affordable housing in neighborhoods like Sandtown-Winchester, and which all but guarantee that the grand new plans for Perkins Homes/PSO, a stone’s throw from the waterfront, will *never* materialize for Gilmor, McCullough, or Latrobe Homes.

But we’re quite far from this. Instead, we’re still talking about the number of meetings held and re-explaining “the need” to those already familiar with it, while Fund priorities look like a grab-bag of funds and projects designed to placate stakeholders and satisfy HCD’s interests.

I have a lot of questions, but let me frontload this with a tl;dr –

1. At this point, the Fund is largely an extension of HCD’s operations and priorities. I’ve lost sight of what innovation this Fund was created to carry out, and I think it is most urgent for the Council to work with our brand-new mayor to develop a real, comprehensive strategy – driven by HCD – and that stops conflating homelessness and affordable housing.
2. The Fund also seems to be a catch-all for all ideas conceivably related to affordable housing. I think this is the inevitable result of our years-long leadership vacuum – which has filled been by single-issue advocacy. At this point, it does not seem that anyone in City Hall is accountable for this Fund or its priorities. If this does not change, the Fund will continue to accomplish little.

3. Finally, I think the Council should consider turning the Fund – to the extent it needs to exist as a demonstration of commitment – into something more like the Neighborhood Investment Fund, a truly independent funding source designed *exclusively* for fast-tracking awards for *new units of affordable housing* through new construction or rehab.

Why is the Fund being used for general operating expenses? I encourage the Council to refocus on the structure and purpose of the various “funds” created over the years. The most a fund like this can do is make awards. It cannot operate programs. The reason to create a structure like this is to segregate specific funds from the city’s general operating budget to pursue things city government can’t or won’t.

There are very specific problems the Fund can focus on productively. But every time it is made to support *recurring* operating costs (like annual salaries and program costs), the pool of resources available for one-time awards is permanently limited – not just in the award year, but in all future years. This also requires the Fund to delay awards to make sure the revenue supporting the Fund is sufficient to cover these expenses first.

One-time operating expenses, meanwhile, undermine Fund integrity and make it look like a slush fund. When \$2 million was taken from the Fund to cover costs for COVID-related homeless services, the city was just using the Fund to pay for something *it would have otherwise*. The Fund can’t just be a backup to the general fund.

Why aren’t Fund priorities already HCD priorities – and on *its* budget? Based on budget documents, I can’t tell where HCD ends and the Fund begins. Nor do I see what the Fund enables that HCD can’t already do. The Fund should be special arrow in the quiver, but I’m not sure it is.

HCD has re-named a key business unit “Affordable Housing” (Service 784), which devotes \$14 million to “creating mixed income housing opportunities and direct financing to developers through the federal HOME and CDBG programs, *the City’s Affordable Housing Trust Fund*, and other sources.” That’s the same focus as the “New Construction,” “Preserve Existing,” and “Flexible Funds” line items in the Fund. It also seems to overlap with the “Choice Neighborhoods” line item, which is also new construction. Is this the same money that’s in the Fund, or different money? What’s the difference between the Fund and HCD here?

Several other HCD functions appear to overlap with the “Senior Homeownership Repair & Homeownership Preservation” priority of the fund – \$700,000 for grants to low and moderate income and other homebuyers (Service 742), \$7 million for forgivable, deferred and below-market interest rate housing rehabilitation loans to low- and moderate-income households (Service 750), \$6 million for the Weatherization Assistance Program for low-income residents

(Service 738). Is this the same money that's in the Fund, or different money? What's the difference between the Fund and HCD here?

Is the fund being used to off-load strategies HCD *doesn't* support? In two key areas there's zero overlap between Fund priorities and HCD programming – which makes me suspicious because they are items HCD has, at least historically, opposed. The Fund's single largest line item is for Community Land Trusts at over \$6 million, and, almost \$2 million is earmarked for "Rent Supplements."

