



**CITY COUNCIL BILL: 22-0195**  
**RACIAL EQUITY IMPACT ASSESSMENT**  
**INCLUSIONARY HOUSING FOR BALTIMORE**  
**CITY (Unofficial Reprint #14)**

**TO:** The Honorable Nick Mosby, President, Baltimore City Council  
**FROM:** Dana Petersen Moore, Director, Office of Equity and Civil Rights  
**THRU:** Nina Themelis, Director, Mayor's Office of Government Relations  
**ANALYST:** Ty'lor Schnella, Leg. Liaison & Policy Analyst, Office of Equity and Civil Rights  
**DATE:** 11/14/2023

**COMMITTEE**

Committee of the Whole

**CONCLUSION**

City Council Bill 22-0195 will have an inconclusive impact on access to affordable housing options for low-income Black, Indigenous, Latine, and other Baltimore City residents of color. Inclusionary housing laws increase access to affordable housing in areas where affordable housing would otherwise not be accessible, overall, as a city, our focus needs to be on creating thousands of affordable housing units ranging in affordability for residents at 30% AMI – 80% AMI.

**RACIAL EQUITY IMPACTS**

- Expanding the authority of the Inclusionary Housing Board **will improve access to affordable housing options for low-income Black, Indigenous, Latine, and other Baltimore City residents of color.**
- **Currently, there is no inclusionary requirement, requiring 10% of units to be affordable at 60% AMI will increase access to affordable units for low-income Black, Indigenous, Latino, and other Baltimore City residents of color.**
- The specific composition of the inclusionary Housing Plan form (e.g., fields and/or information that must be provided therein) is not explained in this bill, making it unclear what information residential project developers will have to submit to DHCD and the Inclusionary Housing Board. **Therefore, the racial equity impact is inconclusive, and we recommend that DHCD consult with OECD when developing this form.**

**FURTHER CONSIDERATIONS**

- Since the previous iteration of this bill fell short of addressing historical inequities in affordable housing access, **our office has proposed a friendly amendment to this bill that would include the Chief Equity Officer and Director of the Office of Equity and Civil Rights as an ex-officio member of the Inclusionary Housing Board.**
- **The Office of Equity and Civil Rights supports increasing renter representation on the board.**
- The Office of Equity and Civil Rights suggests that annual report produced by the Housing Commissioner be submitted on or before January 31st of each year. This would allow a full year's worth of information to be captured by and reflected in the report.



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**Content Warning:** The document you are about to read is a Racial Equity Impact Assessment (“REIA”), a careful and organized examination of how City Council Bill 22-0195 will affect different racial and ethnic groups in Baltimore City. We hope that this assessment sparks a conversation that is brave, empathetic, thoughtful, and open-minded.

**Trigger Warning:** The following REIA touches on racism, segregation, displacement, housing insecurity, employment insecurity, eviction, harassment, otherness, and housing discrimination. Some or all these issues may trigger a strong emotional response. The Office of Equity and Civil Rights encourages you to use this knowledge in the way that is most helpful to you.

**Formatting Note:** This REIA may differ from previous assessments authored by our office. We continuously strive to enhance our equity assessments, incorporating innovative methods and refining our approach daily. We value collaboration and welcome any suggestions to strengthen our assessments.

**Analysis by:** Ty’lor Schnella, Legislative Liaison, Office of Equity and Civil Rights

*Direct inquiries related to this REIA to [Tylor.schnella@baltimorecity.gov](mailto:Tylor.schnella@baltimorecity.gov)*

**THIS REPORT MAY NOT CAPTURE AMENDMENTS MADE AFTER THIS REPORT  
WAS SUBMITTED**



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**BACKGROUND**

**FIGURE A Relevant Terms for City Council Bill 22-0195**

KEY TERMS	DEFINITION
<b>DEVELOPER</b>	A residential “developer” typically refers to an individual or company that specializes in creating new or renovated housing communities, entertainment areas, and shopping centers where people can live, work, and enjoy leisure activities. For example, Questar Properties is a residential developer known for designing and constructing buildings like the 414 Light Street apartment building.
<b>DWELLING UNIT</b>	A “dwelling unit” refers to a single living space that is designed to offer everything a person or a group of people need to live independently. It includes all the necessary facilities for living, sleeping, eating, cooking, and staying clean and healthy.
<b>MAJOR PUBLIC SUBSIDY</b>	A "major public subsidy" refers to substantial financial assistance or support provided by the city or government to a project, which can include selling land below its appraised value, making payments instead of taxes, tax increment financing, substantial grants or loans exceeding 5% of the total projected project costs, tax credits, or any other form of financial assistance as determined by relevant rules and regulations.
<b>SIGNIFICANT LAND USE AUTHORIZATION</b>	A "significant land use authorization" refers to any decision made by the city's mayor, city council, planning commission, board of municipal and zoning appeals, or zoning administrator that allows an increase of 20 or more dwelling units in an area where fewer units were allowed before the decision was made. It means that the city has given permission for a considerable increase in the number of homes or apartments that can be built in that specific location.
<b>AFFORDABLE UNIT</b>	An "affordable unit" refers to a home or apartment that must be offered to a family with a specific income level as mandated by the proposed inclusionary housing ordinance. The income levels can be categorized as low income, moderate income, very low income, or extremely low income. Essentially, it means that certain homes or apartments in the housing development are reserved for families with different income levels, aiming to provide affordable housing options for those who may not be able to afford market-rate housing in the area.
<b>AREA MEDIAN INCOME (AMI)</b>	“Area median income” refers to the average income of people living in the larger region that includes Baltimore City. The United States Department of Housing and Urban Development publishes and updates this average income figure every year. AMI is used as a benchmark to determine income-based housing programs and policies, helping to understand what income levels are considered higher or lower in that area.



