

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
COMMITTEE REPORT**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

DRAFT

TO: All Councilmembers

FROM: Chairman Phil Mendelson
Committee of the Whole

DATE: June 2, 2015

SUBJECT: Report on PR 21-137, “Sense of the Council in Support of Improving Inclusionary Zoning Resolution of 2015”

The Committee of the Whole, to which PR 21-137, the “Sense of the Council in Support of Improving Inclusionary Zoning Resolution of 2015” was referred, reports favorably thereon with amendments, and recommends approval by the Council.

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I. BACKGROUND AND NEED

On April 14, 2015, Proposed Resolution 21-137, the “Sense of the Council in Support of Improving Inclusionary Zoning Resolution of 2015” was introduced by Councilmembers Silverman, Orange, Nadeau, Alexander, Bonds, Grosso, Allen, Cheh, Evans, and Chairman Mendelson. PR 21-137 would express the Council’s desire that the Zoning Commission and the Mayor work swiftly to revise the District’s Inclusionary Zoning (IZ) regulations.¹

The District currently offers a variety of tools to ease the burden of housing costs for residents. Some of these include the Housing Production Trust Fund, which provides loans and grants to developers of affordable housing for new construction and preservation; the Local Rent Supplement Program, which provides vouchers to cover the cost of market rent above 30 percent of a tenant’s income; the Home Purchase Assistance Program, which provides closing costs and

¹ Title 11, Chapter 26, of the District of Columbia Municipal Regulations

interest-free loans to qualified applicants to purchase a home; Affordable Dwelling Units, which are below-market rate for-sale and for-rent homes restricted for occupancy by households whose income falls within a certain range; and assistance programs that provide funding for certain home renovations, emergency rental assistance, and counseling services. Additionally, tenant groups threatened with displacement due to the sale of their apartment building can receive financial and technical assistance to purchase the building and convert it into cooperatives or condominiums.

Inclusionary Zoning is unique among these programs because it supplies the city with new, permanently affordable units, and it does so at no additional cost to taxpayers. New rental or condominium buildings with more than 10 units, and renovations increasing the building size by over 50 percent, are required by law to include an assigned percentage of affordable units in exchange for a density bonus. The program was established through the passage of the Inclusionary Zoning Implementation Amendment Act of 2006, and implementation of the program began in 2009 after the issuance of regulations. The program is administered by the Department of Housing and Community Development (DHCD). DHCD's goals for 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. At the public hearing on PR 21-137, Leslie Steen, a housing developer in the District for 40 years, stated:

Inclusionary Zoning is a tool that can spread affordable housing across the city in a manner that our other programs do not and probably will never be able to do. Our other affordable housing programs concentrate affordable housing in certain parts of the city, exacerbating our economic divide and all the ills that come with it. The promise of affordable housing in neighborhoods that don't have any today is why I have been a supporter of this program.²

The program suffered from criticism over the years due to a slow start and administrative challenges. The burst of the housing bubble and the recession that followed coincided inopportunistically with the roll out of IZ. As a result, only a few IZ units were produced in the early years, and, of the units produced for-sale, most sat on the market for long periods of time. To make matters worse, the program's administration needed to be reworked to match qualified tenants and buyers to units more efficiently. Fortunately, today, the housing market is strong, and the number of building permits issued in the city is rising each year. Hundreds of IZ units are in the production pipeline and beginning to hit the market. Moreover, DHCD is preparing to issue a final rulemaking to revise its administrative regulations and improve the department's ability to run the program effectively.

At the public hearing on P.R. 21-137, the Committee heard testimony from a variety of perspectives, including from both for-profit and not-for-profit developers, housing advocates, and residents living in affordable units. The testimony was favorable to IZ and the resolution across the board. Lisa Mallory, CEO of the District of Columbia Building Industry Association, testified that the current IZ regulations are "not currently a detriment to the production of

² Testimony of Leslie Steen, Public Witness, at the May 28, 2015 Public Hearing on PR21-137.

housing.”³ However, she emphasized the importance of keeping in mind the costs of development and long-term operational costs of housing and encouraged the Council and Zoning Commission to provide the necessary flexibility and incentives to make the program viable in the long run. Cheryl Cort, Policy Director of the Coalition for Smarter Growth, called the IZ program “ripe for revision,” and stated that, “we have enough early experience to see that it is working as designed, but not accomplishing the affordable housing goals we had originally sought to achieve.” The Coalition would like to see a reduction in the top income range currently set at 80 percent AMI and an increase in the number of units produced at the 50 percent AMI range. When questioned, Ms. Cort stated that the Coalition was not wedded to specific percentages, which would need to be determined as part of an overall economic feasibility assessment related to the costs of construction.

Through this resolution, the Committee is urging the Office of Planning and the Zoning Commission to undertake that assessment now and determine how far IZ can be pushed without making the District an unprofitable or undesirable place to build. The Committee appreciates the need to strike a balance, but also believes that IZ can be revised achieve more. As of May 2014, 477 IZ units in 57 projects were constructed, under construction, or planned. Of these, 78 percent of the units are priced at the 80 percent AMI level. According to 2013 data from the U.S. Census Bureau, the Washington, D.C. area had the highest median income in the United States at \$90,149. AMI includes income data from Maryland and Virginia residents, in addition to District residents. To make the most of this tool, and to achieve the stated goals of the program, the city must expand IZ as far as the market will allow. In the words of Office of Planning Director Shaw, IZ is “a key tool for fulfilling the District’s vision of achieving and sustaining a diverse, vibrant and inclusive city.”⁴

II. LEGISLATIVE CHRONOLOGY

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|----------------|--|
| April 14, 2015 | PR 21-137, “Sense of the Council in Support of Improving Inclusionary Zoning Resolution of 2015,” is introduced by Councilmembers Silverman, Orange, Nadeau, Alexander, Bonds, Grosso, Allen, Cheh, Evans, and Chairman Mendelson. |
| April 24, 2015 | Notice of Intent to Act on PR 21-137 is published in the <i>District of Columbia Register</i> . |
| April 24, 2015 | Notice of a Public Hearing on PR 21-137 is published in the <i>District of Columbia Register</i> . |
| April 28, 2015 | The Committee of the Whole holds a public hearing on PR 21-137. |
| June 2, 2015 | The Committee of the Whole marks-up PR 21-137. |

³ Testimony of Lisa Mallory, CEO, DCBIA, at the May 28, 2015 Public Hearing on PR21-137.

⁴ Testimony of Eric Shaw, Director of Planning, at the May 28, 2015 Public Hearing on PR21-137.

III. POSITION OF THE EXECUTIVE

Eric Shaw, Director of the Office of Planning, testified on behalf of the Executive. Director Shaw described the history of the IZ program and an update on its current status. He stated that the Office of Planning (OP) works closely with the Department of Consumer and Regulatory Affairs and the Department of Housing and Community Development to actively track and monitor the program's growth and productivity. Currently, the program includes 88 projects totaling 734 affordable IZ units in various stages of production. OP is additionally tracking another 123 projects in various stages of predevelopment that have the potential to deliver another 1,940 units in the next several years. The bonus density provided to these projects ranges from nine percent to 20 percent. To date, IZ has delivered a total of 118 affordable units, including 105 rental units. Of the rental units, 61 have been leased; 11 of the 13 for-sale units are sold or under contract. Director Shaw emphasized the value of IZ—particularly its success at delivering affordable housing in high-cost areas of the city such as Wisconsin and Connecticut Avenues, Dupont Circle, U Street, and Adams Morgan. He voiced his support for expanding the program, stating that “the program can do better,” and “OP is committed to working with the Zoning Commission and DHCD to improve the program.”

IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

The Committee received no testimony or comments from any Advisory Neighborhood Commission.

V. SUMMARY OF TESTIMONY

The Committee of the Whole held a public hearing on PR 21-137 on Tuesday, April 28, 2015. The testimony summarized below is from that hearing. Copies of written testimony are attached to this report.

Lisa Mallory, CEO, DC Building Industry Association, testified in support of urging the Zoning Commission to reevaluate the regulations around the inclusionary zoning program. In doing so, she stressed the need for the District to balance the need for affordable housing with the financial reality of constructing and maintaining subsidized units. She further stated that the program does not provide the necessary incentives or flexibility to be a sustainable program in the long term.

