



MEMORANDUM

STEPHANIE
RAWLINGS-BLAKE,

PAUL T. GRAZIANO,
Commissioner
Department of Housing and Community Development

To: The Honorable President and Members of the Baltimore City Council
c/o Karen Randle, *Executive Secretary*

From: Paul T. Graziano, *Commissioner*

Date: February 4, 2011

Re: **City Council Bill 10-0600 - Inclusionary Housing Requirements - Repeal of "Sunset"**

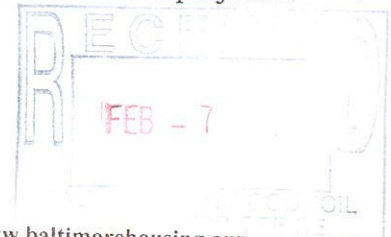
The Department of Housing and Community Development (DHCD) has reviewed City Council Bill 10-0600, which was introduced for the purpose of abrogating the automatic termination of Ordinance 07-474 {"Inclusionary Housing"}. DHCD concurs with the recommendation of the Planning Commission that, because of the dramatic downturn in the economy, there has been too little real estate development in the last few years to adequately evaluate and assess the Inclusionary Housing program's performance since its enactment. Consequently, DHCD further agrees that the program should be extended an additional five years beyond the ordinance's current sunset date. The sunset would not take effect until 2017. We hope that, during this period of time, the economy will have sufficiently recovered, and the law will produce sufficient numbers of residential units in order to better gauge where the ordinance seems to work and where there are needs for further revisions.

Provisions of the Law

The City of Baltimore passed an Inclusionary Housing (IH) law in 2007 to ensure that fair and affordable housing was provided for all Baltimore residents in a rapidly growing and appreciating housing market. The IH law contains the following provisions to ensure that the supply of new housing in Baltimore remains fair and affordable:

- For projects where there is "Major Public Subsidy" (MPS) AND more than 30 new housing units will be created the developer must provide 20% of the total units as "Inclusionary". The specific tiers of affordability are determined by whether the project is homeownership or rental.
- For projects where there is "Significant Rezoning" AND that rezoning creates a right to more than 30 dwelling units the developer must provide 10% of the total units as "Inclusionary". The specific tiers of affordability are determined by whether the project is homeownership or rental.

Comments



- There is a provision that ALL projects of more than 30 units would be required to be 10% Inclusionary Housing regardless of subsidy or rezoning, but such provision only takes effect if 75% of homes sold in Baltimore are sold for a price unaffordable at 80% of Area Median Income (AMI) equally approximately \$230,000 for a three bedroom house.
- The law DOES NOT apply to any project of less than 30 units.

The affordability requirements for various projects are as follows:

	Major Public Subsidy	
	<u>Home Ownership</u>	<u>Rental</u>
Total % of Project:	20%	20%
% of IH units at 30% AMI (Extremely Low Housing Cost)	0%	30%
% of IH units at 60% AMI (Very Low Housing Cost)	25%	25%
% of IH units at 80% AMI (Low Housing Cost)	50%	25%
% of IH units at 120% AMI (Moderate Housing Cost)	25%	20%
	Significant Rezoning	
	<u>Home Ownership</u>	<u>Rental</u>
Total % of Project:	10%	10%
% of IH units at 30% AMI (Extremely Low Housing Cost)	0%	0%
% of IH units at 60% AMI (Very Low Housing Cost)	0%	50%
% of IH units at 80% AMI (Low Housing Cost)	50%	0%
% of IH units at 120% AMI (Moderate Housing Cost)	50%	50%

The Inclusionary Housing law also contains a number of key concepts beyond this basic structure which are important elements of the law and its implementation:

Area Median Income: AMI is a concept and a statistical figure promulgated by the Federal Department of Housing and Urban Development (HUD). It is the basis for virtually all local price and subsidy calculations in public housing, low-income private housing and in the City's Inclusionary Housing Law. In 2010 the AMI for the Baltimore Metropolitan Area (which includes significant portions of surrounding counties) was \$82,200 for a family of four.

