Maryland
DEPARTMENT OF HOUSING
AND COMMUNITY DEVELOPMENT

LARRY HOGAN
Governor
BOYD K. RUTHERFORD
Lt. Governor
KENNETH C. HOLT
Secretary
OWEN McEVOY
Deputy Secretary

December 15, 2022

Senate Committee on Budget and Taxation
Sen. Guy Guzzone, Chair
11 Bladen Street
Annapolis, MD 21401

House Committee on Appropriations
Del. Maggie McIntosh, Chair
6 Bladen Street
Annapolis, MD 21401

Dear Chairs Guzzone and McIntosh:

The 2022 Joint Chairmen's Report requested that the Department of Housing and Community Development study the feasibility and limitations of an adaptive reuse program and report the findings to the committees. The attached report is intended to satisfy that request.

For further information, please do not hesitate to contact me or my staff at any time.

Sincerely,

for [illegible], COO

Kenneth C. Holt
Secretary

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Date: **December 15, 2022**

To: **Chair Guy Guzzone, Senate Budget and Taxation Committee**
Chair Maggie McIntosh, Housing Appropriations Committee

From: **Sec. Kenneth C. Holt**

Report on Programs Related to the Adaptive Reuse of Vacant Commercial Spaces

Overview of Maryland Programs

The Department of Housing and Community Development is the State of Maryland's Housing Finance Agency (HFA). HFAs are state-chartered authorities designed to help meet the affordable housing needs of the residents of their states. In most states, the HFA is a quasi-governmental entity, however in Maryland, we are a principal department of State government. HFAs, in general, have a number of federal tools in common including the Low-Income Housing Tax Credit (LIHTC), tax-exempt private activity bond financing, and the HOME Investment Partnership. There may be other federal tools delegated to an HFA, as well. The State of Maryland's affordable housing tool box is robust as a result of management decisions over the years and the support of affordable housing by our elected officials.

Among the available tools, there are a limited number that are designed specifically for adaptive reuse or redevelopment, but there are significant resources available to support redevelopment broadly, and which may be used for adaptive reuse for purposes of affordable housing. These include:

The **Catalytic Revitalization Tax Credit (CRTC)** was developed as one of the recommendations of a 2020 Maryland Department of Planning study, *Advancing the Preservation and Reuse of Maryland's Historic Complexes (Study)*[1]. The program was designed from the ground up with the stated goal of redeveloping properties that were formerly owned by the State or federal governments and which were used as a college or university, K-12 school, hospital, mental health facility, or military facility or installation. While the CRTC is not necessarily restricted to affordable housing, it is fundamentally a program designed for adaptive reuse and applicants are requested to include an affordable housing component in

[1] https://mht.maryland.gov/documents/PDF/home/MD-Historic-Complex-Study-Report-2020.pdf

their application. Developers rehabilitating an eligible property receive a tax credit for up to 20% of the project costs, not to exceed $15 million dollars[2].

Another program designed for the expressed purpose of rehabilitating older properties is the **Maryland Historic Revitalization Tax Credit**, administered by the Maryland Historical Trust[3]. This program is divided into three categories: 1) homeowners, 2) commercial projects less than $500,000, and 3) commercial projects greater than $500,000. All of these categories are eligible for a 20% tax credit. For the largest category, projects are eligible for an additional 5% credit if their project has received LIHTC. While most states have a Historic Revitalization Tax Credit, Maryland's is one of the few in the country with an explicit nod to affordable housing.

As noted previously, there are a number of affordable housing and neighborhood revitalization programs that, while not expressly for adaptive reuse or rehabilitation, may be used for adaptive reuse of existing structures. The Community Development Administration, located within the Department of Housing and Community Development, is the State of Maryland's federal **Low Income Housing Tax Credit (LIHTC)** allocating agency. LIHTC is by far the largest source of funding for the development of affordable housing in the state, and is not limited to new construction, which allows for projects to be used for adaptive reuse. The Department makes LIHTC awards through a competitive round for the 9% LIHTC (which covers about 70% of total project costs) and through a noncompetitive application for the 4% LIHTC (which covers about 30% of total project costs). Projects awarded 4% LIHTC will also receive financing with tax-exempt private activity bonds. The Department may also provide funding from a variety of other financing tools, such as Rental Housing Works, to help a project meet its funding needs. With the considerable size of the program, especially for the noncompetitive 4% credits, LIHTC would be the most feasible option for large-scale adaptive reuse projects.

In addition, the Department also administers a number of community development-focused programs which may be of use for developers pursuing adaptive reuse projects, though only two of those programs, Neighborhood BusinessWorks[4] and the Operating Assistance Grants[5] program, would be available directly to developers.

Other programs administered by the Department's Division of Neighborhood Revitalization may be available to local governments or eligible nonprofit community development organizations to assist a project that could include an adaptive reuse application.

