

Memo

To: Joint Affordable Housing Task Force

From: Joan Beardsley, co-chair

Date: 12/16/06

Re: A summary of ways to fund Affordable Housing Programs in WA State.

I asked Judy Cox, Public Finance Consultant of the Municipal Research and Services Center, to answer the question: "What are all the legal methods available at this time to cities and counties to fund affordable housing programs, including Housing Trust Fund?"

Her response gives us necessary legal guidelines:

1. Property tax. Cities and counties can always take part of the property tax they levy for the general fund and spend it on low-income housing programs. But, I suspect you are asking whether they can levy more than that. They can do so only through a levy lid lift, which would have to be approved by a simple majority of the voters. See <http://www.mrsc.org/Subjects/Finance/levylidlift.aspx> for more information on levy lid lifts. Seattle has done a levy lid lift for low-income housing for many years.

2. Other local option revenues. RCW 36.22.178 provides that counties may levy a \$10 surcharge on the document recording fee for low-income housing. <http://www.mrsc.org/mc/rcw/RCW%20%2036%20%20TITLE/RCW%20%2036%20.%2022%20%20CHAPTER/RCW%20%2036%20.%2022%20.178.htm> Forty percent of the funds go to the state. These funds can be spent on low-income housing projects in cities in the county through an interlocal agreement. RCW 36.22.178(1).

RCW 36.22.179 provides for another \$10 surcharge on the document recording fee for homeless housing and assistance. <http://www.mrsc.org/mc/rcw/RCW%20%2036%20%20TITLE/RCW%20%2036%20.%2022%20%20CHAPTER/RCW%20%2036%20.%2022%20.178.htm> Again, forty percent goes to the state. Of the remainder, if a city chooses to operate its own homeless housing plan as authorized in RCW 43.185C.080, then it gets a share equal to the ratio of its real estate excise tax receipts compared to the total real estate excise tax collected countywide. RCW 36.22.179(1)(a).

All the funds collected under 2 above, must be put in a separate fund, such as a housing trust fund.

3. A point of confusion about which to be clear: The real estate excise tax under RCW 82.46.010 and RCW 82.46.035 ("REET 1" and "REET 2") cannot be spent on housing. One county (San Juan Island) met criteria for a special opportunity to bring to the voters a

new funding mechanism for a housing trust fund. This was under RCW 82.46.075(5). Their voters did not approve the levy. The way the laws were written, Whatcom County and all counties other than San Juan County are prevented from using a REET for housing.

If you wish to understand more about the option that was made available to San Juan County to levy an additional 0.5 percent real estate excise tax under RCW 82.46.075 for affordable housing, please check this link to the law:

<http://www.mrsc.org/mc/rcw/RCW%20%2082%20%20TITLE/RCW%20%2082%20.%2046%20%20CHAPTER/RCW%20%2082%20.%2046%20.075.htm> It must be approved by a simple majority of the voters.

This is the end of Judy Cox's comments. I provide the following information after researching whether or not it is legal in our state to have some mandatory components in an affordable housing program.

4. In the Final Bill Report for ESHB 2984, one finds this excerpt:

"Additionally, jurisdictions may establish a minimum amount of affordable housing that must be provided by all residential developments constructed under revised regulations, subject to incentive program requirements."