Brenda Batts, Public Witness, testified about her experience as the owner of an affordable dwelling unit. She described her frustration with the restrictions placed on the unit that prevent her from being able to take full advantage of the equity in the home. She stated that her home will increase value by \$37,580 in 20 years while the other units in her building will increase \$100,000 in just eight years.

Gerri Michalska, Public Witness, testified in support of the resolution and expressed her hope that the Zoning Commission will strengthen the program for moderate and lower income DC residents who are priced out of DC's rising housing market. She also spoke about how great the need for lower cost housing is among DC's lowest income residents.

Sarah Scruggs, Director of Advocacy and Outreach, Manna Inc., testified in support of the resolution and called for further transparency in the program and oversight by the Council. Ms. Scruggs called the current lottery process "extremely burdensome," suggested that DHCD should use marketing plans as the sole method of selling IZ units, and identified a need for homebuyer education. Additionally, Ms. Scruggs spoke about difficulties IZ owners face due to the resale formula and restrictions associated with ownership, as well as the challenge of high or rising condominium fees.

Cheryl Cort, Policy Director, Coalition for Smarter Growth, testified in support of the resolution. She stated that most of the city's housing need is among residents earning 50 percent or less than the Average Median Income. Ms. Cort described the success of the IZ program and the continuing upward trend of housing construction in the city. She further made comments regarding problems in the administration of the program and her support for the proposed revisions to DHCD's regulations on IZ. Ms. Cort also stated that an expansion of the program will require corresponding increases in bonus density to allow for enough profitability for developers to continue building in DC.

David Franco, Principal, Level 2 Development, testified in support of the resolution. Mr. Franco discussed his experience as a developer of projects that produced IZ units. He noted the importance of the bonus 20 percent zoning density that enabled his projects to set aside eight percent of the units in the development as affordable at the 80 percent AMI level without impacting the profitability of the endeavor. He explained that a tremendous amount of increased bonus density would be necessary to offset the economic impact of providing units at the 50 percent AMI level. He stated that nonprofit entities, such as Habitat for Humanity and Manna, are better able to provide the lower level affordability units and encouraged "out of the box thinking" to assist and empower nonprofits to do more in this realm.

Leslie Sheen, Vice President of Real Estate, Wesley Housing Development Corp, testified in support of the resolution. Ms. Sheen has worked as a housing developer since 1975. She described the evolution of the program and its special ability to create affordable housing across the city, particularly in otherwise exclusive, amenity-rich neighborhoods.

Jim Campbell, Somerset Development Company, testified in support of the resolution and described his experiences as a developer in the city. He stated that his projects have not been impeded at all by the IZ requirements, as the program is currently structured to achieve a return neutral impact.

Ed Lazere, Executive Director, DC Fiscal Policy Institute, testified in support of the resolution. He spoke about the value of the IZ program in ensuring that new housing developments throughout DC include affordable homes for moderate-income residents. He further testified that the need for the IZ program has grown since was first adopted because the

city's stock of low-cost housing continues to decline, to the point where there is little or no low-cost private market housing. He reiterated the resolution's objectives of increasing the number of IZ units produced overall, increasing the number of units that are affordable for lower-income households, and setting maximum rent, purchase price, and eligibility thresholds in a manner that ensures affordability for an adequate pool of applicants.

Sam Jewler, Community Organizer, Jews United for Justice, testified in support of the resolution. Mr. Jewler reiterated the resolution's objectives of increasing the number of IZ units produced overall, increasing the number of units that are affordable for lower-income households, and setting maximum rent, purchase price, and eligibility thresholds in a manner that ensures affordability for an adequate pool of applicants. He also highlighted the high number of people of color who have left the city with the decline of affordable rental units in the past decade.

Tad Baldwin, Public Witness, testified in support of the resolution. Mr. Baldwin discussed his experience with the inclusionary zoning program in Montgomery County, Maryland. He spoke highly of both programs and stated that he believes the District's IZ program is the lowest cost method to create affordable housing units in diverse locations.

Elinor Hart, Public Witness, testified in support of the resolution. She focused her testimony on the urgency of the issue and called DC's affordable housing situation "desperate" and a "crisis."

Steven Cook, Member, National City Christian Church, testified in support of the resolution. He called inclusionary zoning a "valuable tool" and stated that the program is working, though there is still room for improvement.

Tanya Morris, Public Witness, testified in support of affordable housing as an owner of an affordable unit in Columbia Heights. While she was very happy to be an owner, she expressed the hardship of not being able to take advantage of all the benefits of home ownership, such as wealth building.

Joseph Slovynec, Public Witness, testified in support of the resolution. He further stated his desire to see developers exhibit more of a sense of economic responsibility for the neighborhoods they work in.

Suzanne Des Marais, President, 10 Square Real Estate, testified in support of the resolution. She described some of the administrative challenges present, particularly in relation to the lottery process. She states that it takes 150 applicants to find one qualified buyer of an IZ unit. She additionally mentioned the inspection process, calling it "horrendous" and "unnecessary."

The Committee received no testimony or comments in opposition to PR 21-137.

VI. IMPACT ON EXISTING LAW

PR 21-137 has no impact on existing law. It is a statement of the Council urging the Mayor and the Zoning Commission to expeditiously revise the Inclusionary Zoning regulations.

VII. FISCAL IMPACT

According to District of Columbia Official Code § 1-301.47a, fiscal impact statements are not needed for emergency declaration, ceremonial, or sense of the Council resolutions.

VIII. SECTION-BY-SECTION ANALYSIS


<u>Section 1</u>	Short title.
<u>Section 2</u>	States the findings of the Council regarding the need for more affordable housing in the District and the importance of Inclusionary Zoning as a tool for achieving this goal.
<u>Section 3</u>	States the objectives the Council would like the Zoning Commission and the Mayor to achieve with respect to revising the Inclusionary Zoning regulations in a way that will expand the program.
<u>Section 4</u>	Provides that the Secretary will transmit copies of the resolution to the Mayor, the Office of Planning, and the Zoning Commission.
<u>Section 5</u>	Effective date.


IX. COMMITTEE ACTION

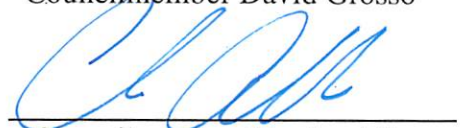
X. ATTACHMENTS


1. PR 21-137 as introduced.
2. Written Testimony.
3. Committee Print for PR 21-137.

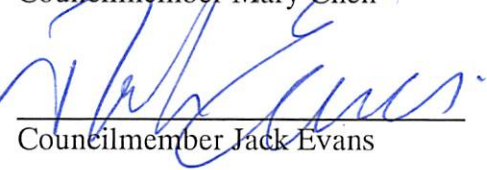
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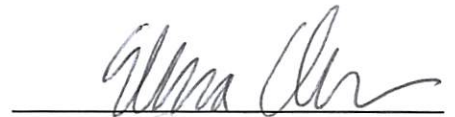

Chairman Phil Mendelson

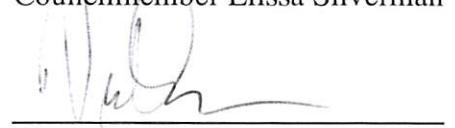

Councilmember David Grosso

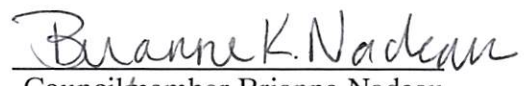

Councilmember Charles Allen

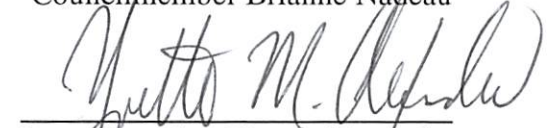

Councilmember Mary Cheh

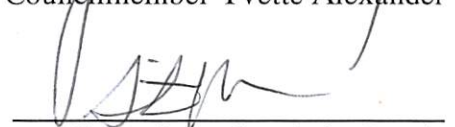

Councilmember Jack Evans


Councilmember Elissa Silverman


Councilmember Vincent Orange


Councilmember Brianne Nadeau


Councilmember Yvette Alexander


Councilmember Anita Bonds

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Resolution in support of amendments to the inclusionary zoning regulations, Chapter 26 of Title 11 of the District of Columbia Municipal Regulations, a program that requires new and rehabilitated residential developments to include housing units permanently affordable to low and moderate-income residents in exchange for permitting housing developers to obtain additional zoning density as a matter of right.

