PUBLIC JUSTICE CENTER
Building a Just Society

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CB 23-0369 – High-Performance Inclusionary Housing Tax Credit

Hearing of the Committee of the Whole, May 9, 2023

Position: Favorable

Public Justice Center urges the Committee of the Whole to issues a favorable report on CB 23-0369 that provides a High-Performance Inclusionary Housing Tax Credit to developments that are subject to inclusionary housing requirements set forth in CB 22-0195.

CB 23-0369 and CB 22-0195 (the "Inclusionary Housing Bills") work together to create a balanced inclusionary law – reversing policies that have subsidized segregation. The bills call for a modest City investment in affordable housing that will not slow market rate development

The Inclusionary Housing Bills Present a Balanced Approach. Inclusionary housing laws have produced 110,000 housing units in 258 programs, mostly since 2000. Jurisdictions including Pittsburgh, Philadelphia, Chicago, Washington D.C., Montgomery County and many others have passed inclusionary housing laws that impose more stringent requirements than what is proposed in the Inclusionary Housing Bills. For example, Chicago requires 20% of units to be affordable; Pittsburgh requires even deeper affordability than CM Ramos's bill. Other jurisdictions have made inclusionary housing work, Baltimore can as well. We gave residential rental developers $38 million in tax subsidies alone in FY 2023. Yet, we have zero affordable units to show for it. Baltimore is investing heavily in market rate rental housing development and should receive a benefit for all current Baltimore residents in the form of integrated, affordable housing units. ***With the additional 15% inclusionary tax credit in CB 23-0369, developers will be receiving both the $38 million in current tax subsidies, plus an additional 15% new credit. This more than compensates developers for any additional affordable housing units and will not harm development.***

Cap Tax Credits Globally – Not Just the One Tax Credit That Benefits Working-Class Residents. A Finance analysis indicated that CB 23-0369 would build in cost and begin costing the City up to $3.5 million in Year 10. This is small price tag compared to the $38 million/year that the City is giving away to developers right now. We agree with Finance and Ernst & Young that the City's current tax credits are bloated and inefficient, i.e., they provide too much tax subsidy to developers without any showing that a development needs the subsidy in order to be built. Of the $38 million/year in rental housing tax credits, Ernst & Young found that the High Performance is inefficient, poorly targeted and "may not contribute much to the net housing supply." The Brownfield credit oversubsidizes developers and "is not cost-effective" to the City. Yet, the City has not proposed to cap these [bloated developer handouts that have produced only market-rate rental housing in the "white L."]() Instead, the City proposes to cap the one rental housing tax credit that actually benefits the predominately Black current residents of City neighborhoods in CB 23-0369. This is the opposite of equity. ***The City Council should pass CB 23-0369 "as is" and consider any cap on spending in the context of global tax reform with the inefficient, bloated credits identified by Ernst & Young.***

Cost of Doing Nothing. There is a cost to doing nothing. By allowing the status quo to persist, Baltimore is subsidizing segregation by subsidizing market-rate development in the white L that is unaffordable to the majority of Black families in Baltimore. Segregation and separate-and-unequal development has a real cost every day to city residents and has been demonstrated in numerous studies. ***Consideration of the "cost" of inclusionary housing to the City must be balanced against the greater societal cost of reinforcing existing patterns of segregation and disinvestment.***

The Sky Will Not Fall. As with the real estate surtax that the Council passed in 2018 to fund the Affordable Housing Trust Fund, the developers and the Finance Dept. have made dire predictions about the end of development in Baltimore as we know it. Yet, in 2021 and 2022 commercial and residential development saw unprecedented gains. For example, the surtax that was estimated to produce only $13 million/year in revenue for the Trust Fund collected over $17 million 2022. Baltimore must lead with best practices calibrated to our social needs. The Inclusionary Housing Bills with sponsor amendments do just that**.** ***The sky did not fall on real estate development in 2019 and it will not fall today if the Council leads with integrity.***

Inclusionary Housing is an essential tool for building more affordable, integrated neighborhoods in Baltimore City. If a developer is receiving a major public subsidy or significant zoning change, they should make at least 10% of those units affordable to households earning no more than 60% of Area Median Income (AMI) ($62,700 for a family of three), plus an additional 5% of units affordable at even lower incomes if the city offers the developer additional subsidy to do so. There are no waivers or exceptions that plagued the city's prior inclusionary law and made it ineffective. Our coalition estimates that CB 22-1095 with sponsor amendments would create over 1,000 new affordable units over the next decade. With CB 22-1095, Baltimore has a chance to break with development policies that subsidized segregation and separate-and-unequal development and create a more equitable, integrated future.

The coalition supporting CB 22-0195 urges you to reject weakening amendments:

1. **Do not reduce the limited affordability requirements – no rental units above 60% AMI.**

a. 60% AMI ($62,700 for a family of three) is already based on a *regional* assessment of income – average incomes in the City are already much lower than the region.

b. 60% AMI allows frontline workers and persons who use vouchers to access the affordable units. A two-bedroom unit affordable at 60% AMI has a maximum rent of $1,567. A two-bedroom unit affordable at 80% has a maximum rent of $2,090. *See* Md. Dept. of Hous. & Comm. Dev. https://dhcd.maryland.gov/HousingDevelopment/Documents/rhf/LIHTC-IncomeRentLimits2022.pdf A voucher has a maximum rent of $1,857 in most circumstances, meaning that voucher holders can access units affordable at 60% AMI but not 80% AMI.

2. **Maintain Strong Affirmative Marketing.** Sponsor amendments will ensure that developers affirmatively market the affordable units to groups that have historically been excluded from the benefits of new development and then hold the developers accountable for doing so. Robust affirmative marketing is imposed by the State and HUD frequently for any development. It is a well-accepted practice that fully complies with federal law.

3. **Do Not Narrow Geography to only "Core" markets.** The Enterprise report proposes limiting inclusionary housing to only what they define as "core" markets while bypassing huge swaths of Baltimore with very strong housing markets such as Hampden, Patterson Park, Cross Keys and Mount Vernon. Inclusionary requirements should at least extend to those markets as well where development is actually happening.

Inclusionary housing provides ALL Baltimore residents the opportunity to participate in Baltimore's redevelopment as the integrated, equitable City that we deserve.

Please issue a FAVORABLE COMMITTEE REPORT on Council Bills 23-0369 and 22-0195 with sponsor amendments. If you have any questions, please contact: Matt Hill, hillm@publicjustice.org, 410-625-9409, ext. 229.