
GOVERNMENT OF THE DISTRICT OF COLUMBIA



DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT

TESTIMONY OF
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**Bill 18-0079, “Inclusionary Zoning Implementation Amendment Act
of 2011”**

Committee on Housing and Workforce Development
The Honorable Michael Brown, Chairman
Council of the District of Columbia

Thursday, November 17, 2011

Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Good afternoon Chairman Michael Brown and members of the Committee on Housing and Workforce Development. I am John E. Hall, Director of the Department of Housing and Community Development. At the table with me today is Gilles Stucker, Housing Resource Administrator within DHCD. I am pleased to appear today to express concerns on behalf of the Gray administration, including the Office of Tenant Advocate, regarding Bill 18-0079, the “Inclusionary Zoning Implementation Amendment Act of 2011”.

As you are aware, Inclusionary Zoning (IZ) is a land use technique for developing diverse mixed-income communities by requiring that each new residential development make a percentage of the new units affordable to targeted incomes. It often lets developers build more units through a “density bonus” along with other incentives to help the program operate better. Many cities and states across the country have incorporated IZ into their laws.

IZ in the District began in 2005 with a set of public hearings held by the Zoning Commission. The Zoning Commission divided the hearing process into three parts covering 1) the design of program, 2) where it would apply in the District, and 3) how IZ requirements would interact with existing zoning overlays. At roughly the same time, the Council of the District of Columbia passed both the Comprehensive

Plan for the National Capital and the Inclusionary Zoning Act of 2006, which gives policy guidance and empowers the Mayor to administer the program.

DHCD has made significant progress with the implementation of IZ. The program was developed pursuant to the authority set forth in Section 107 of the Inclusionary Zoning Implementation Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-275; D.C. Official Code § 6-1041.07) and Mayor's Order 2008-59, dated April 2, 2008. These documents mandate the adoption of a new Chapter 22 entitled "Inclusionary Zoning Implementation" of Title 14 (Housing) of the District of Columbia Municipal Regulations. Unfortunately, and despite implementation timetables mandated by the Council pursuant to legislation enacted under the leadership of then Council Chairman Gray, the Final Rulemaking for Inclusionary Zoning implementation was not published in the D.C. Register until December 11, 2009, after the housing bubble in the District had burst.

The goals of the IZ program are to:

- create mixed income neighborhoods;
- produce affordable housing for a diverse labor force;
- provide residents of any income the ability to live and seek the opportunities available in all parts of the city; and

- increase homeownership opportunities for low and moderate income levels.

With the support of the Mayor and Council, and coordination with the Office of Planning and the Department of Consumer and Regulatory Affairs, DHCD has implemented inclusionary zoning by developing a framework for administration of IZ, including the creation of procedures that conform to the stated requirements, in preparation for the completion of the first Inclusionary Zoning Units. DHCD is currently working with the Office of the Chief Technology Officer to finalize an Internet Technology Solution to simplify and automate many of the prospective tenant, owner and developer processes as well as the administrative and reporting requirements of the program, which we expect to be delivered in the coming weeks.

After reviewing Bill 18-0079, the “Inclusionary Zoning Implementation Amendment Act of 2011”, DHCD opposes the bill because it undermines the original purpose of the IZ program. Specifically, DHCD has the following three concerns:

1. The preservation of affordability for the moderate income population in the District.

Over the last few years, an increasing number of moderate-income as well as lower-income residents, particularly renters, have been impacted by the affordable housing crisis. The IZ program is one of very few programs that benefit households with incomes as high as 80 percent of the AMI. As a result, this program should remain available generally to households at that income level, and not restricted to the bill's target populations.

2. The IZ program does not fit the bill's target populations' needs.

Households within the bill's target populations generally are neither in a position to take advantage of the IZ program in its current form, nor as a practical matter is the IZ program adaptable so as to accommodate the bill's intended beneficiaries.

Currently, the IZ program requires that developers provide housing units that are affordable to those at or below 50 percent and 80 percent of the AMI. Based in part on discussions with the DC Fiscal Policy Institute, it is the District's understanding that households within the bill's target populations generally have incomes at or below 30 percent of the AMI. Furthermore, it is our understanding that making housing units affordable for households at 30 percent of AMI is simply impracticable for most developers for most relevant projects.

Thus, if the 50 percent or 80 percent requirements stay in place, it seems likely that, on the “demand side,” the bill would drastically reduce the IZ applicant pool. This assumption is especially true for condominiums units where applicants must qualify for mortgages, which would almost be impossible for the homeless. However, if it were amended to include a new 30 percent requirement, it seems likely that, on the “supply side,” the bill would have the effect of eliminating housing production within the IZ program’s mandatory zones. Thus, there appears to be a clear mismatch between the bill’s intended beneficiaries and the realities of the IZ program itself, one that would threaten the viability and the implementation of IZ in the District in its infancy.

