SAN MATEO COUNTY
HUMAN SERVICES AGENCY

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Date: October 5, 2001
Hearing Date: October 23, 2001

TO: Honorable Board of Supervisors
John Maltbie, County Manager

FROM: Maureen D. Borland, Director, Human Services Agency
Steve A. Cervantes, Director, Office of Housing

SUBJECT: A Housing Trust for San Mateo County: A Report to Peninsula Interfaith Action and the Advisory Committee

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Recommendation

Receive the consultant's report to Peninsula Interfaith Action and the Advisory Committee.

Background

In response to the intensifying demand for housing in San Mateo County, a planning group of business, community and county government leaders have been investigating the feasibility of developing a Housing Trust in San Mateo County.

Through the County Office of Housing, the Department of Housing and Urban Development (HUD) and the Peninsula Community Foundation, $35,000 was raised to hire Dan Pearlman, a subcontractor of ICF Consulting to prepare this report. The study for this report began in December 2000 and Mary Brooks of the National Housing Trust Fund Project, a nationally known expert, was brought in as an advisor. This report is what is being presented today.

Discussion

The goal of a Housing Trust would be to develop a sustainable source of revenue dedicated to promoting affordable housing. This report identified 15 potential revenue sources that might be used to capitalize a San Mateo Housing Trust Fund ranging from an increase in sales tax to the issuance of general obligation bonds.

This report examines the feasibility of creating a San Mateo Housing Trust Fund that would provide financial assistance for preservation and the development of housing for people earning less than 120% of median income. The primary focus of this report is on new public revenue sources that could be raised to capitalize the Trust Fund.

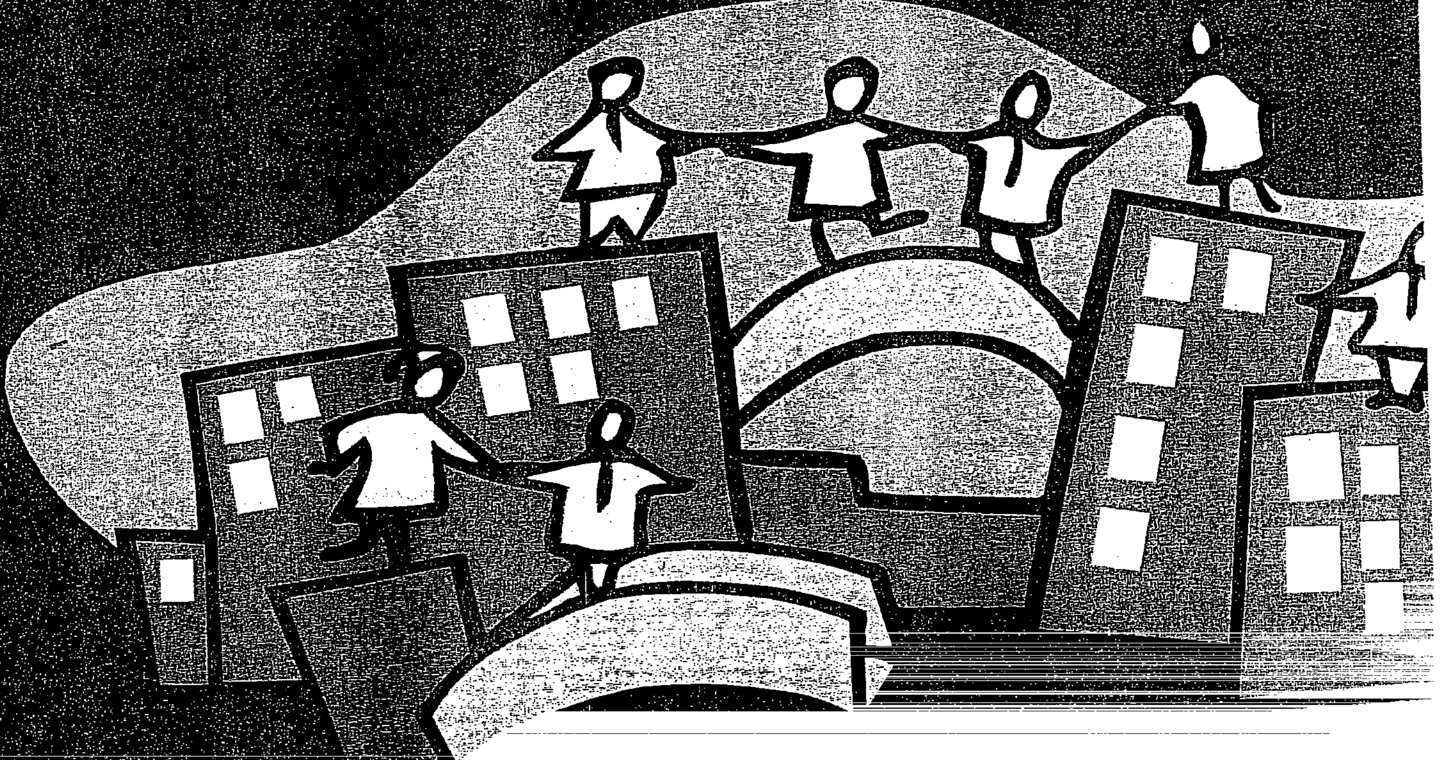
Fiscal Impact

The report is for informational purposes at this time. No county revenue sources are requested at this time.

ICF CONSULTING

A report to Peninsula Interfaith Action and the Advisory Committee

AUGUST 2001



A Housing Trust for San Mateo County

Advisory Committee

Linda Asbury, *San Mateo City Chamber of Commerce*

Larry Buckmaster, *Redwood City/San Mateo County Chamber of Commerce*

Steve Cervantes, *Office of Housing, County of San Mateo*

Judy Gaither, *Human Investment Project Director/ Housing Leadership Council President*

Renee Glover, *East Palo Alto Community Law Project*

Rich Gordon, *Board of Supervisors, County of San Mateo*

Carl Guardino, *Silicon Valley Manufacturing Group*

Michele Jackson, *Shelter Network*

Shelly Kessler, *San Mateo County Central Labor Council*

Carol Lamont, *HUD Community Builder*

Ted Lempert, *Board of Education, County of San Mateo*

Fran Wagstaff, *Mid-Peninsula Housing Coalition*

Philip Williams, *Fannie Mae*

Marina Yu, *Office of Housing, County of San Mateo*

Stewart Hyland, David Mann, Lisa Milton, Marva Monje, Laura Peterhans, Diana Reddy, Charles Spring, *Leaders and Staff of Peninsula Interfaith Action*

As members of the Advisory Committee, we have gathered because of our shared belief in the need for a Housing Trust Fund in San Mateo County. We endorse the study and intend to work with PIA to continue to pursue the feasibility of the recommendations contained herein.

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Forward

Peninsula Interfaith Action (PIA) is proud to be the initiating agent for this Revenue Sources Study, which is in no way the work of PIA alone. The Study's Advisory Committee represents a wealth of wisdom for San Mateo County and a broadly based set of constituencies, all of whom have strong interest and passion for the creation of a Housing Trust Fund for San Mateo County. A Housing Trust Fund of the magnitude recommended in this report could produce, through leveraged funds, up to 5,000 units of affordable housing in five years.

PIA is a federation of 25 congregations spanning from Pacifica down to Mountain View. PIA represents 17,000 families in eight different Peninsula cities. PIA believes that by being multifaith and multiethnic we can pull together diverse and critical partnerships for change. PIA is non-sectarian and non-partisan, and is affiliated with a national faith based organizing network called the Pacific Institute for Community Organization (PICO).

The genesis of this study dates to February 28, 2000, when PIA held an Affordable Housing Rally of 1,100 people calling for bold new initiatives. At that meeting, families and seniors testified to the pain they have experienced as a result of the Peninsula housing crisis. The San Mateo County Supervisors have responded positively to PIA's call to take a regional leadership role in finding solutions.

Through the County Office of Housing, HUD, and the Peninsula Community Foundation, $35,000 was raised to hire Dan Pearlman, a subcontractor of ICF Consulting. The Study began in December 2000. Mary Brooks of the National Housing Trust Fund Project, a nationally-known expert, was brought in as an advisor. PIA created a core task force to work with Pearlman throughout the Study. This task force brought together the Advisory Committee and participated in more than 40 interviews with a diverse representation of housing developers, business, labor, and political leaders.

What follows this study? PIA, assisted by the Advisory Committee and the County Office of Housing, is now moving to take steps to implement the recommendations of the Study:

- A strategy team is researching successful public campaigns for Housing and Transit initiatives both in the Bay Area and across the nation. A blue ribbon polling firm will be hired to advise us on the timing and strategy to test voters' responsiveness to recommendations of the study.

- All five public sources of funds recommended by the Study will be further researched as to their feasibility, their support from a variety of constituents, and their likelihood of success in a proposition campaign. The idea of a sales tax increase split between transit and housing has received significant enthusiasm within the Advisory Committee.
- With the Office of Housing, PIA is already involved in planning "Phase II" of this project. This entails funding and planning the governance structure, forming an oversight Board, and securing a first-rate professional staff executive. It will also include a fundraising strategy that includes the private sector.

Now we look forward to making this report a reality. The stakes are too high to not make that happen. Hope abounds, now a strategy is taking shape!

David Mann
Executive Director of PIA

Executive Summary

Background Information

San Mateo County, like many Bay Area cities and counties, is in the midst of a major housing crisis. Almost everyone knows at least one person, perhaps even a family member, who has been forced to move to another state, commute four hours a day, live with relatives, and/or make household payments that are far beyond their financial means. Business and local government are finding it increasingly difficult to attract and retain the necessary workforces. The crisis is particularly acute for very low-income households.

This report examines the feasibility of creating a San Mateo Housing Trust Fund (Trust Fund) that would provide financial assistance for the preservation and development of housing for people earning less than 120% of median income. The primary focus of the report is on new public revenue sources that could be raised to capitalize the Trust Fund. The report also reviews affordable housing needs and models for governing and administering the Trust Fund. Finally, the report offers some observations on the relationship of incorporated cities within the county to the Trust Fund, and the challenges involved in raising corporate and foundation funds for the Trust Fund.