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<b>DE JURE DISCRIMINATION</b>	“De Jure Discrimination” is the purposeful unjust treatment of people that is mandated by government, law, and public policy often resulting in racial inequities. ( <a href="#">Source</a> )
<b>DE FACTO DISCRIMINATION</b>	“De Facto Discrimination” occurs “as a matter of fact without imposition of law.” In other words, it is the unjust treatment of people resulting from actions, practices, and customs although no law or rule explicitly requires it. ( <a href="#">Source</a> )
<b>INSTITUTIONAL RACISM</b>	Institutional racism refers to the ways in which policies, practices, and procedures are created and work in an intertwined manner within an institution or organization so that they favor white people and generally grant them privilege, while dehumanizing Black people (and other people of color), mostly disadvantaging them.
<b>STRUCTURAL RACISM</b>	The way in which public policies, institutional practices, cultural representations, and other norms work in various, often reinforcing ways to perpetuate racial inequity via discrimination. (source) Structural racism highlights the ways that history and culture have allowed privileges to people associated with “whiteness” and ensured disadvantages to people associated with “Blackness” or “Color.” Structural racism has endured and adapted over time. ( <a href="#">Source</a> )
<b>EXTREMELY LOW INCOME (ELI)</b>	Households with incomes at or below the federal poverty guideline or 30% of AMI, whichever is higher.
<b>VERY LOW INCOME (VLI)</b>	Households with incomes between ELI and 50% of AMI.



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<b>LOW INCOME (LI)</b>	Households with incomes between 51% and 80% of AMI.
<b>ABOVE MEDIAN INCOME</b>	Households with incomes above 100% of AMI.
<b>COST BURDEN</b>	Spending more than 30% of household income on housing costs.
<b>SEVERE COST BURDEN</b>	Spending more than 50% of household income on housing costs.
<b>AFFORDABLE</b>	Housing units with rent and utilities that do not exceed 30% of a given income threshold.
<b>AFFORDABLE AND AVAILABLE</b>	Rental units that are both affordable and either vacant or not occupied by higher income households.



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*The following content describes Bill 22-0195 in plain language for the purposes of discussion. This explanation is not a substitute for the bill, or if passed, the law.*

## **BILL SUMMARY**

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Councilwoman Odette Ramos introduced City Council Bill 22-0195 on February 7, 2022, which proposes significant changes to Article 13. § (2B) of the Baltimore City Code (“Inclusionary Housing Requirements”). Baltimore City’s 2007 Inclusionary Housing Law expired, causing the city to be non-compliant with its Affirmatively Furthering Fair Housing Plan submitted to the U.S. Department of Housing and Urban Development (HUD). The new bill aims to address this issue and bring the city back into compliance with fair housing regulations by updating and renewing the inclusionary housing provisions.

This bill, with amendments, does the following:

- Requires developments of 20 units or more to create 10% of those units as affordable for Low Income residents which is households earning at or below 60% of Area Median Income.
- Requires these same developments to add at least 5% if a subsidy is given to them to do so for residents who are very low or extremely low income.
- Is applicable to only developments that receive major public subsidy, a significant land use authorization, and/or that is newly constructed, wholly renovated, or converted from a non-residential building. This includes payments in lieu of taxation (PILOT) and tax incremental financing (TIF).
- Removes all waivers.
- Requires an Inclusionary Housing plan prior to pulling any permits for the project. The Inclusionary Housing plan must include an affirmative marketing plan, a plan for developing units that will be affordable according to the law, and more. The Inclusionary Housing Plan must be approved by the Inclusionary Housing Board prior to having permits pulled.
- Requires annual reporting by the owner of the property and reporting to the City Council by the Inclusionary Board.
- Reduces Inclusionary Housing Board membership and makes general changes to the Board.
- Sets an affordability period of 30 years that starts over when there is new ownership or new control of the property.
- Adds enforcement to the law.

## **BACKGROUND**

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To analyze the racial equity impacts of this bill, it is critical to understand the context surrounding the issue. Below, we provide background pertinent to the topic of City Council Bill 22-0195.

*There may be omissions of relevant information related to these topics. We encourage you to dive further into research on your own or by using the footnotes provided herein as a starting point.*



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**The 2007 Inclusionary Housing Ordinance**

Baltimore City's journey with inclusionary housing began on December 4<sup>th</sup>, 2006, when District 14 Councilwoman Mary Pat Clarke introduced City Council Bill 06-0558 – Inclusionary Housing. This ordinance is known colloquially as "The 2007 Ordinance." Like many other cities working to introduce inclusionary housing statutes at the time, Baltimore City's inclusionary ordinance was supposed to be a reckoning with many of the legacy housing issues caused by decades of de jure discrimination, de facto discrimination, structural, and institutional racism.

Under the 2007 ordinance, the City would attempt to promote economic diversity and housing opportunities for a broad range of incomes in neighborhoods and residential developments. But not without promising developers to do so "...in a manner that recognizes the central role that private investment must play for the continued growth and well-being of the city."<sup>1</sup> This included reassuring developers that the "...opportunity to earn reasonable and customary levels of profitability" would continue despite enactment of the 2007 ordinance.<sup>2</sup> After six strenuous months of deal making with developers and housing advocates, on June 17, 2007, Mayor Martin O'Malley signed the city's inclusionary ordinance into law. The actions that ensued after the 2007 ordinance was enacted is why the ordinance is widely considered a failure by city residents, housing advocates, and developers alike.

The ordinance was not operationalized in a manner that would have benefitted some of the most vulnerable city residents vis-à-vis the creation of affordable housing units. The 2007 ordinance contained two fatal flaws – cash subsidies and waivers. If the Housing Commissioner determined that the major public subsidy applied to a development project was insufficient to offset the financial impact on the developer, the city could grant a cash subsidy to the developer from the Inclusionary Housing Offset Fund in the amount sufficient to offset the financial impact. However, the fund was often tapped out, which made it routinely impossible for the Housing Commissioner to provide an amount sufficient to offset the financial impact to developers. If you were a developer during the 2007 ordinance era, this was the best-case scenario because this is where the waivers would be triggered, which would exempt your project from the requirements of the city's inclusionary law.

If the Housing Commissioner determined that the major public subsidy or cash subsidies available to the developer of a residential project was insufficient to offset the financial impact on the developer, the housing commissioner was empowered to exempt the development project from the requirements of the city's inclusionary law, or modify the number of inclusionary units required.<sup>3</sup> In almost all cases, developers received waivers, thereby exempting their development projects from the inclusion of affordable units.