42 RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
43 resolution may be cited as the “Sense of the Council in Support of Improving Inclusionary
44 Zoning Resolution of 2015.”

45
46 Sec 2. It is the sense of the Council that the Zoning Commission and the Mayor should
47 expeditiously revise the Inclusionary Zoning regulations, Chapter 26 of the zoning regulations, to
48 accomplish the following objectives:

49 (1) Increase the number of Inclusionary Zoning units produced overall;

50 (2) Increase the number of units produced that are affordable for lower income households;

51 (3) Set maximum rent, purchase price, and eligibility thresholds in a manner that ensures
52 affordability for an adequate pool of applicants;

53 (4) Achieve greater affordability by lowering the upper affordability limits for
54 moderate income households;

55 (5) Ensure that the zoning density bonus needed to support the cost of IZ units is
56 available and usable, by allowing greater flexibility, within the parameters of the Comprehensive
57 Plan, and offer additional bonus density as necessary to compensate for increased affordability;

58 (6) Clarify the intended role for qualified non-profits, the Mayor and the DC Housing
59 Authority in exercising the right of first refusal to purchase and then rent units to low income and
60 very low-income residents.

61 Sec. 3. The Secretary to the Council of the District of Columbia shall transmit copies of this
62 resolution, upon its adoption, to the Mayor, the Office of Planning, and the Zoning Commission.

63 Sec. 4. This resolution shall take effect immediately.

64



**Testimony of Lisa Mallory
District of Columbia Building Industry Association**

**Before the Council of the District of Columbia
Committee of the Whole**

Honorable Phil Mendelson, Chairman

**PR 21-137, “Sense of the Council in Support of Improving Inclusionary
Zoning Resolution of 2015”**

**Tuesday, April 28, 2015
Wilson Building
Room 123**

Good afternoon Chairman Mendelson and members of the Committee. I am Lisa María Mallory, CEO of the District of Columbia Building Industry Association (DCBIA). The purpose of my testimony is to comment on the status of the Inclusionary Zoning Program (IZ) that is the responsibility of the Zoning Commission.

For over forty years, DCBIA has been the voice of real estate development in the District of Columbia. Our more than 450 members are comprised of professionals in all aspects of real estate development. DCBIA and its members have been a part of the IZ process since its inception eight years ago and the debate over it many years prior. Just as other witnesses that will come before you today, we as an association, and our individual members, are dedicated to identifying and executing affordable housing strategies that encourage development’s growth in the District.

DCBIA consistently supports the District’s affordable housing efforts and agrees with all stakeholders that the individuals and families that have been in the District through its ups and downs are crucial to maintaining the vibrancy and distinct characteristics that make up our unique neighborhoods. Based on that premise, DCBIA strongly encourages the District’s leaders to look at improving the entire portfolio of affordable housing initiatives, not just IZ. The District has various options to promote affordable housing, and IZ is only a single part of the ultimate answer to the affordable housing solution. No matter what affordable housing incentive or mandate is utilized, the Zoning Commission, the Mayor and Council must recognize that in order for a private-sector affordable housing requirement to be successful, the costs of development and long-term operational costs of housing must be kept in mind at all times.

In regards to IZ requirements, they are evaluated alongside the hard and soft costs of a project. Only where a developer is assured of a financially feasible project can an idea be turned into reality. Of course every development idea must be financed—a developer cannot make a vision



a reality without the confidence of its financiers. Nearly all construction financing comes with requirements for personal guarantees of repayment. Thus, the IZ program and all affordable housing requirements must balance the needs of the District with the financial reality of constructing and maintaining subsidized units.

We have heard testimony in other hearings that the number of residential permits pulled since 2010, surpasses that of the mid 2000's boom. This statement has been supported by the argument that people want to be here, development is strong, so IZ must not be an impediment to development. However, the current IZ program mandated by the Zoning Commission does not provide the necessary incentives or flexibility to be a sustainable program in the long term. In fact, we know that there are currently IZ units that sit vacant for prolonged periods of time.

It is only because of the considerable optimism in the current housing market that the IZ regulations are not currently a detriment to the production of housing. Unless IZ is greatly improved from the standpoint of development and construction risks and costs, once the current optimism cools off (and it is only a matter of time), the current IZ program will become more problematic, because it will add a disproportionately larger burden on the economics of housing production. The District's strong influx of more than 1,000 residents per month is not sustainable in the long term. In fact, the population boom that began in 2010 has already started to slow. By making IZ a more workable and financially feasible program, DCBIA's members can continue to expand the District's tax base even as demand slows.

Now is the time to fix the IZ program before the housing market cools. It is the responsibility of the Zoning Commission to establish IZ minimums and it is with the Zoning Commission that any changes should come – particularly with the FAR process. DCBIA will be providing testimony when the Zoning Commission holds hearings on the IZ update on the appropriate changes to improve incentives and create development opportunities.

As you will hear today, IZ development is not a simple process nor something that has a quick fix. What we need is for ample discussion before the Zoning Commission on IZ and this body on affordable housing policies more generally to ensure we continue to provide necessary housing for all residents.

DCBIA thanks you for kicking off the discussion on IZ as I am sure it will be a discussion we will have before the Zoning Commission shortly. I am available to answer any questions you might have.

**Hearing on Sense of the Council on Inclusionary Zoning
Committee of the Whole
Testimony of Brenda Batts, Ward 1 affordable homeowner
April 28, 2015**

Good afternoon, Chairman and Committee members. My name is Brenda Batts, and I am pleased to testify today. I am glad to see the Council actively addressing the affordable housing crisis and wanting to make programs like Inclusionary Zoning better. Since I live in an affordable unit similar to IZ units, I wanted to testify today about my situation with the goal of improving the future for IZ owners and for other owners like myself.

I have lived at the Fedora Condominiums in NW since October 2006. I own one of the only Affordable Dwelling Units there and my unit has a 20 year resale restriction. Along with other owners of these types of units, I worked with DHCD in 2013 to come up with solutions to some covenant items that were not so well thought out, including the impact of rising condo fees. We made some progress and DHCD now has a robust and responsive staff. However, I believe more work needs to be done.

It was my hope and aspiration to acquire a home that would give my grandchildren a 'leg up' in a society that marginalizes those of certain strata. Purchasing a unit at the Fedora meant that I had met this goal, and I took the legal steps necessary to assure that the property remains in the family. However, based on the covenants and the value determination made by DHCD this past year, it seems that my hopes have been dashed.

DHCD's analysis determined that over the past 8 years, the value of my property has increased by \$13,150. This averages \$1,879 per year and means that in 20 years the value of my property will have increased by only \$37,580, not including permissible upgrades. Market rate properties in the area, and in the Fedora, have increased by over \$100,000 since 2006. Let's just think about this for a moment: an increased value *for me* of \$37,580 in 20 years v. an increased value for *market rate owners* in my building of over \$100,000 in 8 years. Not to mention that I pay the same amount in condo fees per square foot as those whose property values increase faster and without value limitations. There is something very wrong with these two scenarios, and my question is: when will I or my grandchildren build wealth?

The set-up of these covenants is very confusing. I understand some of the practices are to assure that folks don't flip their homes to make a big score, to assure housing for low and moderate income people—I went into this home-buying process gathering as much information as I could. At settlement my only

Testimony before the Hon. Phil Mendelson
Chairman, Committee of the Whole

In Support of PR-137, Sense of the Council in Support of
Improving Inclusionary Zoning Resolution of 2015

By Gerri Michalska
1825 New Hampshire Ave. N.W.
Washington, DC 20009

Good afternoon, I wish to express my support for the DC Council resolution to improve Inclusionary Zoning as an important tool to address the worsening housing affordability challenge faced by a large number of DC households. I strongly support the DC Council's "Sense of the Council in Support of Improving Inclusionary Zoning Resolution of 2015," because I believe the Zoning Commission and Mayor can strengthen Inclusionary Zoning to do more for moderate and lower income DC residents who are priced out of DC's increasingly expensive housing market.

I appreciate that the Mayor and DC Council have made affordable housing a top priority. I urge you to bring more resources and tools to the task, and to sharpen existing tools to do more. One of the tools that could serve us better is Inclusionary Zoning. Inclusionary Zoning is operational and doing what it was designed to do, but it can and should accomplish much more.

Plutarch notes that "An Imbalance between Rich and Poor is the oldest and most fatal ailment of all republics."