This report investigates 15 possible public revenue sources for the Trust Fund. The most promising are five revenue sources that are not currently available for housing and two existing revenue sources. (See Table 1.)

"The people who teach our children in school, the people who clerk in our stores, the people who police our streets and provide fire protection cannot afford to buy nor rent a home in our communities."

PIA Clergy Letter on Housing

Table 1. Most Promising Sources of Revenue

New	Existing
Sales Tax Increase	General Revenue
Parcel Tax	Real Estate Transfer Tax Increase
Real Estate Transfer Tax Increase	
Hotel Tax Increase	
General Obligation Bond	

Annual Goal: $25 million, with 80% coming from a public dedicated revenue source.

Eight revenue sources that were investigated were found to be inappropriate for the Trust Fund. They were either legally questionable or would generate too little revenue to justify the cost and time required to gain their commitment to the Trust Fund. The financial goals that PIA and the Advisory Committee adopted to guide the research are:

- An annual minimum goal of $20 million from public sources,
- An annual minimum goal of $5 million from foundations and corporations,
- An initial $2 million from the County of San Mateo to assist with startup costs and some grants and loans,
- An annual minimum contribution of $1 million from each revenue source,
- All revenues should be funds that would not otherwise be available for affordable housing, and
- Public funds raised for the trust fund should be dedicated to the trust fund for a significant number of years.

"Many who work in our communities must spend hours traveling long distances from homes far away. We all must absorb the cost, not only to our environment, but to our mutual health and civility."

PIA Clergy Letter

To guide the research, PIA and the Advisory Committee adopted the following principles for governance of the Trust Fund:

- All housing supported by the Trust Fund must remain permanently affordable for the intended beneficiaries,
- The funds should be targeted to households as follows:
  - 50% of the funds should benefit households earning 50% or less of adjusted median income (AMI),
  - 30% of the funds should benefit households earning 51 to 80% of AMI, and
  - 20% of the funds should benefit households earning 81 to 120% of AMI.
- The funds can be spent in the incorporated and unincorporated areas of the county, and
- The funds can be used to support homeownership or rental housing provided that the housing satisfies the above principles.

The main criteria adopted for selecting and analyzing the potential funding sources were: the primary goals of PIA and the Advisory Committee, the legal requirements for adoption, and the likelihood of success.

Findings and Recommendations

Revenue Sources Investigated

It will require a major undertaking for PIA and the Advisory Committee to achieve their minimum goal of $20 million per year of dedicated public revenue to the Trust Fund. With a capitalization of this size, over 10 years, the Trust Fund could assist in the preservation and development of 5,000 to 10,000 units and leverage $100 to $200 million for every $20 million invested. The major barrier to bringing in new revenue is California's daunting voter approval requirements. The major impediments to tapping into the existing resources are the limited amount of discretionary revenue available to counties and the tremendous competition for these funds. Nonetheless, the Advisory Committee and PIA should seriously pursue their goal of a Trust Fund for at least three reasons.

Over 10 years, the Trust Fund could assist in the preservation and development of 5,000 to 10,000 units.

- First, a number of California communities, including some incorporated cities in San Mateo County, have succeeded in winning the required ²/₃ -voter approval for new taxes dedicated to a specific use.
- Second, there is the possibility of seeking a general tax increase, which only requires a majority vote, coupled with an advisory measure requesting that if the general tax increase passes, the Supervisors spend the revenues on specific uses such as affordable housing if the general tax increase passes.
- Third, the housing crisis calls for major initiatives that would help alleviate the housing burdens of as many San Mateo County residents as possible.

Amount and Source of Potential Revenue

1. Of the sources investigated, the sales tax and parcel tax are the only revenue sources that, by themselves, could generate the minimum goal of $20 million per year in public revenue.
2. A general obligation bond could provide enough funds to meet the minimum goal of $20 million for five or more years.
3. Increases in the hotel and real estate transfer taxes and the allocation of increases in revenue from the existing real estate transfer tax have the potential of meeting the goal of a minimum of $1 million per year per revenue source.
4. The projected surplus in San Mateo County's general revenue funds for the current fiscal year is a potential resource for achieving the goal of $2 million from the County for one-time startup costs and some funds for grants and loans to assist affordable housing.

Revenue Dedication

1. Increases in the sales or hotel taxes and a new parcel tax would meet the goal of an ongoing dedicated revenue stream.

2. Proposition 13 prohibits dedicating an increase in the transfer tax to a specific use.

3. An allocation of general revenue or revenue from increased collections in the transfer tax would not be a dedicated revenue source.

4. A general increase in any of the taxes coupled with a voter-approved advisory measure urging the Supervisors to give the revenues to the Trust Fund would not be a dedicated revenue source. The current Board of Supervisors, or a subsequent one, would not be legally obligated to follow the advisory vote. The advantages and risks of this technique require further examination.

Other Revenue Criteria

1. Revenue from a parcel tax would be stable and predictable.

2. The stability of the income from all of the other revenue sources is subject to the vicissitudes of the economy; however, an increase in the sales tax should generate a significant amount of revenue for the Trust Fund even during a weak economy.

3. All of the revenue sources have the potential to be spent throughout San Mateo County.

Summary of Findings for Major New Revenue Sources

Below is a summary of findings for the major new revenue sources identified for the Trust Fund.

Revenue Source	Annual Revenue Amount	Stable Revenue	Dedicated Revenue	Expenditure of Funds Throughout the County	Adoption Requirements
Sales Tax	$34,000,000 at 50% of ½ cent	Yes	Yes	Yes	⅔ vote by Supervisors and ⅔ countywide voter approval
Parcel Tax	$4,000,000 to $20,000,000	Yes	Yes	Yes	⅔ vote by Supervisors and ⅔ countywide voter approval
Real Estate Transfer Tax	$1,300,000 to $2,600,000	No	No	Yes	Majority vote by Supervisors and majority countywide voter approval
Hotel Tax	$500,000 to $1,100,000	Yes	Yes	Policy Decision	Majority vote by Supervisors and ⅔ countywide voter approval
General Obligation Bond	$50,000,000*	No	No	Yes	⅔ vote by Supervisors and ⅔ countywide voter approval

* *Income from a General Obligation Bond would be a one-time capitalization, not an annual income stream.*

Public Campaigns for Increasing Taxes

1. The most important step in a public campaign to raise tax dollars for this Fund will be obtaining the active general support of the County, cities, and other groups to work with PIA and the Advisory Committee.

2. PIA and the Advisory Committee should continue exploring the feasibility of a joint campaign with SamTrans for an increase of a ½-cent in the sales tax to be divided equally between affordable housing and transit needs. PIA and SamTrans should hire a consulting firm to verify that combining housing and transit needs in the same ballot would enhance the possibility of SamTrans obtaining voter approval for an increase in the sales tax for transit projects. PIA should conduct focus groups to determine the best way to frame the housing questions before conducting the necessary polling.

3. The Advisory Committee and PIA should undertake the following activities as part of their examination of tax increases requiring voter approval:

- Study the recent successful Bay Area campaigns that extended sales taxes, adopted parcel taxes, and approved a general obligation bond for housing,
- Study successful campaigns that obtained voter approval for a housing measure including San Francisco's 1996 general obligation bond, and the recent approval of a housing trust fund in Saint Louis,
- Expand the Advisory Committee or create a new organization to increase the number of supporters for the Trust Fund, including government, business, and other advocacy groups,
- Raise funds to hire a recognized expert to conduct focus groups and polling on voter reaction to all of the campaigns requiring voter approval, and
- Develop a fundraising plan to adequately fund a campaign.

What the Housing Trust Fund can do:

- *Cover predevelopment costs*
- *Funds to gain site control and acquire land*
- *Profile "bridge financing" until takeout financing is obtained*
- *Fund some startup development costs and some contruction costs*

Governance and Programs

1. The Board of the Trust Fund should include members with experience in the development and management of affordable housing and a significant number of people representing the interests of the intended beneficiaries including housing advocates.

2. Trust Fund revenues should be used to make feasible projects that would not otherwise be possible and/or provide targeted funds that are not available in sufficient amounts from other funding sources, such as:

   - Grants or forgivable loans to obtain site control,
   - Grants or forgivable loans for those preliminary predevelopment costs necessary to determine if a project is feasible,
   - Funds to meet local requirements that cannot be included in HUD or other budgets,
   - Provide bridge financing that will allow developers to purchase existing developments, perform necessary rehabilitation, and hold the property until takeout financing can be obtained,
   - Grants or forgivable loans to provide resident services or operating subsidies necessary to serve poorer households, and
   - Grants or forgivable loans to pay for the startup costs of mixed-use developments that cannot be covered out of resident rent.

3. Non-profit housing developers that were interviewed estimated that funds used for the above purposes can assist in preserving or developing 500 to 1,000 units for every $20 million raised. The developers also estimate that $5 to $10 can be leveraged from existing sources of revenue for every dollar invested. Over 10 years, the Trust Fund could assist in the preservation and development of 5,000 to 10,000 units.

4. The Trust Fund should prepare a business plan to present to foundations and corporations from which it solicits contributions.

San Mateo Cities and the Housing Trust Fund

1. The Trust Fund should create alliances with cities and other supporters of affordable housing to identify ways of raising additional funds for affordable housing from their communities. Funds raised from city-based initiatives could be contributed to the County Trust Fund or to a city housing trust fund, or added to existing housing programs that would enhance the overall effort to provide affordable housing throughout San Mateo County.

2. The Advisory Committee and PIA should continue to explore programs with the potential to provide enough benefits to cities within the county to warrant their investment in the Trust Fund.

