



November 16, 2022

Re: Testimony on Bill 22-0195 - Inclusionary Housing for Baltimore

Greetings, Council:

*Co-Chairs*

Thomas L. Sager  
Hon. Shira Scheindlin

*Secretary*

Eleanor H. Smith

*Treasurer*

David Smith

*General Counsel*

Nicholas T. Christakos

*President and*

*Executive Director*

Kristen Clarke

I am Diane Glauber, a resident of Baltimore and Director of Fair Housing and Community Development at the Lawyers' Committee for Civil Rights Under Law. I am writing to you in support of Bill 22-0195, but also cautioning you not to rely on the Baltimore City Department of Housing and Community Development (DHCD) November 2022 Baltimore Inclusionary Housing Requirements Study when crafting the program. We have found significant flaws in the feasibility analysis as follows:

- The 10% set-aside requirement contemplated in this report is too low. Most inclusionary housing policies have significantly higher percentage requirements (20% is typical) and a significantly lower AMI (60% on the high end down to 30%).
- Not analyzed for feasibility include density bonuses, reduced building permit fees, expedited permitting, donated land, etc., which would help subsidize the development costs and allow for units targeting lower income residents.
- The ordinance's applicability only to residential development with a minimum of 30 units "seeking major public subsidy" means that very few projects will be eligible. Most mandatory inclusionary housing programs have a minimum of 20 units,<sup>1</sup> and both the District of Columbia and the City of New Orleans have a threshold of 10 or more units.<sup>23</sup> The threshold should be lowered.
- Of the six developers interviewed, only one was a nonprofit developer (Boston-based The Community Builders) and no local nonprofit developers like Homes for America and Episcopal Housing Corporation were consulted.

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<sup>1</sup> See, e.g., Montgomery County, MD

[https://www.montgomerycountymd.gov/DHCA/Resources/Files/housing/affordable/publications/mpdu/MPDU\\_process\\_and\\_instructions\\_for\\_developers\\_and\\_builders.pdf](https://www.montgomerycountymd.gov/DHCA/Resources/Files/housing/affordable/publications/mpdu/MPDU_process_and_instructions_for_developers_and_builders.pdf),

<sup>2</sup> [https://dhcd.dc.gov/service/inclusionary-zoning-residential-](https://dhcd.dc.gov/service/inclusionary-zoning-residential-developers#:~:text=The%20DC%20Department%20of%20Housing,10%20or%20more%20units%3B%20and)

[developers#:~:text=The%20DC%20Department%20of%20Housing,10%20or%20more%20units%3B%20and](https://dhcd.dc.gov/service/inclusionary-zoning-residential-developers#:~:text=The%20DC%20Department%20of%20Housing,10%20or%20more%20units%3B%20and)

<sup>3</sup> <https://czo.nola.gov/article-28/>

- Linkage fee structure or fee in lieu option will not affirmatively further fair housing because the housing provided off-site will invariably be located in lower-income communities rather than areas of opportunity where the market-rate units are being developed.

Accordingly, in the interest of providing fair housing opportunities to Baltimore City residents and especially to the low-income Black and Brown families who have been historically excluded from equitable access to housing opportunities in this city, I recommend that the Council (1) ensure that the affordability threshold in the bill remain at 60% AMI or below; (2) reject DHCD's proposal to incorporate a fee-in-lieu structure into the proposed ordinance; and (3) setting the ordinance's applicability to residential developments with a minimum of 20 units, rather than 30 as units as DHCD proposes.

If you have any questions regarding this analysis, please do not hesitate to contact me at [dglauber@lawyerscommittee.org](mailto:dglauber@lawyerscommittee.org).

Sincerely,



Diane Glauber  
Director, Fair Housing and Community Development