In terms of income generated by work, the level of inequality in the United States is "probably higher than in any other society at any time in the past, anywhere in the world," Thomas Piketty writes in his "Capital in the 21st Century"

---http://www.newyorker.com/arts/critics/books/2014/03/31/140331crbo_books_cassidy?currentPage=2

To make that distinction even more shameful Jared Bernstein, a senior fellow at the Center on Budget Policy and Priorities and Wes Rivers, a health policy analyst at the D.C. Fiscal Policy Institute find the District of Columbia to be one of most unequal cities in the US! Is that not staggering that Washington, DC has reached such a deplorable status based on income generated by work in the most unequal society of any time and place according to Thomas Piketty?

I appreciate that the Mayor and DC Council have made affordable housing a top priority. I urge you to bring more resources and tools to the task, and to sharpen existing tools to do more. One of the tools that could serve us better is Inclusionary Zoning. Inclusionary Zoning is operational and doing what it was designed to do, but it can and should accomplish more.

"Since 2000, the number of households paying more than half of their income on housing has risen by 15,000 and this occurred almost exclusively among renter households. Very low-income households are the most likely to face these severe housing burdens, with just under two-thirds paying more than half of their income on rent in 2010." Jenny Reed DC Fiscal Policy

Institute. **“Very low-income households have felt the greatest pinch, with most spending more than half of their income on rent. Among DC’s lowest income residents, 64 percent devote half or more of their income to housing.”** Wes Rivers DCFPI. **“DC has lost more than half of its low-cost rental units and 72 percent of its low-value homes.** The number of low-cost rental units — defined as having monthly rent and utility costs of less than \$750 a month — fell from 70,600 to 34,500 over the last decade. “ Jenny Reed

“The greatest shortages, and greatest housing needs, are found at the lower-income levels, at half of AMI and below.” Cheryl Cort & Matt Schuneman, Coalition for Smarter Growth February 6, 2012. So we see that incomes have remained flat while rents have increased and affordable housing has decreased in DC!! How did we get to this scandalous point, I ask, and most of all what do we have to do to remedy this??

“In another instances, the District changed requirements for the Southwest Waterfront development public land deal. Previously, the affordable housing to be built on site was intended to be affordable to low- and moderate-income households, or those earning between \$31,830 (30 percent of AMI) and \$63,600 (60 percent AMI). The approved changes limited the affordable housing to those households earning between 30-60 percent of AMI to the first 500 units built out of a total of 1,200-1,500 units (or 8-15 percent of all units). The developer was then allowed to fulfill the remainder of the affordable housing requirements by providing units affordable to those earning 100 percent to 120 percent AMI, which the developer termed workforce housing.” By Cheryl Cort & Matt Schuneman, Coalition for Smarter Growth February 6, 2012 Why did the DC Council allow this to take place?

“These data suggest that D.C. working families earning well under the D.C. median income are losing ground while better paid workers are finding homes they can afford.” So 1200 permanently affordable IZ housing units in the pipeline in the next few years is NOTHING. If DC government does not get serious and stop making deals with developers we will go down in infamy.

The Coalition for Smarter Growth has addressed this egregious unaffordability **by increasing the number of low income households** by:

- Lowering the top tier income threshold from 80% of AMI to a maximum of 70% of AMI
- Pricing units based on 25% of household income as opposed to 30% of income
- Clarifying the option for the Mayor, DC Housing Authority, and nonprofits to buy IZ units, which they could then offer as rentals, possibly with subsidy to make the program accessible to extremely low income households and by:

Increasing the number of IZ units produced, most especially for the lowest incomes by:

- Increasing the set aside levels to 12% for low rises and 10% for high rises
- For rental buildings, requiring all IZ units to be affordable at the 50% AMI level; and for ownership buildings, require all IZ units to be affordable to households earning less than 70% AMI
- Increasing bonus density from 20% to 22%, and allowing flexibility in height and other limitations that prevent developers from achieving maximum bonus density

- Requiring IZ compliance on projects in the original Downtown Development District, which is currently exempt.

The final remaining impediment to progress here is the DC Office of Planning which has not stepped up to the plate to provide recommendations as asked by the DC Zoning commission more than a year ago. Would Mayor Bowser please intercede to get the Office of Planning to do their job now?

Thomas Piketty believes that the rise in inequality can't be understood independently of politics. That means it is up to DC government to take serious action to address this blight.



To: *The Honorable Councilmember Anita Bonds*

From: *District of Columbia Association of REALTORS® (DCAR) & Manna, Inc.*

Re: *Improving the District of Columbia's Inclusionary Zoning Program - Ownership*

Date: *March 26, 2015*

Dear Councilmember Bonds,

This letter is on behalf of the District of Columbia Association of REALTORS® (DCAR) and Manna, Inc. DCAR serves as the state-level association representing more than 2,600 residential and commercial REALTORS®, *property managers, title attorneys and other real estate professionals who are licensed in the District of Columbia.* DCAR is also a voice for many homeowners, buyers, sellers, renters and landlords throughout the entire DC metro region. Manna, Inc. is a nonprofit affordable housing developer, educator, and property manager with over 33 years of experience. Manna has created over 1,000 homes for lower-income, first-time homebuyers and has helped many thousands more purchase homes. Our two organizations have a number of shared goals, including helping low and moderate income persons acquire quality housing, building assets for families through homeownership and creating healthy and vibrant communities.

DCAR and Manna believe the Inclusionary Zoning Program ("*IZ Program*") can be one of many affordable housing solutions for District residents, creating units that are sorely needed to face the District's affordable housing crisis. DCAR and Manna thank the Council for its interest in improving the IZ Program, as well as all of the DC government agencies that have a hand in administering the program and setting/changing regulation. Considering the past two Proposed Inclusionary Zoning Regulations ("*IZ Regulations*" or "*Regulations*") affect not only real estate professionals involved in Inclusionary Zoning transactions, but also the future homeowners they are providing services on behalf of, DCAR and Manna would like to offer a number of additional comments and recommendations based on extensive review and actual experiences with affordable homeownership in DC.

At the heart of our recommendations is the creation of homeownership opportunities for low-to-moderate income families that meet families' needs and help them grow economically. We particularly hope Councilmember Anita Bonds as Chairperson of the Council's Committee on Housing and Community Development will work with DCAR and Manna on collaborative solutions for improving the ownership side of the IZ program and ensuring the regulations move forward in a timely and efficient manner.

Overarching Recommendations

- Strive to make DC's IZ Regulations as simple and transparent as possible. Generally, if any of the Regulations are too onerous and burdensome for any of the involved parties, the value of the IZ program is compromised.
- Implement additional review and oversight from the Council, as it is a highly specialized affordable housing tool that needs to be examined specifically and judiciously. We believe that this would greatly benefit the IZ program.
- Annually gather the practical experiences of those who use the program or similar programs (like for-sale Affordable Dwelling Units) in order to make ongoing improvements.

Initial sales of IZ units

- The current Lottery Process is extremely burdensome for sales of IZ units and the minimal number of units actually sold through it is proof of it not functioning effectively. We strongly recommend: (1) the Regulations specifically indicate the Lottery process will be NOT be used for sales transactions for clarity, and (2) the difference between the Registration process and Lottery process be clarified.
- Marketing plans approved by DHCD should be the sole method for real estate professionals and developers helping to sell IZ units.
- Create a voluntary certification for REALTORS® in the IZ program to help identify buyers and ensure real estate professionals understand IZ sales transactions and the difference between IZ for-sale units and traditional homeownership. We suggest DHCD look into online options for such a course and allow REALTORS® to use this certification in their marketing.

Issue for IZ purchasers

- Provide homebuyer education that clearly explains the difference between IZ ownership and traditional ownership, including the resale process, inability to take out an equity loan, etc.
- Create a list of banks that will lend to those purchasing an IZ unit; as not all banks will provide mortgage financing for an IZ unit, this will speed up the sales process.
- Simplify the income verification process by requiring the same documentation that HPAP requires, or allowing the first-trust lender to verify income. The more streamlined the process is, the less likely there will be settlement delays.