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Introduction

In 1999, Peninsula Interfaith Action (PIA) made a decision to explore the feasibility of creating permanent and significant revenue to assist in the development and preservation of affordable housing throughout San Mateo County. PIA's vision is to have these funds administered by a San Mateo County Housing Trust Fund.

PIA and its membership, which represent 25 congregations with 17,000 families in San Mateo County, decided to pursue this vision after research activities by its members confirmed that San Mateo County suffers from a severe housing/jobs imbalance and that many families are unable to find decent affordable housing in the county. In February 2000, PIA described its vision for a housing trust fund at a meeting with 1000 people, including several members of the Board of Supervisors.

"PIA is a federation which is rooted in shared values of our religious and democratic traditions, and dedicated to working for the positive common good in our public life."

PIA Mission Statement

PIA created a Core Committee to develop research and action plans to pursue this goal. PIA retained Mary Brooks of the Center for Community Change Housing Trust Fund Project to assist in its effort. After holding several meetings with its membership and other interested parties to discuss the concept of a housing trust fund, possible revenue sources, and criteria for evaluating the revenue sources, PIA's Core Committee decided to hire a consultant to examine potential revenue sources and other issues critical to creating a trust fund.

"We need to find compassion in our decision making about what kind of communities we are called to create. We need to relearn the ancient lessons of hospitality."

PIA Clergy Letter

In December 2000, PIA generated funds from the U.S. Department of Housing and Urban Development, the Office of Housing of San Mateo County, and the Peninsula Community Foundation to hire a Consultant. The County, in supporting PIA's request for HUD funding, cited the need for additional local funds to match and leverage HOME and CDBG funds to help address the county's affordable housing crisis. PIA contracted with Dan Pearlman, a subcontractor to ICF Consulting, to research the possibility of establishing a housing trust fund, and to prepare a report that would summarize these findings. PIA created an Advisory Committee of affordable housing leaders in San Mateo County to review the work-plan and draft reports to help create a Trust Fund. It was PIA's hope that the research would provide sufficient data to launch the San Mateo County Housing Trust Fund.

The consultant researched opportunities and constraints of various sources of funds. The consultant's methodology consisted of research on legal and other requirements of each potential funding source, and included interviews with experts and San Mateo County officials on the feasibility of potential resources. PIA and the Core Committee have actively participated in all aspects of the work including the interviews and collecting data.

The research was guided by the following financial goals that were adopted by PIA and the Advisory Committee.

- An annual minimum goal of $20 million from public sources,
- An annual minimum goal of $5 million from foundations and corporations,
- An initial $2 million from the County of San Mateo to assist with startup costs and some grants and loans,
- An annual minimum contribution of $1 million from each revenue source,
- All revenues should be funds that would not otherwise be available for affordable housing, and
- Public funds raised for the trust fund should be dedicated to the trust fund for a significant number of years.

PIA and the Advisory Committee also adopted the following principles for governance of the Trust Fund to guide the research and interviews:

- All housing supported by the Trust Fund must be permanently affordable for the intended beneficiaries,
- The funds should be targeted to households as follows:
  - 50% of the funds should benefit household earning 50% or less of adjusted median income (AMI),
  - 30% of the funds should benefit households earning 51 to 80% of AMI, and
  - 20% of the funds should benefit households earning 81 to 120% of AMI.
- The funds can be spent throughout the county, in both the incorporated and unincorporated areas of the county, and
- The funds can be used to support homeownership or rental housing, provided the housing fulfills the above principles.

Affordable Housing Needs

San Mateo County's need for more affordable housing has been well documented by the County, the Association of Bay Area Governments (ABAG), and other organizations. Local newspapers frequently have stories on the housing crisis. Recent newspaper articles have highlighted public employees who are resigning and moving to less expensive communities, and hotel and other workers in Santa Clara County who ride buses all night because they have no place to sleep. The United States Census and local housing element plans will soon be releasing the most current housing statistics and information. It is expected that the census will document the breadth and depth of the housing needs in the county.

This section of the Report summarizes some of the general housing statistics and some of the data on housing needs for readers not familiar with San Mateo County, it will help put PIA's principles for the Trust Fund in perspective.

San Mateo County Housing Indicators as of March 30, 2001— The County's Office of Housing provides the following overview:

- Median family income ranges from $56,050 for one person to $80,100 for a household of four people,
- The current Section 8 (Fair Market) rent is $1,154 and $1,459 for one and two bedroom apartments,
- The average market rent, as of March 2001, was $1,666 and $1,964 for one and two bedroom apartments,
- The overall apartment vacancy rate, as of March 2001, was 3%,
- 9,998 households were on the Section 8 waiting list as of October 2000,
- Approximately 450, or 14%, of San Mateo's Section 8 housing vouchers and certificates turnover every year,
- The median sales price for a single family home was $650,000 as of December 2000,
- The average sales price for a single family home was $908,593 as of December 2000,
- The median sales price for condominiums and townhouses was $411,000 as of December 2000, and
- The average sales price for condominiums and townhouses was $446,578 as of December 2000.

Crisis FACTS:

- *Monthly Rent for 2 Bedrooms =$2,000*
- *Median Home Sales Price =$650,000*
- *Waiting List for Section 8 =10,000 households*

1998 San Mateo County Housing Needs Analysis—This report, prepared by Economic and Planning Analysis, contains a wealth of data. Projections for rental housing from 1995 to 2010 show shortfalls of 8,649 units for households earning less than $24,521, and 7,873 units for households earning between $24,551 and $42,950. Projections for homeownership for the same period show a shortfall of 2,293 units for households earning between $24,551 and $61,359.

Regional Housing Needs Allocation for 1999-2006—ABAG projects a countywide need for 16,305 units, including 9,113 units for very low-to-moderate-income households, based on anticipated employment and household growth in the county.

The Bay Area Housing-Jobs Imbalance: Report on the Regional Housing Crises (Draft Report #2)—Tom Jones of California Futures Network has summarized several reports that state that there is a growing imbalance between jobs and housing in the Bay Area. This imbalance is due to three major factors:

- The development of new housing is lagging behind demand,
- New housing is not being built in close proximity to jobs or transit, and
- The price of housing exceeds what the new jobs permit households to pay for housing.

Between 1994 and 1998, San Mateo County added 10.8 jobs for every new housing unit.

San Mateo County added 10.8 jobs for every new housing unit between 1994 and 1998. Burlingame, Menlo Park, and South San Francisco have some of the highest job imbalance ratios in the Bay Area.

San Mateo County 1998 Partial Unduplicated Homeless Count—The Office of Housing reports that during 1998, 4,545 unduplicated men, women, and children were homeless at some time during that year. The study described the numbers as a conservative indication of the homeless crisis because some agencies did not contribute to the report and the data from some other agencies was discarded because the reports could not be read or verified. The data does not include families or individuals living in doubled-up homes, or those precariously housed with friends or relatives. The County Health Services Department reported that 18,769 households lived in doubled-up situations in 1998.

California Housing Partnership Inventory on HUD-Assisted Multifamily Housing Prepayment Eligible and Expiring Section 8 Units—The Partnership's April 2001 data of federally-assisted, multifamily housing shows that five projects in San Mateo County with 333 housing units are at risk of being converted to market rate housing. An additional 11 projects with 2,015 housing units are judged to have a low risk of conversion because non-profit developers own them. The Partnership's inventory does not include all of the affordable housing in San Mateo County that might be at risk. A study of rental housing financed with mortgage revenue bonds, federal and state tax credits, other state and local subsidies would most likely demonstrate that a significant number of additional units of affordable housing are at risk of being converted to market rate housing. Market pressures are causing privately-owned rental housing with no governmental support to be upgraded to higher rent properties, thereby displacing low-income renters.

Revenue Sources Investigated

Overview and Criteria

This section reviews the criteria used to evaluate the revenue sources, discusses the revenue sources that PIA and the Advisory Committee chose to explore, and briefly comments on some of the other revenue sources examined.

The primary criteria for evaluating each revenue source were:

- The amount of money that might be generated,
- The likelihood of a source becoming a dedicated revenue source,
- The ability to allocate Trust Fund dollars throughout San Mateo County,
- The legal requirements for adoption, and
- The likelihood of success.

A secondary criterion was the stability of the projected amount of money that can be raised for the fund. Other criteria discussed include the impact of raising the funds on individual taxpayers and groups, and the administrative costs of implementing an increase in funding.

The purpose of identifying primary and secondary criteria was not to eliminate other considerations but to help PIA and the Advisory Committee focus their discussions.

- **Revenue criteria.** Ideally, some or all of the funds would be permanently dedicated to the Housing Trust Fund. Recognizing the difficulty of raising such funds, PIA decided to include some existing revenue sources in the analysis. To help guide the discussions, PIA and the Advisory Committee also concluded that a public campaign would be worth the time and energy required if it produced at least \$20 million in additional funding per year for the Housing Trust Fund. Finally, PIA and the Advisory Committee set a goal of at least \$1 million from each revenue source.

- **Ability to spend funds throughout county.** This criterion is important to PIA and the Advisory Committee because the greatest need and opportunities to provide additional housing for very low-income families exist within the incorporated cities.

- **Legal requirements for adoption.** California's passage of Propositions 13 in 1978, 62 in 1986, and 218 in 1996 have cumulatively imposed restraints and greater voter approval requirements on local governments' ability to raise additional revenue to support activities such as housing trust funds. While a full discussion of the complicated legal issues raised by these propositions is beyond the scope of this report, the following general statements might be helpful:[1]

  - Local governments are prohibited from imposing property tax rates above 1% except for specified rates for debt service,
  - Adoption of new fees or increases in fees usually requires only the approval of a city council or the County Board of Supervisors,
  - Fees must be reasonable and not exceed the cost of providing the services,
  - Adoption of new or increased taxes, when permitted by California's law, usually require a city council or board of supervisors approval and approval by the voters of the jurisdiction,
  - Increases in general taxes require a simple majority vote by the electorate,
  - Special taxes, i.e., taxes raised for a specific use, require $^2/_3$ of the voters to approve,
  - Local jurisdictions must have, or obtain from the California Legislature, authority under California laws to increase or impose a tax,
  - A majority vote of property owners or a $^2/_3$ vote of the electorate is required to impose or increase a property-related fee for any service other than water, sewer, or refuse collection, and
  - Property related fees may not be used to finance activities unrelated to the fees themselves.

