ORDINANCE No. 114913

COUNCIL BILL No. 107764

HHS 1/4/90
PASS 4-0

COMPTROLLER FILE No.

Introduced: ~~Number~~ 1-2-90	By: Nelson
Referred:	To:
Referred:	To:
Referred:	To:
Reported: JAN 9 1990	Second Reading: JAN 8 1990
Third Reading: JAN 8 1990	Signed: JAN 9 1990
Presented to Mayor:	Approved:
Returned to City Clerk:	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

U36047

The City of Seattle--Legislative

REPORT OF COMMITTEE

Honorable President:

Your Committee on

to which was referred the within Council Bill No.
report that we have considered the same and respectfully recommend

Vote 8-0

Committee Chair

#4
C.B. 107664

ORDINANCE 114913

AN ORDINANCE relating to the moratorium on acceptance and issuance of permits for the demolition or change of use of low-income rental housing downtown, to authorize acceptance and issuance of permits for the demolition of low-income rental housing structures downtown which include a voluntary agreement pursuant to RCW 82.02.020 to mitigate the direct impact of the demolition, by amending Section 5 of Ordinance 114874.

BE IT ORDAINED BY THE CITY OF SEATTLE, AS FOLLOWS:

Section 1. Section 5 of Ordinance 114874 shall be amended to read as follows:

Section 5. Until the expiration of this ordinance, an application for a permit for the demolition of low-income rental housing structures may be accepted and issued only when:

1. The Director finds that the structure' condition of the building endangers the health and safety of the occupants, occupants of neighboring buildings, or the public;((or))

2. The low-income rental housing structure to be demolished or converted has been continuously vacant since January 1, 1974 ((.)); or

3. The applicant for a demolition permit enters into a voluntary agreement with the City pursuant to RCW 82.02.020 to mitigate the direct impact on low-income rental housing of the proposed demolition.

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(To be used for all Ordinances except Emergency.)

Section 2. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 8th day of January, 1970,

and signed by me in open session in authentication of its passage this 8th day of January, 1970.

President of the City Council.

Approved by me this 17th day of January, 1970.

Norman B. Rice
Mayor.

Filed by me this 17th day of January, 1970.

Attest: Norwood J. Brooks
City Comptroller and City Clerk.

(SEAL)

Published

By Thomas Dunbar
Deputy Clerk.

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O PUBLISH O DO NOT PUBLISH

CITY ATTORNEY

#4
C.B. 107764

HOUSING AND HUMAN SERVICES COMMITTEE REPORT
January 4, 1989

C.B. 107764
Relating to the moratorium on acceptance and issuance of permits for the demolition or change of use of low-income rental housing downtown, to authorize acceptance and issuance of permits for the demolition of low-income rental housing structures downtown which include a voluntary agreement pursuant to RCW 82.02.020 to mitigate the direct impact of the demolition by amending Section 5 of Ordinance 116874.

Background
The demolition moratorium, which has been extended through June 1990, currently allows two exceptions: for public safety or health hazards, and for buildings continuously vacant since 1974. This bill would add a third exception, allowing demolition in cases where the City accepts voluntary mitigation of the impacts of the demolition on low-income housing downtown.

The Law Department, the Department of Community Development, the Department of Construction and Land Use, and the Chair have agreed on the acceptability of the language in the bill.

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Downtown Human Services Council

107 Cherry, Rm 308, Seattle, WA 98104-2223

(206) 461-3865

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President

Sylvia Antonucci
Vice President

David Iobel
Secretary-Treasurer

David C. Sprague
Past President

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Executive Director
Jean Ann Harrington
Planner
Chuck Hong
Office Secretary

January 4, 1990

Jane Noland
Seattle City Council
1106 Municipal Building
600 Fourth Avenue
Seattle, WA 98104

Re: Tecton agreement and proposed language for demolition moratorium ordinance

Dear Ms Noland:

We have received the mitigation agreement worked out with DCD and Tecton Corporation to allow the demolition of the Eagles Apartments and intent to develop 28 low income units (at the New Eagles Apartments.)

It is our understanding that the community had specified a minimum of $250,000 to be contributed by Tecton to the construction of replacement housing based on the value of the units to be lost in the existing Eagles Apts. We feel Tecton has made a fair effort to meet this condition. However we would urge the following:

1. The $20,000 maximum for relocation should be spent first on relocation of tenants and any leftover monies should be added to the $135,000 contribution (Hern 4 of the Tecton proposal.)

2. New Eagles rents should be set at 30% of the median income. This rent structure more closely compares with the existing units.

3. The TDR values/appraisal are closely tied to the total contribution amount - if they are found to be substantial lower than what has been estimated - Tecton should be required to increase their contribution in order to keep the contribution total around $250,000.

