INCLUSIONARY ZONING ANNUAL REPORT FOR FISCAL YEAR 2021

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DREW HUBBARD, INTERIM DIRECTOR

GOVERNMENT OF THE DISTRICT OF COLUMBIA
MURIEL BOWSER, MAYOR

Contents

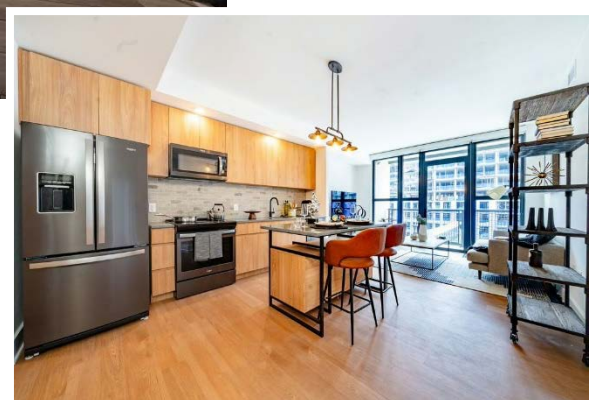


Image 1 – *Rooftop pool, Press House, 331 N Street NE (top); kitchen and living room area (right).*

Cover – Exterior, Press House, 331 N Street NE

A Letter From Interim Director Drew Hubbard

Greetings District residents,

The Department of Housing and Community Development (DHCD) strives every day to meet Mayor Bowser's ambitious goal to produce 36,000 total housing units, including 12,000 affordable housing units, by 2025. Our Inclusionary Zoning (IZ) program is an effective tool that has steadily increased the number of new affordable housing units for District residents since 2009 and is just one of many programs that DHCD utilizes to create more affordable housing opportunities throughout the District. I am pleased to share the Inclusionary Zoning Report Annual Report for Fiscal Year 2021 which will highlight the successes of this important housing production program.

The IZ program is one of our most impactful housing production tools because it requires that most new development projects in the District set aside at least eight (8) to ten (10) percent of their residential floor area for affordable rental or for-sale units. In Fiscal Year 2021 (FY21), the IZ program produced 372 affordable housing units, the most units produced in a single year since the program began in August 2009. To date, nearly 1,600 IZ units have been produced.

The IZ program not only requires creation of affordable units, it also helps match qualified District residents with both affordable rental and homeownership opportunities. By visiting www.dchousingsearch.org, District residents can search for available affordable units by size or location and learn how to apply. DHCD also runs the IZ Lottery, which gives prospective renters and homebuyers an equal chance at affordable units based on their residency, place of work, and how long they have been registered with the program.

The demand for affordable housing across the city has never been greater, and producing more housing remains a top priority for Mayor Bowser and all of the staff at DHCD. We will continue to use every tool available to meet our goals for producing more affordable housing opportunities so all District residents, no matter their income, can share in the growth and prosperity of Washington, DC.

Drew Hubbard
Interim Director

Review of the Inclusionary Zoning Program in Fiscal Year 2021

The Inclusionary Zoning (IZ) [1] program is one of many tools the District of Columbia uses to produce affordable housing. It requires most new housing developments (or expansions) in the District to include affordable units.[2] IZ creates both rental and sale units.

The goals of the IZ program are to:

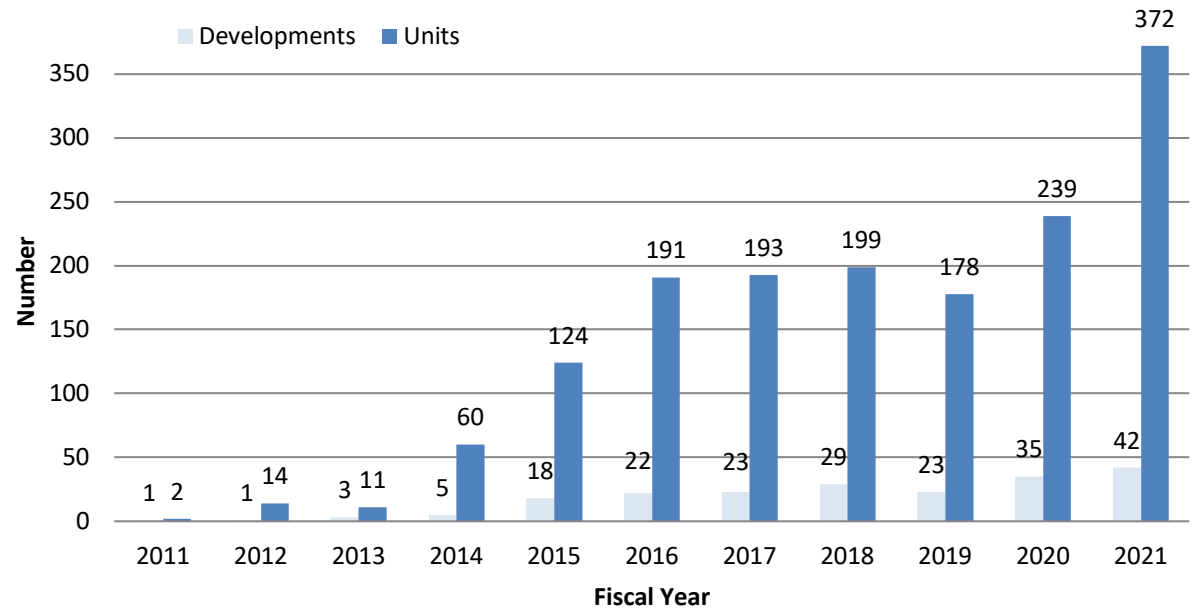
- create mixed income neighborhoods,
- produce affordable housing for a diverse labor force, and
- increase homeownership opportunities for moderate income households.