Today, the city stands without an inclusionary law, but residents would argue that the city never had one to begin with. It is estimated that while the 2007 ordinance was in effect, a meager 34 inclusionary housing

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<sup>1</sup> [2007 Inclusionary Ordinance.pdf](#)

<sup>2</sup> [2007 Inclusionary Ordinance.pdf](#)

<sup>3</sup> [2007 Inclusionary Ordinance.pdf](#)





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units were created; meanwhile, more than 9,000 new market-rate and luxury units have been completed or approved.

**Historical Drivers of Housing Inequity**

Decades of racial discrimination by real estate agents, banks, insurers, the federal government, state government, and local government have made homeownership difficult to obtain for people of color. Many factors kept people of color from being able to purchase homes through the middle of the twentieth century – pervasive refusal of white people to live in racially integrated neighborhoods, physical violence targeting people of color who tried to integrate (which was often tolerated by police), restrictive covenants forbidding home sales to Black buyers who would integrate neighborhoods (some of which were mandated by the Federal Housing Administration), and federal housing policy that denied borrowers access to credit in minority neighborhoods.<sup>4</sup> Being denied the ability to purchase homes also meant that people of color did not benefit from the appreciation in the value of these homes, a major driver of the racial wealth gap.

While overt discrimination was outlawed by the “Fair Housing Act of 1968,” subtler forms of housing discrimination continue to constrain the housing options for people of color. HUD’s fair housing tests in 28 metropolitan areas in 2013 found that Black homebuyers were shown 17.7% fewer homes than white homebuyers with the same qualifications and preferences.<sup>5</sup>

More recent fair housing investigations show similar unfavorable treatment of people of color, including being shown fewer homes and not being given the same information as whites.<sup>6</sup> Today’s credit scoring system and lending practices also continue to serve as barriers to minority homeownership and rentership.<sup>7</sup>

**Racial Disparities Among Extremely Low-Income Renters**

The shortage of affordable and available housing disproportionately affects Black, Latino, and Native and Alaska Native households, as these households are both more likely to be renters and to have extremely low incomes. They are more than twice as likely as white households to be extremely low-income renters. For example, 57% of Black households are renters and 19% are extremely low-income renters. Fifty-two percent of Latino households are renters and 14% are extremely low-income renters. In contrast, 25% of white households are renters and 9% are extremely low-income renters (Figure 1).

These disparities are the product of historical and ongoing injustices that have systematically disadvantaged people of color, often preventing them from owning a home and significantly limiting wealth accumulation. Some of these injustices persist to this day, including discrimination in both the housing and labor markets. Though many obviously racist institutions and practices, like slavery and de jure segregation, have subsided

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<sup>4</sup> <https://massbudget.org/2021/08/06/a-history-of-racist-federal-housing-policies/>

<sup>5</sup> <https://www.hud.gov/sites/documents/2012-13ANNREPORT.PDF>

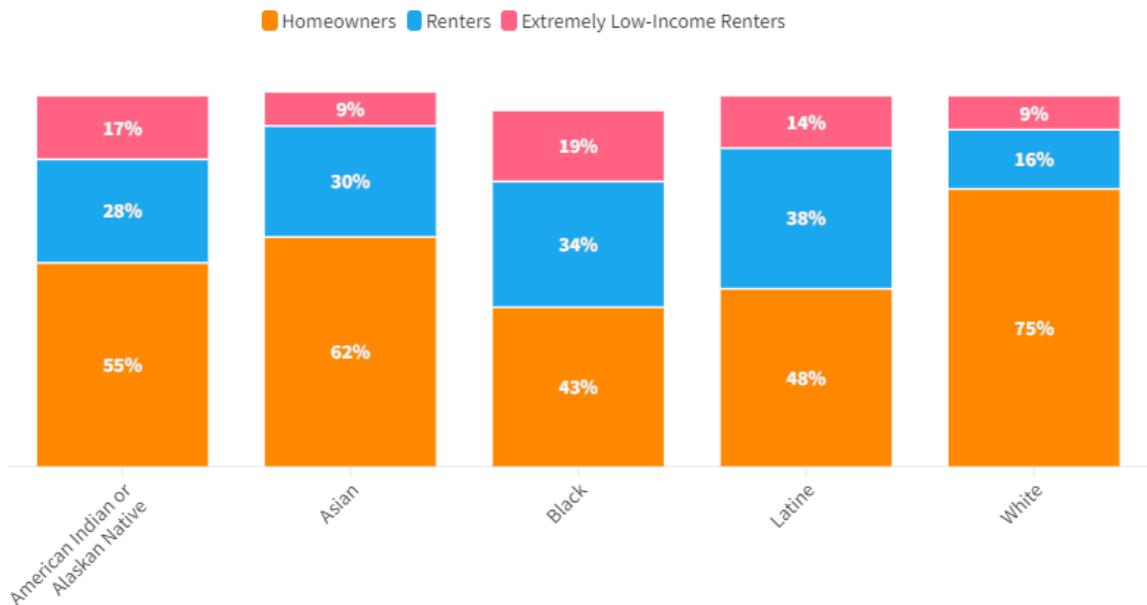
<sup>6</sup> <https://www.hud.gov/sites/documents/2012-13ANNREPORT.PDF>

<sup>7</sup> [https://www.urban.org/sites/default/files/publication/101160/explaining\\_the\\_black-white\\_homeownership\\_gap\\_a\\_closer\\_look\\_at\\_disparities\\_across\\_local\\_markets\\_0.pdf](https://www.urban.org/sites/default/files/publication/101160/explaining_the_black-white_homeownership_gap_a_closer_look_at_disparities_across_local_markets_0.pdf)



in many ways, our society has failed to eliminate discriminatory practices and redress the economic inequalities produced by racist policies (*See Historical Drivers of Housing Inequity*).

