Government of the District of Columbia
Department of Housing and Community Development

Inclusionary Zoning Annual and 5.5 Year Report
April 24, 2013

Executive Summary

The 2012 Inclusionary Zoning (IZ) Annual Report from the Department of Housing and Community Development (DHCD) marks the conclusion of the fourth calendar year of Inclusionary Zoning implementation and 5.5 years since the Inclusionary Zoning Implementation Amendment Act of 2006 became law. The District's housing market is showing continued strength with 4,162 new units of housing issued above grade building permits in 2012, many of which continue to be Planned Unit Developments (PUDs) with affordable units that meet or exceed IZ requirements. Nine projects with 18 Inclusionary Units started above grade construction in 2012 and the Office of Planning is tracking another 104 IZ applicable projects in pre-development that will provide another 1,079 Inclusionary Units. This represents an increase of 172 Inclusionary Units in the IZ pipeline since the 2011 Annual Report.

About the Inclusionary Zoning

Inclusionary Zoning supports the city's and the agency's mission to create and preserve affordable housing opportunities by requiring new rental or condominium buildings over 10 units, and renovations increasing the building size by over 50%, to include an assigned percentage of affordable units in exchange for a density bonus.

The program was developed pursuant to the authority set forth in § 107 of the Inclusionary Zoning Implementation Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-275; D.C. Official Code § 6-1041.07) and Mayor's Order 2008-59, dated April 2, 2008. These documents mandate the adoption of a new Chapter 22 entitled "Inclusionary Zoning Implementation" of Title 14 (Housing) of the District of Columbia Municipal Regulations. The Final Rulemaking for Inclusionary Zoning implementation was published in the D.C. Register on December 11, 2009. This report was drafted in coordination with the Office of Planning and the Department of Consumer and Regulatory Affairs.

The goals of the IZ program are to:

- create mixed income neighborhoods;
- produce affordable housing for a diverse labor force;
- seek equitable growth of new residents; and
- increase homeownership opportunities for low and moderate income levels.

Legislative Reporting Requirement

DHCD is required to submit an annual report to the Council of the District of Columbia and the Zoning Commission that provides the following information:

1. **Number of Inclusionary Units produced at each targeted income level:**
   By December 31, 2012, eighteen (18) Inclusionary Units had been produced. Seventeen (17) of these units were moderate-income units and one (1) was a low-income unit.

2. **Number of Inclusionary Units produced for sale:**
   Three (3) Inclusionary Units were produced for sale as of December 31, 2012.

3. **Number of Inclusionary Units produced for rent:**
   Fifteen Inclusionary Units were produced for rent as of December 31, 2012.

4. **The median income of the households that purchased or rented Inclusionary Units:**
   No households purchased or rented Inclusionary Units in 2012, so the median income has yet to be established. However, several Inclusionary Units have been rented in 2013 and will be included in next year's report.

5. **The number of Inclusionary Units purchased or rented by DHCD, other District agency, and 3rd parties, for resale to low- or moderate-income households:**
   No Inclusionary Units have been purchased or rented by the stated parties for resale in 2012.

6. **The value of the subsidy, if any, contributed toward the rental or purchase of units by DHCD, other District agency, and 3rd party to make them affordable to low- or moderate-income households.**
   Since no Inclusionary Units were rented or purchased in 2012, it is not possible to determine the value of the subsidy that made them affordable to low- or moderate-income households.

7. **The average rent and sales prices for Inclusionary Units based on number of bedrooms:**
   The 2012 Inclusionary Zoning Affordable Housing Program Maximum Rent and Purchase Price Schedule outlines the maximum rents and sales prices allowed based on Washington Metropolitan

Statistical Area 2012 Area Median Income of $107,500 for a family of four (4) as published by HUD. A portion of this schedule is reproduced below.

