

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



Inclusionary Zoning Annual Report
March 14, 2011

About the Inclusionary Zoning

The 2010 Inclusionary Zoning (IZ) Annual Report from the Department of Housing and Community Development (DHCD) marks the conclusion of the second year of Inclusionary Zoning implementation. IZ 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 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:

No inclusionary units have been produced as of the date of this report.

2. Number of inclusionary units produced for sale:

No inclusionary for sale units have been produced as of the date of this report.

3. Number of inclusionary units produced for rent:

No inclusionary rental units have been produced as of the date of this report.

4. The median income of the households that purchased or rented inclusionary units:

No households have purchased or rented inclusionary units, so the median income has yet to be established.

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 as of the date of this report.

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.

Until such time that inclusionary units are being rented and purchased, 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:

Though no households have yet purchased or rented inclusionary units, the Maximum Rent and Purchase Price Schedule, effective December 27, 2010, outlines the maximum rents and sales prices allowed based on Washington Metropolitan Statistical Area 2010 Area Median Income of \$103,500 for a family of four (4) as published by HUD. A portion of this schedule is reproduced below.

Multi-Family Inclusionary Developments

Number of Bedrooms	Occupancy Pricing Standard	Occupancy Limits	Estimated Utility Allowance	Estimated Condo Fees	50% of AMI Units		80% of AMI Units	
					Maximum Allowable Rent	Maximum Purchase Price	Maximum Allowable Rent	Maximum Purchase Price
Studio	1	1	\$128	\$250	\$906	\$111,700	\$1,449	\$197,900
1	2	1 - 2	\$175	\$313	\$1,035	\$122,300	\$1,656	\$220,800
2	3	2 - 4	\$225	\$425	\$1,164	\$124,900	\$1,863	\$235,800
3	5	4 - 6	\$274	\$525	\$1,423	\$150,100	\$2,277	\$285,600

Single-Family Inclusionary Developments

Number of Bedrooms	Occupancy Pricing Standard	Occupancy Limits	Estimated Utility Allowance	Estimated Homeowner Association Fees	50% of AMI Units		80% of AMI Units	
					Maximum Allowable Rent	Maximum Purchase Price	Maximum Allowable Rent	Maximum Purchase Price
2	3	2 - 4	NC	\$110	\$1,164	\$161,300	\$1,863	\$272,200
3	5	4 - 6	NC	\$130	\$1,423	\$199,200	\$2,277	\$334,700
4	7	6 - 8	NC	\$150	\$1,682	\$237,100	\$2,691	\$397,200

8. The number of waivers and alternative compliance requested and granted in 2010:

The Zoning Administrator made determinations that the proposed affordability programs in the Planned Unit Developments (PUDs) for Canal Parc (determination date of November 22, 2010) and Catholic University of America South Campus (determination date of December 6, 2010) fulfilled the IZ requirements. The Zoning Administrator also determined that the affordability programs in the PUDs for the Heights of Georgia Avenue, Matthews Memorial Terrace, and Brookland Artspace fulfilled the IZ requirements. DHCD granted no waivers and alternative compliance in 2010.

9. An analysis of how much bonus density was actually achieved for each development in which inclusionary units were required:

2910 Georgia Avenue, NW was the first matter of right project to receive a Certificate of Inclusionary Zoning Compliance, be issued a building permit, and begin construction. The project did not access the bonus density provided by the zoning regulations. In conversations, the developer stated that the bonus density was achievable, but the decision was made not to utilize it.

To date, all other projects with mandatory IZ requirements have been Planned Unit Development (PUD) cases through the Zoning Commission (ZC). PUDs require a

comprehensive review of projects that take into account the Comprehensive Plan Land Use designation, project design, neighborhood infrastructure and assets, and an extensive list of public benefits and amenities of which affordable housing is only one. In some cases, PUD projects received a 204% increase in density and in other cases they involve a rezoning from Manufacturing to Residential zoning which may technically have reduced the on-site density. Given the uniqueness of each site in the PUD process, it is not possible to determine if bonus density was 1) tied directly to the provision of affordable units or other public benefits and 2) was available as compensation.