CLTs are a promising policy solution, but also quite complicated. How would the Fund ever help create one without CLTs being a core priority of HCD? Only *that* would open the door to critical support from necessary city agencies (e.g., Planning, Law, DPW). If in fact HCD believes that CLTs are a significant priority I think the Council should endeavor to understand the policy rationale and how HCD intends to follow through with this priority. Service 749, Property Acquisition, Disposition and Asset Management, would seem to be essential for CLT creation, but I don't see a reference to CLTs in that context.

As for the Fund's "Rent Supplement" priority, HCD's most recent budget presentation suggests this is intended to support the not-yet-passed Council Bill 21-0004. That bill would create a narrow "Permanent Housing Voucher Program" to enable persons already housed in Permanent Supportive Housing to relocated to private housing.

Council Bill 21-0004 is a good idea, but the Fund and program participants are put at risk by making the Fund support staff and salary so HCD can create an office to do something it has never done at scale. This permanently reduces the pool of funds available to award in future years and, is equivalent to hiring permanent staff with grant funding.

A permanent program intended to provide *indefinite* assistance to the relevant population does not belong in the Fund at all. The reasons for this are not strategic or programmatic but a matter of bureaucratic in-fighting – because the budget office won't authorize the positions within HCD. This looks like the Fund exists just to make an end-run around Finance's objections. I can't imagine counseling a tenant already in secure, permanent, federally supported PSH to vacate that for a city program set up in such a cavalier fashion.

What's the Council's role regarding the Fund? Council Bill 21-0004 also begs a question for this Council: if the Fund establishes a priority, are you, as the City Council, required to support it? May the Council vote down or amend CB 21-0004 in a manner contrary to what was agreed to by the Fund and HCD?

Clearly the supporters of this legislation expected a rubber stamp from the City Council after one hearing on this bill, which came to the Council as a fully-baked cake. Because it wasn't

hashed out in a public process in City Hall, who drafted it and why is a mystery to the general public, and there is significant confusion about the limited scope of the proposed voucher program, as we heard at the February 23 hearing on it. A lot of people see the “voucher” program called for in legislation creating an “Office to End Homelessness” and assume it will be available to the currently homeless, or to returning citizens, or families in temporary housing. (It isn’t.)

The Council should also ask why this fund is being used to support homeless services at all. The fact that it is, without clear explanation, suggests mission-creep.

Why isn’t the Fund focused on production of affordable housing units? There was broad agreement as of 2016, and again in 2018, that we need more units. One advocacy group said \$20 million could provide “4,120 affordable housing opportunities” or “rehabilitate 1,596 vacant properties.” Another said it could fund “the rehabilitation of 400 vacant houses a year and employ 1,000 people to do the work.” One advocate said the fund was specifically necessary to fund construction of units HCD would not. “Housing for people at 30% AMI (Area Median Income) doesn’t seem to be part of their plan save for 20 units here, 132 units there in these mixed-income developments.”

There are *significant* obstacles to affordable housing construction in Baltimore City that the Fund should be positioned to identify, but I am quite concerned that the Fund has realized these obstacles are even greater than anticipated, leading to mission-creep and a re-focus on ancillary priorities.

Federal policy drives the affordable housing conversation because the feds pay for most of it. Our specific challenge as a city is that so-called “place-based strategies” are now disfavored by federal policy. The federal government no longer supports direct investment in affordable housing in neighborhoods like Sandtown-Winchester.

This policy shift was intended to prevent affordable housing and its tenants from being concentrated in already poor, racially and economically isolated neighborhoods – as very often happens. “Site and neighborhood standards” were promulgated to “affirmatively further fair housing” by requiring that affordable housing with federal support be constructed in high-opportunity neighborhoods.

Nationally and regionally, this is great policy for low-income families – but it has dire consequences for many of our neighborhoods. Already, thousands of working-poor families have fled for the surrounding counties with portable Section 8 vouchers administered by the Baltimore Regional Housing Partnership. These people are the backbone of our most challenged neighborhoods, and our school system.

