

FROM

TJS

NAME & TITLE	THOMAS J. STOSUR, DIRECTOR
AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 TH FLOOR
SUBJECT	CCB #10-0600/ INCLUSIONARY HOUSING REQUIREMENTS - REPEAL OF "SUNSET"

CITY of
BALTIMORE
MEMO



TO

DATE:

The Honorable President and
Members of the City Council
City Hall, Room 400
100 N. Holliday Street

January 14, 2011

At its regular meeting of January 13, 2011 the Planning Commission considered City Council Bill #10-0600, which is for the purpose of abrogating the automatic termination of Ordinance 07-474 {"Inclusionary Housing"}; providing for a special effective date; and generally relating to the promotion of affordable residential units

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended amendments to and approval of City Council Bill #10-0600 and adopted the following resolution, nine members being present and nine in favor.

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff. and recommends that City Council Bill #10-0600 be amended and passed by the City Council.

If you have any questions, please contact Mr. Wolde Ararsa in the Land Use and Urban Design Division, at 410-396-4488.

TJS/wya

Attachment

- cc: Ms. Kaliopé Parthemos, Deputy Mayor
- Ms. Sophie Dagenais, Chief of Staff
- Ms. Angela Gibson, Mayor's Office
- The Honorable Bill Henry, City Council Rep – Planning Commission
- Ms. Karen Randle, Council Services
- Ms. Nikol Nabors-Jackson, DHCD
- Mr. Peter Dolkart, DHCD



Stephanie Rawlings-Blake
Mayor

PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman

STAFF REPORT



Thomas J. Stosur
Director

January 13, 2011

REQUEST: City Council Bill 10-0600 – Inclusionary Housing Requirements – Repeal of “Sunset”

For the purpose of abrogating the automatic termination of Ordinance 07-474 {“Inclusionary Housing”}; providing for a special effective date; and generally relating to the promotion of affordable residential units.

RECOMMENDATION: Amendment and Approval

Amendments: in Section 3 of Ordinance 07-474: strike “42 months” and replace with “96 months” and strike “first 3 years of operation” and replace with “first 8 years of operation”; and,
in Section 9 of Ordinance 07-474: strike “5 years” and replace with “10 years”.

The text of Council Bill 10-0600 would then read in part:

Section 3. And be it further ordained, That within 96 months of the effective date of this Ordinance, the Commissioner of Housing and Community Development and the Planning Director shall:

- (1) present to the Mayor and City Council an evaluation of the effectiveness of this Ordinance during its first 8 years of operation; and
- (2) recommend its continuance, modification, or termination.

Section 9. And be it further ordained, That, except as provided in Section 5 through 8 of this Ordinance, this Ordinance takes effect on the 30th day after the date it is enacted. It will remain effective for 10 years, and at the end of that period, with no further action by the Mayor and City Council, this Ordinance will be abrogated and of no further effect.

STAFF: Martin French

PETITIONER(S): City Council President Young, Councilmembers Clarke, Henry, D’Adamo, Curran, Branch, Cole, Holton, Middleton, Welch, Spector, Reisinger, Stokes, Conaway, and Kraft

SITE/ GENERAL AREA: City-wide

HISTORY

On June 19, 2007 the Mayor and City Council of Baltimore enacted Ordinance 07-474, titled “Inclusionary Housing Requirements”. This ordinance was the legislative end-product of an extensive and intensive process initiated with the City Council’s adoption of Council Bill 05-0066R, “A Resolution Concerning Task Force on Inclusionary Zoning” which established the Task Force on Inclusionary Zoning on October 31, 2005. In July 2006, the Task Force presented its report to the City Council and City at large, titled *At Home in Baltimore: A Plan for an Inclusive City of Neighborhoods*. In response to that report, City Council Bill 06-0558 was introduced on December 4, 2006. Following well-attended hearings by both the Planning Commission and the City Council, the bill as amended was enacted on June 19, 2007 and took effect 30 days later on July 19, 2007.

