City of Seattle

Unreinforced Masonry Policy Committee Meeting
Meeting Summary
City of Seattle, Department of Planning and Development
Seattle Municipal Tower, Room 4050, 700 5th Avenue, Seattle, WA 98104
Thursday, September 27, 2012 – 8:30 a.m. to 10:00 a.m.

Attendance

Committee Members

- ☐ Lynda Carey, Bellwether Housing
- ☐ Ric Cochrane, Preservation Green Lab
- ☐ Art Frankel, USGS
- ☐ David Gonzalez, Degenkolb Engineers
- ☐ Terry Lundeen, Coughlin Porter Lundeen
- ☐ Sean Martin, Rental Housing Association
- ☐ Rachel Minnery, Environmental Works
- ☐ Mark Pierepiekarz, MRP Engineering
- ☐ Michale Robinson, A.I.D. Development Group
- ☐ Ryan Smith, Martin Smith Inc
- ☐ Craig Weaver, USGS
- ☐ Eugenia Woo, Historic Seattle

Public

- ☐ Kathleen Albro
- ☐ Tom Corcoran
- ☐ Charles Davis
- ☐ Chuck Davis
- ☐ Alan Findlay
- ☐ Larry Hurlbert
- ☐ Barrett Johnston
- ☐ Kit O'Neill
- ☐ David Sova
- ☐ John Schelling
- ☐ Tonia Sonnell-Neil
- ☐ Bill Steele
- ☐ Megan Tremain

Staff

- ☐ Landon Bosisio, EnviroIssues
- ☐ Rebecca Herzfeld, City Council Staff
- ☐ Sandy Howard, DPD
- ☐ Erika Lund, Office of Emergency Management
- ☐ Steve Pfeiffer, DPD
- ☐ Jon Siu, DPD
- ☐ Bryan Stevens, DPD
- ☐ Angie Thomson, Facilitator, EnviroIssues

Welcome and Introductions

Angie Thomson, EnviroIssues, led a round of introductions and reviewed the meeting's agenda on policy enforcement. Angie reviewed the last meeting's discussion on incentives for URM owners and provided a status update on the outstanding action items.

- Sandy Howard, DPD, recounted her meeting with the City's Law Department. All funding mechanisms recommended by the committee are legal, but have varying levels of effort for implementation.

- Sandy also followed up on the suggestions to complete an economic analysis of the policy's potential impact to the private sector, including life safety benefits. The analysis is estimated to cost between $40,000-60,000.

Sean Martin, Rental Housing Association, asked if any property tax abatement could be used as a financial incentive for URM owners. Angie responded that the committee considered tax abatement as part of their earlier funding discussion. Chuck Davis, Seattle Central Community College, asked whether the committee has considered that major institutions may be constrained by a master plan (MIMP). He added that 17 institutions in Seattle must receive approval for retrofits and construction based on conformance with their master plan. Angie answered that the committee has not discussed this issue but will be aware of it moving forward. Megan Tremain, Group Mackenzie, said her organization supports the prioritization of seismic retrofits in the permit process as an incentive, so URM owners do not have to wait as long for approval from DPD. Sandy responded that the department will look at implementing something similar, but will need to balance URM retrofits with DPD's other work.

Overview of Enforcement

Sandy presented a list of enforcement mechanisms used by various jurisdictions in California. That state's URM policy allowed each jurisdiction to choose their own enforcement program for the retrofit policy, and what resulted was a spectrum of enforcement actions – from making retrofits entirely voluntary to potential jail time for violators. Some jurisdictions charged owners with misdemeanors if they did not retrofit their building in time. Other jurisdictions posted signs in front of the building indicating that the building may not be safe in the event of an earthquake. Many used legal action as a last resort and showed a willingness to work with property owners beforehand.

Sandy turned the group's attention to a handout on the use of demolition in California jurisdictions. Unsurprisingly, demolition of URM buildings was found to be higher in jurisdictions that did not use incentives. Rebecca Herzfeld, City Council staff, asked if the study reported the number of historic building demolitions. Sandy answered that the report does have that information, but is not summarized. Craig Weaver, USGS, asked if historic buildings in the California jurisdictions would be classified as historic buildings in Seattle. Sandy said many of the buildings in Seattle are historic or could be describes as character buildings, but are not necessarily designated as a historic landmark.