Multi-Family Inclusionary Developments

					50% of AMI Units		80% of AMI Units	
Number of Bedrooms	Occupancy Pricing Standard	Occupancy Limits	Estimated Utility Allowance	Estimated Condo Fees	Maximum Allowable Rent	Maximum Purchase Price	Maximum Allowable Rent	Maximum Purchase Price
Studio	1	1	$127	$250	$941	$128,800	$1,505	$227,200
1	2	1 - 2	$173	$313	$1,075	$141,300	$1,720	$253,800
2	3	2 - 4	$223	$425	$1,209	$145,200	$1,935	$271,700
3	5	4 - 6	$270	$525	$1,478	$174,600	$2,365	$329,300

Single-Family Inclusionary Developments

					50% of AMI Units		80% of AMI Units	
Number of Bedrooms	Occupancy Pricing Standard	Occupancy Limits	Estimated Utility Allowance	Estimated Homeowner Assoc. Fees	Maximum Allowable Rent	Maximum Purchase Price	Maximum Allowable Rent	Maximum Purchase Price
2	3	2 - 4	NC	110	$1,209	$184,200	$1,935	$310,800
3	5	4 - 6	NC	130	$1,478	$227,600	$2,365	$382,300
4	7	6 - 8	NC	150	$1,747	$271,000	$2,795	$453,800

8. **The number of waivers and alternative compliance requested and granted through 2012:**
   The Zoning Administrator granted exemptions of the IZ administrative requirements through the Zoning Regulations for Park 7 at 4000 Minnesota Avenue NE, House of Lebanon, Kelsey Gardens, Severna II, and 2001 15th Street NW during 2012. DHCD granted no waivers through the IZ Administrative Regulations in 2012.

9. **An analysis of how much bonus density was actually achieved for each development in which Inclusionary Units were required:**
   Of the 13 projects that filed a Certificates of Inclusionary Zoning Compliance (CIZC) in 2012, 9 projects will use bonus density ranging from 9 percent to 17 percent and two projects received more than the 20 percent bonus in Floor Area Ratio (FAR) due to other bonuses permitted by their zone overlays. Combined, these projects averaged 16 percent bonus density. Several of these projects were subsidized affordable housing developments that were able to take advantage of the bonus density to build additional affordable units.

   Of the four projects that did not receive any bonus:

   - One opted for less expensive form of construction, which resulted in not using the matter of right height;

- One used excess matter of right capacity acquired from a church but did use the height bonus provided by IZ;
- One was constrained by the small size of the lot and a historic district;
- The last is unknown.

None of the four projects not receiving bonus density asked for variances to the IZ zoning requirements. These four will be setting aside a total of 46 Inclusionary Units.

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

Housing Permit Trends

In 2012, the District's housing market continues to grow. 283 residential construction permits were issued in 2012 totaling approximately 4,162 new units of housing. This total is comparable to the 249 permits issued totaling 4,726 units in 2011. Unlike 2011, when over 1,800 housing units were in large public/private partnerships or subsidized developments including the Arthur Capper-Carrolsburg HOPEVI, CityCenter, Northwest One, and Progression Place, a greater percentage of projects were private sector driven. Projects with IZ requirements were located across several parts of the city including such high cost neighborhoods as Dupont Circle and U Street as well as emerging areas like Near Northeast close to NoMa.

Several factors support new residential development in the District:

- Jobs – The District added only 1,400 jobs between December, 2011 and December, 2012 but the District's employed residents grew by 25,700 (Bureau of Labor Statistics) suggesting those who already have jobs may be seeking to live in the District at greater rates than in the past;

- Population growth – The US Census estimated that between 2010 and 2012, the District gained close to 30,000 new residents.

Through the first quarter of 2013 only 360 units were issued above grade construction permits, well below that last quarter of 2012 when 1,432 units were issued permits. However, large projects totaling over 850 units were issued sheeting and shoring permits. IZ is applicable to 2 of these and a 3rd is a PUD with comparable affordability requirements.

Projects Involving IZ

The Office of Planning (OP) is tracking approximately 104 IZ applicable projects totaling over 8,500 units of housing and 1,079 Inclusionary Units. There are 9 projects with CIZCs that started construction in 2012. IZ is expected to apply to 91 other projects currently in various stage of pre-development. OP currently estimates these projects total 11,226 units and 1,079 Inclusionary Units. However, several of the 58 conceptual projects had originally received pre-development approvals, which exempted them from IZ but have now expired. Whether these continue to be viable projects remains to be seen.

Pre-development IZ Exemptions

The majority of projects under construction in 2012 are exempt from IZ because of one or more of the following exemptions:

1. Timing – Projects received development approvals such as building permits, Board of Zoning Adjustments (BZA) approvals or Planned Unit Development (PUD) approvals from the Zoning Commission (ZC) prior to the effective date of IZ ;
2. Geographic – The Zoning Regulations exempt certain areas where bonus density is not theoretically available, such as the DD overlay area of downtown, or where it is not consistent with the sensitive neighborhood character, such as Historic Anacostia and Lower Barracks Row;
3. Use – The Zoning Regulations exempt special residential uses such as dormitories or housing for foreign missions; and/or
4. Size – The project did not meet the minimum size threshold of 10 or more units to trigger IZ.