Among the requirements of Ordinance 07-474 was publication by the Commissioner of Housing and Community Development for Baltimore City (“the Commissioner”) of regulations to implement the ordinance’s requirements. While a few requirements such as additions to the Zoning Code of Baltimore City had been incorporated immediately in the City’s laws, development of the Inclusionary Housing regulations took an additional year due to the level of detail needed to make satisfying the ordinance’s requirements practical and feasible. Following extensive public comment on two versions of the draft regulations, the Interim Inclusionary Housing Regulations were issued by the Commissioner on August 20, 2008.

CONFORMITY TO PLANS

The Inclusionary Housing ordinance is responsive to the Baltimore City Comprehensive Master Plan with respect to LIVE Goal 1, Objective 1: Expand housing choices for all residents. The first two strategies for achieving this first objective in the entire CMP were to develop and implement a City-wide inclusionary housing plan, and to ensure that at least 300 more housing units per year are affordable to seniors, people with disabilities, and low- and fixed-income households.

The Inclusionary Housing ordinance is also generally in conformance with various Urban Renewal Plans containing objectives or development area controls relating to providing housing for low- and moderate-income families, or to developing mixed-income neighborhoods, or to attracting a variety of income groups to certain areas of Baltimore. As some Urban Renewal Plans reach their expiration dates and some of those may not be extended or renewed, for as long as the Inclusionary Housing ordinance remains in effect it can serve to continue the effort to provide a wide range of housing choices in those areas, as well as other parts of Baltimore.

ANALYSIS

Inclusionary Housing Triggers

The Inclusionary Housing ordinance contains three triggering factors that apply to residential developments with 30 or more housing units. These factors are:

- Major Public Subsidy: Includes sale of land substantially below appraised value, or grants or loans for 15% or more of project costs, or PILOT (Payment In Lieu Of Taxes) or TIF (Tax Increment Financing) agreements;

- Significant Land Use Authorization: Means a PUD or PUD amendment that increases housing units allowable, or a rezoning from Manufacturing (“M” or industrial zone) to any other zone that allows housing; and
- All other Projects: When ¾ of home sales in Baltimore exceed affordability for households at 80% of Area Median Income.

Evaluating Baltimore’s Inclusionary Housing

The Inclusionary Housing ordinance contains a provision for an evaluative report to be provided by the Housing Commissioner and the Planning Director to the Mayor and City Council. Unfortunately, due to the changing economic situation in the United States after 2007, there has been a drastic reduction in capital investment in new housing or substantial rehabilitation of buildings for housing.

A direct local consequence of this reduced residential real estate activity has been that there have only been a few housing projects that fall within the purview of the Inclusionary Housing ordinance. To date, only one developer has used the provisions of that ordinance and its implementing regulations in developing substantial rehabilitation projects which delivered a total of 20 affordable housing units. An additional agreement between the Department of Housing and Community Development and a private developer has resulted in a contribution to the Inclusionary Housing Offset Fund established by the ordinance, although in an amount insufficient to make up the Fund’s outflow in support of those 20 affordable units.

Thus, because of the downturn in the economy there has been so little activity that it is very difficult to properly evaluate and fairly assess the City’s Inclusionary Housing program. Therefore, it is the staff’s position that more time is needed to properly assess this very important program. Staff is recommending that the program be extended an additional five years, until 2017. Hopefully, by then the economy will turn around and decent numbers of residential projects will be developed. Also, staff feels that the evaluation report on Inclusionary Housing to be prepared by the Housing Commissioner and the Planning Director to the Mayor and City Council should occur two years prior to the newly proposed sunset date of 2017. We feel that this would allow sufficient time for all interested parties, stakeholders, and City officials to evaluate and fairly assess the City’s Inclusionary Housing ordinance’s effectiveness.

The above recommendations by staff are formally stated in the “RECOMMENDATION” section on the first page of this staff report.

Staff notified 64 umbrella and housing advocacy organizations concerned with development of the Inclusionary Housing Ordinance, and the City Council President and all 14 members of the Baltimore City Council, a total of 79 notifications of this hearing on this matter.



Thomas J. Stosur
Director