The potential revenue sources examined for this Report have very different adoption requirements including:

- Majority vote by the Board of Supervisors,
- Majority vote by the Supervisors and $^2/_3$ voter approval, and
- Two-thirds vote by the Supervisors and $^2/_3$ voter approval.

Finally, a word of caution on adoption requirements is appropriate. Adoption requirements are extremely complicated and can change with the enactment of new laws or decisions made by the California courts. Thus, PIA and the Advisory Committee should seek legal advice, including the opinion of the San Mateo County Counsel, before deciding to seek the adoption of one or more revenue sources.

- **Likelihood of success.** This subjective criterion relies on many interrelated factors including whether the Supervisors fully support an initiative, the support of the housing community, the ability to obtain the active support of other organizations, the mood of the voters, and the quality and sophistication of any campaign to obtain adoption of any measure.

  Table 2 shows how most of the criteria, not including the likelihood of success, apply to each of the major new revenue sources discussed in this Report.

Table 2. Application of Criteria for Major New Revenue Sources

Revenue Source	Annual Revenue Amount	Stable Revenue	Dedicated Revenue	Expenditure of Funds Throughout the County	Adoption Requirements
Sales Tax	$34,000,000 at 50% of ½ cent	Yes	Yes	Yes	⅔ vote by Supervisors and ⅔ countywide voter approval
Parcel Tax	$4,000,000 to $20,000,000	Yes	Yes	Yes	⅔ vote by Supervisors and ⅔ countywide voter approval
Real Estate Transfer Tax	$1,300,000 to $2,600,000	No	No	Yes	Majority vote by Supervisors and majority countywide voter approval
Hotel Tax	$500,000 to $1,100,000	Yes	Yes	Policy Decision	Majority vote by Supervisors and ⅔ countywide voter approval
General Obligation Bond	$50,000,000**	No	No	Yes	⅔ vote by Supervisors and ⅔ countywide voter approval

** *Income from a General Obligation Bond would be a one-time capitalization, not an annual income stream.*

Major New Revenue Sources Investigated

PIA and the Advisory Committee identified 15 potential revenue sources that might be used to capitalize a San Mateo Housing Trust Fund. The list was generated from a December 2000 meeting of PIA's Core Committee; discussions with Mary Brooks, Director of the Center for Community Change Trust Fund Project; and the March 2001 meeting of the Advisory Committee. This section and the following sections review these sources. The analysis for these sources includes:

- Background Information (which includes criteria adopted for analysis),
- Adoption Requirements,
- Estimate of Amount of Funds Raised,
- Use of Funds in Incorporated Areas,
- Likelihood of Success/Voter Approval, and
- City Strategies.

A brief discussion of possible city strategies was included in this analysis. PIA and the author believe that supporters of affordable housing in the county should encourage cities to also consider raising housing funds for a countywide housing trust fund or for their own housing programs. The issue of the cities' involvement in the Trust Fund is also discussed in a separate section of this report. PIA hopes to examine this topic more thoroughly in a subsequent study of what cities in San Mateo County might do to increase their support for affordable housing.

Increase in Sales Tax on Taxable Retail Sales

- *Background Information*. California has established a base sales tax on taxable retail goods of 7.25%. The State has reduced the rate to 7% this year because of last's year higher than expected surplus. The State receives most of this sales tax. Counties are authorized to increase the base rate by as much as 1.5% without receiving authority from the State. San Mateo County has received authority to increase its sales tax 2% above the base rate. These increases are usually limited to increments of 0.0025%. San Mateo County has at least .005 % in unused authority.[2]

  The current sales tax rate for San Mateo and Santa Clara Counties is 8%. San Francisco's current rate is 8.25%. Certain necessities are exempt from the sales tax including: rent payments; food for home consumption (other than hot prepared food); and gas, electricity, and water delivered through mains, lines, or pumps.

A San Mateo half-cent sales tax measure oriented 50% to transit and 50% to housing could raise $34 million annually for a Housing Trust Fund

- *Adoption Requirements*. Approval would require a 2/3 vote of the Board of Supervisors and 2/3 countywide voter approval. The section on increasing real estate transfer taxes discusses the use of advisory votes to encourage a board of supervisors to allocate an increase in a general tax to a specific use.

- *Estimate of Funds*. Proceeds from an increase in the sales tax will vary with changes in the economy. SamTrans is projecting approximately $68 million in sales tax proceeds for San Mateo County's ½-cent transit tax for the fiscal year ending June 30, 2001. A joint campaign with SamTrans or other organizations, such as business, labor, and environmental groups, could provide $34 million per year for housing if the additional sales tax proceeds were allocated equally to housing and, for example, transit needs.

- *Use of Funds in Incorporated Areas*. Because these funds would be collected throughout the county, there should be no policy question about spending the funds anywhere within the county.

- *Likelihood of Success*. PIA and supporters of affordable housing must fully investigate the feasibility of a public campaign. The sales and parcel tax are the only revenue sources that would provide sufficient revenue to meet the financial goal of at least $20 million per year of a dedicated revenue source. That amount of revenue could be a catalyst to forming an active coalition with other organizations, such as SamTrans, which would support an increase in county revenue for transit improvements. PIA held an exploratory conversation with SamTrans in March 2001.

In August 2000, a SamTrans survey confirmed that San Mateo voters view affordable housing as a matter of significant importance.

An August 2000 survey conducted for SamTrans, confirmed that San Mateo voters view providing affordable housing as a matter of significant importance. The survey also found that preventing local tax increases was slightly less important than providing more affordable housing.[3]

Voter's approval in Alameda County in November 2000 to maintain the expiring transit sales tax for 20 additional years, and recent voter approval in Santa Clara County of a 30-year extension of the transit tax provide basis for cautious optimism. The promoters of the Alameda County initiative had the support of local governments, major environmental organizations, and other groups.[4]

PIA should explore, with SamTrans, commissioning a survey that would specifically focus on whether a joint housing and transit campaign to increase the sales tax would be more likely to gain voter approval than two separate initiatives.

PIA should seek to determine whether an increase in the sales tax would impose an undue burden on very low-income households—the beneficiaries of an increase in the sales tax, and whether any other revenue sources are feasible. Any analysis of the regressive aspect of the tax should address whether the tax would be increased for a less "desirable" use than housing if it were not increased for housing.

PIA should explore with SamTrans, commissioning a survey which would focus on a joint transit and housing campaign to increase the sales tax.

- *Cities Strategy*. While approval is not required from the individual city councils, the endorsement of most of the city councils in San Mateo County might be essential for success.

Adoption of Parcel Tax

- *Background Information.* A parcel tax is a special *non ad valorem* tax on real estate. It is one of the property taxes available to local governments that is permissible in the post-Proposition 13 environment. The tax is generally based on a fixed dollar amount per parcel rate or a variable dollar amount based on the size, use, and/or number of units on a parcel.[5]

  The following summary of the different types of real estate parcels in San Mateo County is provided to illustrate the amount of revenue that can be raised by different dollar amounts.

  The county has 216,548 parcels of land. Approximately 92% (198,870) of the parcels are designated residential with 177,196 of single-family homes (condominiums included) and 11,712 multifamily buildings with two or more units. Approximately 5% (9,962) of the residential parcels have no buildings. The county also has 6,633 improved commercial units and 1,865 commercial parcels with no buildings. Approximately 83% (3,026) of the industrial parcels have improvements. Only, 181 of the county's 2,400 rural properties have improvements including residential units. Finally, the county has 3,129 parcels labeled "miscellaneous" which include parcels such as churches, recreation buildings, golf courses, and airports.[6]

- *Adoption requirements.* A $^2/_3$ vote by the Supervisors and a $^2/_3$ vote by residents countywide are required. The section on increasing real estate transfer taxes discusses the use of advisory votes to encourage a board of supervisors to allocate an increase in a general tax to a specific use.

A $50 parcel tax would raise $10 million annually, and cost property owners $1 per week.

- *Estimate of funds.* The amount of revenue generated by a parcel tax depends upon how the tax is structured. While research on voter reactions to different formulas would be needed, the parcel tax has the potential of generating a substantial amount of revenue. A flat $20 tax per parcel would generate approximately $4 million dollars per year for a housing trust fund. A $50 per parcel tax—less than the cost of one cup of coffee per week—would produce approximately $10 million per year. A $100 parcel tax would raise approximately $20 million. These estimates assume that the tax applies to 200,000 parcels without considering whether exemptions will be available and the number of parcel owners that would request the exemption.

PIA and the Advisory Committee should explore alternative ways of structuring a parcel tax, including a flat tax for residential parcels coupled with a graduated tax based on parcel size for commercial, industrial, and office parcels.

- *Use of Funds in Incorporated Areas.* The funds could be spent throughout the county.

- *Likelihood of Success.* PIA should fully investigate the feasibility of a public campaign for a parcel tax. The adoption of a parcel tax by at least seven school districts in San Mateo County is an encouraging sign. The parcel taxes are all flat taxes and range from $72 per parcel in Brisbane to $298 with an annual increase based on the Consumer Price Index in the Menlo Park School District. In March 2001, Belmont voters passed a $72 parcel tax for a new public library with 78% voter approval. Several of the parcel taxes allow senior homeowners to obtain an exemption from the parcel. The percent of voters approving the new taxes ranged from approximately 66% (or 2/3 vote) to at least 78.5%.[7]

  The fact that a relatively small parcel tax would generate significant funds makes this option worthy of a fuller exploration. Further research on this issue should address the argument that a fixed parcel tax is regressive. While other formulas should be explored, some people believe that a complicated, less regressive tax is harder to sell to the voters.