Projects subject to the affordability requirements of District financing are exempt from the IZ administrative regulations, but must still dedicate the same percentage of units to be affordable for the life of the project as required by IZ[1].

OP is tracking a pipeline of 89 projects totaling over 26,000 units that will be exempt from IZ requirements due to one or a combination of the exemptions listed above and summarized below:

- Timing - Approximately 38 projects and 12,654 units are currently exempt because they received pre-development approvals prior to the effective date of IZ. It is important to note that the PUD projects will provide affordable units based on IZ due to commitments made during the ZC approval process.
- Geographic – A geographic exemption is the next biggest category and accounts for 28 of the projects for a total of 10,176 units.
- Administrative Exemption for Financing – Approximately 26 projects totaling over 4,098 units are currently exempt from the IZ administrative regulations due to development financing from the District for affordable housing including DHCD, DCHFA and the D.C. Housing Authority.
- Other – Finally, size and use exemptions add to approximately 8 projects and total 599 units.

[1] This exemption stems from the amendment to the Zoning Regulations for developments that are financed, subsidized, or funded in whole or in part by the federal or District government and administered by DHCD, the District of Columbia Housing Finance Agency, or the District of Columbia Housing Authority (11 D.C. Municipal Regulations 2602, 2011). In order to fall under this exemption, the number of units reserved for low or moderate-income households in the project must be at least equal to the gross square footage that would be required by IZ and a covenant must be recorded on the property in order to insure this affordability for the life of the project.

The IZ pre-development exemption numbers are subject to change for a variety of reasons. Predevelopment approvals granted by the BZA or ZC allow a developer two years to obtain a building permit or request an extension of the approval. If neither of these is completed, a developer is subject to losing their IZ exemption. In light of the economics of the past several years, the BZA and the ZC have been extending predevelopment approvals as a matter of policy, thus prolonging the time that these projects are exempt from IZ. However, many projects failed to either renew their approvals or file for building permits on time. Once a building permit has been issued, construction must start within one year or the permit must be extended or it will expire. Permits may be extended up to three times. If a building permit expires, then IZ would likely apply to any residential project developed on that site. It is difficult to enumerate how many of these projects and permits will expire, thus it is difficult to get a definitive count of how many of these may fall under IZ requirements in the future.

IZ Pipeline Summary

Status	IZ Applicable Projects				IZ Exempt Projects			
	Projects	IZ Units	Total Units	%	Projects	Affordable Units	Total Units	%
Under Construction	13	158	1,536	10%	39	1,961	10,296	19%
Planned	33	273	3,167	9%	30	1,294	10,702	12%
Conceptual	58	648	6,523	10%	20	1,168	5,694	21%
Total	104	1,079	11,226	10%	89	4,423	26,692	17%

Source: DC Office of Planning

Notes:
1) The majority of numbers are estimates and subject to change.
2) Of the three IZ projects under construction only two have filed a CIZC. CIZCs are not required until above grade construction.
3) “Under Construction” means projects under construction as of December 31, 2012.
4) IZ exemptions include timing, use, geographic, size, and projects that will be exempt from only the IZ administrative process.
6) Total units under construction represent the totals for the project and not the number of units actually under construction.

5.5 Year Report

The Inclusionary Zoning Implementation Amendment Act of 2006 (IZIA Act) requires that 5 ½ years after the effective date of the IZIA Act, the Mayor shall submit a report to the Council that lists the initial purchase price of each Inclusionary Unit sold during the 5-year period subsequent to the effective date and, for each unit resold, the percentage by which the purchase price exceeded the previous purchase price. The IZIA Act goes on to state that the report shall also include a recommendation on how best to ensure a baseline rate of return for Inclusionary Unit owners upon resale while maintaining the continued affordability inclusionary units. Since the IZ program has not yet sold an Inclusionary Unit due to delay in implementation, complications with mortgage financing, and other factors, this section provides an analysis of how resale prices would have grown had an Inclusionary Unit been sold in 2007, which was right after the IZIA Act was passed.

