

Is the 3rd time the charm for the Affordable Housing Trust Fund?

The Affordable Housing Trust Fund Legislation Comes Back to the MV CC Tonight. It's Shorter, Cheaper, and Under New Management

Two months ago, I wrote that the City Council should not pass the Affordable Housing Set Aside Program as drafted. The Council didn't pass it. A new version is on tonight's agenda.

The obvious change is who controls the money. In the July draft, the Affordable Housing Trust Fund was governed by five appointees — two named by the Mayor, two by the Council, one by the Comptroller. In the September draft, that board is gone. The fund will be controlled by the board of the Mount Vernon Urban Renewal Agency.

That change may be the one people talk about tonight, but it is not the worst one.

1. Affordability was cut from 50 years to 20

In both the May and July drafts, §267-106(A) required that units designated affordable "must remain affordable for a minimum of 50 years from date of initial certificate of occupancy."

The September draft says 20 years.

Nothing else in that section changed. No explanation accompanies it. No public discussion preceded it. A developer who builds affordable units under this law in 2027 may convert them to market rate in 2047 — while the building is still young, while the mortgage is still being paid, and while the affordability crisis this ordinance was written to address is, on every available projection, still with us.

This is the single largest giveaway in the document, and it is the easiest one to verify. Put the July draft and the September draft side by side. Same section, same sentence, one number changed. Sixty percent of the public benefit of every unit this program will ever produce was deleted in a single edit.

If the Council intends a 20-year term, it should say so out loud and defend it. If nobody at the table knows this change was made, that is a different and more troubling problem.

2. The developer buyout no longer has a price or a Council vote

The law lets a developer pay a fee instead of building affordable units. In July, I criticized that process for having no standards. It now has fewer.

The fee amount was deleted. July's §267-105(D) fixed the per-unit fee at 1.5 times the four-person household AMI — roughly \$246,000 per unit at the 2026 Westchester figure of \$164,200. That subsection does not appear in the September draft. What remains is a

single line saying the fee "shall be set annually by the City Council based on the market construction rate of a unit." No formula. No floor. No methodology.

And no schedule. The Council has never adopted a per-unit fee for this program. It did not adopt one alongside the May draft, or the July draft, or this one. The only concrete dollar figure that has ever attached to a developer buyout in this ordinance's history was the 1.5×AMI formula, and that is the provision being removed tonight. If this passes as written, the price of not building affordable housing in Mount Vernon is, as a matter of enacted law, blank.

The approver changed. In May and July, a developer applied to the City Council, and Council approval was required. In September, the application goes to the Urban Renewal Agency, and "any fee-in-lieu application requires the approval of Mount Vernon Urban Renewal Agency with standards set by the City Council."

Read that carefully. The standards do not exist. The ordinance delegates approval authority to the URA subject to criteria that no one has written, on no deadline, with no requirement that they ever be written at all. Until the Council adopts them, the URA decides buyouts against nothing.

So as of tonight: a developer can apply to avoid building affordable units, at a price not established in the law, to a body that is not the City Council, judged against standards that have not been created. Each approval means fewer apartments and more money in a fund described below.

The Council is being asked to vote away its own authority over the one decision in this program that determines whether any affordable housing actually gets built.

3. The fund goes to a board the Mayor controls — and the clause protecting it from developers was deleted

The Urban Renewal Agency's board is set by state law. Under General Municipal Law §598, the MVURA consists of five members: the Mayor, the President of the City Council, the Comptroller, the Corporation Counsel, and one additional person "appointed by and serve at the pleasure of the mayor."

That fifth seat is currently held by Carlton Spruill, Commissioner of the Board of Water Supply.

Count the seats honestly. The Mayor holds one. The Corporation Counsel is a mayoral appointee. The fifth member serves explicitly at the Mayor's pleasure. That is three of five votes controlled by a single office, permanently, by operation of state law — not by anyone's choice tonight, and not reversible by a future Council without changing state law.

It is also worth stating what this board is and is not. The seats are defined by office, and not one of those offices is a housing office. The city's water commissioner, its lawyer, its chief fiscal officer, its chief executive, and the presiding officer of its legislature will decide which affordable housing projects receive money from this fund. The Commissioner of Planning and Community Development, the only official in city government whose job is housing, sat on the May version of this board but is gone from this version. Also gone is the Commissioner of Tax and Assessment.