No one is replacing these families because market-rate tenants and homebuyers are not looking in the neighborhoods they've departed, and, we aren't building enough quality affordable housing.

In fact, policymakers should be forthright about the implications of this current federal policy. Practically, it means that *only* market-rate units should be built in the so-called "Black Butterfly" (to increase opportunity and neighborhood quality), while affordable units should *only* be built in the so-called "White L" (so that low-income households get the benefit of high-opportunity neighborhoods, including better schools, safety, and other things many people reading this can take for granted).

In this context, the Fund could press for policies that would incentivize new construction in Baltimore's high-opportunity neighborhoods (is there any occurring right now?) while devoting its funding to strategic investments in the kind of neighborhoods that no longer get federal help. Because what's the alternative? As one advocate put it, "Place-based strategies need to be tried. We can't just simply be about moving people to high-income neighborhoods. It seems like the city's strategy for those black neighborhoods is just demolition." (That *is* our policy for those neighborhoods without a massive anchor institution nearby.)

To the extent the Fund were to focus on housing construction by making grants according to clear criteria generated from our current reality, it could operate with the level of independence some appear to want – but only if criteria are established through a transparent policy process in which City Hall has final ownership. One could, on that basis, reformat the Fund into a more aggressive, independent mechanism similar to the Neighborhood Investment Fund.

Why is the Fund being asked to support "Choice Neighborhoods"? This illustrates the problem just described. This allocation goes to the Perkins Homes redevelopment, known now as "PSO," which is an example of the type of federal investment the above policy-shift was intended to guarantee. PSO got the federal green light because it's situated in and around high-opportunity neighborhoods, footsteps from the waterfront. It is indeed a "choice neighborhood." Using the Fund for what is already the largest, highest-profile mixed-income development in the city – that has federal funding – makes no sense. It suggests a lack of focus on the real problem to be solved, and is another example of the Fund being used as a backup to the city's general fund to pay for commitments already made.

Meanwhile, *whole neighborhoods* stand completely abandoned by federal policy. Gilmore Homes and McCullough Homes will *never* qualify for this sort of redevelopment (nor the "RAD" Program) because of where they are situated. Everyone else is already focused on the waterfront. The Fund should focus on these neighborhoods.

What explains the few responses to HCD's NOFA, and why weren't they all awarded? Particularly after *so much* discussion of what the needs are, it is worrisome to say the least how few developers responded to HCD's "Notice of Funding Availability" – which looks to me like an advertisement for free money to anyone in the city developing affordable housing. These ten applicants requested a total of \$5.4 million dollars to assist with construction of 425 units. But only *four* were awarded, for a total of \$2 million dollars, supporting 127 units.

Why didn't the fund choose to support more units? If the city was granting \$10 million rather than two, would we have seen more project applicants? If not, is that because there are only 10 projects in the pipeline? What are we doing about that?

Who is responsible for the city's affordable housing policy? This Fund was created because past mayors refused to build affordable housing. While the Fund was intended to solve this problem, a more cynical view says, maybe it's made it worse, because the entire topic of affordable housing has been removed from City Hall's purview and off-loaded to the Fund. (The "children's fund" has become the same, sparing all of you from the grueling debates of yore over which organization gets funding for children's programming, because it's the responsibility of a third-party organization to make those decisions.)

The Fund's mandate is so broad that is making sweeping policy of unclear status or support, driven primarily by key advocates and HCD leadership. And if we've learned one thing over the past four years, it's that the tail does not wag the dog. Powerpoints and priority lists without the imprimatur of City Hall will not lead to progress, or housing units.

Now that we have new a Mayor, and a new City Council, the is time ripe for a review of the status of this Fund and the city's affordable housing policy city – in City Hall, led by our newly elected officials.

Sincerely,

/s/

Dan Sparaco