- *Cities Strategy.* While approval is not required from the individual city councils, the endorsement of most of the city councils in San Mateo County could be essential for success.

Increase in Real Estate Transfer Tax

- *Background Information.* All counties are authorized under California law to impose a tax of $1.10 per $1000 of sales value. If the sale of real property is in the unincorporated areas of the county or in a city that has not adopted its own property transfer tax, all of the revenue goes to the county. If the sale is within a city that has also enacted a real estate transfer tax, the city and county share the proceeds from the sale equally.[8] Local jurisdictions may add the revenue to their general fund or earmark it for a specific use. San Mateo County's real estate transfer tax is $1.10 per $1,000 of sales value.

An increase in the Real Estate Transfer Tax of 20% would raise $1.3 million annually for the Housing Trust.

- *Adoption Requirements.* An Alameda County legal case finds that Proposition 13 prohibits an increase in the real estate transfer taxes that are levied for a specific purpose. This court decision is consistent with the understanding of County officials. Thus, an increase is permissible provided it is not dedicated to a specific purpose.[9] A majority vote by the Board of Supervisors and countywide voter approval would be required to increase this general tax. In addition, San Mateo County would need enabling legislation from the State Legislature authorizing it to impose the increase.

- *Advisory Votes.* Several years ago, Santa Clara County successfully combined a general sales tax increase vote with an advisory vote on how the new funds should be spent if the proposed sales tax passed. This technique was challenged and upheld by a California Appeals Court.[10] This strategy should be explored further before deciding to pursue a general increase in the transfer tax coupled with an advisory measure. There are at least four risks to this approach. First, there is a strong possibility that the Pacific Legal Foundation or other organizations would challenge a successful campaign. It is difficult to predict with any degree of certainty how the California Supreme Court will respond to tax issues if a legal challenge reaches the Court. Second, the Supervisors could ignore the advisory vote. Third, even if current Supervisors followed the mandate of an advisory vote, subsequent boards would not be bound by this, and the result could be a loss in funding. Fourth, the sales tax increase could pass and the advisory vote fail.

  Because the Board of Supervisors does not make multi-year allocations of funds, the Trust Fund could not guarantee multi-year commitments to developers of affordable housing. This limitation would be felt the most if a grant or loan from the Trust Fund was essential to a developer obtaining other loans.

- *Estimate of Funds.* Revenues will vary from year to year depending upon the economy, number of sales and increases (or decreases) in property values within the county. The County raised $4.3 million in FY 97-98 and is estimating $6.5 million for the current fiscal year.[11] Assuming future revenues remain around $6.5 million, a 20% or 40% increase would raise $1.3 million and $2.6 million respectively. A 40% increase would, for example, increase the tax on the sale of a $500,000 home from $550 to $770.

- *Use of Funds in Incorporated Areas.* From a legal and policy perspective, the County should be able to spend the revenue in the unincorporated areas and within the boundaries of all cities.

- *Likelihood of Success.* A general increase in the real estate transfer tax has a higher possibility of success than the sales tax or other taxes requiring 2/3 voter approval. An increase will not affect as many taxpayers and, in these days of windfall profits from property sales, has the ability to appeal to voters. A strong argument can be made that the recent increase in revenues from this tax is due, at least in part, to the rampant inflation in residential property values that has forced many lower-income households to move to less expensive parts of the State, move in with family, or pay more for housing than they can afford. While it would raise more funds than the hotel tax, a major increase in the current transfer tax would be necessary to raise a significant amount of money. *Unfortunately, any increase cannot be dedicated to housing.*

- *City Strategies*. While approval is not required from the individual city councils, an effort to obtain their endorsement would improve the probability of success. Cities in San Mateo County and supporters of affordable housing should also explore the possibility of increasing the tax in their city or seeking enactment of a city tax where none exists.

Increase in Hotel Tax

- *Background Information*. California's Revenue and Taxation Code authorizes local jurisdictions to impose a tax on room rentals at hotel, motels, and other lodging establishments with occupancy periods of less than 30 days. This transient lodging tax is also known as a hotel tax. San Mateo County's hotel tax is 10%. Most counties with a hotel tax charge 10% or less, Los Angeles and San Francisco charge 14%, Sacramento 12%, and Monterey and Napa 10.5%.[12] A county's hotel tax is only imposed on rooms in the unincorporated areas of that county.

An increase in Hotel Tax in unincorporated areas to 14% would raise $1.1 million annually.

- *Adoption Requirements.* A majority vote by the Board of Supervisors and 2/3 countywide voter approval is required if the revenue is dedicated to the Housing Trust Fund. The section on increasing real estate transfer taxes discusses the use of advisory votes to encourage a board of supervisors to allocate an increase in a general tax to a specific use.

- *Estimate of Funds*. The amount of revenue generated by a transient tax depends upon the number of hotel and motel rooms covered, room rates, occupancy rates, and the tax rate. The County Manager's Office is projecting $799,000 for Fiscal Year 01-02 with the amount increasing to $2,773,000 when a new airport hotel is expected to open for business.[13] Funds raised for the Trust Fund would be dedicated to the Fund until the law expired or was changed by a subsequent vote.

  There are currently 15 establishments with 460 units paying the tax. County officials expect a new airport hotel will be built within the next several years, but not many more hotels will be built in the unincorporated areas. Some sources expressed the belief that the hotel industry's decision to impose a voluntary "tax" to support San Mateo County's Tourist Office would make it difficult to obtain support for an increase in the current hotel tax.

Increasing the hotel tax to 12% would provide an additional $554,600 when the new airport hotel is open. An increase to 14% would provide $1.1 million over the County's current projections.

- *Use of Funds in Incorporated Areas.* There are no legal impediments to spending the revenue for housing throughout the county. Thus, countywide spending would be a policy decision of the Board of Supervisors.
- *Likelihood of Success.* An increase in the hotel tax for the unincorporated areas has the greatest possibility of success of all of the revenue sources that require voter approval because most voters will not be directly affected by the outcome. Unfortunately, the amount of revenue that could be raised now and in the future is probably too small to justify a major campaign for this measure.
- *City Strategies.* Many of the incorporated cities in San Mateo County already charge a hotel tax. Cities in San Mateo County and supporters of affordable housing should explore the possibility of increasing the tax or seeking enactment of a new tax where none exists.

General Obligation Bonds

- *Background Information.* San Mateo County has authority under state law to issue general obligation bonds for any purpose, and the Board of Supervisors has the power to commit funds to, including the acquisition, construction, and improvement of real property. The County, with voter approval, can levy an *ad valoreum* tax, or value-based tax, on all taxable property within its jurisdiction. The total amount of bonded indebtedness of the County cannot at any time exceed 5% of the taxable property of the county as shown on the most recent assessment role.[14]
- *Adoption requirements.* A $^2/_3$ vote of the Supervisors and $^2/_3$ countywide voter approval is required.
- *Estimate of Funds.* The issuance of a general obligation bond can clearly raise substantial amounts of money, which could be used to help capitalize the County Housing Trust Fund. San Francisco, for example, obtained voter approval for a $100 million housing bond in 1996. Any decision on the size of a revenue bond would have to consider how much money was needed to support the activities of the Trust Fund and voter reaction to different amounts.

- *Use of Funds in Incorporated Areas*. There are no existing legal or policy constraints to the County spending the revenue in the unincorporated areas and within the boundaries of all cities.

- *Likelihood of Success*. Additional research on the experience of other California communities with housing bonds should be undertaken before pursuing this revenue source. One good case study would be San Francisco, where voters approved a $100 million general obligation bond for housing in 1996.

- *Cities Strategies*. While approval is not required from the individual city councils, an effort to obtain their endorsement would improve the probability of success. Cities and supporters of affordable housing should also explore whether it makes sense to issue their own bonds and/or have some of their housing projects be included in a list of possible projects if there is a County general obligation bond initiative.

Major Existing Revenue Sources Investigated

General Revenue

- *Background Information*. Approximately half of the housing trust funds in the United States have benefited from an initial capitalization. Of those that are city and/or county housing trust funds, the most common source of capitalization are monies from a community's general fund. Other sources have included: Community Development Block Grant funds, developer contributions, UDAG or other program repayments, revenues from the sale of city-owned land, redevelopment set-aside funds, bond repayments, or specific tax revenues (typically the source that is eventually contributed to the trust fund). For these city and/or county housing trust funds, the amount of capitalization ranged from a low of $33,000 to a high of $3.2 million. At least 10 city and/or county housing trust funds were capitalized with more than $1 million in initial funds.

  Capitalization benefits include:

  - Enabling a trust fund to begin the administrative tasks necessary to ensure an effective and efficient trust fund operation such as:
    - hiring and/or training staff,
    - appointing and training an oversight board,,
    - preparing administrative rules,
    - preparing program guidelines and applications,
    - organizing fiscal management systems, and
    - structuring an evaluation and monitoring process.

- Beginning educational activities, including working with prospective applicants to ensure their understanding of the housing trust fund,
- Allowing staff to develop and implement a plan for seeking additional funds, and
- Demonstrating the jurisdiction's commitment to moving forward with the trust fund concept recognizing that providing decent affordable housing is essential to the health of the community and deserves the jurisdiction's most thoughtful approach.[15]

Information in San Mateo County's Mid-Year Report indicates that capitalization support from the County is possible. The County is projecting an additional $19.3 million in the beginning Fund Balance above what it anticipated for FY 2000-01. These monies are in addition to County reserve funds. The County is also projecting that general purpose revenue growth will average $8 million or 3.8% over the next five years.[16]

- *Adoption requirements.* In California, boards of supervisors usually adopt a final budget in June or July. San Mateo County's budget hearings are completed for this year. The next opportunity for PIA to lobby for a budget allocation is at the mid-year budget review.
- *Estimate of Funds.* As indicated above, there appears to be sufficient funds for the County to capitalize the Housing Trust Fund at $2 million.
- *Use of Funds in Incorporated Areas.* Use of the funds to capitalize the Trust Fund will benefit both the incorporated and unincorporated areas of the county.
- *Likelihood of Success.* It is impossible to predict how the Board of Supervisors will weigh a capitalization request against other competing requests. The fact that PIA is seeking one-time funds for startup purposes might make the Board more willing to allocate general revenue funds or dollars from one of the County's reserve funds. In any event, PIA should consider such a campaign as a vehicle to educate the public about the tremendous need for additional housing resources, and to better position housing needs for the competition for funds in future years if the County decides it cannot capitalize a trust fund this year.
- *Cities Strategy.* Cities and supporters of affordable housing should explore the feasibility of pursuing a general revenue strategy in their own communities to support the Housing Trust Fund, or to increase the amount of funds available within their communities for affordable housing.