The Fiscal Year (FY) 2021[3] IZ Annual Report from the Department of Housing and Community Development (DHCD) marks the conclusion of the twelfth complete fiscal year since the program began in August 2009. This report provides an analysis of the IZ program from 2009 to September 30, 2021, and was drafted in coordination with the DC Office of Planning (OP) and DC Department of Consumer and Regulatory Affairs (DCRA).

The IZ program produced 372 IZ units[4] in FY2021, which is the most ever produced in a fiscal year and significantly higher than the level of production seen in the program's history. The previous record was set in FY2020 with 239 units produced[5]. This is a 56 percent increase in units produced in FY2021 over FY2020 and brings the total number of IZ units produced by the end of FY2021 to 1,583. Figure 1 (next page) shows the number of IZ units and IZ developments produced each fiscal year since the inception of the IZ program. The number of IZ units produced and developments becoming available for occupancy annually has generally increased since the program began.

[1] The IZ program was developed based on the Inclusionary Zoning Implementation Amendment Act of 2006 (D.C. Law 16-275 (effective March 14, 2007), D.C. Official Code §6-1041.07) (IZ Act) and Mayor's Order 2008-59, dated April 2, 2008. These documents mandated the adoption of a new Chapter 22 entitled "Inclusionary Zoning Implementation" of Title 14 (Housing) of the District of Columbia Municipal Regulations (IZ Regulations). The Final Rulemaking for implementation was published in the *D. C. Register* on December 11, 2009. The current IZ administrative regulations were published as Final Rulemaking in the *D.C. Register* on December 29, 2017 and may be found at https://www.dcregs.dc.gov/Common/NoticeDetail.aspx?NoticeId=N0065229.
[2] Under the IZ regulations, most new developments with 10 or more dwelling units or proposing new gross floor area that would result in 10 or more dwelling units must include a percentage of affordable units (approximately 8 percent to 10 percent of the gross residential floor area) in exchange for a density bonus (up to 20 percent gross floor area) beyond what is allowed under existing zoning regulations.
[3] The 2021 fiscal year was October 1, 2020 through September 30, 2021.
[4] The tabulation of IZ units produced annually is based on the first Notice of Availability (NOA) issue date submitted by the developer to DHCD. The NOA notifies DHCD when IZ units are ready for occupancy. The production numbers provided throughout this report do not include financially subsidized affordable housing developments that are exempt from IZ administrative and reporting rules. Title 11, Subtitle C, Section 1001.6(a) of the zoning code exempts developments receiving financing through the federal government, DHCD, the District of Columbia Housing Finance Agency (DCHFA), or the District of Columbia Housing Authority (DCHA) from the IZ administrative process, including IZ reporting requirements, provided they still set aside at least the IZ equivalent number of units that would stay affordable after the subsidy controls expire. These developments are eligible to receive bonus density from the IZ program enabling them to build more affordable units.
[5] During ongoing data updates, some of the prior year data were corrected (FY2020: 36 to 35 developments and 235 to 239 units; FY2019: 174 to 178 units; FY2018 198 to 199 units; FY2017: 192 to 193 units).

Figure 1. Inclusionary Developments and Units Produced by Fiscal Year (2011-2021)



202 Developments, 1,583 Units through 9/30/21. Source: DHCD.

In 2016, new zoning regulations became effective[6] that allowed the use of habitable penthouse space for the first time in the District. Previously, penthouse space could only be used for mechanical purposes. As part of this change, regulations specified that in residential buildings, an area equal to a percentage of the square footage of the habitable penthouse space must be set aside as IZ affordable to households at 50 percent median family income (MFI)[7] or, in lieu of affordable units, payment could be made to the Housing Production Trust Fund (HPTF). Of the 143 developments permitted[8] with habitable penthouse space from 2016 through the end of FY2021, 89 developments opted to set aside the required square-footage in-building while the remaining 54 developments made HPTF payments instead. Approximately 12,213 square feet of IZ housing was permitted for construction in FY2021 through habitable penthouse space construction creating approximately 24 units at the 50 MFI level.[9] In addition to the 54 residential projects that made optional HPTF payments, non-residential buildings with habitable penthouse space are required to make payment to the HPTF. During FY2021, $3,597,474 was collected from both residential and non-residential properties, for a total[10] of $19,732,645 since

[6] Subtitle C, Chapter 15 of the Zoning Regulations of 2016 (ZR16) became effective on September 6, 2016, and supersedes the previous version, 1958 Regulations.