In addition we would like to comment on the proposed language for the amendment for the demolition moratorium ordinance. We feel the amendment does not spell out unit

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replacement or who will determine mitigation. Will this be the site discretion of DCD? Will the community or residents in the building to be demolished have any opportunity to participate in mitigation agreements?

We hope that our recommendations on the Eagle meets with your approval. Again, we would like to extend our assistance to you on housing and Land Use issues.

We are glad to see this high level of cooperation on the preservation of low-income housing. Thank you for your attention on this matters.

Sincerely,

Beth Mountsier

Beth Mountsier, Chair
Housing & Land Use

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RECEIVED
DEC 08 1989
JANE NOLAND
SEATTLE CITY COUNCIL

Mondauer
Tecton

December 7, 1989

Seattle City Council
11th Floor, Municipal Building
Seattle, WA 98104

Tecton Development Corporation

Suite 400
111 Queen Anne Ave. N
Seattle, WA 98109

206/282 9220
FAX 206/282 9085

RE: LOW INCOME HOUSING DEMOLITION MORITORIUM

Dear Council Member:

Tecton Development Corporation has applied for master use permits to demolish 27 severely deteriorated low income rental units in the Denny Regrade. These are to be replaced by 242 units of new market rate rental housing. Our project has been delayed because of the Low Income Housing Demolition moratorium.

Tecton has acknowledged that displacement and loss of low income housing will be a consequence of our new development. On our own initiative, we generated a proposal to the Department of Community Development agreeing to commit $135,000 ($5,000 per unit) towards relocation assistance and new replacement housing production. This proposal has been favorably received by the DCD, and we are jointly working to identify the financing resources needed to develop the "New Eagle Street Apartments". This 28 unit low income building would be constructed adjacent to our new apartment project and would be owned and operated by CHHIP, a non-profit housing group.

Tecton is providing relocation assistance and replacement housing. It is ironic that our project could have already received permit approval under the Old Housing Preservation Ordinance. The threat of a continued moratorium or new SEPA ordinance is of great concern to us and will delay affordable housing production downtown.

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On December 11th:

1) Please do not extend the moratorium.
2) Please do not pass a new SEPA Policy Amendment for Relocation Assistance.

Rather than erecting barriers, let's work together to created solutions to our housing crisis by encouraging public/private cooperation.

Sincerely,

Kurt Feichtmeir

Kurt Feichtmeir
President
TECTON DEVELOPMENT CORPORATION

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PAUL SIKORA
ATTORNEY AT LAW
49th FLOOR, COLUMBIA CENTER
701 FIFTH AVENUE
SEATTLE, WASHINGTON 98104
(206) 386-5860
FACSIMILE: (206) 386-5259

December 7, 1989

Jane Noland
Chair, Housing Committee
Seattle City Council
11th Floor, Municipal Building
Seattle, Washington 98104

Jim Street
Vice Chair, Housing Committee
Seattle City Council
11th Floor, Municipal Building
Seattle, Washington 98104

Paul Kraabel
Housing Committee
Seattle City Council
11th Floor, Municipal Building
Seattle, Washington 98104

Sam Smith
Housing Committee
Seattle City Council
11th Floor, Municipal Building
Seattle, Washington 98104

Virginia Galle
Seattle City Council
11th Floor, Municipal Building
Seattle, Washington 98104

Norman B. Rice
Seattle City Council
11th Floor, Municipal Building
Seattle, Washington 98104

Dolores Sibonga
Seattle City Council
11th Floor, Municipal Building
Seattle, Washington 98104

Jeanette Williams
Seattle City Council
11th Floor, Municipal Building
Seattle, Washington 98104

George Benson
Seattle City Council
11th Floor, Municipal Building
Seattle, Washington 98104

Re: SEPA Policy Amendment for Relocation Assistance

Dear Council Members:

I represent Tecton Development Corporation. This letter responds to the proposed SEPA policy empowering the Department of Construction and Land Use ("DCLU") to deny a permit to demolish low income housing if there are not any available comparable housing units for low income tenants who would be displaced. While Tecton strongly supports relocation assistance for low income tenants, the proposed policy is too narrow to affect its purpose.

The key constitutional problem is best seen in the light of the invalidity of the downtown housing demolition moratorium. The demolition moratorium is void because it effects a taking of private property without just compensation, in contravention of the Fifth Amendment to the United States Constitution. It does so by compelling a physical occupation of properties by compelling owners to allow people to live on them, and by denying owners the right to exclude persons and uses. See the United

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States Supreme Court decision in Loretto v. Teleprompter Manahattan CATV Corp., 458 U.S. 419.

The key to the invalidity of the proposed SEPA policy lies in the provision allowing the decision maker to deny demolition if comparable low income space is not available. The sole purpose of denial would be to compel the owner to continue renting to tenants who would otherwise be displaced. That would be a compensable taking under the Fifth Amendment.