Increases in Funds from the Existing Real Estate Transfer Tax

- *Background Information.* As indicated in the discussion of new revenue sources, collections from the existing real estate transfer tax have been growing during the past decade as a result of the rampant inflation in the price of real property in San Mateo County and elsewhere in the Bay Area. Supporters of affordable housing have suggested that some of the increase in collections from this tax be used to support affordable housing. A dedication of these revenues could be structured as a percent of the increase in collections over a designated base year or as a fixed annual amount based on past increases or projected increases.

- *Adoption Requirements.* Approval by the Board of Supervisors is required. Any decision to allocate some of these funds to the Trust Fund would most likely be made as part of the annual budget process.

- *Estimate of Funds.* Any estimate of funds will turn on the chosen base year and future projections. Amounts raised by this tax increased from approximately $4.8 million in FY 1998-99 to approximately $6.1m in FY 1999-2000. The County's Midyear projections for the current fiscal year are $6.5m with $6m for FY 2001-02, and gradually declining to approximately $5m in FY 2005-06.[17]

In the past two years, the County income from its current Real Estate Transfer Tax has increased $1.7 million. This source has an excellent nexus with housing.

- *Use of Funds in Incorporated Area.* The County should be able to spend the revenue in the unincorporated areas and within the boundaries of all cities.

- *Likelihood of Success.* Any allocation of these funds to the Housing Trust Fund would most likely take place as part of the Supervisors' discussion of how to allocate increases in the County's general revenue funds. The challenge to supporters of affordable housing will be to convince the Supervisors that the special nature of these funds justifies separating them from the normal budget.

- *City Strategies.* Cities and supporters of affordable housing should explore the feasibility of pursuing a similar strategy to support the Trust Fund or to increase the amount of funds available within their communities for affordable housing.

Other Revenue Sources Considered

The other potential revenue sources were:

- Commercial linkage fees,
- Redevelopment set-aside funds,
- Surplus property funds,
- Inclusionary zoning fees,
- Interest on tenant security deposits,
- Document recording fees,
- Building permit fees, and
- Other business fees.

These revenue sources were found to be inappropriate for a County Housing Trust Fund. In each case, they were either legally questionable and/or would generate too little revenue to justify the cost and time required to get them committed to the Trust Fund. Some, such as a linkage ordinance and an increase in redevelopment set-asides, are discussed in some detail because they could be appropriate to pursue in some San Mateo County cities.

Business Commercial Linkage Fee

The opinion of all people interviewed on the appropriateness of a linkage ordinance for the unincorporated areas of San Mateo County was that there will not be enough commercial development to consider a linkage ordinance as a significant potential revenue source for a County Housing Trust Fund.

- *Background Information.* California law authorizes cities and counties to impose impact fees on development activities as a condition to granting building permits.[18] Prior to the adoption of a fee, local governments retain planning experts to conduct a nexus (linkage) study. The Study, amongst other things, must demonstrate a reasonable relationship between the fee's use and the type of development on which the fee is imposed. The Study also must demonstrate the need for the public facility and the type of development activities that would be required to pay the fee.

  Linkage fees are one of the more popular revenue sources for funding housing trust funds. As of 1996, at least 13 cities and counties had dedicated the revenue from linkage fees to their housing trust funds, including the City and County of Sacramento.[19] Menlo Park, Palo Alto, Sunnyvale, San Francisco City and County, and Sacramento City and County have successful impact fee programs that provide additional revenues for housing.

- *Adoption requirements.* A majority vote by the Board of Supervisors or City Council would be required.

- *Estimate of Funds.* While it is impossible to predict the amount of revenue prior to the completion of the required technical study and the calculation of the amount of development activity in any given year, the following examples might be helpful. In March 2001, the City and County of San Francisco amended its 1985 affordable housing linkage ordinance by approving the Jobs Housing Linkage Program (JHLP). The JHLP requires developers of commercial office projects, entertainment, hotel, retail, and research and development uses in excess of 25,000 new square feet to mitigate the affordable housing impacts created by the new workforce required for these developments. Developers can meet their obligations by paying an in-lieu fee to a city housing fund or making a contribution to a specific affordable housing development or building the necessary housing. In 2002, the JHLP fee will range from $9.97 to $14.96 per square foot depending upon the type of use. Estimated revenue from the fee on new developments is $44 million from 2000 to 2010.[20]

- *Nexus.* This is the easiest area to demonstrate a clear connection between the commercial development and the need for additional affordable housing. Technical studies in other communities have demonstrated this nexus.

- *Likelihood of Success.* Voter approval is not required and the experience of other California communities make this revenue source well worth examining for cities in San Mateo County. Effective arguments would have to be developed to overcome fears that a linkage fee might drive away desired new business.

Increase Redevelopment Set Aside for Low-Mod Housing

There are no redevelopment areas—existing or planned—in the unincorporated areas of San Mateo County.

- *Background information.* California law authorizes local jurisdictions to establish tax increment redevelopment districts.[21] The redevelopment agency, usually the local city council or board of supervisors, having established a tax increment district, receives the "increment" in increased tax revenue resulting from increases in property values within the designated area. The agency is generally required to set aside at least 20% of all tax increment revenue for the purpose of "increasing, improving, and preserving the community's supply of low and moderate income housing." This set aside is placed in a separate housing fund.

- *Adoption requirements.* A city with a redevelopment district would have to approve an increase in the set aside of tax increment above the mandatory 20% for each project area.

- *Likelihood of Success.* An increase in the minimum set aside has a higher chance of success than many of the other revenue sources because formal voter approval is not required.

Interest From Surplus Property Account

San Mateo County does not maintain any significant balances its account of proceeds from the sale of surplus property. The Board of Supervisors recently adopted a policy of earmarking funds from any sale of surplus property to help pay for County office space. This makes funds from the sale of County land or interest on any surplus account an unlikely revenue source for a County Housing Trust Fund.

Supporters of affordable housing could research whether surplus property accounts exist in their community and whether some of the principal or interest could become available to support affordable housing activities.

Inclusionary Zoning Ordinance with In-Lieu Fees

The opinion of all people interviewed on the appropriateness of an inclusionary zoning ordinance for the unincorporated areas of San Mateo County, was that there will not be enough housing development in the foreseeable future to consider this type of ordinance as a significant potential revenue source for a County Housing Trust Fund.

A number of cities in San Mateo County have ordinances that are designed to help increase the supply of affordable housing.[22] Supporters of affordable housing might want to review their city ordinances on developing affordable housing to determine whether their city should be asked to strengthen the existing ordinances or adopt new ones such as inclusionary zoning ordinances with in-lieu fees.

Interest on Tenant's Security Deposits

Landlords in San Mateo County hold a significant amount of money in tenant security deposits. State law permits landlords to request two to six months rent as a security deposit depending upon the legal nature of the lease. These deposits can be used by the landlord to pay for such costs as a tenant's default in payment of rent, repairs for damages to the apartment caused by the tenant, and cleaning the apartment after a tenant vacates it. The landlord is required to return the deposit minus any deductions after the tenant vacates the apartment.[23]

The landlord is not obligated to pay interest on the security deposit to the tenant unless required by a local ordinance. Several people suggested that San Mateo County enact an ordinance requiring landlords to pool their security deposits and pay the interest earned to a County Housing Trust Fund.

A recent decision by Federal Ninth Circuit[24] suggests that such an ordinance might be unconstitutional. The federal case involved a Washington State statute requiring attorneys holding short-term client deposits to pool the funds in an interest-bearing account. The interest was distributed by the State Bar to legal services programs in Washington State. The Court held that the interest generated from the pooled trust belonged to the attorneys' clients. The Court further held that the government's appropriation of the funds for a public purpose is a taking under the Fifth Amendment and just compensation is required. The Court also referred to a California case, which said that the use of interest earned on prison inmates' funds for the general welfare of prisoners was unconstitutional.[25]

While it might be feasible for San Mateo County to craft an ordinance that would be constitutional, additional research and thought are necessary before pursuing such an ordinance.

Document Recording Fees

San Mateo County currently charges the maximum recording fees permitted by California's Government Code. Further increases would require approval from the California Legislature. The County collected $1,130,910 during FY 1997-98, $1,920,370 in FY 1998-99, and $1,592,262 in FY 1999-2000. County Recorder staff are projecting $1.5 million for the current fiscal year.[26]

In addition to requiring state enabling legislation, ⅔ voter approval would be required if the increase was dedicated to the Housing Trust Fund in addition to approval from the Board of Supervisors. A further complicating factor is that fees are supposed to be limited to the cost of providing the specific service.

Building Permit Fees

San Mateo County building permit fees are adjusted annually based on cost increases and on what other counties are charging. The revenue is used to pay for the operations of the Planning Commission. Revenue raised from building permits was approximately $1.1 million and $1.15 million in FY 1998-99 and FY 1999-00 respectively. The County is projecting $1.3 million for the current fiscal year.[27] The fees are collected only in the unincorporated areas of the county.

Other Business Fees

The County has a few other minor business fees on such things as massage parlors. The Board of Supervisors has a policy against adopting any new business fees.