[7] In FY2021, MFI for the Washington, D.C. metropolitan statistical area, as published annually by the U.S. Department of Housing and Urban Development (HUD), for a family of four was $129,000, and is adjusted for household size. (https://www.huduser.gov/portal/datasets/il.html). MFI was previously referred to as Area Median Income or AMI.

[8] Permitted meaning developments that received Certificates of Inclusionary Zoning Compliance (CIZCs) signed by the Zoning Administrator during this time frame as part of the standard building permit process for Inclusionary Developments. This means that the building permits were approved. However, the units are not available for occupancy until construction is complete and an NOA is received by DHCD.

[9] This figure is reported as square footage versus number of units created, since some developers choose to allocate total IZ square footage generated because of habitable penthouse space construction across multiple IZ units. However, all these units must be set aside as 50 percent MFI units, as required by the regulations. The number of units estimate is provided using a 600 sq. ft. estimate as the typical IZ unit size.

[10] If a payment is made, the payment amount is calculated by DCRA and is based on the square footage of the habitable penthouse space, assessed value of the property, square footage of the property, and permitted floor area ratio. At least

2016.

The 2016 zoning regulations also modified the requirements to allow developments not otherwise subject to IZ to opt in and take advantage of the bonus density IZ affords. [11] In FY2021, 14 developments opted into IZ, resulting in 14 additional IZ units under development. Since the regulations became effective, 38 developments have opted in, adding 62 IZ units.

Figure 2 shows the total number of IZ units produced broken down by number of bedrooms: 32 percent are studios, 34 percent have one bedroom, and 27 percent have two bedrooms. As also seen in Figure 2, one-person households are the largest number of households registered for the IZ program (47 percent). One and two-person households combined amount to 75 percent of all registrations. The current IZ regulations require a minimum of one person per bedroom.[12]

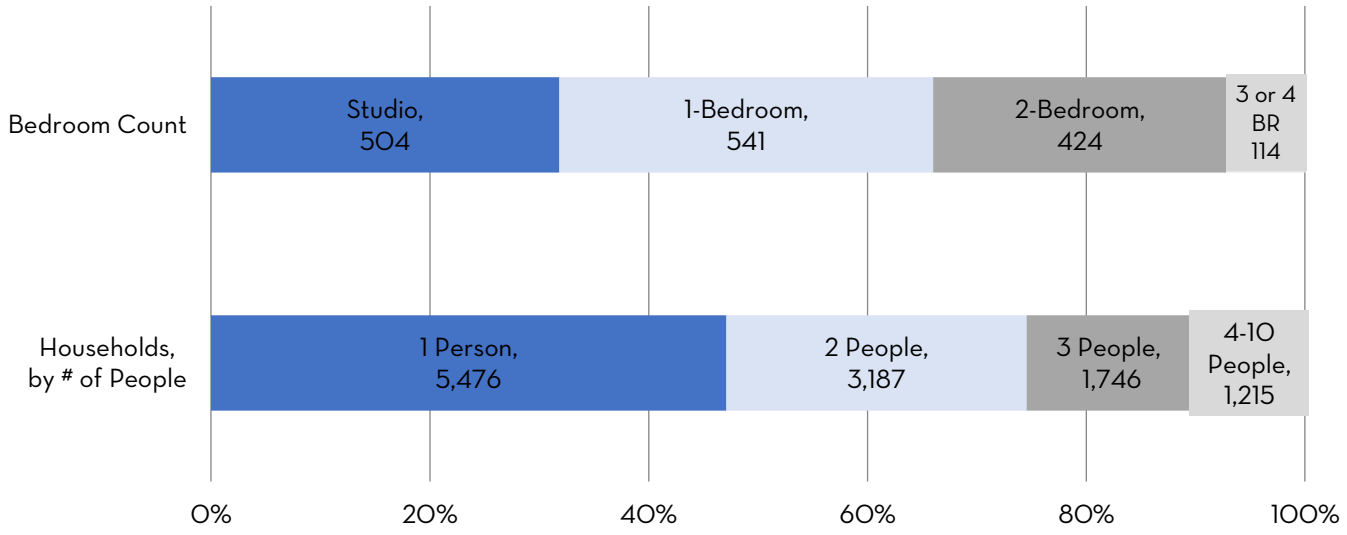
Image 2 – *Exterior, Courtyard at Judd & Weiler, 1611 Eckington Place NE (top).*

one half of the amount due must be paid before issuance of the building permit and the balance is due before issuance of the certificate of occupancy.