Charles Davis, Washington Federal, asked if there were any statistics showing that retrofits improve a building's resiliency to earthquakes. The URM policy will need to explain to the public the relationship between retrofits and a building's improvement in safety. Mark Pierepiekarz, MRP Engineering, noted that there is definite research that indicates retrofitted buildings are more resistant to seismic events, in particular larger earthquakes. Michale Robinson, A.I.D. Development Group, added that Lane Powell prepared a report comparing similar buildings within the same neighborhood that did and did not undergo a seismic retrofit.

Discussion of Enforcement Measures *(see attached draft enforcement measures matrix)*

To begin the discussion of enforcement measures, Angie reviewed with the group the recommended risk categories and compliance timeline that had been previously discussed. She asked the committee to identify the goals of the enforcement policy. David Gonzalez, Degenkolb Engineers, stated that the policy should not show favoritism to certain sets of owners and remain consistent across implementation. The committee agreed that other goals of the enforcement measures should include participation in the program, and aim for early participation if possible.

Mark asked what some of the enforcement measures are for other City of Seattle policies and regulations. Jon Siu, DPD, answered that generally, a notice is given with fines to follow. Bryan Stevens, DPD, added that fines are usually $150 for the first ten days of non-compliance and $500 a day thereafter. In a worst case scenario, if the building is in total disrepair, the City will put a lien on the property and demolish the building to recoup any money spent. A lien prevents a property owner from selling the property and can often prevent them from applying for a loan. Jon added that after the Nisqually earthquake, several buildings were potentially affecting the right-of-way. SDOT did not renew the buildings' street use permits until the building was fixed.

Sean noted the recent rental housing inspection ordinance and suggested using a similar inspection system for the policy, particularly multi-family housing. Art Frankel, USGS, asked if DPD can take away a building's business or occupancy permit. Jon responded that the City would need to write that into the ordinance as DPD does not currently have that power. Mark proposed adding an incentive, such as allowing for additional parking if retrofits are completed. Lynda Carey, Bellwether Housing, proposed directing any fines collected to fund financial incentives for URM owners. Rebecca answered that under City policy, fines cannot be paid to the department who gives them out as it could lead to a conflict of interest. Ryan Smith, Martin Smith Inc, remarked that even if fines were levied for non-compliance, the money would not be collected until the end of the compliance timeline, up to 13 years after the policy goes into effect.

Chuck stated fines may not work for this policy as owners who do not complete a retrofit will likely do so for financial reasons. Rachel Minnery, Environmental Works, agreed that the financial burden of the policy will be troubling for many owners. She asked if there were any statistics on the causes for non-compliance in the California jurisdictions. Angie responded that the primary reason for non-compliance was the lack of financial means to implement the policy. Steve Pfeiffer, DPD, suggested the penalty of disallowing owners to move forward with other building permits, such as a tenant improvement in a commercial building.

John Schelling, Washington State Emergency Management, posed the idea of money from the City's lawsuit settlements going towards funding the policy. Rebecca responded that any settlements are funneled towards the City's general fund to avoid any unintended incentive to engage in legal activity. Ryan proposed two tracks of non-compliance, with one for owners who can prove they are not financially able to implement the policy.

Michale stated that liens and perhaps demolition could be used as a last option for compliance. In the end, someone will want to own the property. Jon cautioned against using demolition as a last resort for

enforcement because one of the policy's stated objectives is to avoid demolition to the extent possible. Lynda advocated for a fine structure that steadily increases with time. She added that as a URM building owner, she may look to sell one of her buildings that sits in a neighborhood zoned for 20-30 stories, thereby attracting buyers who may end up starting from scratch in the retrofit process. Eugenia agreed and said the committee should be mindful of avoiding any unintended consequences with their recommended enforcement measures.

Rachel asked the committee to consider signage as an enforcement measure after the assessment period as it can be a powerful tool. Kathleen Albro, URM building owner, stated that the building's assessment needs to be standardized, with a specific price for certain building sizes. She expressed concern that the assessment might be viewed by owners as a burden and made clear that the assessment should be streamlined, quick, and easy for an owner to conduct.