Issues for IZ owners

- Simplify the resale formula. The algorithm in the current Regulations for Maximum Resale Price is entirely too complicated and nearly impossible for even the most experienced real estate professionals to understand or explain.
- Allow IZ owners to simply deed their property to anyone they choose. The "Sale by Heirs" section of the proposed IZ regulations is unclear and seems to indicate that any heirs must meet the income guidelines of the unit; we believe this provision will deter households from purchasing IZ units.
- Find adequate solutions to escalating condo fees and special assessments. This issue has plagued ADU owners living in market-rate buildings in DC, other jurisdictions with expensive housing markets and will also impact the IZ program.

- Revisit how improvements are calculated into resale value of an IZ unit. Current ADU owners are held to the same improvement guidelines and they should be surveyed to assess the guidelines' impact on owners' choice to maintain or upgrade their units. These are costs that will be passed along to the next buyer or the District.
- It is extremely important for DHCD to have the proper support to provide for the administration of the Inclusionary Zoning program. Until a solid foundation has been set for getting it working efficiently, DC should prioritize dedicated resources.
- DHCD could focus on outreach and education for helping the public understand the IZ program and how to use it. DCAR and Manna would be happy to participate in any such efforts.

In conclusion, DCAR and Manna are confident we share many of the same goals, as well as a commitment to the vitality of the citizens of the District of Columbia, as do our government officials. We would be glad to answer any questions and hope to continue working with all of the government entities charged with structuring and administering the IZ program in the future.

Thank you for your consideration of our views.

Sarah Scruggs
Manna, Inc.
Director of Advocacy & Outreach

Ed Wood
DCAR
2015 President

Suzanne Des Marais
GCAAR¹
2015 President

¹ The Greater Capital Area Association of REALTORS® (GCAAR) is DCAR's local-level REALTOR® Association representing nearly 9,000 REALTORS® in both DC & neighboring jurisdiction Montgomery County.



Coalition for Smarter Growth

DC • MD • VA

Testimony before the Hon. Phil Mendelson, Chair
DC Council Committee of the Whole

RE: Public Roundtable on PR 21-137, Sense of the Council in Support of
Improving Inclusionary Zoning Resolution of 2015

By Cheryl Cort, Policy Director
April 28, 2015

Good afternoon, my name is Cheryl Cort and I am the policy director of the Coalition for Smarter Growth (CSG). The Coalition for Smarter Growth is the leading organization working locally in the Washington, DC metropolitan region dedicated to making the case for smart growth. Our mission is to promote walkable, inclusive, and transit-oriented communities, and the land use and transportation policies and investments needed to make those communities flourish.

Thank you for holding this roundtable. We wish to express our strong support for PR 21-137, Sense of the Council in Support of Improving Inclusionary Zoning Resolution of 2015. We are eager to get the Zoning Commission process going to revisit Inclusionary Zoning, and assess how we can get more affordability out of the policy.

The time is ripe to do this, given the results of the recent Urban Institute assessment commissioned by DMPED which found IZ to be fundamentally sound. IZ is also ripe for revision because now we have enough early experience to see that it is working as designed, but not accomplishing the affordable housing goals we had originally sought to achieve.

We would to assess IZ to see how we can get more lower income units at the 50% AMI level, and pull down the top of the income range from 80% AMI to 70% or 60% AMI. Both changes are needed, and possible. The changes are needed because most of the housing need for our residents is at the 50% AMI level and below. They are possible because DC's housing market continues to be strong. IZ is cost-effective because it provides moderately-priced housing at no cost to the city other than the administrative costs. IZ helps other housing programs, such as the Housing Production Trust Fund focus on meeting those with the greatest need at lower incomes.

Production of IZ is rapidly increasing now that the recession is over and grandfathered projects are expiring or being built out. We have more than 100 IZ units produced, and the pipeline promises more than one thousand over the next several years. Most new residential construction has at least IZ levels of affordability, if not more. IZ broadly covers the city in a way no other housing program does -- it covers most matter of right development. This is a unique contribution of IZ -- building affordability into new development in high-demand, high-amenity neighborhoods (see Figure 2, by Urban Institute).

Critics have claimed that IZ is not producing enough units, and thus should be abandoned. We disagree. While start up has been very slow, production is picking up. IZ will age well. We will be grateful that we had the foresight to require these permanently affordable homes throughout the city in future years, when the market offers even less housing at prices moderate and lower income households can afford.

Critics of IZ have claimed that IZ has stalled housing production. It's hard to see this in the indicators. DC's housing production is at an all-time high. In fact, IZ's implementation correlates with high levels of production (see attached graph on yearly building permits).

Some are skeptical about the benefits of IZ's permanent affordability for homeownership. This is a national best practice that is growing. We have many successful permanently affordable homeownership programs across the country, including many IZ programs. In DC, we have our very own local program, City First Homes. National researchers from Urban Institute and Center for Housing Policy have demonstrated the success of the shared equity approach that DC's IZ program uses (see Figure 5, Urban Institute). A shared equity model benefits the IZ owner by allowing him or her to build wealth, while also preserving the affordability of the unit in place for the next would-be assisted owner in line. Given DC's affordability crisis, we need to use these kinds of tools to stretch our limited resources to help as many people as we can, rather than relying on a first come, first serve approach. A first come, first serve approach might be fine in a different era where home prices were not so high and rising so rapidly.

Critics and friends alike agree, however, that much needs to be approved in the administration of the program. We support the FY16 proposal for more staff. We have supported the proposed revisions to the implementing regulations that allow developers to directly market IZ units, as they do in the case of ADUs. However, we hope that the lottery can be improved so that developers will opt for the lottery in the future. The benefit of a centralized point of entry for DC residents seeking affordable housing is that it creates a fairer path of access. It enables those searching for affordable housing to work with DHCD and housing counselors rather than chase leads at individual sites throughout the city. A national expert on IZ has suggested that DC has a list management and marketing problem rather than a lottery problem. Whatever the glitch, we encourage DHCD to improve the lottery and selection process, while also finalizing the proposed administrative regulations that allows for direct marketing.

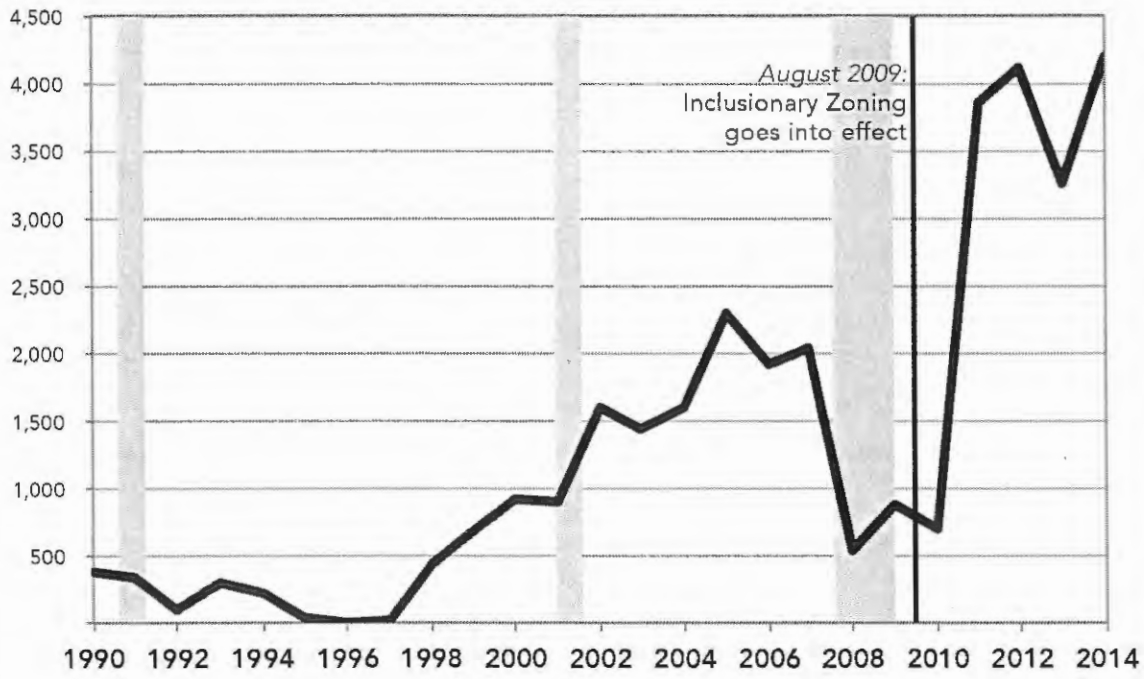
We ask the Council to pass this resolution and urge DMPED and Mayor Bowser to make the most of IZ. Allow the Office of Planning to support the Zoning Commission's efforts to revise IZ to better achieve the affordable housing goals that Mayor Bowser has made a top priority.

