

A Primer for "Teacher Housing": Best Practices and Lessons Learned



The Voice of
Affordable Housing

40th Annual NPH Conference
#OurMovementOurFuture

OVERVIEW

Panelists:

Faith Kirkpatrick, *SF Mayor's Office of Housing and Community Development*

Ali Gaylord, *Mid Pen Housing Corp.*

Dave Kroot, *Goldfarb & Lipman LLP*

Moderator:

Lisa Motoyama, *Community Economics, Inc.*

Why Housing for Educators?

Educator Retention and Attraction

Serving the missing middle Income: educator housing and inclusionary zoning

Financing: educator housing and tax credits

What does it take to develop Educator Housing?

Who are educators?

Case study: Francis Scott Key

Educator housing models

What do you need to know to get started?

Fair Housing and other challenges

Faith Kirkpatrick
Senior Project Manager
San Francisco Mayor's Office of Housing
and Community Development

Educator Housing Working Group - Need

- SFUSD requires 3,600 teachers annually but is challenged by a teacher attrition rate of approximately 10% annually;
- 64% of SFUSD teachers spend more than 30% of their income towards rent. An additional 14.7% of teachers in San Francisco spend more than 50% of their income in June 2017 survey;
- From 2011-2017, average market rents increased 50% and home prices increased 72% according to Zillow.
- According to 2019 survey, over 60% of the teachers have household incomes between 80% AMI and 120% AMI.



Hilary Elfman, a first-year special education teacher at a city elementary school, lives with her parents because she cannot afford market rent. (SF Chronicle, Feb 2017)

Educator Housing Working Group - Members

- Formed in 2014
- Members include:
 - San Francisco Unified School District
 - United Educators of San Francisco
 - Mayor's Office of Housing & Community Development
 - American Federation of Teachers



Educator Housing Working Group - Strategy

- Focused on multi-pronged strategies
 - Homeownership Assistance
 - Housing Counseling (including Eviction-Related Services)
 - Rental Assistance
 - Housing Development (“Bricks and Mortar”)

Educator Housing Working Group

- Homeownership Assistance & Housing Counseling (including Eviction-Related Services)

Since 2016, MOHCD has served:

38 Educators with Downpayment Assistance (up to \$375,000 each)

48 Educators with legal representation, consultation and rental assistance through Eviction Defense Collaborative and the Justice and Diversity Center of the Bar Association of San Francisco

291 SFUSD employees with housing counselors for MOHCD rental and home ownership opportunities

Educator Housing Working Group

Housing Development (“Bricks and Mortar”)

- Assessment:
- Fair Housing / Disparate Impact
- Financial/development feasibility of five potential sites
 - Assume \$0 land acquisition cost (GL); assume \$0 property tax (AB1157)
 - Neighborhood context, site constraints
- Legislative:
- Senator Leno’s Teacher Housing Act (SB1413) passed in 2016 – to create “members of a specified group” under “State program or policy that supports housing for such a specified group” pursuant to IRS Code 42(g)9 Public Use Requirement
- SF BOS and BOE passed supporting resolutions

Educator Housing Working Group

Housing Development (“Bricks and Mortar”)

Francis Scott Key – MOHCD feasibility considerations

- 2015 GO Bond – includes “middle income” target, allows for substantial City gap funding for up to 150% AMI households
- MOHCD will spend approximately \$100K more for each non-LIHTC unit for teachers (those units leverage a bit more debt than a LIHTC unit, but there are no other matching funds like LIHTC equity or HCD program for this population)



Educator Housing Working Group

Housing Development (“Bricks and Mortar”)

Key Considerations:

- 1) Strong partnership between City/County and School District
- 2) Targeted local funding source for middle income
- 3) Expert team of consultants and developer

Ali Gaylord
Director of Housing Development-
North Bay
MidPen Housing Corp.