When IZ was first implemented the IZ resale formula was:

- Tied to the AMI in order to offer an IZ owner appreciation while keeping the unit affordable for future purchasers; and
- Smoothed by the AMI's 10-year compounded rate of growth, because the AMI does decline in some years, which would have resulted in negative appreciation.

The table below demonstrates how the AMI, the IZ resale price, and the District's market rate median sales price have fluctuated since the IZIA Act was enacted. The AMI changed by 13.5 percent between 2007 and 2013. If IZ had been implemented in 2007 right after the Act, the first initial sales price for a 3-bedroom single-family unit would have been $249,400. Based on the appreciation rate permitted in the regulations, the subsequent maximum resale prices would have grown by almost $40,000 to $287,220 by 2013; a total percent change of 15.2 percent and an average of 2.5 percent per year. In 2007 the District's market rate median sales price was $409,900 and has grown 12.2 percent to $460,000 in 2013. Over this time period, IZ units might have appreciated faster than the median home in the District. Certainly the past several years have seen almost unprecedented fluctuations in the housing market. Since the recovery in 2009, the median sales price of homes in the District has risen an average of 5.7 percent per year or just over twice as fast as IZ units would have been permitted.

IZ Resale Price Analysis

Year	MSA Area Median Income (AMI)	AMI Annual Percent Change	IZ Unit Appreciation Rate(1)	3-Bedroom IZ House	DC Market Rate Median Sales Price
2007	$ 94,500	4.7%	_	$ 249,400	$ 409,900
2008	$ 99,000	4.8%	3.2%	$ 257,360	$ 399,900
2009	$ 102,700	3.7%	2.7%	$ 264,240	$ 375,000
2010	$ 103,500	0.8%	2.3%	$ 270,200	$ 387,000
2011	$ 106,100	2.5%	2.2%	$ 276,060	$ 399,000
2012	$ 107,500	1.3%	1.6%	$ 280,540	$ 430,900
2013	$ 107,300	-0.2%	2.4%	$ 287,220	$ 460,000
2007-2013 Percent Change	13.5%			15.2%	12.2%

Source: HUD, DC Office of Planning, RealEstate Business Intelligence, LLC, an MRIS company.

(1) Defined as the 10-year compounded rate of change in the AMI.

The above analysis provides a useful comparison between the appreciation of an Inclusionary Unit and that of a market unit. Since 2009, Inclusionary Units have not kept pace with the market rate units, but have offered a rate of appreciation well ahead of inflation and maintained affordability.

Conclusion

With the support of the Mayor and Council, and coordination with the Office of Planning, DHCD has implemented the Inclusionary Zoning Program by developing a framework for administration of IZ, including the creation of procedures that conform to the statute, regulations and stated requirements, and to support these first Inclusionary Units being produced, as well as the substantial pipeline of Inclusionary Units in pre-development.

Based on the fact that IZ developments are now under construction across the District, particularly in high cost neighborhoods like Dupont Circle, Adam's Morgan and U Street, NW, DHCD concludes that IZ is not negatively affecting residential development or land values in the District in a significant way. DHCD and OP have seen some change in developer behavior such as the development of 9 large units which would not trigger IZ as opposed to building 10 smaller units which would trigger IZ. In addition, some developers have asked for rezonings through the PUD process to reduce the percent of IZ units required. But given the growing number of matter-of-right IZ projects that have started construction, DHCD recommends that no actions be taken to significantly change the basic requirements of the Inclusionary Zoning Program. However, OP and DHCD are currently reviewing if any policy changes are warranted to improve the IZ program's ability to deliver greater affordability.

The Office of the Deputy Mayor for Planning and Economic Development published a Notice for Comments to the IZ Administrative Regulations on March 30, 2012 and a multi-agency task force has incorporated many of the comments and is preparing to release the proposed changes to the IZ Administrative Regulations in the near term. Proposed changes will be published in the D.C. Register.

Vincent C. Gray, Mayor
Government of the District of Columbia

Victor L. Hoskins, Deputy Mayor
Office of the Deputy Mayor for Planning and Economic Development

Michael P. Kelly, Director
Department of Housing and Community Development
1800 Martin Luther King Jr. Avenue, SE, Washington, DC 20020

For more information on this report, please contact the Inclusionary Zoning Program within the Department of Housing and Community Development at (202) 442-9505.