Thank you for your consideration.

Building permits

WASHINGTON, DC

Units, yearly total. *Shaded bars indicate recessions*



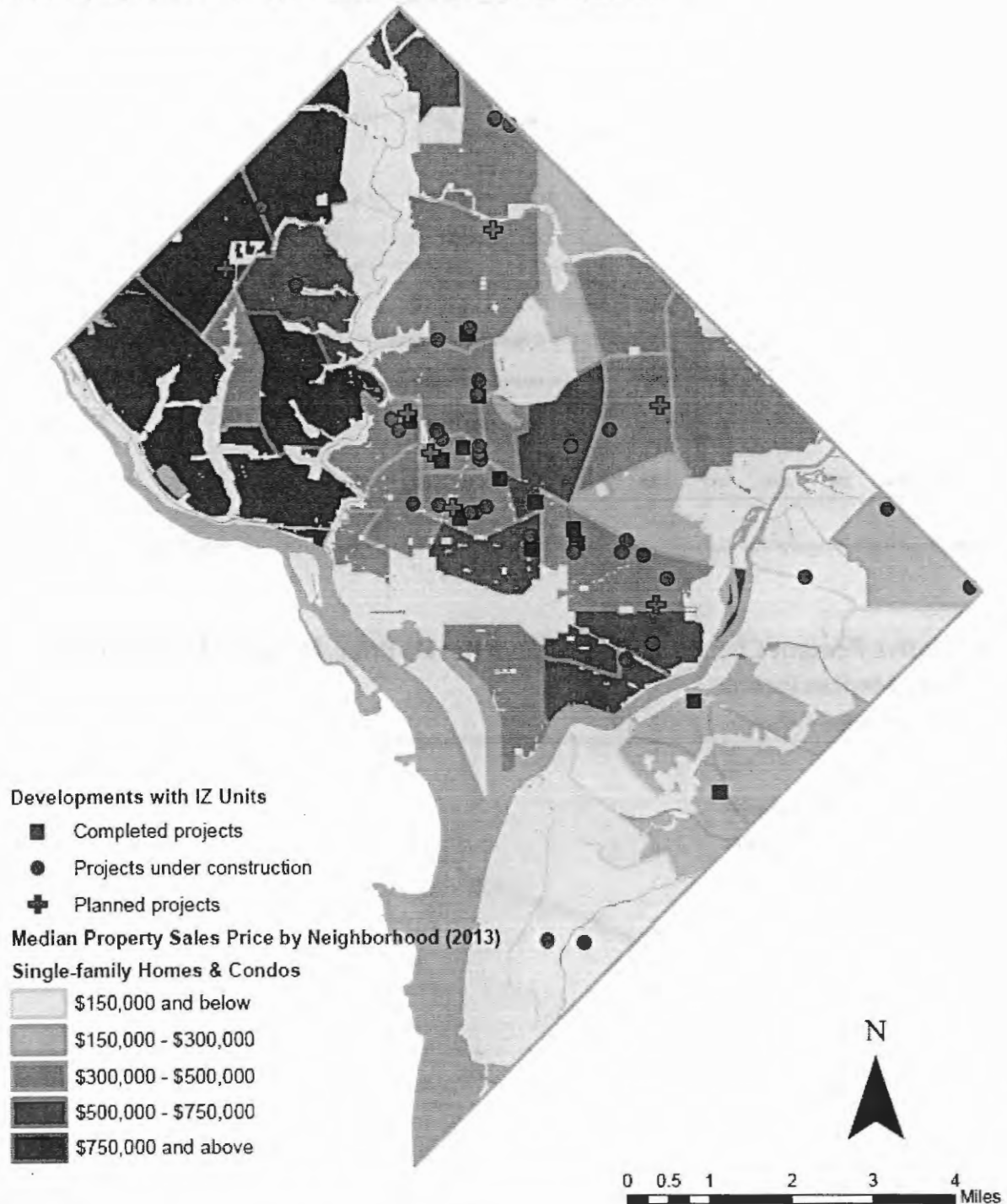
Source: U.S Census Bureau Building Permits Survey, NBER Recession Indicators via Federal Reserve Bank of St. Louis

Coalition for Smarter Growth

FIGURE 2

Inclusionary Zoning Projects and Median Property Sales

Number of IZ projects as of May 2014, sales as of 2013, Washington, DC

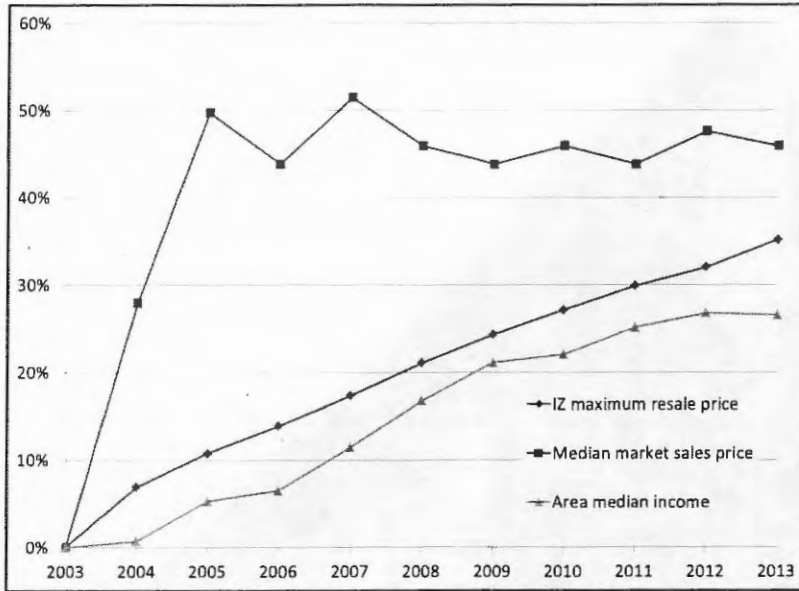


Source: Certificate of Inclusionary Zoning Compliance filings, Department of Consumer and Regulatory Affairs and Office of Planning, District of Columbia, May 2014.

FIGURE 5

Cumulative Percent Change in IZ Resale Prices, Market Prices, and Incomes

One-bedroom condominium unit, 2003–13

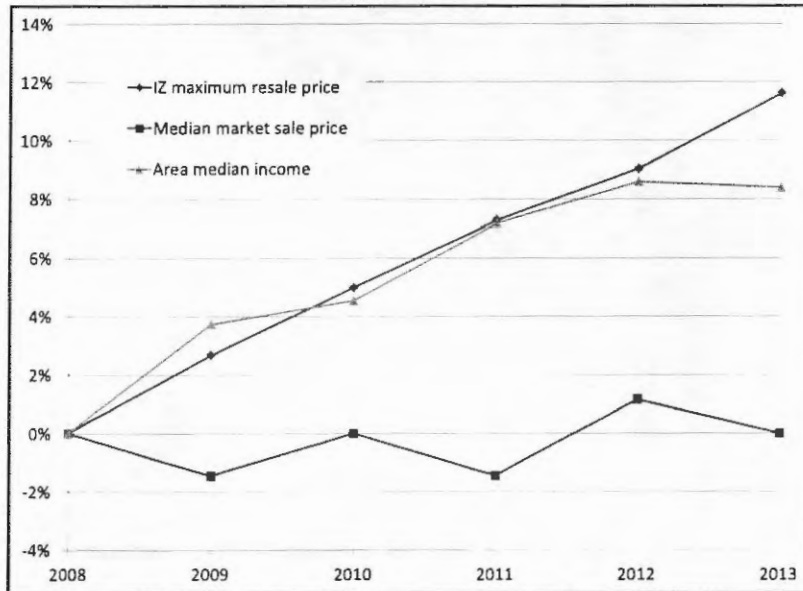


Source: Urban Institute analysis of HUD AMI, published IZ maximum initial sale prices, and DC real property data

FIGURE 6

Cumulative Percent Change in IZ Maximum Resale Price, Median Market Sale Price, and Area Median Income

One-bedroom condominium unit, 2008–13



Source: Urban Institute analysis of HUD AMI, published IZ maximum initial sale prices, and DC real property data.