[11] See Title 11, Subtitle C, Section 1001.8 of the zoning code.

[12] The IZ Regulations outline the unit size eligibility based on the bedroom count of the unit and the number of people in a household. From the beginning of the program through August 31, 2017, the regulations provided both minimum and maximum household sizes for each unit size. Effective December 29, 2017, the revised IZ Regulations lowered the minimum occupancy for three- and four-bedroom units and did not provide maximums. Maximums after September 1, 2017 are property-specific and determined by local housing code as well as fair housing practices. However, the typical maximum formula used by rental properties is two people per bedroom plus one additional person. For example, in a two-bedroom unit, there could be two people for each bedroom (or four people) plus one additional person, for a total maximum of five people in the two-bedroom rental unit.

Figure 2. IZ Unit Types Produced (by Bedroom Count) vs. IZ Household Registrations (by Number of People in Each Household)

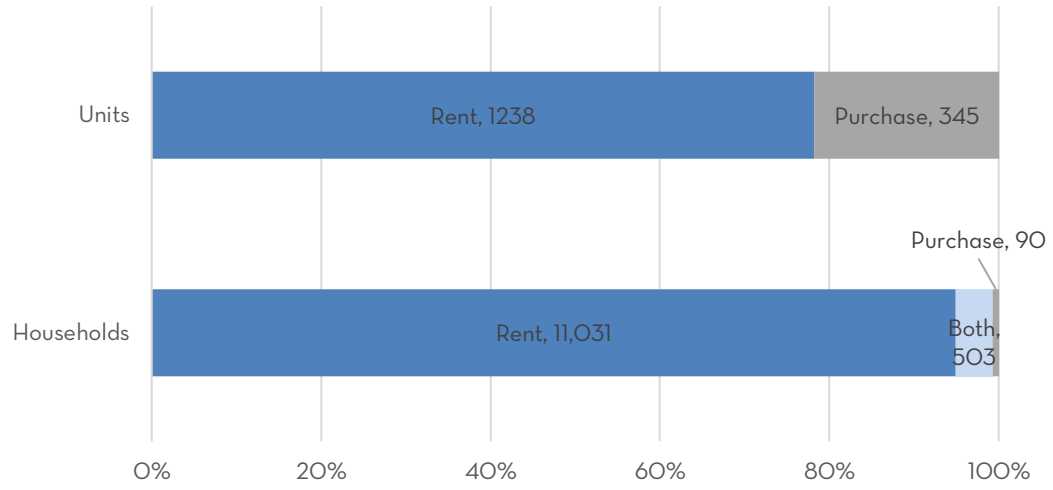


1,583 IZ Units and 11,624 IZ Household Registrations as of 9/30/21. Source: DHCD.

79 percent of the 372 IZ units produced in FY2021 (295 units) are rental units, while 21 percent (77 units) are sale units. This is similar to historic percentages and is similar to the preference of most households registering for the IZ program to rent (as opposed to purchase), as shown in Figure 3.

Image 3 – *Exterior, Judd & Weiler, 1611 Eckington Place NE.*

Figure 3. IZ Unit Tenures Produced (Rent or Sale) vs. IZ Household Preferences (Rent or Purchase)[13]



1,583 IZ Units and 11,624 IZ Household Registrations as of 9/30/21. Source: DHCD.

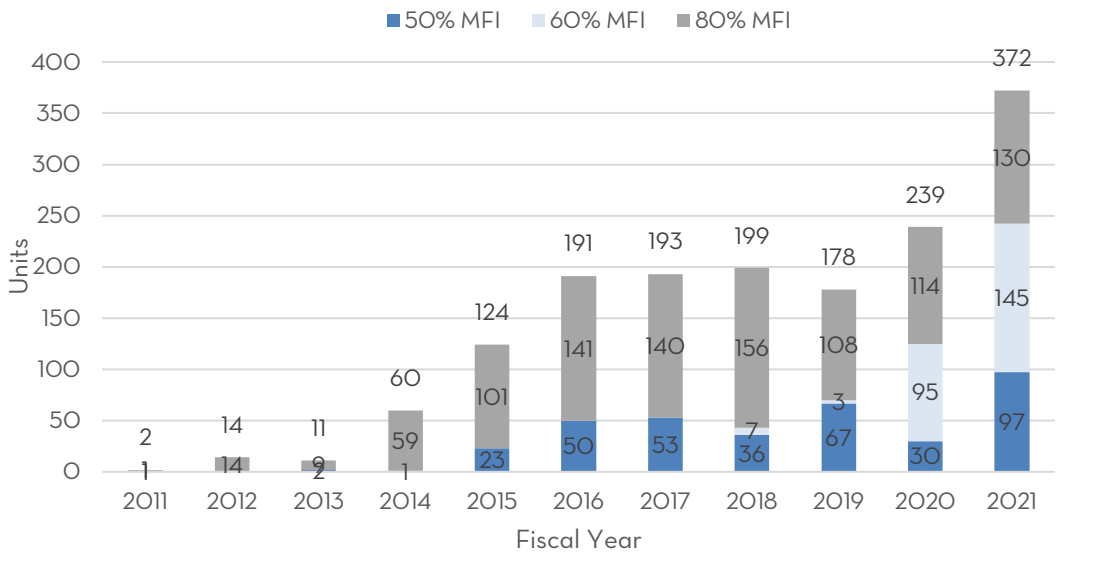
During FY2021, IZ units were produced at three affordability levels—50 percent MFI (reserved for households earning up to 50 percent MFI), 60 percent MFI (reserved for households earning up to 60 percent MFI), and 80 percent MFI (reserved for households earning up to 80 percent MFI). The 50 percent and 80 percent affordability levels were previously determined by the zoning district in which each development was located. Changes ordered by the Zoning Commission (ZC) (effective June 5, 2017) shifted the affordability levels of future units produced. Since these changes, most new rental IZ units are at 60 percent MFI and most new for-sale IZ units are at 80 percent MFI. The only new 50 percent MFI units are due to habitable penthouse space, buildings that received approvals before the ZC changes became effective, or those produced pursuant to ZC orders. Of the 372 units produced in FY2021:

- Thirty-five percent (130 units) were for 80 percent MFI households.
- Thirty-nine percent (145 units) were for 60 percent MFI households.
- Twenty-six percent (97 units) were available for 50 percent MFI households.

Figure 4 illustrates the production of IZ units by MFI level in FY2021 as well as in prior years. Due to the ZC changes in MFI levels, a higher percentage of 60 percent MFI units are becoming available.

[13] Registered households are those listed in the DHCD IZ database as seeking an IZ unit. Reported numbers represent all units produced as of the end of FY2021. Of produced units, 1,238 (78 percent) were rental units and 345 (22 percent) were for sale. Of the 11,624 registered households, 11,031 (95 percent) are eligible only to rent, 503 (4 percent) are eligible to either rent or purchase, and 90 (1 percent) are only interested in purchasing.

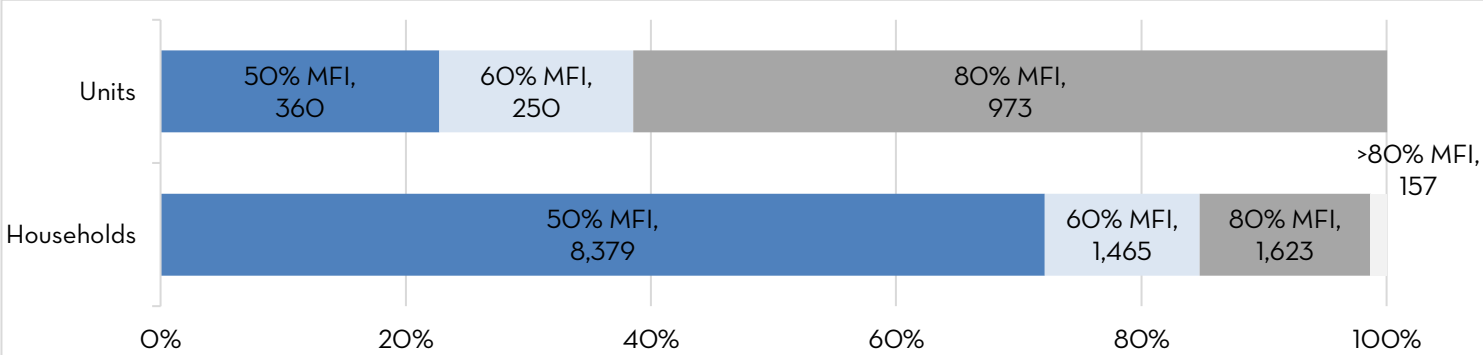
Figure 4. Inclusionary Units Produced by Fiscal Year and MFI Level (2011-2021)



1,583 Units through 9/30/21. Source: DHCD. Total annual unit count in bold.

While demand for affordable units exceeds supply at all income levels, as indicated by the counts provided in Figure 5, the imbalance is especially acute at the lowest income levels.

Figure 5. IZ Unit Affordability Levels vs. Household Registration Income Levels[14]



1,583 IZ Units and 11,624 IZ Household Registrations as of 9/30/21. Source: DHCD.

[14] In Figure 5, 60 percent MFI households are those who make over 50 percent MFI up to and including 60 percent of MFI, however, 60 percent MFI units are available to a broader range of households (those earning 60 percent MFI or below, which includes all 50 percent MFI households).

FY2021 Annual Report (Legislative Reporting Requirement)

Each year, DHCD is required to report to the Council of the District of Columbia and the Zoning Commission on the impact of the IZ program by responding to 10 specific questions.[15] In answering these questions, this report primarily discusses data from FY2021 but makes comparisons to the program's production of units in previous years and projections for the program's future growth.