**FIGURE 1: HOUSEHOLDS OF COLOR MORE LIKELY THAN WHITE HOUSEHOLDS TO BE RENTERS AND HAVE EXTREMELY LOW INCOMES**  
 SHARE OF HOUSEHOLDS BY TENURE AND RACE



Source: 2021 ACS PUMS • Visualized by Ty'lor Schnella, OECR

### Racial Disparities in Income and Cost Burden

The impacts of sustained discrimination and oppression show up not just in homeownership disparities but also in income disparities across racial and ethnic groups. The 2021 ACS indicates that the median annual income of Black households in Baltimore City was \$42,493, nearly \$40,000 less than the median annual income of white households (\$83,012). The median annual income of Latine households was \$62,698, and the median income of Asian households was \$64,979. These disparities reflect the fact that Black and Latino workers are less likely to work in sectors with higher median wages and tend to be paid less than white workers even within the same occupations.<sup>8</sup>

Renters of color are much more likely to be housing cost-burdened: 55% of Black renters and 52% of Latino renters are housing cost-burdened, compared to 44% of white renters (Figure 2). Nearly one-third of Black renters but only 23% of white renters are severely cost-burdened, spending more than half of their income on housing. Racial disparities in cost burdens can be partially explained by income, as the disparity shrinks when looking only at extremely low-income renters. Extremely low-income renters who are Latino, Black,

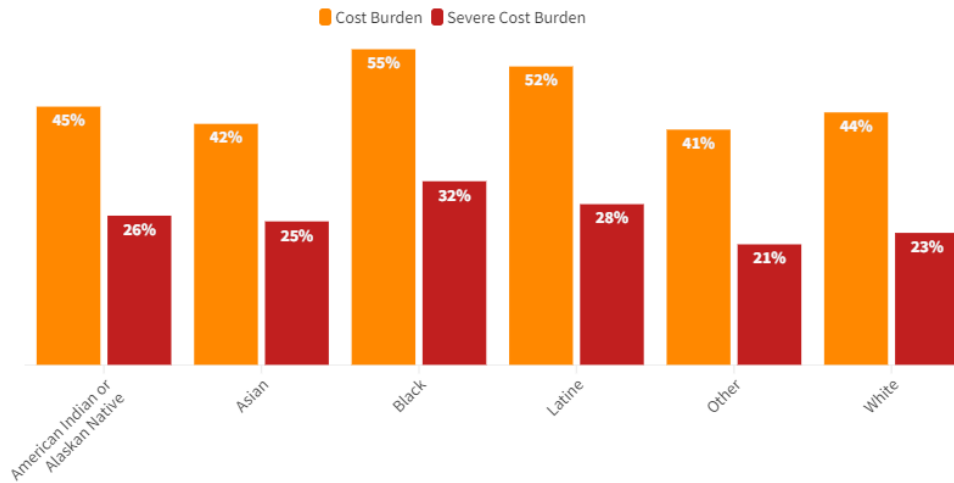
<sup>8</sup> <https://www.epi.org/publication/racial-representation-prof-occ/>

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and white experience housing cost-burdens at a rate of 88%, 87%, and 85%, respectively (Figure 3), and severe cost-burdens at a rate of 75%, 74%, and 72%.