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

Housing Permit Trends

As of this report, there are signs that the District's housing market appears to be gaining strength. The number of permits issued in 2010, 251 permits creating 1,454 housing units, is similar to the 225 permits issued in 2009, creating 1,532 units (DC Office of Planning). However, several major projects with pre-existing permits for a year or more have finally broken ground and have started construction. In addition, several redevelopment projects have begun demolition work in preparation for construction. Still more projects have entered the design and permitting process, with the intent to break ground in calendar year 2011.

Several factors support new residential development in the District:

- Jobs – The District added more than 22,000 jobs between December, 2009 and December, 2010 (Bureau of Labor Statistics);
- Limited Supply; Strong Absorption – A lack of construction in previous few years has resulted in a limited supply of housing to meet current demand. Well located projects that delivered in the past year are seeing very strong rates of absorption;
- Rent growth – The rental rates for mid and high rise apartment in DC grew 8 percent in 2010 (Delta Associates).

Almost all of the projects under construction currently are either:

- Exempt from IZ because of geographic exemptions or because they received development approvals (Board of Zoning Adjustment, Building Permits) prior to the effective date of IZ, including high rise buildings in the Downtown Development District and on 14th Street, NW respectively, or
- Subject to affordability requirements through a Planned Unit Development case and/or District financing (see appendix for complete list).

Permits Involving IZ

The first matter of right development project with mandatory IZ requirements started construction in 2010 at 2910 Georgia Avenue, NW. The project is slated to be completed by late summer. Other projects with affordability requirements comparable to IZ and negotiated through the Zoning Commission's Planned Unit Development process have also broken ground, including Chancellor's Row off of 7th Street, NE in Ward 5. Finally, several matter of right projects have stated the intention to proceed with IZ requirements.

Pre-development IZ Exemptions

Over 12,000 planned units of housing will be exempt from IZ due to either geographic exemptions or because they received pre-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 Mandatory Inclusionary Zoning. While most of these developments are fully market rate, some projects are required to include affordable housing because they are receiving development finance from the District or because of public benefits negotiated in BZA or PUD orders.

The latest amendment to the Zoning Regulations exempts 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 from Inclusionary Zoning requirements (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 equal to at least the gross square footage that would have been required by IZ and a covenant must be recorded on the property in order to insure this affordability for the life of the project.

According to the predevelopment approvals granted by the BZA or ZC, a developer has 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 economic downturn, the BZA and the ZC have been extending pre-development approvals as a matter of policy, thus prolonging the time that these projects are exempt from IZ.

Once a building permit has been issued, construction must start within six months or the permit must be extended or it will expire. Permits may be extended up to three times for a period of six months each. If a building permit expires, then IZ would likely apply to any 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 an accurate count of how many projects Mandatory IZ requirements will apply to.

The fact that at least one matter of right IZ project and several unsubsidized PUDs with affordability requirements are proceeding to construction, while a number of exempt projects are not able to move forward suggests that IZ is not having a measurable effect on the production of housing in the District. The impact of the current overall condition of the economy, however, continues to have a significant and often adverse impact on residential development.

Conclusion

With the support of the Mayor and Council, and coordination with the Office of Planning, DHCD has implemented inclusionary zoning by developing a framework for administration of IZ, including the creation of procedures that conform to the stated requirements, in preparation for the completion of the first IZ applicable units. DHCD is currently working with the Office of the Chief Technology Officer to finalize an Internet Technology Solution to simplify and automate many of the prospective tenant and developer processes as well as the administrative and reporting requirements of the program.

Based on the current economic conditions, DHCD concludes that it is too early to determine if IZ has effected residential development or land values in the District and therefore recommends that no actions be taken to significantly change the Inclusionary Zoning Program.



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