3. The bill’s target population is covered by other District Programs.

- Education and Outreach.

The bill’s intended beneficiaries would be better served by improving outreach and education and other aspects of existing programs and services. For example, the Office of Disability Rights (ODR) is a logical “go-to” agency for residents with disabilities who seek information generally about government services, including those related to housing.

The Office of Disability Rights and other relevant agencies should be connected to DHCD's affordable housing locator program, which identifies available affordable housing units in the District whether or not they are publicly subsidized. The locator program may be improved to provide more specific assistance to residents with disabilities and the bill's other intended beneficiaries.

As indicated in DHCD's FY2012 Annual Action Plan, the District manages the following programs specifically to assist the bill's target populations with their housing needs:

- Partnership with the Department of Mental Health (DMH).

In recognition of the large demand for special needs housing, DMH and DHCD have partnered to provide 300 units to date of supportive housing for the exclusive use of persons who are eligible to receive mental health services or support from DMH. A few examples include Hyacinth's Place, the Dunbar Project, and Bedford Falls.

Hyacinth's Place, located at 1060 Bladensburg Rd, NE, in Ward 5, provides 15 units of supportive affordable housing for women earning 30% or less of the AMI and who have been diagnosed with mental illness. DHCD contributed \$1.8 million

from the Housing Production Trust Fund (HPTF) and DMH funded \$690,000 to provide this opportunity for DMH clients.

The Dunbar, located on O St., NW in Ward 5, provides affordable housing for chronically homeless and mentally ill women that are currently living in shelters or on the street. The building has 19 individual apartments that each has a bedroom, a small living room and a kitchen. DHCD provided \$1.1 million from HPTF and \$600,000 in DMH funding toward this project.

Bedford Falls, located at 350-360 50th St., SE, in Ward 7, provides 78 units of permanent supportive housing for homeless men and women. DHCD contributed \$3.6 million from HPTF and DMH funded \$882,000 toward this project.

- Partnership with the Department of Human Services (DHS).

Through a partnership with DHS, DHCD is responsible for meeting its goal of providing 45 units of permanent supportive housing to serve the District's homeless population. An example of this partnership is 1320 Mississippi Ave., SE, in Ward 8, which provides 19 units of permanent and supportive rental housing for homeless families and mentally ill individuals. DHCD contributed \$4.85 million from HPTF and DMH contributed \$210,000 to complete this project.

- Housing Opportunities for Persons with AIDS (HOPWA).

DHCD is the HOPWA Formula Grantee for the Washington, DC Eligible Metropolitan Statistical Area. DHCD serves as the reporting entity to the Department of Housing and Urban Development and the District of Columbia Department of Health administers the entitlement funds. HOPWA provides the following services for persons living with HIV/AIDS:

- Tenant Based Rental Assistance;
- Facility Based Housing; and
- Short-Term, Rent, Mortgage, and Utility Assistance.

In FY2011, the District provided over \$7.4 million of supportive housing services to persons with HIV/AIDS.

- Emergency Shelter Grant (ESG).

DHCD provides funds for emergency assistance to prevent households from becoming homeless and to provide shelter for families. My Sister's Place is an example where approximately \$1 million of ESG funds were used to double the number of emergency shelter beds from 22 to 45 in the oldest and only confidential shelter for battered women and their children in the District.

- 2009 Recovery Act – Economic Stimulus Package.

In FY 2012, DHCD has received additional funding under the Homelessness Prevention and Rapid Re-housing Program. This program will provide financial assistance and services to prevent individuals and families from becoming homeless and help those who are experiencing homelessness to be quickly re-housed and stabilized. The funds will provide for a variety of assistance, including short-term or medium-term rental assistance, assistance with utility payments, credit counseling and case management. Examples of program participants include Catholic Charities, Community of Hope, and The Community Partnership.

- Other Programs.

In FY2012, DHCD is committed to fund 150 units of housing for the “special needs” population (persons with disabilities, HIV/AIDS, or elderly) as outlined in the Action Plan submitted and approved by HUD. Additionally, DHCD will continue to administer the following programs that aid in the development of special needs housing:

- Single Family Residential Rehabilitation Program;
- Handicapped Accessibility Improvement Program.

CONCLUSION

DHCD's mission is to create and preserve opportunities for affordable housing and economic development and to revitalize underserved communities in the District of Columbia. DHCD's primary beneficiaries are low-to-moderate income residents and the communities identified in this bill are already being served by the IZ program. At this time, the Gray administration recommends that no action be taken to significantly change the existing Inclusionary Zoning law.

Thank you Chairman Brown, I now conclude my testimony. My staff and I are available to answer any questions that you or members of the committee may have. We are also happy to engage in additional discussions with you and your staff regarding the proposed legislation.