**FIGURE 2: BLACK AND LATINE RENTERS EXPERIENCE HIGHER RATES OF HOUSING COST-BURDEN THAN WHITE RENTERS**

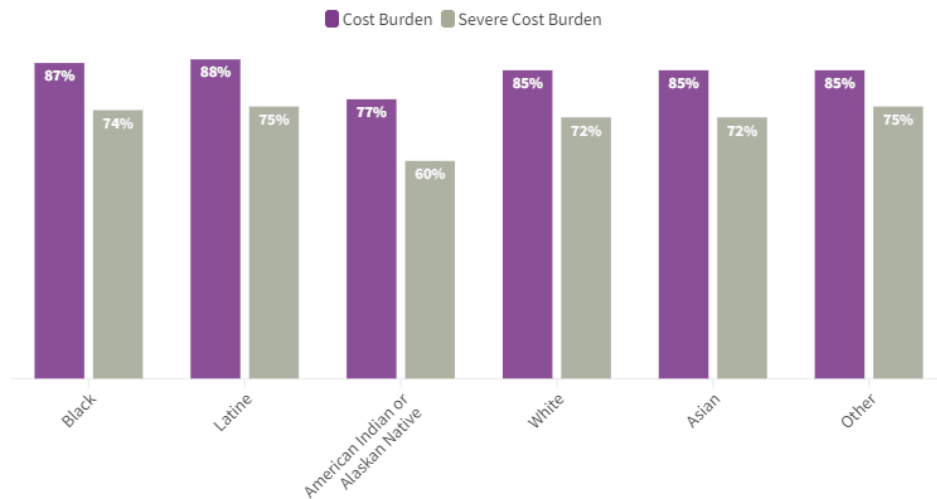
COST BURDEN BY RACE AND ETHNICITY



2021 ACS PUMS  
 Visualized by Ty'lor Schnella, OECR

**FIGURE 3: DISPARITIES IN COST-BURDEN SHRINK WHEN LOOKING AT ONLY EXTREMELY LOW-INCOME RENTERS**

COST BURDEN BY RACE AND ETHNICITY



2021 ACS PUMS  
 Visualized by Ty'lor Schnella, OECR

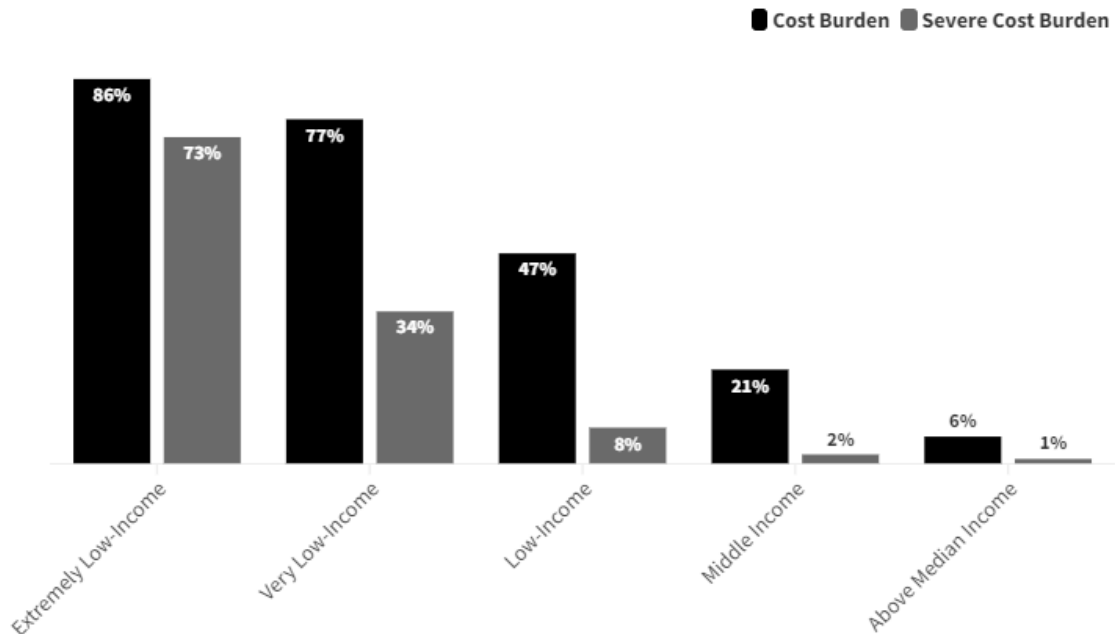
### Housing Cost Burdens

Households are considered housing cost-burdened when they spend more than 30% of their incomes on rent and utilities. They are considered severely cost-burdened when they spend more than 50% of their incomes on their housing. Because cost burdened households spend a higher share of their income on housing, they have less to spend on other necessities, such as food, childcare, transportation, and healthcare.

Extremely low-income renters are far more likely than others to experience severe housing cost burden. Eighty-six percent of all extremely low-income renters experience housing cost-burden and 73% are severely cost-burdened (Figure 4). Renters with higher incomes are far less likely to experience severe cost-burdens. Seventy-seven percent of very low-income households are housing cost-burdened, but far fewer (34%) experience severe cost-burdens compared to extremely low-income renters. The share of low-income, middle-income, and above median-income renters who are severely cost burdened is 8%, 2%, and 1%, respectively.

**FIGURE 4: EXTREMELY LOW-INCOME HOUSEHOLDS DISPROPORTIONATELY EXPERIENCE SEVERE HOUSING COST BURDENS**

RENTER HOUSEHOLDS WITH HOUSING COST BURDENS BY INCOME GROUP



2021 ACS PUMS  
 Visualized by Ty'lor Schnella, OECR



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**Who are Extremely Low-Income Renters?**

Most extremely low-income renters either work in low-wage jobs or may be unable to work. They are more likely than other renters to be seniors or have disabilities. Among extremely low-income renter householders, 35% are in the labor force, 30% are seniors, 18% have a disability, and 7% are students or single-adult caregivers to young children or household members with a disability (Figure 5).

In 2021, 39% of extremely low-income renter households in the labor force worked at least 40 hours per week and 30% worked between 20 and 39 hours per week. Often, though, low-wage employment does not provide income adequate to afford housing. The national average wage that must be earned by a full-time worker to afford a modest one-bedroom and two-bedroom apartment is \$21.25 and \$25.82 per hour, respectively.<sup>9</sup> Eleven of the 25 largest occupations in the country, including home health aides, custodians, nursing assistants, and food servers pay a median wage that is far less than this.<sup>10</sup> The average per-hour wage needed to afford a modest two-bedroom apartment is at least \$10 more than the median wages provided by these occupations.<sup>11</sup>

Beyond low wages, extremely low-income workers experienced elevated rates of unemployment at the height of the pandemic – a result of the disproportionate impact of COVID-19 on workers in low-wage occupations. Between 2019 and 2021, unemployment among extremely low-income renters in the labor force increased from 13% to 20%. Low-wage industries make up 30% of all jobs nationally but accounted for 59% of jobs lost between February 2020 and October 2021.<sup>12</sup>

Employment has improved significantly since mid-2020, with the national unemployment rate falling from 10.2% in July 2020 to 3.4% in January 2023.<sup>13</sup> Yet even as many low-wage renters regain employment, their wages remain insufficient to afford housing. At the same time, not all wage increases have kept pace with recent high rates of inflation. Households earning less than \$20,000 per year saw their costs of living increase at three times the rate of their wage growth in 2021.<sup>14</sup> In comparison, households earning more than \$60,000 annually saw their incomes increase at a higher rate than their costs of living. Meanwhile, during 2022, wage earners nationally experienced a 1.7% decrease in their real wages.<sup>15</sup>

While figure 5 categorizes extremely low-income renters into mutually exclusive groups for simplicity, the Office of Equity and Civil Rights recognizes that the lived experience of these renters often involves juggling multiple responsibilities, like working to make ends meet at the same time as serving as a primary caretaker or pursuing further education in school. More than 13% of extremely low-income renters are single-adult caregivers of a young child or of a household member with a disability. Nearly 60% of these

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<sup>9</sup> [https://nlihc.org/sites/default/files/2022\\_OOR.pdf](https://nlihc.org/sites/default/files/2022_OOR.pdf)

<sup>10</sup> [https://nlihc.org/sites/default/files/2022\\_OOR.pdf](https://nlihc.org/sites/default/files/2022_OOR.pdf)

<sup>11</sup> [https://nlihc.org/sites/default/files/2022\\_OOR.pdf](https://nlihc.org/sites/default/files/2022_OOR.pdf)

<sup>12</sup> <https://www.cbpp.org/sites/default/files/8-13-20pov.pdf>

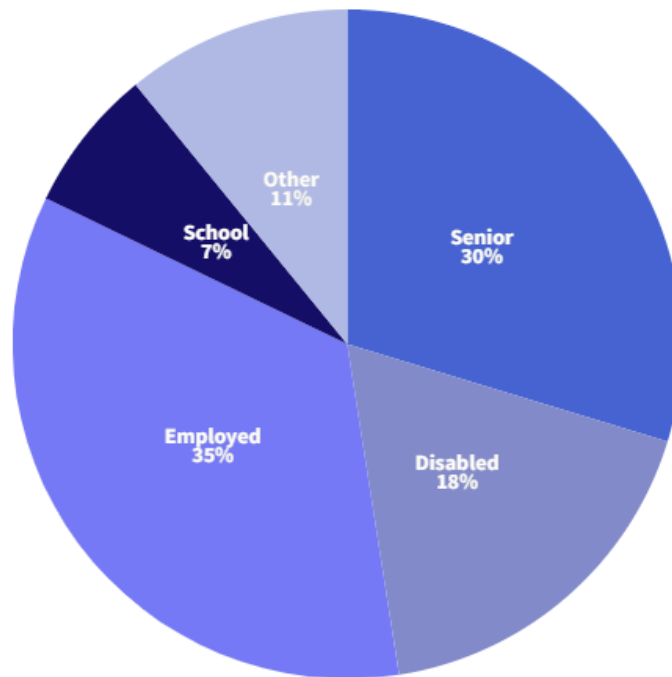
<sup>13</sup> <https://fred.stlouisfed.org/series/UNRATE>