Francis Scott Key Annex

Educator Housing

a collaboration between MidPen Housing, San Francisco Unified School District, and the SF Mayor's Office of Housing

Background

- Approximately 130 units for educators
- Low and moderate incomes – households earning between 40% and 120% area median income
- Variety of amenities for residents
- Outdoor and indoor space for public use



Sunset District, San Francisco



DIAGRAMATIC SITE AERIAL

Site Context

Site Plan



Mayor ED 13-01 Priority Permit



LOCAL TRANSIT ROUTES

FRANCIS SCOTT KEY EDUCATOR HOUSING
SAN FRANCISCO, CA

NEIGHBORHOOD CONTEXT

03/12/2019

17071

BAR architects

G4.0

BAR Architects- Neighborhood Context

EXISTING CONTEXT



Mayor ED IS-01 Priority Permit



CHARACTER STUDIES



FRANCIS SCOTT KEY EDUCATOR HOUSING
SAN FRANCISCO, CA

CONTEXT AND CHARACTER

03/12/2019

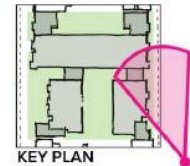
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BAR architects

G4.2



CONCEPTUAL STREET VIEW AT 42ND AVE



KEY PLAN

FRANCIS SCOTT KEY EDUCATOR HOUSING
SAN FRANCISCO, CA

CONCEPTUAL PROJECT VIEWS

03/12/2019

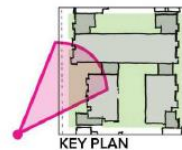
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BAR architects

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CONCEPTUAL STREET VIEW AT 43RD AVE



KEY PLAN

FRANCIS SCOTT KEY EDUCATOR HOUSING
SAN FRANCISCO, CA

CONCEPTUAL PROJECT VIEWS

03/12/2019

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BAR architects

G5.3

Stakeholder Engagement



Neighbor Concerns: Building Height,
Traffic, Parking

Focus Groups: Learning from Educators
about what is important in their living
environments