Look at the three drafts as a sequence rather than a snapshot. May placed two subject-matter commissioners on the board. July removed both but at least split the appointments three ways among the Mayor, the Council, and the Comptroller. September has no subject-matter seat at all and consolidates a working majority of the appointments under a single office. Three drafts, and on both measures — expertise on the board, and dispersion of control over it — the direction of travel has been the same every time. All three pointing the same way is a pattern, and the Council should ask who is drawing it before voting on the result.

Compare the structure being replaced. July's board was 2 Mayor, 2 Council, 1 Comptroller: no single office held a majority. The September draft converts a divided board into an executive-majority board and simultaneously strips the Council of the fee-in-lieu approval it held in both prior drafts. The Council's total remaining role in this program is one seat out of five, held by its President.

Now the part that should stop the vote. The July draft's definition of the Trust Fund included this sentence:

"Nothing in this article shall be construed as providing any developer with any AHTF funds or other subsidy from the City as a matter of right."

It is deleted in the September draft, in the same edit that hands fund distribution to the URA — the agency that selects developers, administers CDBG and HOME funds, holds and disposes of city property, and sponsors development projects of its own.

I am not alleging that anyone intends to steer this fund to a favored developer. I am saying that the draft removes the clause that made steering legally impossible and gives the resulting discretion to one of the city's development arms, with no recusal rule, no conflict-of-interest provision, no requirement of written findings, and no expertise requirement of any kind. Those were the safeguards I asked for in May and again in July. None of them appear.

There is an argument for structuring this fund in proximity to the URA. The URA has staff, an executive director, HUD program experience, an annual independent audit, and reporting

obligations to the state Authorities Budget Office. Against five unnamed appointees with no audit requirement at all, that sounds like an upgrade.

But it isn't, because the ordinance takes the URA's capacity without taking any of its accountability. The September draft holds the money as "an escrow account by the City," while the URA merely "determine[s] distribution." Custody sits with the City; discretion sits with the agency. The fund is therefore not plainly inside the City's appropriation process and not plainly inside the URA's audited financial statements. It falls between them. And the ordinance requires the URA to "enter into an MOU to provide services to the City", meaning the operative rules for administering this fund will live in a memorandum that no one has drafted, that the Council will not vote on, that no public hearing will examine, and that can be amended without either. There is no cap on what the fund may be charged for those services.

If the argument for the URA is its accountability machinery, then write that machinery into the law: require the AHTF to appear as a separate audited fund in the URA's annual independent audit and its ABO filings, require published written findings for every allocation, and require recusal by any member with a financial relationship to an applicant. If those requirements are unwelcome, then the URA's accountability was not really the reason for the change.

4. A renewal right becomes a maybe

July, §267-109(A): a resident who remains eligible and complies with the lease "**shall** be offered renewal leases."

September: "**may** be offered renewal leases."

One word. It converts a tenant's right into a landlord's option. Nothing else in the sentence changed.

5. The draft is not finished

- The rounding rule in §267-104(C) rounds down fractions "less than 0.4" and up at "0.5 or greater" — leaving every fraction between them governed by no rule at all.
- The Trust Fund Board is described as "composed of the Urban Renewal Agency," which is an agency, not a slate of members.
- A WHEREAS clause introduces a brand-new affordability standard — "15% below fair market rate" — that contradicts the AMI-based rent cap in §267-108, and then stops mid-sentence: "as determined by, and."
- The referral letter is dated "January 22, 20226."

Individually these are typos. Together they tell you this document was assembled quickly and has not been read closely by anyone who would be accountable for it. That is an argument for the calendar, not for the merits: a law creating a multimillion-dollar fund with a 20-year enforcement period should not be enacted in a version whose sentences do not finish.

What tonight actually requires

I supported this program in May, I supported it in July, and I support it now. Mount Vernon needs affordable housing and needs a real mechanism to produce it. That is exactly why the mechanism has to be built to survive people we haven't met yet.

Three amendments would make this law passable tonight, and each is one line:

1. **Restore the 50-year affordability term** in §267-106(A).
2. **Restore City Council approval of every fee-in-lieu application**, and adopt the per-unit fee schedule before, not after, the ordinance takes effect.
3. **Attach the safeguards to the fund**: mandatory recusal, published written findings for each allocation, and inclusion of the AHTF as a separately audited fund in the URA's annual independent audit.

Absent those, the Council is being asked to approve a program in which developers may buy their way out at an unset price, approved by a board the Mayor controls, spending a fund from which no developer is any longer barred, to produce units that stop being affordable in twenty years.

That is not a trust fund. Tabling it costs the city one more month. Passing it costs the city the next twenty years.