**Testimony by David Franco, Principal, Level 2 Development for
DC Council Roundtable Hearing on Inclusionary Zoning**

April 28, 2015

Good Afternoon,

My name is David Franco, a principal with Level 2 Development, and I would like to thank you for this opportunity to provide testimony on our experience with Inclusionary Zoning in the for-rent housing market, as well as provide our thoughts on improving Inclusionary Zoning (IZ).

Level 2 was amongst the early adopters of IZ with our projects, The Harper on 14th Street, which began lease up in January 2014, and Takoma Central, currently in lease up. When IZ was first adopted, we were uncertain as to how the program would effectively work through implementation in the multifamily housing development arena. What would it cost? How would the capital markets react? How would administration be handled? What additional resources would be necessary? Would it slow down our process, and what were other unknowns?

We soon began answering those questions as our 144 unit apartment building, The Harper, began its planning stages. Our financial modeling demonstrated the economic feasibility of the project with IZ due to the density bonus of 20%, which essentially created a zero sum for the cost of the 8% IZ units at 80% AMI. Without such bonus, the project would not have been built. The administrative part of IZ was fairly smooth on our end, though we encountered some early administrative challenges at DHCD, due to newness of the program. We faced some problems in the initial lottery, but that was soon resolved through the creation of our own marketing program, with DHCD playing an active role in its review and approval. Our own IZ marketing program was critical in getting all of our IZ units leased.

While DHCD has made significant administrative improvements, there are still some improvements to be made. One such area is the timing of the publishing of the annual income levels. As an example, we recently had an issue with an IZ unit lease renewal, when the new income levels had not yet come out at the time of the Tenant's lease renewal notification requirement. The existing income levels were used as the test, and the resident did not qualify for the IZ unit (by only \$75), due to a raise he received earlier in the year. The disappointed resident provided his 60 day notice to vacate and when the new income levels were published right before his move out date, he discovered he would have been qualified. By that time, however, it was too late, and the incident resulted in the displacement of a qualified IZ resident. While it is unfortunate that this incident occurred, I am confident though, that DHCD will address gaps such as this, as more IZ experience is managed by all involved.

Overall, I would rate the program a success in terms of the impact on for-rent multifamily housing which we produced and will continue to produce. The IZ requirements are now an expected routine for multifamily housing development ;and, the significant pipeline of future projects will

yield a great number of Affordable Dwelling Units in keeping with its intended goals. Like much of Zoning Policy, it is a continual process meant to adapt to the changing landscape of our communities and their needs. At such time that IZ is in need of adjustments, I would encourage a balanced approach that incorporates a zero sum cost, achieved through adjustments in bonus density. Without such approach, the result would likely stifle new development, constrict supply, create increase pricing in market rate units, and thereby widening the gap between affordable and market rate units. I would also encourage some out of the box thinking to empower and benefit the non-profit affordable housing development community to create more meaningful affordability levels in the District through programs such as Planned Unit Developments.

In conclusion, while IZ has had some administrative hiccups in the for-rent multifamily housing market, it is now a predictable routine in our projects and it is producing affordable units. It is critical, that as IZ evolves, its predictability remains...one that is based on a sound principle of exchanging bonus density for affordability.

Thank you for your time and I'm happy to answer any question to the best of my ability.

Your truly,

David Franco
Principal
Level 2 Development
1875 Connecticut Ave, NW, 10th Floor
Washington, DC 20009

Council of the Whole
Public Roundtable on PR21-137
Sense of the Council in Support of Improving Inclusionary Zoning Resolution of 2015
Tuesday April 28, 2015

Good afternoon Chairman Mendelson and Council Members. It's a pleasure to appear before you this afternoon regarding Inclusionary Zoning, a program that I whole heartedly support. I am Leslie Steen, a long term resident of the District and a housing developer who has developed housing in the District since 1975 and government regulated, affordable housing since 1987.

While Inclusionary Zoning became effective at a very inopportune time, when the entire housing industry crashed causing the Great Recession, and projects were excluded based on grandfathering, it now has picked up steam. It is wonderful to see that the program was implemented in time so that as the DC housing market has recuperated and is producing more housing units in each year since 2010 (4,200 units in 2014) than at the peak prior to the Great Recession (2,860 units in 2005), we are benefiting with the inclusion of affordable units. Based on the production numbers, you could say that there is a correlation. With Inclusionary Zoning comes the corresponding economic inclusion - affordable housing within market rate projects across the city in economically strong, amenity rich locations. We have many rental housing units being produced today and as lenders agree to finance homeownership housing again and condo production gets going again, we will have affordable homeownership as well. We have 1,200 IZ units in the pipeline now. The program is basically sound.

To date, the program has created 116 permanently affordable rental and ownership units. While many IZ units are currently in the selection process, 62 of the rental units have been leased, along with 7 sold, and 2 are under sales contracts (out of 13 total ownership units).

While I am a great proponent of preservation of affordable housing, we need production. We need production in economically and amenity strong neighborhoods, which is almost impossible because of the cost land and the difficulty in controlling it for production.

Yes, this new program hits some bumps in the road at the start. As is typical of any new program, it has needed fine tuning, staffing to run it, and monitoring to ensure that it works well for everyone. Great improvements have occurred. The administrative structure has been put in place. Now the additional needed changes to the administrative regulation need to be finalized and implemented. Success is happening.

Inclusionary Zoning is a tool that can spread affordable housing across the city in a manner that our other programs do not and probably will never be able to do. Our other affordable housing programs concentrate affordable housing in certain parts of the city, exacerbating our economic divide and all the ills that come with it. The promise of affordable housing in neighborhoods that don't have any today is why I have been a supporter of this program. For

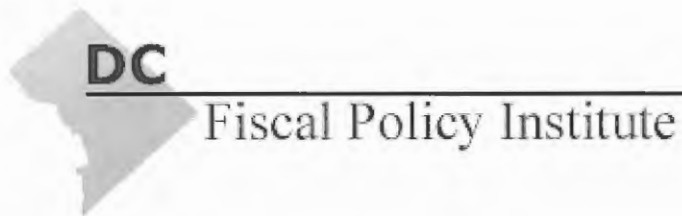
example, my neighborhood has no rental housing for low income housing tax credit eligible households, yet it has plenty of market rate rental housing. This is changing today thanks to one project on Connecticut Ave. that will produce 19 IZ units. Unfortunately, the other new project on Connecticut Ave. was started prior to the implementation of the program.

Now that the program is firmly in place, developers have certainty. They include the cost of IZ requirement and bonus density in their proforma and plan accordingly. I have been told by several other developers that the bonus density more than paid for the IZ units. I have not heard of any delays related to the planning and financing of their projects, and the delays associated with selling and renting units have been or are being cleared up with the administrative changes to the regulations. This is a great public policy. It exchanges extra density to pay for the below market rate units.

As more new housing is developed, we need to strengthen this program. The Urban Institute assessment report notes that we could take better advantage of some best practices from other programs. Inclusionary zoning is working and it can do more. However, given the precipitous loss of affordable housing, we need to retool the program to do more to address DC's housing needs.

I ask the Council to support the council resolution asking the Zoning Commission and Mayor to assess and change the IZ zoning regulations to:

- Serve more households at the 50% AMI affordability levels, (currently we are only getting less than 20%);
- Bring down the 80% AMI top tier of income targeting to something lower in the neighborhood of 60 or 70% of AMI;
- Examine how we could require a larger set aside, 10 or 12% of total units;
- Ensure that bonus density can be accessed by developers; and
- Provide additional bonus density to compensate developers for additional levels of affordability. This is the way we leverage zoning to pay for affordability.



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**TESTIMONY OF ED LAZERE, EXECUTIVE DIRECTOR
At the Roundtable on PR-21-137
Sense of the Council in Support of
Improving Inclusionary Zoning Resolution of 2015
District of Columbia Committee of the Whole
April 28, 2015**

Chairman Mendelson and other members of the Committee, thank you for the opportunity to testify today. My name is Ed Lazere, and I am the executive director of the DC Fiscal Policy Institute. DCFPI works to expand economic opportunity for DC residents and to reduce poverty through policy research and thoughtful budget and policy solutions.

I am here today to testify in support of this resolution on the District's Inclusionary Zoning program. I urge this committee to work with the Deputy Mayor for Planning and Economic Development to submit revisions to improve IZ in DC, through a text amendment to the Zoning Commission. The Commission has sought improvements to enable Inclusionary Zoning to create more affordable housing, and it would welcome a proposed text amendment from the Bowser administration.