School District: FSK Working Group-
policy, income targeting and housing
design



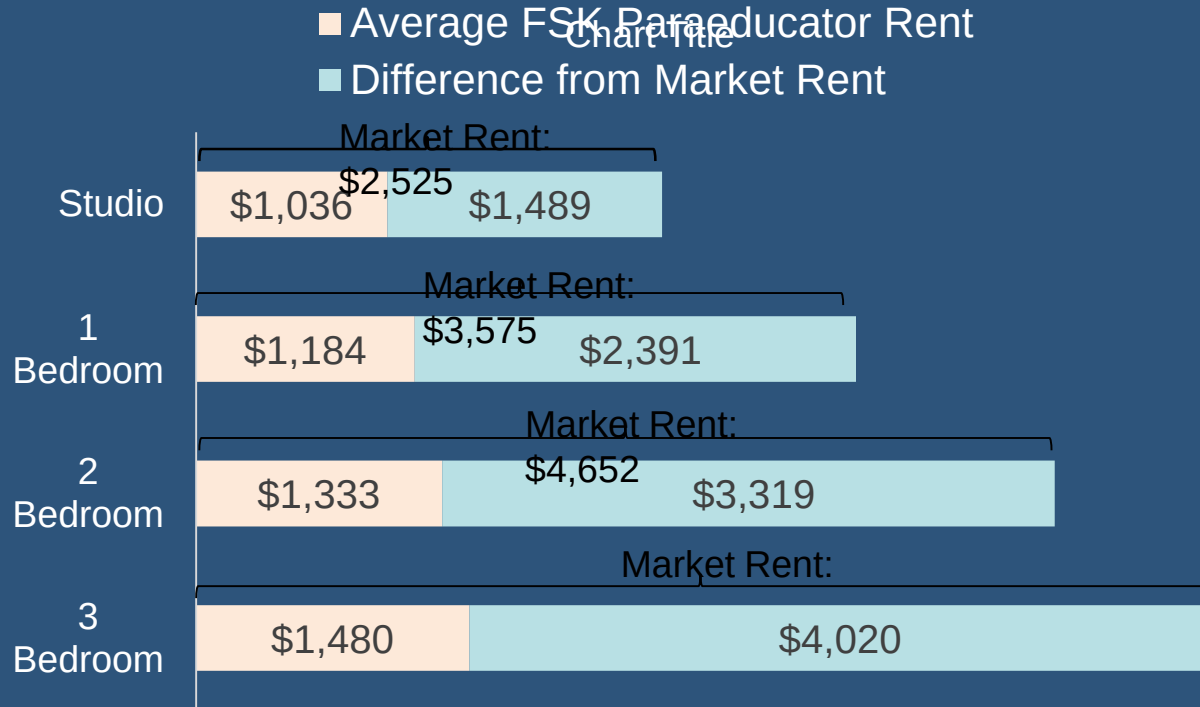
Educator Salaries



<u>Paraeducator</u>		
	Step 1	Step 6
Annual Salary Range (for Special Education Instructional Aide, full time, 44 weeks/year)	\$37,527	\$46,610
Affordable Rent (Based on formula from HUD, 30% AMI)	\$938/month	\$1,165/month

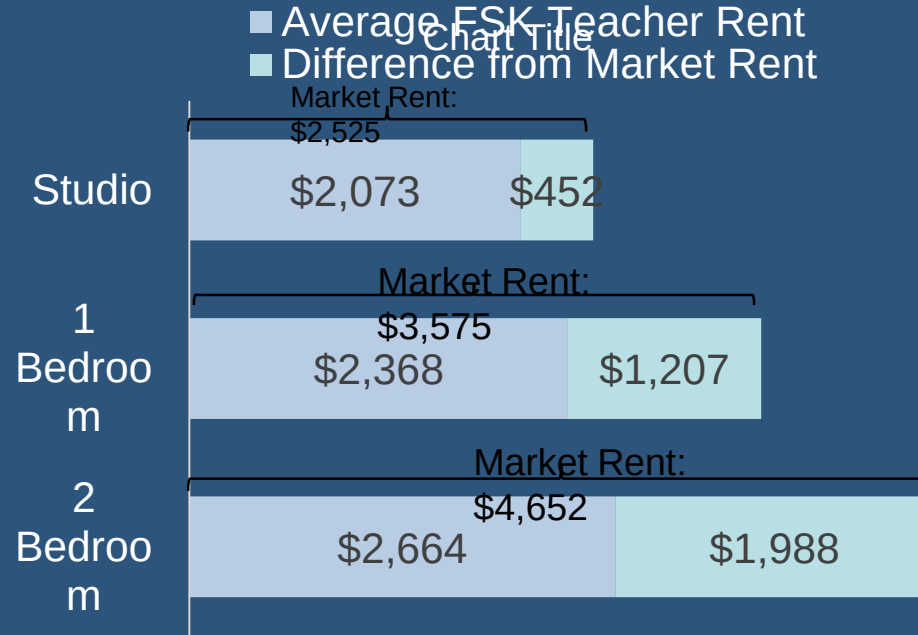
<u>Teacher</u>	
Median Salary 2018-2019	\$82,024/year (\$6,835/month)
Affordable Rent (Based on formula from HUD, 30% AMI)	\$2,050/month

Paraeducator Rent



- Estimated rents for educator households at 50% of Area Median Income, based on formulas from the Mayor's Office of Housing and Community Development (MOHCD).
- Rents displayed are not final. All rents will be at least 20% below market rate.
- Market rents based on data from Zumper, January 2019

Teacher Rent



- Estimated rents for teacher households at 100% of Area Median Income, based on formulas from the Mayor's Office of Housing and Community Development (MOHCD).
- Rents displayed are not final. All rents will be at least 20% below market rate.
- Market rents based on data from Zumper, January 2019

Two Projects: 9% and Moderate Income



	Studio		One Bdrm		Two Bdrm		Three Bdrm		Total Units
AMI LEVEL	# of Units	Income Limit	Units	Income Limit	# of Units	Income Limit	# of Units	Income Limit	
		Rent		Rent		Rent		Rent	
40%	2	\$33,150	2	\$37,880	4	\$42,640	3	\$47,360	11
		\$829		\$947		\$1,066		\$1,184	
50%	2	\$41,450	2	\$47,360	4	\$53,280	3	\$59,200	11
		\$1,037		\$1,184		\$1,332		\$1,480	
60%	2	\$49,750	2	\$56,840	5	\$63,920	3	\$71,040	12
		\$1,244		\$1,421		\$1,598		\$1,776	
80%	5	\$66,300	12	\$75,760	15	\$85,240			32
		\$1,658		\$1,894		\$2,131			
100%	4	\$82,900	11	\$94,720	16	\$106,560			31
		\$2,073		\$2,368		\$2,664			
120%	5	\$99,500	12	\$113,680	15	\$127,880			32
		\$2,488		\$2,842		\$3,197			
Total Units	20		41		60*		9		130

- Includes one two-bedroom unit for a resident manager
- Based on formulas from the Mayor's Office of Housing and Community Development (MOHCD). Rents displayed are not final. All rents will be at least 20% below market rate.