The report concludes that the numbers of IZ units produced each fiscal year from FY2016 through FY2021 has generally increased compared to the previous years. This production should continue to hold steady with little indication of any adverse effect on the production of housing in the District.

1. Number of IZ Units[16] produced at each targeted income level:

In FY2021, 372 IZ units were produced, of which 97 units (26 percent) were set aside for 50 percent MFI households, 145 units (39 percent) were designated for 60 percent MFI households, and 130 units (35 percent) were produced for 80 percent MFI households.

At the close of FY2021, 1,583 IZ units had been produced since program inception. Of these units, 360 (23 percent) were designated for 50 percent MFI households, 250 (16 percent) were set aside for 60 percent MFI households, and 973 (61 percent) were reserved for 80 percent MFI households.

2. Number of IZ Units produced for sale:

In FY2021, 77 IZ units were produced for sale (21 percent of IZ units produced in FY2021). From program inception through the end of FY2021, a total of 345 for-sale units have been produced (22 percent of all IZ units produced).

3. Number of IZ Units produced for rent:

In FY2021, 295 units were produced for rent (79 percent of IZ units produced in FY2021). From program inception through the end of FY2021, a total of 1,238 rental units have been produced (78 percent of all IZ units produced).

4. The median income of the households that purchased[17] or rented[18] IZ Units:

In FY2021, the median income of households that:

- purchased IZ units was $59,538; and
- rented IZ units was $55,396.

5. The number of IZ Units purchased or rented by DHCD, other District agencies, or third parties for resale to eligible households:

No IZ units were purchased or rented by any District agency or third parties for resale in FY2021.

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[15] DHCD is required to submit an annual report responding to 10 questions in accordance with §6-1041.09 of the IZ Act.

[16] Unless otherwise specifically provided, the capitalized terms used in this report have the same meaning as defined in the IZ Regulations. Inclusionary Units are also referred to as IZ units in this report.

[17] IZ units closing in FY2021.

[18] Both new and renewing IZ unit renters with income certifications in FY2021.

6. The value of subsidies, if any, contributed toward the rental or purchase of units by DHCD, other District agencies, or third parties for affordability to eligible households.

Subsidies for IZ Purchases in FY2021			
Subsidy Source	**Number of Recipients**	**Total Subsidy**	**Average/ Typical Subsidy Amount**
Home Purchase Assistance Program (HPAP)	15	$755,039	$50,335
Employer Assisted Housing Program (EAHP)	2	$40,000	$20,000
Negotiated Employee Assistance Home Purchase Program (NEAHP)	0	$0	$0
DC Open Doors	4	$34,485	$8,621
Federal Home Loan Bank	2	$20,000	$10,000

In FY2021, 15 of 44 purchasers (34 percent) closing on an IZ unit received an HPAP subsidy. Of the 15 HPAP recipients, two also received funding from DC Open Doors and another received funding from the Federal Home Loan Bank (FHLB). The two EAHP recipients did not use any other purchase assistance programs. One household only received FHLB assistance. DHCD does not collect information regarding subsidies from other District agencies or third parties. This response does not include subsidies provided to developers by the Federal or District government which would result in the developments being IZ Exempt, as described in Footnote 4.

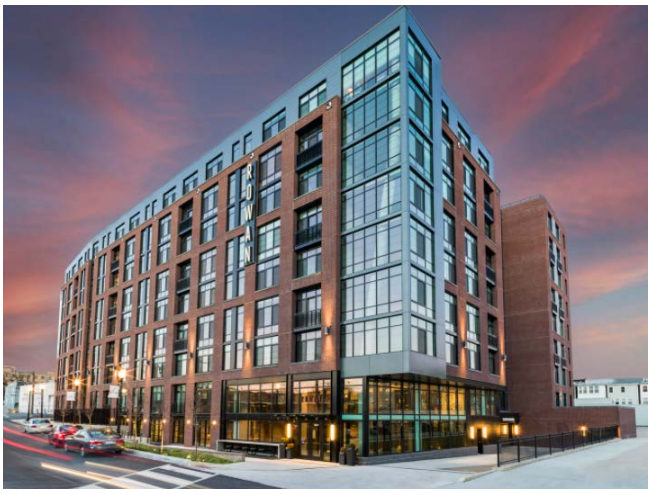


Image 4 - *Exterior, The Rowan, 2607 Reed Street NE*

7. The average rent and sales prices for IZ Units based on number of bedrooms:

a. Average rent in FY2021:[19]

- Average rent price, studio: **$1,373**
- Average rent price, 1-bedroom: **$1,392**
- Average rent price, 2-bedrooms: **$1,495**
- Average rent price, 3-bedroom: **$1,275**[20]

b. Average for-sale price in FY2021: [21]

- Average for-sale price, studio: **$159,150**
- Average for-sale price, 1-bedroom: **$203,938**
- Average for-sale price, 2-bedrooms: **$238,901**
- Average for-sale price, 3-bedrooms: **$228,617**[22]
- Average for-sale price, 4-bedrooms: **$250,950**

8. The number of waivers or alternative compliance requested and granted in FY2021:

The Zoning Commission and the Board of Zoning Adjustment (BZA) did not approve alternative compliance for any Planned Unit Development (PUD) in FY2021.

