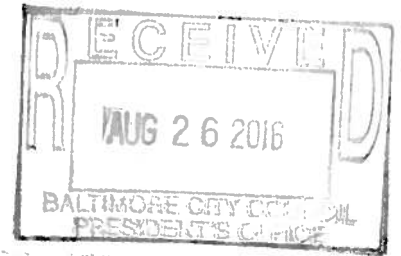




BALTIMORE HOUSING

STEPHANIE RAWLINGS-BLAKE
Mayor

PAUL T. GRAZIANO
Executive Director, HABC
Commissioner, HCD



MEMORANDUM

To: The Honorable President and Members of the Baltimore City Council
c/o Natawna Austin, Executive Secretary

From: Paul T. Graziano, Commissioner

Date: August 26, 2016

Re: **City Council Bill 16-0735 - Inclusionary and Affordable Housing Requirements – Increasing Program Participation**

The Department of Housing and Community Development (HCD) 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...

If enacted, this bill would modify the existing Inclusionary Housing Law that was passed in July, 2007 to create affordable housing for low and moderate income households. Since the Inclusionary Housing Board was convened in December 2013, the existing law has resulted in 32 affordable housing units at either 80% or 100% of Area Medium Income (AMI). Due to the threshold caps in the current law, the Board was unable to fund 30% and 60% AMI units. Of the applications received, 69 percent were granted waivers due to either (1) lack of funding to offset any financial impact to the developer or (2) the required subsidy exceeded the allowable investment threshold per unit, or (3) other limitations set forth in the Inclusionary Housing Law.

It is also important to note that even though the current Inclusionary Housing Law has not created a significant number of units by its operation, since 2010 Baltimore Housing has supported the creation of 2,911 affordable units in Baltimore City. In addition 2,138 affordable units are currently under construction and another 1,989 affordable units are in financing.

The major changes to the existing law appear to be as follows:

- Reduces the number and variety of affordable units that must be provided by developers receiving major public subsidies from 20% to 10%.
- Eliminates the City’s legal obligation to provide additional subsidy to meet inclusionary housing requirements and eliminates waivers.

Comments



- Creates 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.
- Replaces 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.
- Extends the period of time for which affordable housing units provided under the inclusionary housing law must remain affordable from 30 to 40 years.
- Transforms the Inclusionary Housing Board into a Fair Housing Board.

We appreciate the effort to improve the existing law with the goal of increasing the number of affordable rental units throughout the City. However, we have the following concerns:

- The law should apply only to rental property not for property that will be for sale. 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.
- Experience has shown 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.
- The legislation does not take into consideration the current market conditions in Baltimore. In most neighborhoods our challenge is 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 that are proposed to be located in communities of opportunity. These areas are defined by the Baltimore Regional Housing Partnership pursuant to the Thompson global settlement.

- Transparency is an important goal but it is equally important that the Inclusionary Housing Law not create unpredictability in the real estate development process. The involvement of an entity in addition to the developer, the various lending institutions and possibly government entities such as the State of Maryland, BDC and Baltimore Housing in the assessment of the financial feasibility of a real estate project could create unpredictability in the process. In addition, if the Board were to become involved in the underwriting it would need the specific capacity to understand financing mechanisms and the economics of the transaction.
- To avoid any confusion with Federal statutory and regulatory fair housing requirements, we would suggest that the name of the new board use a different term such as “equitable” in place of “fair”.
- There should be some 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 the affordable housing units.
- Section 2B-21(b)(1) on the required affordable units is unclear and confusing.

The Department of Housing and Community Development 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.

PTG:sd

cc: Ms. Angela Gibson, *Mayor's Office of Government Relations*
Mr. Colin Tarbert, *Deputy Mayor*