<sup>14</sup> <https://budgetmodel.wharton.upenn.edu/issues/2022/2/21/did-wages-keep-up-with-inflation-in-2021>

<sup>15</sup> <https://www.bls.gov/cpi/data.htm>

caregivers also participate in the labor force, with 25% percent working at least 40 hours per week and another 24% typically working between 20 and 39 hours per week. Ten percent of extremely low-income renters are enrolled in school, 29% of whom usually work 20 to 39 hours per week, and another 18% work at least 40 hours per week. Without housing assistance or increases in their hourly wages, they cannot rely on their work hours to afford their homes.

**FIGURE 5: MOST EXTREMELY LOW-INCOME HOUSEHOLDERS ARE EMPLOYED, ARE SENIORS, OR HAVE A DISABILITY**  
 EXTREMELY LOW-INCOME RENTER HOUSEHOLDS



Source: 2021 ACS PUMS • Visualized by Ty'lor Schnella, OECR

*Note: Mutually exclusive categories applied in the following order: senior, disabled, in labor force, enrolled in school, single adult caregiver of a child under 7 or of a household member with a disability, and other. Senior means householder or householder's spouse (if applicable) is at least 62 years of age. Disabled means householder and householder's spouse (if applicable) are younger than 62 and at least one of them has a disability. Working hours refers to the number of hours usually worked by householder and householder's spouse (if applicable). School means householder and householder's spouse (if applicable) are enrolled in school.*

***It is within this context that the Office of Equity and Civil Rights analyzes City Council Bill 22-0195.***



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*The rest of this REIA is organized into three (3) sections. Each section discusses a provision of the proposed legislation, which includes an explanation of the provision, background or research related to that provision, racial equity impacts for relevant parts of that provision, and further considerations for the sponsors and members of the applicable committee assigned to review the legislation.*

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## **RACIAL EQUITY IMPACTS**

*The following content describes the likely racial equity impacts of the provisions of City Council Bill 22-0195. This content is not a substitute for reading the bill, or if passed, the law. Omissions may be present in this section.*

### **SECTION 1: INCLUSIONARY HOUSING BOARD**

The 2007 ordinance originally established a fifteen (15) member Board. However, this bill proposes a reduction in the Board's size, to nine (9) members. Of these nine (9) members, four (4) will be appointed by the Mayor, following the guidelines outlined in [City Charter article IV, § 6](#). Additionally, the City Council President will nominate three (3) members. This bill mandates the inclusion of the Housing Commissioner and the Planning Director as members of the Board, given their respective roles in administering this bill, should it pass.

Of the four (4) members nominated by the Mayor:

- 1 must have experience in the field of housing, community development, planning, social services, or public health;
- 1 must be a lender (e.g., a person who is in the business of loaning people money for the purchase of homes) with experience in community development and housing finance;
- 1 must be a renter earning an income at or below 60% of the AMI; and
- 1 must have legal experience with fair housing laws.

Of the three (3) members nominated by the City Council President:

- 1 must have legal experience in affordable housing finance or affordable housing development;
- 1 must be a non-profit affordable housing developer; and
- 1 must be a for-profit developer of multifamily housing.

All members serving on the Board must meet the residency requirement of being residents of Baltimore City, as is the customary prerequisite for those seeking to serve on City boards and commissions. Furthermore, Board members will serve voluntarily without any form of compensation, but they will be entitled to reimbursement for expenses incurred while fulfilling their duties as members of the Board. As standard practice with City boards and commissions, the Mayor will designate one (1) of the appointed members to serve as the Chair of the Board and the Board may appoint a vice-chair and any other officers (e.g., a member of the Board to serve as secretary).

The Board is primarily responsible for:



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- Reviewing and approving the rules and regulations necessary for administering this bill;
- reviewing, providing comments, and approving Inclusionary Housing Plans submitted by residential project developers;
- reviewing annual reports submitted by the Housing Commissioner; and
- advising the Housing Commissioner and the Planning Director in the performance of their duties as prescribed in this bill.

Under this bill, on or before December 31<sup>st</sup> of each year, the Housing Commissioner is required to submit a report to the Mayor, City Council, and the Board. This report must be posted publicly on the Department of Housing and Community Development's website. Additionally, the report must include:

- The total number of new affordable units created under this bill for the year the report is submitted and cumulatively for moderate, low, very low, and extremely low-income households.
- For the year the report is submitted, the percentage of new dwelling units created in the city that are affordable units for moderate, low, very low, and extremely low-income households.
- Data from the previous year (s).

**Racial Equity Impacts**

- **Expanding the authority of the Inclusionary Housing Board will improve access to affordable housing options for low-income Black, Indigenous, Latine, and other Baltimore City residents of color.** Under the 2007 ordinance, the Board was not assigned any substantive authority and/or responsibilities regarding the administration of the 2007 ordinance. Under § 2B-17 ("Duties") of the 2007 ordinance, the Board was primarily responsible for:
  - (1) reviewing requests for modifications or waivers under § 2B-21 {"Project receiving major public subsidy"}, § 2B-22 {"Project benefitting from significant land use authorization or rezoning"}, and § 2B-23 {"Other projects – 30 or more units"} and advising the Housing Commissioner within 20 days of referral by the Commissioner, in a manner determined by the Board; and
  - (2) advising the Housing Commissioner and the Planning Director in the performance of their respective duties under this subtitle.