9. Analysis of how much bonus density was achieved for each development in which IZ units were required:

DCRA approved CIZCs for 62 developments in FY2021, of which 58 were multi-family developments and 4 were single family developments:

Multi-Family

- Six of the 58 multi-family developments were Planned Unit Developments (PUDs). Bonus density is not calculated for PUDs because the analysis is not a straight-line calculation. PUD bonus density is awarded for other reasons than simply offering affordable units, which makes it difficult to disaggregate the IZ contribution to the bonus density calculation.
- The remaining 52 multi-family developments were either matter-of-right (meaning they complied with all zoning requirements), received some zoning variance from the DC BZA, or were subject to a ZC Design Review. The average bonus density for all 52 developments was a 14 percent increase in density (including 12 developments that did not receive any bonus density at all). The 40 developments that did receive bonus density averaged an 18 percent increase in density. Not all developments receive bonus density, and the reasons are site specific. Some examples include developments with large site sizes that only build on one small portion of the site or those that may be subject to historic preservation guidelines.

Single-Family

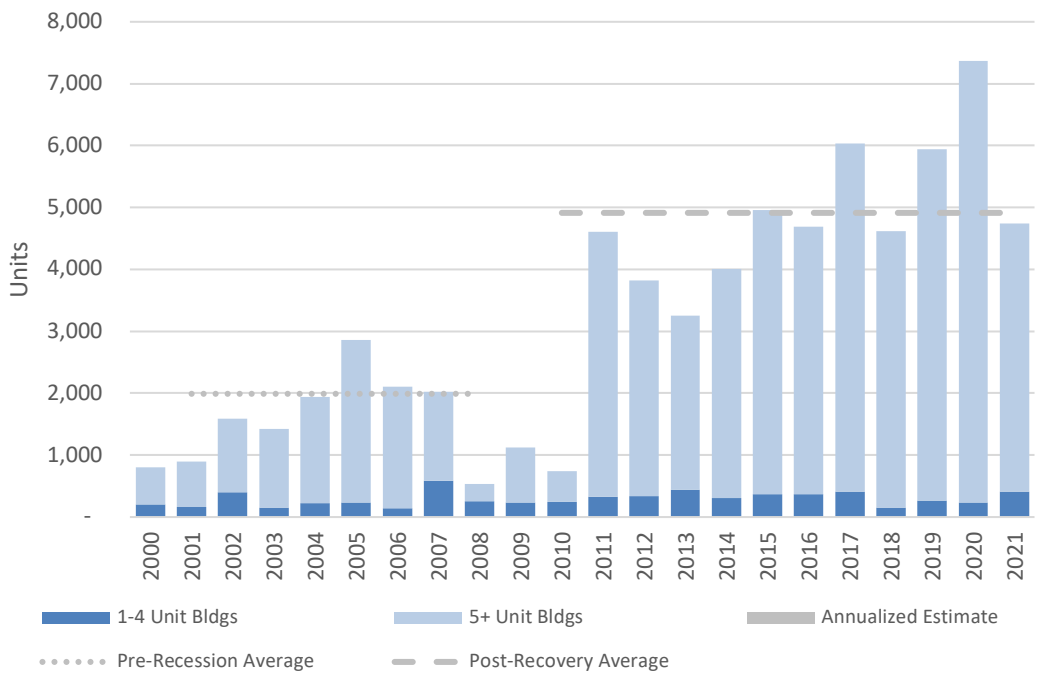
- There were four single-family developments. All four were in single-family zone categories which do not allow bonus density to be calculated.

[19] Both new and renewing IZ tenants with an income certification in FY2021.
[20] The average rental price of a 3-bedroom unit is lower than that of a 2-bedroom unit due to a greater proportion of 50 percent MFI and 60 percent MFI 3-bedroom units (which deflates the average rental price).
[21] IZ unit sales closing in FY21.
[22] The average sale price of the 3-bedroom units is lower than that of the 2-bedroom units due to a greater proportion of 50 percent MFI 3-bedroom sales than 2-bedroom sales in FY21 (which deflates the average sale price).

10. An assessment of whether the IZ Program has had any adverse effect on the production of housing in the District:

There is no evidence that IZ requirements have had an adverse effect on the production of housing in the District. In FY2021, the number of new units added to the District's housing stock was in-line with the post-recession average, which coincides with the beginning of the IZ program in the District, according to US Census Bureau Building Permits Survey, as shown in Figure 6.