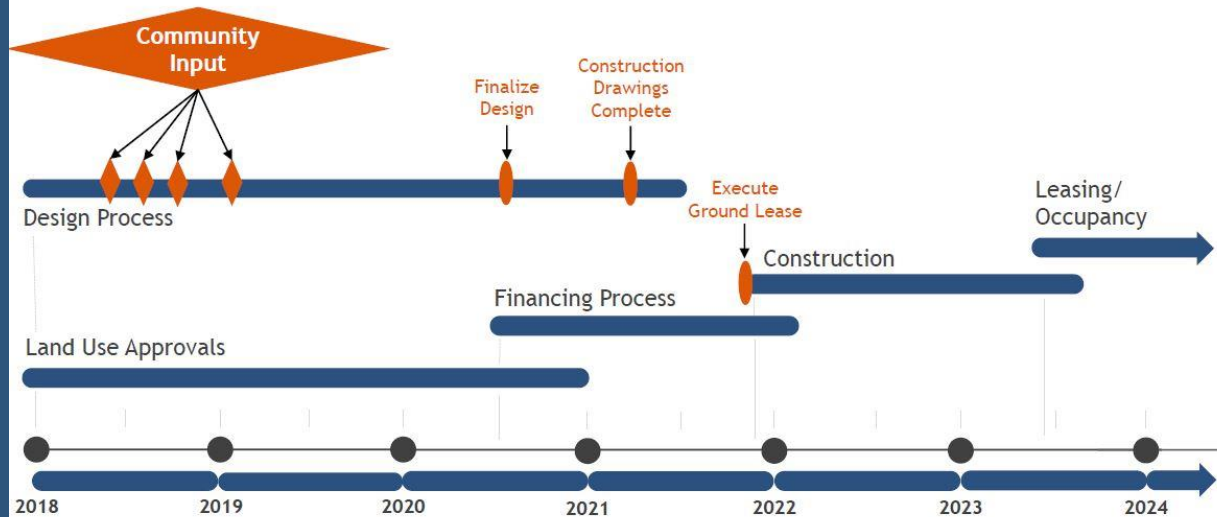
Project Funding



Source	Amount
Permanent Loan	\$29.5 M
Mayor's Office of Housing (City Subsidy)	\$25.1 M
Low Income Housing Tax Credit Equity	\$23.7 M
SFUSD Long-Term Ground Lease	\$20 M (est. value)
Total Cost	\$98.3 M

Development Process

Francis Scott Key Educator Housing Development Process



SMCCCD: Success and Replication



College Vista

(Dec 2005, 44 du)

General Partner – 8%

Cañada Vista
(Aug 2011, 60 du)



SMCCCD: Program Structure

- Residents must be a “first time homebuyer”
- 7 year lease term
- Planned savings program
- Homebuyer Counseling and Education
- Financial assistance to support homeownership



SMCCCD: Outcomes

- **47** residents have moved to homeownership
- High resident satisfaction;
- Reduce VMT: more than **920,000** commute miles saved each year: 63% of residents walk to work
- Less commute time = increased engagement at work



Conclusions

- Statewide interest in educator housing
- School Districts are aware that land is an asset they can use for attraction and retention of staff
- Different approaches for structuring

M. David Kroot

Goldfarb & Lipman LLP

Educator housing

Fair Housing Issues and Options

Overview

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- As housing costs continue to rise, many school districts and local public agencies are exploring housing assistance programs for educators
- Housing preferences based on occupation, employment status, or residency can raise fair housing issues
- Various assistance models:
 - Publicly-Owned and Operated Rental Housing
 - Developer-Owned and Operated Housing on Land leased from a Public Agency
 - Mandatory Educator Preferences as Financing Condition
 - Direct Financial Assistance