Angie asked the group for recommendations on enforcement in the case of non-compliance for conducting an assessment. Chuck answered that the policy should have a notice of violation and a period of time to comply or fines will be assessed. John asked when tenants would be notified that they live in a URM building. If residents knew of the building's risk, it could be a powerful incentive for URM owners to act quickly. Chuck cautioned against this as it could have the unintended consequence of tenant flight, which would create even more financial hardship for the owner. Lynda noted that Portland requires large "U" signs to be posted on the entrances of buildings that are deemed unsafe, which potentially include URM buildings that have not undergone a seismic retrofit. Using signs such as these could be a very strong enforcement mechanism.

Michale said he thinks a fine should be imposed only if the permit deadline is missed, not the assessment. Bill Steele, University of Washington, stated that the City needs for people to understand the scope of the problem. A significant amount of front-end work is necessary to assist building owners, lead them through their potential options, and provide funding tools. Angie referred back to the idea of a DPD liaison who could help building owners navigate the policy requirements. Steve said the idea of not granting any additional permits as an enforcement measure may be appropriate because owners looking at tenant improvements will likely have already engaged a design professional. He proposed the policy require a completed assessment before building owners can obtain another permit. After brief discussion, the committee agreed.

Chuck stated that an appeal process will need to be part of the policy's enforcement measures. John said he favors a conversational approach with URM owners rather than a step-down process. The future DPD liaison could help URM owners understand the policy and would, in turn, be able to note any unique challenges facing a URM owner. Kathleen agreed and noted that if the assessment has been done well and DPD has talked to the URM owner, it should be simple to give them a timeline to comply and set up fines in the case of non-compliance. She suggested the policy outline what will be expected from URM owners during the assessment timeframe. Michale posed the idea that all requirements be given to owners with the original notification letter. Rachel expressed support for the idea, saying owners should be able to know the policy's timeline and consequences from the beginning.

The committee discussed other enforcement measures within the compliance timeline. Charles noted that if owners do not meet each step of the policy, they will only be giving themselves less time to meet the next deadline. Lynda suggested using the notice of lien instead of a lien itself if a URM owner does not conduct the assessment in the allotted timeframe. Steve proposed moving the restriction on granting other permits to the assessment level. Otherwise, URM owners could be incentivized to complete their tenant improvements before the retrofit permit application.

Michale asked for clarification on the duration of a certificate of occupancy. Jon answered that the certificate exists in perpetuity unless the occupancy changes. Lynda noted that San Francisco has posted on their website information regarding whether buildings have complied with their energy benchmarking ordinance. She expressed support for a soft posting on the City's website of buildings who are not complying with the URM policy, followed by a hard posting during the compliance timeframe. Jon said posting in California didn't appear to be very effective. He suggested a placard be placed in front of a building after the retrofit permit is approved and tenants be notified during compliance.

Rachel stated that the policy may need two categories for non-compliance – one for those who have yet to comply but have completed the assessment and those who have not complied at all. Charles added that owners who have not complied are likely to need the most help with incentives. Angie asked the group if any other tools are missing from the enforcement discussion, such as condemnation. The committee agreed that condemnation should be used only as a last resort.

Rachel reiterated that the building assessment is the most critical part of the process because it gives the owner the opportunity to make necessary choices once they realize the potential consequences of an earthquake event. She added that the City could take on the duty of assessing the buildings. Since the City already has the authority to inspect for other aspects of the building code, it should be able to acquire access to each building. Jon responded that the City is not anticipating conducting the assessments. Michale suggested revoking the certificate of occupancy in the worst case scenario after a lien and fines are levied. The building owner would either have the option to conduct the assessment or sell the building, in which case the buyer would need to conduct the assessment as a condition of the sale. Eugenia warned against creating a different enforcement policy for different subsets of URM building owners.

Wrap Up and Next Steps

At the next meeting, the committee will re-examine points made regarding policy enforcement and conclude with a committee discussion on recommendations for the City.

Action Items for DPD:

- Discuss demolition in greater detail at the next committee meeting.
- Discuss a potential appeals process.

Angie thanked committee members and meeting attendees for their participation. The next URM policy committee meeting will take place on October 25th from 8:30am – 10:00am, in SMT 4050.