Thus, the Board did not possess the statutory authority to deny requests for modifications, waivers, or exemptions made by residential project developers. Instead, in most cases, the Housing Commissioner had the sole authority to grant modifications, waivers, and exemptions to residential projects. The Board was only empowered by the 2007 ordinance to advise the Housing Commissioner on requests for modifications or waivers. However, the 2007 ordinance did not provide the Board with the authority to deny waivers, modifications, or exemptions approved by the Housing Commissioner. Simply put, the Board was rendered toothless by the 2007 ordinance.

To remedy this fatal flaw from the 2007 ordinance, this bill modifies the dynamic between the Board and the Housing Commissioner by requiring a more balanced approach to the enactment of this bill.





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Specifically, under this bill before the City issues permits for a residential project that is subject to the affordable unit requirement under this bill, the residential project's Inclusionary Housing Plan must first be approved by the Board. A more balanced approach to power distribution under the 2007 ordinance would have likely allowed for the creation of more than 34 affordable units. This report will go into greater detail regarding the dynamic between the Board and the Housing Commissioner as it relates to Inclusionary Housing Plans in section 3 of this report.

**Further Considerations**

- Since the previous iteration of this bill fell short of addressing historical inequities in affordable housing access, our office has proposed a friendly amendment that would include the Director of the Office of Equity and Civil Rights as an ex-officio member of the Inclusionary Housing Board.
- The composition of the Board, as currently drafted, is heavily skewed towards those in the business of residential development or in proximity to the industry. The office of Equity and Civil Rights supports increasing renter representation on the board.
- The Office of Equity and Civil rights suggests that the annual report produced by the Housing Commissioner be submitted on or before January 31st of each year. This would allow a full year's worth of information to be captured by and reflected in the report.

**SECTION 2: INCLUSIONARY REQUIREMENTS**

Under the 2007 ordinance, inclusionary requirements for residential projects depended on certain factors applicable to the project. *Projects that would provide thirty (30) or more residential units and received major public subsidy* were required to have 20% of the total units be affordable. Of those affordable units:

- 30% had to be provided to eligible households at an extremely low rental cost;
- 25% had to be provided to eligible households at or below a very low rental cost;
- 25% had to be provided to eligible households at or below a low rental cost; and
- the remainder must be provided to eligible households at a rental cost that does not exceed 1/12 of 30% of 100% of the AMI.

Under the 2007 ordinance, residential projects that provided thirty (30) or more residential units, developed on property for which there was a significant land use authorization or rezoning, were required to set aside at least 10% of the total units to be affordable. Of those affordable units:

- at least half must be provided to eligible households at or below a low affordable cost; and
- the others may be provided to eligible households at a moderate affordable rent.

Under the 2007 ordinance, residential projects that provided thirty (30) or more units, but did not receive significant land use authorization, rezoning, or major public subsidy, were required to have 10% of the total units to be affordable.

Under this bill, any residential development project that provides 20 (this will make the law applicable to more developments than the 2007 ordinance) or more residential units, receives a major public subsidy, obtains significant land use authorization, or is newly constructed, wholly renovated, or converted from a



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non-residential building, must provide at least 10% of the total units for rent must be affordable to low-income households. Additionally, in residential development projects where the developer is offered additional subsidy (e.g., tax credit (s)) or offered the opportunity to apply for additional subsidy, up to 5% of the total units must be affordable to very low and extremely low-income households.

In summary, under this bill the required affordable unit set asides for residential development projects will be loosened, but will apply to more developments. One can surmise that this was a concession meant to ease the concerns of those in the business of residential property development.

### **Racial Equity Impacts**

- **Reducing the affordable unit requirement from 20% under the 2007 ordinance to 10% under this proposed ordinance will likely exacerbate inequitable access to affordable housing options for low-income Black, Indigenous, Latine, and other Baltimore City residents of color.** According to the Grounded Solutions Network, the average set-aside for affordable units is 16%. Thirty percent of municipalities with Inclusionary Housing programs require 20% or more of the housing units to be set aside at affordable rents.<sup>16</sup> Under the provisions of this bill, Baltimore City is set to establish an inclusionary program with a set-aside requirement that falls 6% below the industry's minimum standard as observed across the 374 inclusionary programs assessed by Grounded Solutions Network. The shortage of affordable units is the root cause of the city's affordable housing crisis. Therefore, on the heels of an inclusionary policy that only netted 34 affordable units over the course of about  $\pm 10$  years, it is not optimal to ease the affordable unit requirements. This is evidenced by the fact that in response to the Housing Authority of Baltimore City (HABC) opening the Low-Income Public Housing Program (LIPH) wait list for the first time in four years, there were 29,812 applications received during the two-weeks in August.<sup>17</sup> This is indicative of the serious need for affordable housing in Baltimore City.

### **SECTION 3: INCLUSIONARY HOUSING PLANS**

Under this bill, residential projects that are subject to the affordability unit requirement, and whose managers plan to apply for a major public subsidy, must follow specific steps. They are required to submit an Inclusionary Housing Plan to the Department of Housing and Community Development (DHCD), the Planning Department, and the Inclusionary Housing Board when submitting a pre-development application to the Site Plan Review Committee. Additionally, they must submit an Inclusionary Housing Plan to DHCD and the Inclusionary Housing Board when applying for a building permit.

Additionally, the City cannot issue any permits for a residential project subject to this bill until the Inclusionary Housing Plan is approved by the Inclusionary Housing Board. However, the Housing Commissioner is granted the authority and discretion to create and amend the Inclusionary Housing Plan

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<sup>16</sup> [https://groundedsolutions.org/sites/default/files/2021-01/Inclusionary\\_Housing\\_US\\_v1\\_0.pdf](https://groundedsolutions.org/sites/default/files/2021-01/Inclusionary_Housing_US_v1_0.pdf)

<sup>17</sup> [https://www.habc.org/media/3651/pressrelease\\_publichousing\\_waitlist\\_results\\_9-19-2023.pdf](https://www.habc.org/media/3651/pressrelease_publichousing_waitlist_results_9-19-2023.pdf)



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Form as necessary, while the Inclusionary Housing Board, according to the law, does not have the ability to provide advice and consent on the form.

