

Proposition 123 Continued Research and Responses to Trustee Browning's Questions Regarding Prop 123

6.17.24

On Monday (6.17.24), the planning staff met with Robyn DiFalco (DOLA) for a short discussion about Proposition 123 and to get clarity regarding Trustee Browning's questions. Please see below:

In General:

Overall Intent: Prop 123 is meant to aid communities and is generally "mostly carrots with limited sticks." The goal of Prop 123 is to ensure that affordable housing grows by 3% a year (9% per cycle).

Three Primary Expectations: Local governments will remain eligible for future commitment cycles if they do the following:

1. Meet their established Baseline Affordable Development Commitment.
2. Adopt or define an Expedited Review Process for Affordable Housing Permit Review.
3. Display how the development of units has prioritized mixed-income, environmental sustainability, and developing affordable housing where it did not previously exist.

Note: More strategies are encouraged, as communities with more strategies become more competitive for funding.

Defining Affordable Housing: When reporting, local governments can define affordable housing in two primary ways. The first and easiest way is a unit that has some legal or recorded restriction that ensures its affordability. The second option will require some work, but local governments may show the development of "naturally occurring" affordable units. These units do not specifically have restrictions but are affordable to those living in them.

Defining Affordability: Rental Units must be available at 60% AMI, while for-sale units must be available at 100% AMI. A household may not spend more than 30% of its income on housing.

Commitment Cycles: Commitment Cycles always run for three years. We are currently in the 24-26 cycle. The next cycle will run from January 2027 to December 2029.

Reporting Cycles: Local governments will not have to report annually but will be required to report on November 26 for each final year of a cycle. This means we will be required to report on November 26, 2026. Anticipated projects for the remainder of the cycle can be included in the audit.

Affordability Baselines: A new baseline (commitment) will be established for each Commitment Cycle. Work is being done at DOLA to clean up how this will look for the 27-29 cycle, which will require legislative action to change the CO Statute.

Participation: 202 Local Governments and two Tribal Governments opted into Prop 123. This means that 88% of Colorado's population lives in a community that has committed.

Boulder County Participation: All localities within Boulder County have committed.

Eligible Units: The permit issuance date is what will be reported to DOLA, not the Certificate of Occupancy Date.

Answers to Trustee Browning Questions (Answers in Bold)

1. When did Lyons' 3-year period start? On the date of the resolution or some other date? I.e., how far into the 3-year period are we as of June 2024?
 - **The Town of Lyons filed its commitment on October 25th, 2023.**
 - **As mentioned, all agencies are on the same three-year grant cycle regardless of opt-in date. We are approximately ½ of the way through the first year of a three-year Commitment Cycle.**
2. What exactly has to be done within 3 years? Complete 10 permanently affordable living units? If so, that's highly unlikely to happen, given the lead time to build affordable housing. Or just file a grant application for a proposed project that's in the early stages of feasibility review?
 - **For this cycle, the Town must achieve the following:**
 - **Meet the Baseline Affordable Development Commitment. (10 Units)**
 - **Adopt or define an Expedited Review Process for Affordable Housing Development. This means that we must show that we can approve an affordable housing project within 90 days. We should be able to do that now, so all that may be required will be a Resolution from the BOT stating that fact. Planning staff will look at streamlining options as well.**
 - **Display how the development of units has prioritized mixed-income, environmental sustainability, and developing affordable housing where it did not previously exist.**

Note: It is important to understand that units only need to be permitted and not built within each cycle.

Note: Robyn stated that we will also be able to justify non-restricted units if we can display that affordability criteria were met by the first tenant. If qualifications are met, that unit counts.

3. Do non-income restricted ADUs count? I think the answer is "no". If that's correct, then our focus on ADUs (and the State's focus) isn't going to get us anywhere on Prop 123 goals unless we come up with a policy to incentivize income-restricted ADUs. (I have a suggestion on how to do that – property tax rebates from the Town and Boulder County – if there's time to discuss it. But apparently agendas are too full, since I can't get other agenda items requested more than 2 months ago considered. I'm not going to push something new until those get considered.) If people are serious about meeting the Prop 123 goal, then some serious focus needs to be done very soon about how non-ADU affordable or attainable housing is going to happen in Lyons – and where. I know there's an IGA task force, but that's the latest of about 4 or 5 local and outside experts' reviews of "where can we build AH in Lyons?" that have been done in the last 10 years. It's unrealistic to expect a new task force to come up with a magic solution in a few months ... or to ask citizens to do so, as was done at one of the February meetings. "Where can we build it?" has been studied to death in Lyons, and if anyone

has any brilliant ideas not discovered in the last 4 or 5 "where do we build it?" studies, it is time for them to share their brilliance with the rest of us.

- **As mentioned above, non-restricted ADUs built within a cycle may be counted if the Town can prove that the first tenant meets all affordability criteria.**
 - **DOLA encourages that more incentives be provided to help ensure the development of ADUs, both restricted and “naturally occurring.”**
 - **It is the staff’s understanding that the IGA Task Force is only tasked with providing input on lands to be added to the Town’s Planning Area. While affordable housing will be a minor part of this process/discussion, they will not provide input on the Town’s Prop 123 commitment.**
4. What exactly happens if the ten homes goal isn't met? My understanding is that Lyons loses Prop 123 grant eligibility for a period of time. How long? And what other non-Prop 123 grant sources would still be available if Lyons is not eligible for Prop 123 grants for a period of time. "We can reapply later" isn't specific enough. I'd like exact information on what potential grant sources will and will not be available at the end of the 3-year period (and the exact date on which that period will expire).
- **If we fail to meet our commitment, we will be ineligible for Prop 123 funding for the first year of the next cycle. After that, we may refile and establish a new commitment for the remaining two years. Then we will be eligible again.**
 - **There are several resources that we will not be eligible for if our commitment is not met. The following list is not exhaustive:**
 - **Grant Opportunities such as (Land Banking, Equity, Concessionary Debt, Affordable Homeownership, Serving Persons Experiencing Homelessness, and Local Planning Capacity Development).**
 - **Other community programs such as Rental Assistance, Downpayment Assistance, and a Single-family home rehab revolving grant from DOH.**

Other Information:

- **These downloadable fliers** are [found here](#) on the EngageDOLA.org/Prop-123 website, and serve as a quick-reference handout to share with colleagues or elected officials:
 - Flier 1: [General info about Prop 123 Baselines & Commitments](#)
 - Flier 2: [Prop 123 Funding Programs](#)
- **Here's the verbiage for the Prop 123 Priorities** (for local government commitments and for funding programs):
 - "...local governments should prioritize high-density housing, mixed-income housing, and projects consistent with the goal of environmental sustainability, when appropriate, and should prioritize affordable housing in communities in which low concentrations of affordable housing exist."
 - ***Funding programs have similar priorities for award criteria:*** "In selecting investments under this program, the administrator [DOLA, CHFA, etc.] shall prioritize high-density housing, mixed-income housing, and projects consistent with the goal of environmental sustainability."
- **Funding for [Single Family Owner-Occupied \(SFOO\) Rehabilitation](#)** -- This is one of several Prop 123 funding programs through DOLA. The details here are draft/proposed and the Division of Housing has said they will finalize these program guidelines June 28 so keep an eye out for the new/finalized program details.