



MEMORANDUM

TO: Honorable President and Members of the City Council  
Attention: Natawna Austin, Executive Secretary

FROM: William H. Cole, President and CEO *WAC*

DATE: August 29, 2016

SUBJECT: City Council Bill No. 16-0735  
Inclusionary and Affordable Housing Requirements – Increasing Program Participation

---

The Baltimore Development Corporation (BDC) has reviewed City Council Bill 16-0735, for the purpose of expanding the City's affordable and inclusionary housing program; creating a Fair Housing Board to oversee the affordable and inclusionary housing programs; establishing the composition and duties of the Fair Housing Board; defining...

The development of affordable housing and economic development are linked. Research has shown that jobs are created in both the construction of affordable units and through new consumer spending after the homes are occupied. As written, several issues affect the ability of this bill in achieving its intended results of expanding and creating the number of affordable ownership and rental housing units, thereby affecting the ability to grow its economic base.

City Council Bill 16-0735 makes several major changes to the existing law. These changes include:

- Reducing the number and variety of affordable units that must be provided by developers receiving major public subsidies from 20% to 10%;
- Eliminating the City's legal obligation to provide additional subsidy to meet inclusionary housing requirements and eliminates waivers;
- Creating a Baltimore City Affordable Housing Fund, funded through a combination of general obligation bonds and an increase in the City's transfer and recordation taxes;
- Replacing a developer's option to substitute off-site inclusionary housing units for on-site units with a substantial offset fee paid into the Affordable Housing Fund in lieu of building inclusionary units;
- Extending the period of time for which affordable housing units provided under the inclusionary housing law must remain affordable from 30 to 40 years; and
- Transforming the Inclusionary Housing Board into a Fair Housing Board.

*Comments*

While important to improve upon the existing law with the goal of increasing the number of affordable rental units throughout the City, there remain several issues:

- The law should apply only to rental property not for property that will be for sale. A brief analysis of home sales in Baltimore City neighborhoods identified:
  - 58% of communities had home sales affordable at 30% of AMI;
  - 75% of communities had home sales affordable at 50% of AMI; and
  - 89% of communities had home sales affordable at 80% of AMI.
- Another reason to exclude for sale property is that property being developed for the home ownership market does not qualify for a PILOT and the application of the law for such properties could result in possible financial impacts to the homeowner due to the mechanics of TIF bond repayment requirements. Since 2007, no homeownership projects have qualified for review under the current Inclusionary Housing Law.
- There is a mismatch between affordability needs and the building types and unit sizes that are being reviewed under the existing Inclusionary Housing Ordinance.
- The typology multiplier with the offset fee is unworkable and financially unfeasible. As currently written, these amounts are excessive, giving developers no choice but to develop affordable units. The bill should reflect a balance between the intent to increase the number of affordable units and the feasibility of developers to provide affordable housing.
- There are several issues regarding the usage of the Housing Typology model. First, there is no guarantee that the Housing Typology model will be updated on a frequent reoccurring basis. Second, the data and indicators used to drive the model might change. This would impact not only the comparability of neighborhoods from one model to another, but also how they are defined. Additionally, the labeling of neighborhoods would need to remain consistent, as well as, the number of classifications so that any comparison between years or models is the same.
- The legislation does not take current market conditions in Baltimore into consideration. In many neighborhoods the greatest challenge has been to attract moderate to middle income residents to create economic integration while at the same time preserving, enhancing or producing new affordable housing opportunities.
- The primary focus of the inclusionary housing program should be projects located in communities of opportunity. These areas have been defined by the Baltimore Regional Housing Partnership pursuant to the Thompson global settlement.
- As drafted, the bill may create unpredictability in the real estate development process through the involvement of a new entity in the assessment of the financial feasibility of a real estate project. This may also lengthen the process. Additionally, if the Board became involved in the underwriting, it would need the specific capacity to understand financing mechanisms and the economics of the transaction.
- There should be a waiver process if the subsidy is a PILOT or a land subsidy since the amounts involved in these types of subsidies are relatively low in comparison to the amounts required to produce and operate affordable housing units.

The Baltimore Development Corporation requests the committee to consider the concerns mentioned above and we look forward to hearing from the public at the scheduled hearings for CC Bill 16-0735.

cc: Colin Tarbert  
Angela Gibson

sandra.blake/cbill16/16-0735