As part of its future conversations with corporate leaders, PIA will explore the possibility of any new taxes or fees as a way for the corporate community in San Mateo County to support the Housing Trust Fund. In these meetings, PIA will also discuss other sources of support for the Trust Fund that corporate leaders may consider more acceptable.

Corporate and Foundation Support

PIA expects to perform additional research on the feasibility of reaching its goal of a minimum of $5 million in annual contributions from the corporate and foundation communities. Preliminary conversations suggest, however, that this goal will have to be lowered significantly. The general difficulty of raising large sums from these sectors is further complicated by the current economic conditions, which are reducing corporate profits and foundation portfolios.

Preliminary conversations also suggest that PIA and supporters of affordable housing should fully explore with Bay Area foundations ways in which they might support the Trust Fund. One possibility is to ask the Northern California Grant Makers, or other organizations, to host a meeting of local foundations. Specific areas to explore include:

- Grants for startup and related costs,
- Program related investments, and
- Grants for specific affordable housing programs consistent with the Trust Fund's goals and principles.

Grants for specific Trust Fund programs would permit the Trust Fund to target different foundation programs including such activities as public-private partnerships, workforce housing, and housing for the homeless and other vulnerable housing populations.

PIA should work with San Mateo County, the business community and others to develop a strategy for corporate fundraising. Topics addressed should include:

- How to identify and convince influential business to take a leadership role in the campaign,
- Identification and recruitment of other civic leaders to serve on a campaign committee,
- Identification of key corporate sectors and corporations operating in San Mateo County,

- Short and long term funding goals,
- Selection of a consultant to conduct focus groups and polls,
- Selection of a fundraising consultant to help refine the strategy and assist in implementing the campaign,
- Determination of staffing needs of the organization responsible for carrying out campaign, and
- How to seek contributions that will be consistent with the goals of the Trust Fund.

Governance and Programs

Trust Fund Models

The decisions on how a Housing Trust Fund should be administered, the composition of a board of directors and/or oversight board, and the selection of the initial staff are critical to the short and long-term success of the entity. While local political considerations will and should be a part of the decision-making process, this section of the report will offer some general thoughts on possible criteria for making this decision. This section will also briefly describe three different models for governing and administering the Housing Trust Fund,[28] and some of the probable advantages and disadvantages of each approach. A chart of one possible structure for the Trust Fund is presented for illustrative purposes. Finally, this section will also suggest possible uses for the Trust Fund's revenues.

The decisions on how a Housing Trust Fund should be administered are critical to the short- and long-term success of the entity.

While it would be presumptuous for the author to recommend a particular model, the following materials, hopefully, will help focus the discussions on the most appropriate model for San Mateo County.

Theoretically, any of the models could work. Possible criteria for determining which approach makes the most sense for San Mateo County include whether the board, staff and/or consultants:

- Have experience with housing development and management and an understanding of the process involved in providing affordable housing,
- Have the capability to operate a grant and loan program and monitor activities of that program,
- Have experience with the nonprofit development community and can demonstrate an ability to work effectively and cooperatively with them,
- Have the experience and ability to raise funds from the public, private and foundation sectors,

- Can demonstrate an understanding and commitment to working to create housing opportunities for the targeted population,
- Are committed to addressing urgent housing needs and demonstrate a willingness and ability to search for innovative solutions,
- Have the legal authority, experience in, and capability to manage funds and can ensure an acceptable independent annual audit of fund behavior,
- Have the ability, legal authority, and willingness to establish an oversight board with broad representation,
- Can demonstrate a willingness and ability to work with all the partners and industries involved in affordable housing, including cities throughout the county and other county housing programs, and
- Understands and is willing to engage in a process of public accountability.

County Run Model

In this model, a county department, such as the Office of Housing, is responsible for administering the Trust Fund in a manner similar to how it makes grants and conducts monitoring of its HOME, CDBG and other housing funds. Many trust funds have established an advisory board or commission to oversee the management of its funds. These bodies usually have a broad range of representatives from the various organizations involved in developing and preserving affordable housing. The responsibilities of some of the oversight boards are quite broad, including approving staff hires, setting policies, establishing criteria for making loans and grants to developers, and monitoring staff and grantee performance. At the other end of the spectrum are those boards that merely advise staff.

The advantages of having the County administer the Trust Fund include:

- An existing experienced staff,
- An existing infrastructure,
- The possibility that the Trust Fund's operations might be subsidized by not charging for things like space and staff time,
- Public accountability, and
- A greater likelihood of coordinating Trust Fund's operations with County's existing housing programs.

The disadvantages include:

- Civil service and other government requirements which can add costs and time delays,

- An existing bureaucracy that might not be as creative or flexible as a nongovernmental entity, and

- The reluctance of the private sector to contribute to a government activity.

Mixed Model Private-Public

One example of this model was San Mateo County's Housing and Homeless Trust, which is described, in greater detail in the following section on San Mateo cities. The Peninsula Community Foundation entered into a contract with the County to raise contributions for the Trust, manage the investment of the funds, and enter into contracts with non-profits receiving the funds. The Foundation created a Management Board that was responsible for fund development and grant allocations. The Management Board had 13 members including one elected official, three people from the County Office of Housing, one clergyman, developers, and representatives of financial institutions. The Foundation was also responsible for such matters as developing criteria, reviewing proposals, making recommendations to the Management Board, and monitoring grantees performance.

Possible Structure for San Mateo County Housing Trust Fund

(Based on Dayton/Montgomery Affordable Housing Fund)

Note: Entity must exist or be identified to establish new non-profit corporation — could be established by Office of Housing.

San Mateo County Board of Supervisors

- Dedicate revenue sources to San Mateo County Affordable Housing Fund
- Identify broad parameters for creation of Housing Fund
- Could/should appoint at-large members ...to be discussed
- Would receive/review annual report ...could hold public hearings to review

San Mateo County Affordable Housing Fund
Incorporated as 501(c)(3)
[Could be non-profit arm of Office of Housing]

Board of Directors (9 Members)

- One County Supervisor *(appointed by Board of Supervisors)*
- One Elected City Mayor in San Mateo County *(appointed by ???)*
- County Manager (or his/her representative) *[could be ex-officio or could be from Office of Housing]*
- President Peninsula Community Foundation
- Five at-large members *(appointed by ???)*:
  - Representative of a non-profit development organization specializing in affordable housing
  - Representative of faith community
  - Representative of a service organization working with homeless and low-income households
  - Two representatives with experience and/or expertise in affordable housing
  - *[Alternatives to consider: someone from the business community, a banker, others?]*

Note: Could contract with existing non-profit to administer Fund.

Board Responsibilities:

1. Hiring executive director
2. Approval of overall policy and direction of housing fund annual or bi-annual plan
3. Evaluation of activities annually
4. Contract with Peninsula Community Foundation for managing funds
5. Business plan and fundraising
6. Development and approval of program guidelines
7. Final approval of funding awards

Staff Responsibilities:

1. Day-to-day operation of the Fund
2. Staff to the Board
3. Preparation of overall Fund housing policy, housing plan, and program guidelines for Board approval
4. Preparation of application materials
5. Announcement of fund availability and technical assistance to potential applicants
6. Initial review of applications
7. Monitoring of project compliance and reporting requirements

Note: Staff could be hired and/or could be share staff with Office of Housing (e.g., one staff person on loan full- or part-time).

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A variation of this model, or a hybrid model, would be for San Mateo County's Office of Housing staff to perform some of the administrative tasks where they have experience and knowledge such as developing criteria, reviewing proposals, making recommendations to the Management Board, and monitoring grantees performance. Another variation would be for the Board of Supervisors to appoint some or all of the board members.

This model has many of the potential advantages of the County run model with fewer disadvantages. The specific advantages and disadvantages of contracting with an existing entity will vary from organization to organization. One important factor to examine is the ability of the organization to add to its existing workload. Another is whether making the Trust Fund a success would be a high priority for the organization, particularly when and if the organization becomes overwhelmed with its primary mission and activities.

Establishing a New Nonprofit

A third approach would be to create a new Section 501(c)(3) organization to run the fund with a representative board of directors. Under this approach, the entity could hire its own staff or enter into a contract for services with the County Office of Housing or a non-profit developer or some combination thereof.

The advantages and disadvantages of this model are very clear. A new entity that has as its sole activity the creation and management of the Trust Fund will not have to worry about conflicting priorities with other work, be limited by any of the inefficiencies of an existing organization, and has the potential of being more creative and energetic. The disadvantages include a longer startup period, no track record, a potential lack of public accountability and the lack of a parent organization to assist with the various challenges and problems that any new entity will encounter. The ultimate success or failure of this approach will turn more on its ability to attract dedicated and skilled board members and a topnotch staff than with the other models.

Uses of Trust Fund Revenues and Projections

While the board and staff of the organization will ultimately be responsible for creating the specific programs, this report will share the opinions of several non-profit developers and the author to help inform the decision-making process on this most critical issue.

All programs should be consistent with PIA's principles, which guided this research and were endorsed by the Advisory Committee and almost everyone interviewed. As described earlier in this report, the principles are:

- All housing supported by the Trust Fund must be permanently affordable,
- The funds should be targeted to household as follows:
  - 50% of the funds should benefit household earning 50% or less of adjusted median income (AMI),
  - 30% of the funds should benefit households earning 51 to 80% of AMI, and
  - 20% of the funds should benefit households earning 81 to 120% of AMI.
- The funds can be spent in the incorporated and unincorporated areas of the county, and
- The funds can be used to support homeownership or rental housing provided the housing fulfills the above principles.