Affordability: The law establishes affordability by assuming that households can spend up to 30% of their income on housing. Therefore, for example, a family of 4 at 60% of AMI could spend up to \$1,233 per month on housing (either rent or mortgage payments) ($\$82,200 \times 60\% \times 30\% / 12 = \$1,233$). The law defines income tiers of: Extremely Low; Very Low; Low and Moderate as 30%, 60%, 80% and 120% of AMI respectively.

The prices that this calculation generates are:

For Rental (Dollars per Month) (this cost includes utility costs):

Affordable Rental Unit Size	Extremely Low Income (30% AMI) Housing Cost	Very Low Income (60% AMI) Housing Cost	Low Income (80% AMI) Housing Cost	Moderate Income (100AMI) Housing Cost
Efficiency	431	862	1,149	1,436
1-Bedroom	492	984	1,312	1,640
2-Bedroom	616	1,232	1,642	2,053
3-Bedroom	714	1,429	1,905	2,381

For Sale (Mortgage Amount) (Assumes 30-year Amortization at 6%) (this price assumes an allowance for taxes and insurance):

Affordable Homeownership unit Size	Very Low Income (60% of AMI) Maximum Sale Price	Low Income (80% of AMI) Maximum Sale Price	Moderate Income (120% of AMI) Maximum Sale Price
1-Bedroom	130,988	185,783	254,473
2-Bedroom	172,295	240,847	377,949
3-Bedroom	205,250	284,786	443,859

Financial Burden: In order to not negatively affect housing development in Baltimore, the law was intended to create no “financial burden” on a developer or project. The law offers a system of cost offsets and incentives to “fully offset any financial impact” of the requirements. To the extent that available offsets are insufficient the law waives the requirements.

In order to accomplish these objectives the law established the Inclusionary Housing Offset Fund to be used as the source of offset capital. The fund was established with a \$2,000,000 appropriation in 2007 and has not received additional appropriation. The fund is nearly fully obligated with \$1,750,000 expended on projects.

The law contains a number of technical provisions including a requirement that the Inclusionary Housing units be finished to the same standard as other units, be disbursed throughout a project, be offered and sold under the same terms and be managed to the same standards as all other units in a project.

The law allows developers to voluntarily enter the program if so desired and also grandfathered projects whose terms had been worked out before the passage of the law. There are no projects currently proposed eligible for the grandfathering provision.

Summary of Activity to Date

The law has assisted 2 projects and created a total of 20 units of Inclusionary Housing. The projects have both been projects of Seawall Development who has used the funds as part of creative financing packages including New Market Tax Credits, Historic Tax Credits.

One other project located at the Chapel NDP site, which was exempt under the law, has agreed to contribute \$470,000 to the Inclusionary Housing Offset Fund. To date, \$270,000 has been contributed.

Additional projects have been determined to be exempt by the City under the terms of the statute and certain projects which are still in the planning stages have meet with the Inclusionary Housing Program to discuss the impact of the legislation. Planned future projects which may have Inclusionary Housing requirements include the Harbor Point development and State Center developments, though at this time there is no clear plan for the number of units to be created. Based on financial analysis conducted by the DHCD it will not be possible to provide the full requirement of units in these projects due to excessive per-unit costs to meet the “fully offset any financial impact” test.

The dramatically reduced pace and scale of development nationally and in Baltimore since the passage of the ordinance has essentially eliminated the market issue which the law was intended to address. The law has not been given a true market test to judge its impact and we do not believe it is prudent to extend indefinitely the current provisions of Ordinance 07-0747 without more data and time for review.

The Department of Housing and Community Development does not support the adoption of City Council Bill 10-0600 as introduced but will support its passage if the proposed amendments by the Planning Commission are incorporated into the final version of the legislation.

cc: Ms. Angela Gibson, *Mayor's Office of Government Relations*
Ms. Kaliope Parthemos, *Deputy Mayor*
Mr. Peter Engel, *Assistant Commissioner*
Mr. Stephen Janes, *Assistant Commissioner*
Mr. Michael Pokorny, *Inclusionary Housing Compliance Officer*