
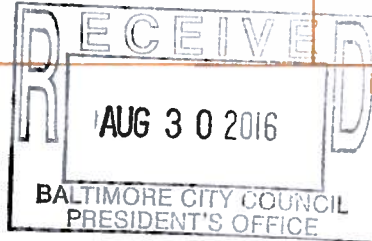


FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #16-0735		

TO

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



DATE: August 30, 2016

The Department of Planning is in receipt of City Council Bill #16-0735 which would Increase Program Participation in the Inclusionary and Affordable Housing Program.

If enacted, this bill would modify existing Inclusionary Housing legislation passed in July of 2007. The existing law has resulted in only 32 units of affordable housing.

The major proposed changes to the law would:

- Establish an affordable housing requirement of 10%, reduced from 20%, for developments of more than 30 units requiring major public subsidy.
- Eliminate the City's legal obligation to provide an additional subsidy to developers to offset financial impacts of meeting the affordable housing requirement.
- Create an Affordable Housing Fund, with the intent to fund through general obligation bonds and an increase in the City's transfer and recordation taxes.
- Eliminate the option to develop affordable units off-site while creating a pay-in-lieu option based on the City's Housing Market Typology data.

As drafted, the Bill has a number of provisions that would need to be refined before Planning could support the legislation. However, the Planning Department supports the intention of this legislation and would welcome the opportunity to work constructively with Council, other City agencies and external stakeholders to craft legislation that supports the development of an effective affordable housing program for the City.

The Bill's reduced inclusionary housing requirement (10% of total units in developments with at least 30 units receiving major public subsidy) may still be too aggressive for existing market conditions. While cities with exceptionally strong markets have successfully implemented inclusionary housing programs, Baltimore's marketplace continues to be uneven. The very fact that the program limits eligibility to projects receiving major public subsidy is recognition that market rate developments, even in choice neighborhoods, still face economic hurdles. In addition, tax credit incentives such as historic tax credits or the High Performance Market-Rate Rental Housing Tax Credit are needed to achieve desired levels of investment in the City and should not, on their own, trigger the need for inclusionary housing requirements.

Planning supports the removal of the City obligation to provide subsidy to the developer. This has proved unworkable policy under existing law. However, due to market conditions, it is advisable that the ability to alter or exempt projects from the requirements be retained. This

Comments

will allow flexibility to apply program requirements to projects whose location and economics prove feasible, but not deter development where the program represents a potentially deal-killing hardship.

It is noted that the Bill's efforts to make program parameters simpler is a useful step in the right direction: making eligibility and affordability requirements more straightforward will promote better program design and outcomes.

With respect to the proposed Affordable Housing Fund, Planning defers to the position of other City agencies in regards to legal and fiscal implications of the language.

Planning recommends eliminating the use of the Housing Market Typology (HMT) as a statutory element. While the concept of using market data to inform program decisions is supported, the terminology and data methods of the HMT have changed over time; thus referencing specific categories or terms may create confusion. Secondly, the City is not obligated to produce the HMT; it is possible that updates will not be regularly conducted in the future. Third, there may be legal questions raised by developers facing larger payments due to opaque statistical clustering methods. A simpler, more verifiable approach for determining any developer contribution levels would be preferable.

Planning opposes the use of Site Plan Review Committee (SPRC) approval as the cut-off point for when currently in-process developments will be covered by the new requirements. First, the SPRC process is not required for all developments. Second, the review can happen well in advance of an actual development and it does not unto itself represent a significant financial stake for the developer. As such, the Bill may create an incentive for a developer to rush through the SPRC process even if the business terms of the transaction are far from complete. Planning believes this would be counter to the intent of Council. A better cut-off point may be issuance of a building permit.

In sum, inclusionary housing can be a useful tool for promoting mixed-income neighborhoods, offering opportunities to low-income families and generating affordable housing units and resources. Cities with very strong real estate markets have implemented such programs and had success in generating units or resources. However, Baltimore's market may not yet be in a position to place this additional regulatory burden on all developers. Council's attempt to revise the ineffective current program is laudable, however great care must be taken in designing a program to fit Baltimore's specific circumstances and market conditions. The Department of Planning looks forward to working constructively with Council, other City agencies and other stakeholders to create the best program for our City.

If you have any questions, please contact Mr. Robert Pipik, Division Director, Research and Strategic Planning Division, Department of Planning, 401-396-7526.

TJS/WA

cc: Ms. Kaliopé Parthemos, Chief of Staff
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