Programs should be developed that offer funds that can make a project feasible that would not otherwise be possible and/or are not available in sufficient amounts from other funding sources. A developer will not always be able to repay the Trust Fund. Thus, a significant amount of the funds should be made available as grants, deferred interest loans, or forgivable loans under preset conditions. An inherent principle of these recommendations is that the Trust Fund cannot always underwrite proposals as would a commercial or government lender that expects repayment. In fact, one of the greatest needs of developers of affordable housing is for risk capital. Some of the specific funding needs mentioned by nonprofit developers include:

- Grants or forgivable loans to obtain site control,
- Grants or forgivable loans for those preliminary predevelopment costs necessary to determine if a project is feasible,
- Funds to meet local requirements that cannot be included in HUD or other budgets,
- Bridge financing that will allow developers to purchase existing

developments, do necessary rehabilitation, and hold the property until takeout financing can be obtained,

- Grants or forgivable loans to provide the resident services or operating subsidies necessary to serve poorer households, and
- Grants or forgivable loans to pay for the startup costs of mixed use developments that cannot be covered out of resident rent.

Non-profit housing developers estimate that funds used for the above purposes can assist in preserving or developing 500 to 1,000 units for every $20 million or 5,000 to 10,000 units over 10 years. The developers also estimate that $5 to $10 dollars can be leveraged for every dollar invested, or $100 to $200 million for every $20 million invested by the Trust Fund.[29]

San Mateo Cities and the Housing Trust Fund

Many cities in San Mateo County have undertaken initiatives to increase and preserve the supply of affordable housing.[30]

PIA hopes to explore in a subsequent study ways that affordable housing resources can be increased at the local level, including possible contributions to the Trust Fund. This section will briefly review the experiences of San Mateo County's Family Housing and Homeless Trust Fund to get cities to contribute to their countywide fund. It also offers some suggestions of possible strategies for cities and supporters of affordable housing to increase support for affordable housing at the city level, in addition to city contributions to the Trust Fund.

Family Housing and Homeless Trust Fund[31]

In May 1992, the San Mateo County Board of Supervisors entered into a contract with the Peninsula Community Foundation to operate the Family Housing and Homeless Trust Fund (FHHTF). The County contributed $1 million with the expectation that the private sector and cities in San Mateo County would each contribute an additional million for a total amount of $3 million over five years. FHHTF was created in response to study prepared by a San Mateo County Blue Ribbon Commission to address the needs of San Mateo County's homeless population.

The goals of FHHTF were to:

- Increase the supply and operations capability of emergency shelters and transitional housing units,
- Support efforts to prevent homelessness, and
- Expand the supply of affordable housing.

Between 1992 and 1999, the Foundation raised or directly contributed $802,077 to match the County's $1 million and the $214,077 contributed by cities in San Mateo County. The funds included $297,181 in earnings on investments. Grants totalling more than $2 million were awarded to local homeless and housing programs. The grants helped in the creation and support of 162 beds in new emergency shelters, transitional housing, and supportive housing for homeless adults and parents with children in San Mateo County. Programs created as a result of these grants include two projects of Shelter Network, the Catholic Worker Hospitality House in San Bruno, the Clara-Mateo Alliance Shelter in Menlo Park, Walker House in East Palo Alto, and the Young Adult Living Program of the Mental Health Association.

The Foundation's efforts to raise funds from the cities were not as successful. In consultation with FHHTF's Management Board and County officials, the Foundation developed a five-year "fair share" formula to guide the solicitation of funds from the cities. The fair share amounts, which were based on population and assessed value, varied from a low of $638 for the City of Colma to a high of $28,578 for the City of San Mateo. After three years of mixed success, the Foundation shifted its efforts to raising funds from the private sector. Reasons cited by the cities for not participating or not giving their fair share include:

- Scarce general fund and Community Development Block Grant resources,
- State encroachment on city budgets,
- Existing commitments to support nonprofit providers of affordable housing, and
- Contributions to the Trust Fund would be an inappropriate use of city funds because their residents would not receive direct benefits.

Over the seven-year period, eight of the county's cities contributed to the fund in amounts ranging from 20% to 80% of their fair share allocation.

Research on cities' willingness to contribute to a new County Trust Fund should include the following questions:

- How much of the funds contributed to the Homeless Trust Fund were dollars that would not have otherwise gone to housing?
- Are the reasons cited to the Foundation for not giving still relevant today?
- What can be done to produce a more positive response from the cities?

Additional Strategies to Increase Cities Support for Affordable Housing

Cities and supporters of affordable housing should examine what additional revenue sources might be available in their community for affordable housing. A good starting place might be the same list of revenue sources that this study examined at the county level. Revenue sources such as a business linkage fee, inclusionary zoning, and increases in the redevelopment set aside might very well be appropriate for some of cities in San Mateo County.

PIA should also explore with San Mateo cities whether programs can be designed that would encourage the cities to invest in the County Housing Trust Fund. The "Countywide Home Investment Program" currently being explored by 18 cities in San Mateo might be such a program.

If some cities are willing to increase their commitment to affordable housing, the new funds might be contributed to the County Trust Fund, to a city housing trust fund or simply allocated to the appropriate agency to enhance existing housing programs or to develop new housing programs.

Acknowledgments

I want to thank and acknowledge the active participation in all phases of this work including interviews, data collection, and review of drafts of PIA's Executive Director, David Mann, staff members Lisa Milton, Charles Bunch Spring, and Stewart Hyland and PIA leaders Marva Monje, Laura Peterhans, and Diana Reddy. PIA's participation has made this a better report and the process an enriching one for me. Special thanks to Carol Lamont of HUD and Marina Yu of the County's Office of Housing who participated in discussions with PIA and me and helped obtain numerous documents. Special thanks also to Mary Brooks of the Housing Trust Fund Project for participating in many parts of the study and for being an invaluable resource. Special thanks are also owed to Carole Norris and Jeannie Wong of ICF Consulting for their support, suggestions, and editing, and to Jeannie for conducting research on parcel taxes in San Mateo County. Particular thanks are owed to Rick Judd of Goldfarb and Lipman for his assistance on the complicated legal issues.

Members of the Advisory Committee were extremely helpful in sharing their insights and making suggestions for additional research.

The report would not have been possible without the cooperation of numerous individuals in San Mateo County Government who met with PIA, answered the author's telephone calls, and provided reports, data and other information on a timely bases. Particular thanks are owed to Maureen Borland, Director of the Human Services Department, and Steve Cervantes, Director of the Office of Housing. Additional thanks are owed to Supervisors Rose Jacobs-Gibson, Mark Church, Rich Gordon, Jerry Hill and Mike Nevin, County Manager John Maltbie, Deputy County Manager Reyna Farrales, SamTrans Executive Director Mike Scanlon, and County Counsel Tom Casey.

Thanks are also owed to Jim Bigelow—Consultant to Redwood City/ San Mateo County Chamber of Commerce, Carl Guardino—President of Silicon Valley Manufacturing Group, Mark Moulton—Executive Director of Habitat for Humanity, Dave Latina—Director of Housing Development for Mercy Housing, Robert Jones—Executive Director of EPA CAN DO, SAMCEDA's Housing Action Team, and the Economic Development Committee of Redwood City/San Mateo County Chamber of Commerce.

Finally, thanks are owed to the U.S. Department of Housing and Urban Development, the Peninsula Community Foundation, and San Mateo County's Office of Housing for providing PIA with financial support for this study, and all the other individuals who were gracious in sharing their knowledge and time with me or in separate meetings with PIA.

Endnotes

1 See California State Legislature 2000 Revenue and Taxation Book.

2 See California State Legislature 2000 Revenue and Taxation Book.

3 See *Survey of Voters* conducted for SamTrans by Godbe Research & Analysis, August 2000.

4 See Alameda County's website, www.acta 2002 for detailed information on the Transit Authority's plans and campaign.

5 See League of California Cities 1995 *California Municipal Revenue Sources Handbook.*

6 Telephone conversation with Terry Flynn of the Assessor's Office on March 14, 2001.

7 See April 2, 2001 Memorandum from Jeannie Wong of ICF to Dan Pearlman.

8 Revenue and Taxation Code, Section 11901

9 See *Fisher v. County of Alameda*, 24 Cal.Rptr.2d 384 (Nov. 1993).

10 See *Coleman v. County of Santa Clara*, 64 Cal.App.4th 662 (1998).

11 See February 22, 2001 letter from Deputy County Manager to Charles Spring of PIA.

12 Revenue and Taxation Code, Section 7280. The hotel rates come from a 1995 survey conducted by the California State Association of Counties. County staff reported that no Counties had increased their rate since the survey was conducted.

13 Memorandum from County Manager to Board of Supervisors, February 13, 2001.

14 Government Code, Sections 29900-29930.

15 Adapted from a March 15, 2001 Memorandum from Mary Brooks to PIA.

16 Memorandum from County Manager to Board of Supervisors, February 13, 2001.

17 See February 22, 2001 letter from Deputy County Manager to Charles Spring of PIA.

18 Government Code, Sections 66000-66008

19 See the Housing Trust Fund's 1997 *Status Report on Housing Trust Funds in the United States.*

20 See Description prepared by Cazenave and Welch of the Council of Community Organizations for the Nonprofit Housing and *San Francisco Chronicle*, February 10, 2000 page A 20.

21 Health and Safety Code, Section 3334.2

22 See Memorandum on *Results of Survey of Local Housing Efforts* from Housing Forum Regulatory Group to Mayors and City Managers, December 20, 1999.

23 Civil Code Section 1950.5.

24 See *Washing Legal Foundation v. Legal Foundation of Washington* No. 9835154-01/10/2001.

25 *Schneider v. California Department of Corrections* 151 F.3d 1194(9th Circuit 1998).

26 Letter from the Deputy County Manager to Charles Spring of PIA, February 22, 2001.

27 *Ibid.*

28 For more information on the experiences of various trust funds, see the Housing Trust Fund's 1997 *Status Report on Housing Trust Funds in the United States.*

29 March 21, 2001 meeting with representatives from EPA CAN DO, Habitat for Humanity and Mercy Housing.

30 See endnote xix on regulatory survey.

31 The information in this section is adapted from the Peninsula Community Foundation's *Summation of the Family Housing and Homeless Trust Fund*, March 31, 2000.