Legal Framework

Federal Law

- Fair Housing Act (FHA) prohibits housing discrimination based on disability, family status, ethnicity, race, etc.
- HUD's "Affirmatively Furthering Fair Housing" Rules apply to projects receiving federal funds

State Law

- Fair Employment and Housing Act (FEHA) and Unruh Act include FHA protections; FEHA also prohibits "source of income" discrimination
- Gov't Code Sec. 65008 applies to land use decisions; also prohibits "lawful occupation" discrimination

Discrimination

Facial Discrimination

- Prohibited unless a restriction benefits the disabled or responds to legitimate safety concerns (not stereotypes)
 - *Community House v. City of Boise* (9th Circuit)

Facially Neutral but Discriminatory Intent

- Actions invalid if a discriminatory reason more likely than not motivated decision
 - *Pacific Shores v. City of Newport Beach* (9th Cir.)

Disparate Impact

- Actions that cause a “disparate impact” may be prohibited
 - Neutral policy causes disparate impact on protected group
- Agency may demonstrate legitimate reason for policy
 - Even if disparate impact exists, plaintiff will only win if it shows there is another means to achieve the purpose with less impact
- *Inclusive Communities v. Texas Dept. of Housing* (US Supreme Court)

Other key state laws

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Gov't Code Sec. 54700.1-54702.15

- Employee Rental Housing (ERH) Chapter authorizes public agencies to “construct or cause to be constructed” housing for public employees
- At least 20% of units must be reserved for lower income households (80% AMI or below)

SB 1413 (HSC Sec. 53570-53574)

- “Teacher Housing Act” of 2016 authorizes school districts to acquire, construct, rehab, or preserve employee housing
- Majority of units must be reserved for moderate income households (120% AMI or below)

Preferences!



Who gets to live in affordable housing?

- Teachers
- Certificated employees
- Any School District Employee

Potential Issues

- Possible *disparate impact*
- Funding sources won't permit
- Durational requirements especially problematic

PUBLICLY OWNED AND OPERATED RENTAL HOUSING

Advantages

- Authorized under ERH Chapter and Teacher Housing Act
- Likely complies with FEHA
- Facially-neutral policy for FHA

Potential Issues

- Liability under FHA if there is a disparate impact
- Agency assumes risks of developing and operating housing

DEVELOPER OWNED AND OPERATED RENTAL HOUSING

Advantages

- Potential to reduce cost to public agency by leveraging other financing sources
- Potentially complies with ERH Chapter and Teacher Housing Act
- Third party assumes risk of developing and operating housing

Potential Issues

- Liability under FHA if there is a disparate impact
- Housing funded with LIHTC or Tax-Exempt Bonds must be available to “general public”
- HOME and CDBG prohibit employment requirements, though preferences may be okay
- Risk of “source of income” facial challenge under FEHA

EMPLOYEE PREFERENCES AS FUNDING CONDITION

Advantages

- No additional cost to public agency
- Risk-shifting to third party

Potential Issues

- Source of income discrimination under FEHA
- Disparate impact risk under FHA and FEHA
- Broader live/work preferences defensible, but offer little direct assistance to public school employees

DIRECT FINANCIAL ASSISTANCE

Advantages

- Minimizes fair housing concerns
 - FHA and FEHA regulate lenders, but don't apply to public agency compensation packages

Potential Issues

- High cost to public agency to provide assistance resulting in meaningful access to housing

Takeaways

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- No option completely eliminates fair housing risks
 - Very little case law re: source of income and legal occupation issues
- Strategies to minimize risk
 - Perform demographic analysis to understand potential for disparate impact
 - Consider HUD Handbook 4350.3 for guidance (Not helpful for employee housing)
 - Apply preferences only to some units in a project and don't reopen waiting list
- Must also consider other state laws:
 - CEQA applies to public agency projects
 - Cal. Const. Article 34 requires voter approval for "low rent housing projects" developed by public agencies
 - Exemption for projects that do not restrict more than 49% of units

EDUCATOR housing

Fair Housing Issues and Options

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QUESTIONS?

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