While this bill does not provide specific details about what should be included in the Inclusionary Housing Plan Form, it does require that the plan incorporate an Affirmative Marketing Plan. This plan should outline strategies for proactively marketing the affordable units within the residential project to individuals who are least likely to apply to become tenants without special outreach efforts.

### **Racial Equity Impacts**

- Requiring residential project developers to submit Inclusionary Housing Plans to DHCD and the Inclusionary Housing Board may help improve access to affordable and inclusive housing opportunities for Black, Latine, and other city residents of color. However, the specific composition of this form (e.g., fields and/or information that must be provided therein) is not explained in this bill, making it unclear what information residential project developers will have to submit to DHCD and the Inclusionary Housing Board. **Therefore, the racial equity impact of requiring Inclusionary Housing Plans is inconclusive.**

### **SECTION 4: OWNERSHIP UNITS**

Under the 2007 ordinance, residential projects creating ownership units, such as condominiums, were not exempt from the city's inclusionary requirements. Instead, they were mandated to allocate a specific percentage of units to eligible households at varying levels of ownership cost. Specifically, those projects had to set aside a minimum of 25% of units for eligible households at a very low ownership cost, allocate at least 50% of units for eligible households at a low ownership cost, and reserve the remaining units for eligible households at a moderate ownership cost.<sup>18</sup>

This bill, however, exempts residential projects creating ownership units, like condominiums, from the inclusionary requirements.<sup>19</sup> The removal of ownership units from this bill is particularly troubling, especially given the significant racial disparities in homeownership rates in Baltimore City. According to the 2020 Abell Homeownership Report, between 2007 and 2017, Baltimore City experienced a more pronounced decline in homeownership rates compared to the national trend.<sup>20</sup> During this decade, Baltimore's homeownership rate dropped from 51% to 47%, while the national rate decreased from 67% to 64% over the same period.<sup>21</sup>

Furthermore, the report indicates that the Black homeownership rate in Baltimore also declined from 45% in 2007 to 42% in 2017.<sup>22</sup> This rate is slightly below the national Black homeownership rate, which stood at 43%, marking a significant decrease from its peak of 50% in 2004. Today, the Black homeownership gap in Baltimore City stands at 30.1%, with a White homeownership rate of 76.3%, and a Black

<sup>18</sup> [2007 Inclusionary Ordinance.pdf](#)

<sup>19</sup> [22-0195 Inclusionary Housing \(reprint 14\).pdf](#)

<sup>20</sup> [https://abell.org/wp-content/uploads/2020/07/2020\\_Abell\\_Homeownership20Report\\_FINAL2\\_web20dr.pdf](https://abell.org/wp-content/uploads/2020/07/2020_Abell_Homeownership20Report_FINAL2_web20dr.pdf)

<sup>21</sup> [https://abell.org/wp-content/uploads/2020/07/2020\\_Abell\\_Homeownership20Report\\_FINAL2\\_web20dr.pdf](https://abell.org/wp-content/uploads/2020/07/2020_Abell_Homeownership20Report_FINAL2_web20dr.pdf)

<sup>22</sup> [https://abell.org/wp-content/uploads/2020/07/2020\\_Abell\\_Homeownership20Report\\_FINAL2\\_web20dr.pdf](https://abell.org/wp-content/uploads/2020/07/2020_Abell_Homeownership20Report_FINAL2_web20dr.pdf)



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homeownership rate of 46.2%. Overall, the city has a homeownership rate of 66.4%. Statewide in Maryland, the White homeownership rate is 77%, while the Black homeownership rate is 51%.

For decades, Black families have been systematically relegated to persistent cycles of inter-generational rentership, perpetuating economic disparities and limiting wealth accumulation within the Black, Indigenous, Latine, and other communities of color. Historical injustices, including redlining and discriminatory lending practices, have deliberately excluded Black, Indigenous, Latine, and other people of color from the opportunities and benefits of homeownership, setting the stage for a pattern of limited access to housing assets. This exclusion not only deprives Black families of the equity-building advantages of homeownership, but also hinders the transmission of wealth across generations, creating a cycle of financial disadvantage.

### **Racial Equity Impacts**

- **The exemption of residential projects that create ownership units from the obligation to allocate a percentage of those units as affordable for low-income residents will maintain the status quo of racial inequities in homeownership rates among Black, Indigenous, Latine, and other residents of color in Baltimore City.** According to Article 1, §39-1 (c) of the Baltimore City Code, Equity means “closing the gaps in policy...so that race...does not predict one’s success.”<sup>23</sup> This bill presents a policy gap that will maintain the status quo of inequitable access to homeownership in Baltimore city and exacerbate inequities in homeownership rates. The removal of this provision is not in accordance with the City’s equity goals as stated in the law.

### **Further Considerations**

- Considering the disparities in homeownership rates among Black, Indigenous, Latine, and other residents of color in Baltimore City, the sponsor of this bill should consider amending it to extend its applicability to residential projects that create ownership units.

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<sup>23</sup> <https://civilrights.baltimorecity.gov/sites/default/files/Art.%201%2039-1.pdf>



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**ASSESSMENT LIMITATIONS**

*Alongside the analysis provided above, the office of Equity and Civil Rights encourages readers to keep the following limitations in mind:*

**Assessing legislation’s potential racial equity impacts is a rigorous, analytical, and organized undertaking—but it is also an exercise with constraints.** It is impossible for anyone to predict the future, implementation does not always match the intent of the law, critical data may be unavailable, and today’s circumstances may change tomorrow. Our assessment is our most educated and critical hypothesis of the bill’s racial equity impacts.

**This assessment aims to be accurate and useful, but omissions may exist.** Given the density of racial equity issues, it is unlikely that we will raise all relevant racial equity issues present in a bill. In addition, an omission from our assessment should not: 1) be interpreted as a provision having no racial equity impact or 2) invalidate another party’s racial equity concern.

**Regardless of the Office of Equity and Civil Rights’ final assessment, the legislation can still pass.** This assessment intends to inform the public, Councilmembers, Council staff, and any other interested parties about the legislation through a racial equity lens. However, this assessment is not binding on the sponsor of the legislation, the City Council, or any other applicable parties.