The issue boils down to the availability of comparable low income housing. Tecton has taken the initiative to search for it since summer as part of its own, voluntary efforts to relocate tenants at the First and Eagle properties. The lowest market rent Tecton has found to date in the downtown area is $225.00 per month. Tecton therefore has, at its own initiative, offered to reimburse tenants for the cost differential on the first year's rent, as well as moving expenses. But, the proposed SEPA policy can be construed to require perpetual subsidy of the rent differential. A decision by DCLU to impose such an inordinate burden, or deny the project, would cause Tecton to challenge the action in court.

Tecton strongly supports relocation assistance, and has for over a year. That is why it is voluntarily providing relocation assistance to the First and Eagle tenants. We therefore request the amendment to the SEPA policy be rejected.

If you have any questions, comments or suggestions, please do not hesitate to contact either Kurt Feichtmeir at Tecton Development Corporation, at 282-9220, or myself at the above number.

Very truly yours,

Paul Sikora

Paul Sikora

PS1/t13
Enclosure
cc: Judith Barbour
Dennis McLerran
David Moseley

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Architecture
Engineering
Land Use Services

RECEIVED C. D. S.
DEC 07 1989
JANE NOLAND
SEATTLE CITY COUNCIL

December 1, 1989

Councilmember Jane Noland
Seattle City Council
11th Floor, Seattle Municipal Building
Seattle, WA 98104

Re: Downtown Housing Demolition Moratorium

Dear Councilmember Noland:

We represent Bob Miller, a developer client, who owns a parcel of land in the Denny Regrade area. The property currently supports twenty-one low-income, studio apartment units. Mr. Miller wishes to demolish the existing apartment building and replace it with a new residential tower. However, the property owner is concerned about the diminution of downtown low income housing stock, and would like to provide replacement/relocation assistance that acceptably mitigates any such impact that his new residential project would create.

Heather Worthley of your staff and Deborah Gooden of the Department of Community Development, informed me that you and Mr. David Moseley are considering an exception provision that would permit low income housing demolition when adequate relocation/replacement mitigation is offered.

On behalf of our client, we would like for you to know that we whole heartedly support your efforts to create a moratorium exception that will permit demolition when acceptable low income housing mitigation is proposed. It is very important, and only fair, that developers who are willing to acceptably mitigate the housing impacts caused by their projects, be permitted to proceed with their projects.

We understand that the specific mitigation standards and ordinance language have not been settled upon yet. We have an idea about how mitigation could be handled, and would like to participate in the exception development process. We will offer our suggestions in a separate letter which you should receive in a few days.

Please contact me if you have any questions or comments about our project or our interest in a moratorium exception provision. We look forward to working with you on this issue.

Sincerely,

John Crull
Director of Land Use Services

cc: David Moseley
Deborah Gooden
Heather Worthley

CONSTRUCTION & DEVELOPMENT SERVICES, INC. 5115 Occidental Ave. S., Seattle, WA 98104 206 624-5797

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STATE OF WASHINGTON - KING COUNTY

22825
City of Seattle

—ss.

No.

City of Seattle

ORDINANCE 114913

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Section 5. Until the expiration of this ordinance, an application for a permit for the demolition of low-income rental housing structures may be accepted and issued only when:

1. The Director finds that the structural condition of the building endangers the health and safety of the occupants, occupants of neighboring buildings, or the public; ((or))

2. The low-income rental housing structure to be demolished or converted has been continuously vacant since January 1, 1978 ((.)); OR

3. THE APPLICANT FOR A DEMOLITION PERMIT ENTERS INTO A VOLUNTARY AGREEMENT WITH THE CITY PURSUANT TO RCW 82.02.020 TO MITIGATE THE DIRECT IMPACT ON LOW-INCOME RENTAL HOUSING OF THE PROPOSED DEMOLITION.

Section 2. This ordinance shall take effect and be in force thirty days from and after its passage and approval if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 8th day of January, 1990, and signed by me in open session in authentication of its passage this 8th day of January, 1990.

PAUL KRAABEL,
President of the City Council.
Approved by me this 17th day of January, 1990.
NORMAN B. RICE,
Mayor.
Filed by me this 17th day of January, 1990.
Attest: NORWARD J. BROOKS,
City Comptroller and City Clerk.
(Seal) By THERESA DUNBAR,
Deputy Clerk.
Publication ordered by NORWARD J. BROOKS, Comptroller and City Clerk.
((Bold face denotes deletion.))
Date of official publication in Daily Journal of Commerce, Seattle, January 22, 1990. (22825)

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

ORD: 114913

was published on

01/22/90

The amount of the fee charged for the foregoing publication is the sum of $, which amount has been paid in full.

Bethany Morris

Subscribed and sworn to before me on

Notary Public for the State of Washington, residing in Seattle

Affidavit of Publication

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