Figure 6: Number of Permitted New Residential Units

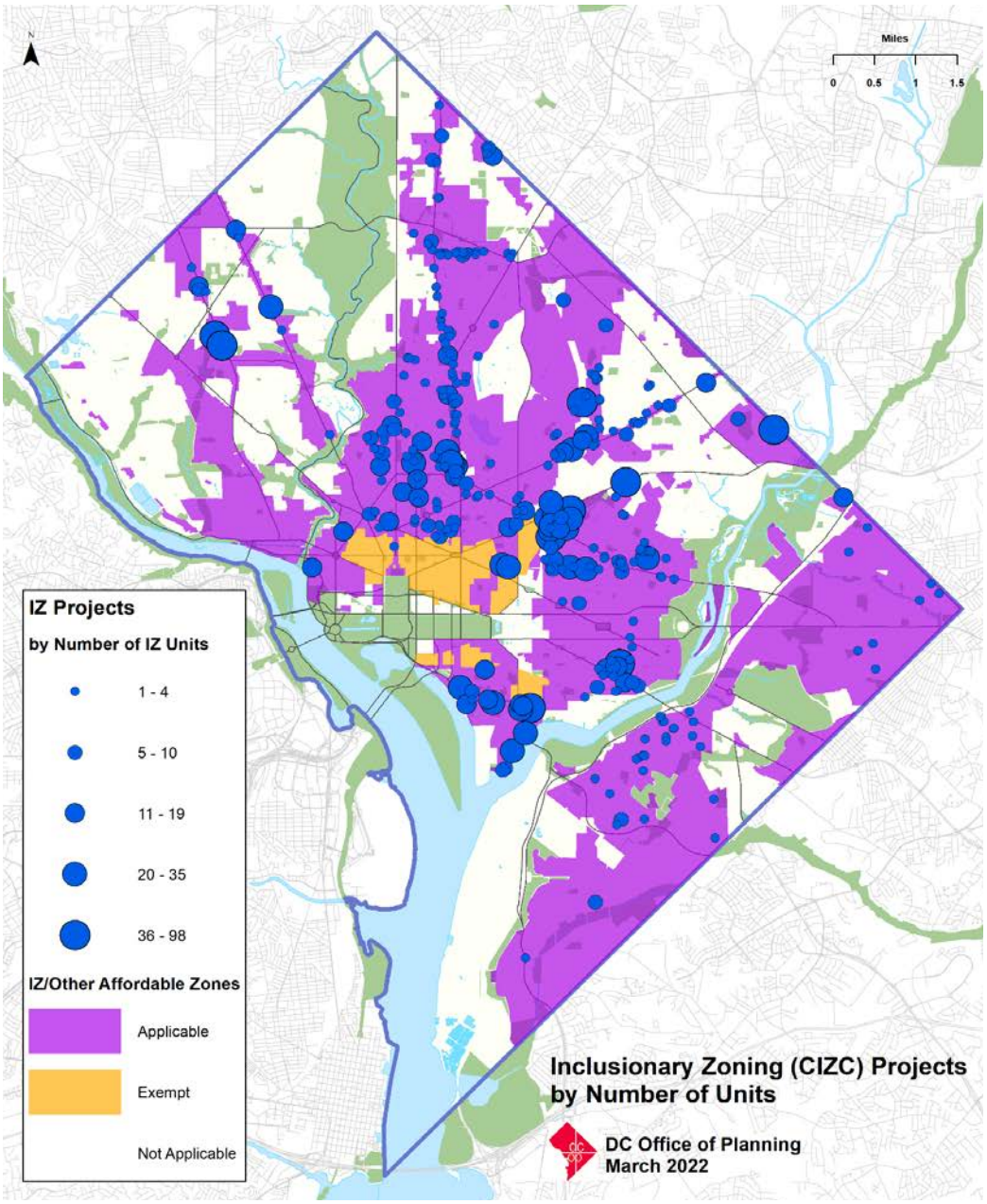


Source: US Census Building Permits Survey.

Since the construction of IZ units is tied to the pace of new development, this indicates that developers are not developing fewer buildings because of IZ Regulations. In addition, there were 13 projects of less than ten units which voluntarily chose to opt in to IZ. As of the end of the fiscal year, there are a total of 82 developments with 9 or fewer units that voluntarily have 1 or more IZ units.

IZ developments range in both size and location across the District, from small buildings without a mandatory requirement, but that choose to opt in to IZ, to large developments containing 98 IZ units and 492 total units. Map 1 shows that IZ units are in developments constructed throughout the District and that the IZ program is not adversely affecting housing production in any one area of the city or District-wide.

Map 1. Geographic Distribution of Inclusionary Developments and Number of IZ Units[23]



[23] CIZCs signed by the Zoning Administrator as of 9/30/21 as part of the building permitting process.