These include:

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[2] https://dhcd.maryland.gov/Pages/Misc/CRTC-NOFA.aspx
[3] https://mht.maryland.gov/taxCredits.shtml
[4] https://dhcd.maryland.gov/Business/Pages/NBW.aspx
[5] https://dhcd.maryland.gov/Communities/Pages/tag/default.aspx

- The Strategic Demolition and Smart Growth Investment Fund[6] is a program that may be used for pre-development work, including stabilization and hazard mitigation.
- Community Legacy program[7] provides local governments and community development organizations with funding for essential projects aimed at strengthening communities through activities such as business retention and attraction, encouraging homeownership and commercial revitalization.
- Baltimore Regional Neighborhood Initiative[8], provides funding for revitalization projects sponsored by community development organizations located in Sustainable Community Areas in Baltimore City and inner beltway of Baltimore and Anne Arundel counties.
- National Capital Strategic Economic Development Fund[9], supports commercial and residential development projects located in sustainable communities inside the Capital Beltway.
- The Seed Community Development Anchor Institution Fund[10], provides competitive grants and loans to anchor institutions for community development projects in blighted areas of the state.

These programs, collectively referred to as our State Revitalization Programs (SRP) support capital projects in sustainable communities. Common types of SRP projects include but are not limited to:

- Upper story redevelopment that increases residential dwellings in historic business districts
- Commercial façade improvement programs to enhance the marketability of a downtown or Main Street
- Adaptive reuse of vacant schools for community and educational amenities, such as, community centers and health care or day care facilities
- Neighborhood pocket parks to make residential areas more attractive to new home buyers and existing residents
- Arts, cultural and historic amenities, such as museums and theaters, to not only provide entertainment to residents, but attract visitors
- Small business incubators to help attract new businesses to downtown
- Development or enhancement of community open space or neighborhood beautification and place making projects

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6 https://dhcd.maryland.gov/Communities/Pages/programs/SDF.aspx
7 https://dhcd.maryland.gov/Communities/Pages/programs/CL.aspx
8 https://dhcd.maryland.gov/Communities/Pages/programs/BRNI.aspx
9 https://dhcd.maryland.gov/Communities/Pages/StateRevitalizationPrograms/NationalCapitalStrategicEconomicDevelopmentFund.aspx
10 https://dhcd.maryland.gov/Communities/Pages/StateRevitalizationPrograms/seed.aspx

- Acquisition/rehabilitation of vacant residential properties to increase the supply of low/moderate income housing units

Programs in Other States

Nationwide, state governments do not tend to have tools designed explicitly to repurpose existing buildings into specifically affordable housing, and largely have similar kinds of more broadly applicable tools. Far and away the largest government programs for adaptive reuse nationwide are the federal and state historic rehabilitation tax credits. These credits provide capital to developers who rehabilitate historic properties while preserving the historic character of the properties. In many states these tax credits could be, but are not required to be, used for affordable housing. In practice, the mandate to preserve the historic character of the buildings means that the credits are infrequently used for affordable housing, because the costs and restrictions associated with preservation frequently make affordable housing economically inviable.

The Federal Historic Rehabilitation Tax Credit is administered by the National Park Service[11]. When buildings receive a "historic" designation from the NPS, they become eligible for a 20% federal tax credit on all qualified restoration expenditures during a rehabilitation of a qualified income-producing property. This does not apply to affordable housing, which limits the potential usage for states that base their state historic preservation tax credit off the federal version. On a state level, all 50 states work with the NPS to determine properties eligible for the Historic Rehabilitation Tax Credit, and 40 states have programs of their own, on top of the federal program. Approaches to the historic rehabilitation tax credit vary by state. Some examples include: 5-50% of QREs on income-producing properties, exemption from local property tax, credits for converting historic buildings into residential properties, and credits for rehabilitation of owner-occupied residential properties.

There are only four states with explicit carve-outs for affordable housing in their programs for adaptive reuse. One is Maryland, with its 5% credit for historical revitalization projects that contain an affordable housing aspect. The other three are California[12], Massachusetts[13], and Delaware[14]. California's credit functions in the same way as Maryland's, with an extra 5% credit for affordable housing rehabilitations. Massachusetts' program is a flat 20% credit, but at least a quarter of the program funds are allocated to affordable housing. Delaware's program is a 20% state income tax credit for QREs on income producing properties, and 30% on owner-occupied residential properties. There is an additional 10% credit for properties that have received LIHTC

[11] https://www.nps.gov/tps/tax-incentives.htm
[12] https://californiapreservation.org/ca-tax-credit/
[13] https://www.sec.state.ma.us/mhc/mhctax/taxidx.htm
[14] https://history.delaware.gov/preservation/taxcredit/

credits already, or owner-occupied properties that would meet HUD low income criteria, making the credit 30% and 40%, respectively.

Other States would also have, through their HFAs, tools specific to the development of affordable housing, without regard to whether it is an adaptive reuse project. These tools include LIHTC and tax-exempt private activity bond funding. As vacant buildings in cities are frequently located near population centers, these buildings can be ideal for developing new affordable housing.[15] In many cases, however, these projects may not fall within the guidelines of the historical preservation credits.

Recommendations

As a national leader among State Housing Finance Agencies with a significant toolbox at our disposal, the Department recommends continuing to fund existing programs, such as Rental Housing Works, at the high levels the Hogan Administration prioritized and resist the urge to stretch resources thin with new programs that are unfamiliar to potential end users and may not have the flexibility of existing tools.

[15]https://commercialobserver.com/2022/05/adaptive-reuse-offers-advantages-to-affordable-housing-developers/