Improving DC's Inclusionary Zoning program is an important way to expand affordable housing opportunities. Inclusionary Zoning helps ensure that new housing developments throughout DC include affordable homes for moderate-income residents. Under IZ, developers are allowed to build more housing in a given development than standard zoning laws would allow, in return for setting aside some of the housing as affordable. IZ thus works to create affordable housing without an investment of local tax dollars. Inclusionary Zoning produces mixed-income housing across the city and helps ensure that low- and moderate-income families benefit from growth in the city. Under DC's Inclusionary Zoning program, homes remain affordable for the life of the development.

The need for DC's Inclusionary Zoning program has grown since it was first adopted. The stock of low-cost housing in the city continues to decline, to the point where there is little or no low-cost private market housing. Housing prices are outpacing stagnant incomes for low- and moderate-income families. At the same time, DC's housing market is stronger, which increases the potential to use IZ to generate affordable housing. Rising housing values make the IZ density bonus more valuable to developers. A recent boom in development of housing in the District will create a steady stream of new IZ units.

Last fall, the Urban Institute released an [assessment](#) of DC's IZ program commissioned by DMPEd, which concluded that the design is "sound" and "has great potential to help expand the city's supply of affordable housing." The Urban Institute also made a number of recommendations, including targeting IZ-developed units to somewhat lower-income families.

The DC Fiscal Policy Institute supports the three key goals highlighted in the proposed resolution:

The “Sense of the Council in Support of Improving Inclusionary Zoning Resolution of 2015” urges the Mayor and Zoning Commission to act to accomplish the following objectives:

- increase the number of Inclusionary Zoning units produced overall;
- increase the number of units produced that are affordable for lower-income households;
- Set maximum rent, purchase price, and eligibility thresholds in a manner that ensures affordability for an adequate pool of applicants

Increase the Number of Inclusionary Zoning Units Produced: Currently, IZ requires that 8 percent to 10 percent of units in a new building should be set aside as affordable. We recommend changing that range to 10 percent to 12 percent. This could be accomplished by allowing developers to build slightly more densely – more units on a given piece of land -- than current IZ rules allow.

Increase the Number of Units Affordable for Lower-Income Households: Many IZ units are priced to be affordable at 80 percent of Area Median Income, or \$70,000 for a family of two. But in some areas this is close to the market rate. The Urban Institute recommends noted that some programs set an upper income limit of 70 percent of AMI for homeowner units. In addition, the original goal of DC’s IZ program was to produce a mix of units at 50 percent of AMI (\$45,000 for a family of two) and 80 percent of AMI, but most of the homes have been built at the higher income limit. IZ can be modified to achieve the original goal of units that serve a mix of lower-income and moderate-income families and individuals

Ensure Affordability for an Adequate Pool of Applicants: Under DC’s IZ program, the percentage of income permitted for housing expenses is calculated at 30 percent. This creates a very narrow margin of eligible households earning just enough to afford an IZ unit. Most surrounding jurisdictions with IZ programs utilize 25 percent, a ratio that permits a reasonable window of affordability below the maximum incomes permitted. This modest change will ensure that more DC households are eligible for IZ units. This change would make matching qualified and interested households to IZ units far easier.

We ask the DC Council to support this resolution to encourage Mayor Bowser to take steps to strengthen the role of IZ.

Thank you for the opportunity to testify.

Committee of the Whole

PR21-0137-Sense of Council in Support of Improving Inclusionary Zoning Resolution

Sarah Scruggs, Director of Advocacy and Outreach, Manna Inc.

April 28, 2015

Good afternoon, Chairman and Committee members. My name is Sarah Scruggs and I work for Manna, a nonprofit affordable housing developer, educator, and property manager with over 33 years of experience. I would like to thank Councilmember Silverman and her other co-introducers for putting forward this Sense of the Council to Improve the Inclusionary Zoning program. We all know the issue of housing affordability and opportunity in this city is at crisis levels. Inclusionary Zoning is one of many tools to address this important issue and I am pleased to speak today about ways the program needs to improve.

My comments today are informed by Manna's experience selling ADU units, educating households about resale restricted units, conducting large lotteries for ADU for-sale units in market-rate buildings, and helping ADU owners across the city work with the District government to face rising condo fees, strict rental restrictions, and resale issues.

Attached to my testimony you will find joint recommendations that Manna and the DC Association of Realtors constructed about the ownership side of the IZ program. These recommendations cover issues that developers, realtors, potential purchasers and homeowners are facing. Overall, simplicity, transparency, and understandability are called for, in addition to raising questions about rising condo fees for affordable condo owners and other issues that need to be researched in more depth. Addressing these concerns would be a huge step in the right direction, making the program more efficient and effective. DHCD has a more robust staff than ever before to support IZ and ADU owners, and they have been wonderfully responsive to ADU owner requests. However, they are constrained by current policy and regulations, which is one of the reasons we think today's hearing and the upcoming changes to IZ regulations are so important.

One thing not mentioned in the attached recommendations is what the structure of permanent resale restrictions means for low-to-moderate income households: the inability to ever take out an equity loan, the cap on equity appreciation, and the reality that these households, if they need to move, may never be able to afford another home in their current neighborhood or DC. These things greatly concern us and the ADU owners that we work with. These things change the nature of homeownership and put low-to-moderate income owners in a second-class category. In a society of an ever-growing wealth and opportunity gap, we would like to see a program that better prioritizes opportunity for low-to-moderate income households.

The Sense of the Council focuses on targeting lower affordability levels in the Inclusionary Zoning program. We applaud that goal and think it could more easily be accomplished through IZ rentals. On the ownership side of the IZ program, the impact of current regulations/restrictions on even lower-income owners is severe, specifically the lack of protection against escalating condo fees that make units unaffordable and the lack of equity access and opportunity for those who need it most and those who may not have many other wealth-building opportunities.

We applaud the District government and DHCD for continuing to refine the IZ regulations. We applaud the Council for wanting the IZ program to better address the city's affordable housing crisis but believe the ownership side of the IZ program needs more work. Thank you for the opportunity to testify.



To: *The Honorable Councilmember Anita Bonds*

From: *District of Columbia Association of REALTORS® (DCAR) & Manna, Inc.*

Re: *Improving the District of Columbia's Inclusionary Zoning Program - Ownership*

Date: *March 26, 2015*

Dear Councilmember Bonds,

This letter is on behalf of the District of Columbia Association of REALTORS® (DCAR) and Manna, Inc. DCAR serves as the state-level association representing more than 2,600 residential and commercial REALTORS®, property managers, title attorneys and other real estate professionals who are licensed in the District of Columbia. DCAR is also a voice for many homeowners, buyers, sellers, renters and landlords throughout the entire DC metro region. Manna, Inc. is a nonprofit affordable housing developer, educator, and property manager with over 33 years of experience. Manna has created over 1,000 homes for lower-income, first-time homebuyers and has helped many thousands more purchase homes. Our two organizations have a number of shared goals, including helping low and moderate income persons acquire quality housing, building assets for families through homeownership and creating healthy and vibrant communities.

DCAR and Manna believe the Inclusionary Zoning Program ("*IZ Program*") can be one of many affordable housing solutions for District residents, creating units that are sorely needed to face the District's affordable housing crisis. DCAR and Manna thank the Council for its interest in improving the IZ Program, as well as all of the DC government agencies that have a hand in administering the program and setting/changing regulation. Considering the past two Proposed Inclusionary Zoning Regulations ("*IZ Regulations*" or "*Regulations*") affect not only real estate professionals involved in Inclusionary Zoning transactions, but also the future homeowners they are providing services on behalf of, DCAR and Manna would like to offer a number of additional comments and recommendations based on extensive review and actual experiences with affordable homeownership in DC.

At the heart of our recommendations is the creation of homeownership opportunities for low-to-moderate income families that meet families' needs and help them grow economically. We particularly hope Councilmember Anita Bonds as Chairperson of the Council's Committee on Housing and Community Development will work with DCAR and Manna on collaborative solutions for improving the ownership side of the IZ program and ensuring the regulations move forward in a timely and efficient manner.

Overarching Recommendations

- Strive to make DC's IZ Regulations as simple and transparent as possible. Generally, if any of the Regulations are too onerous and burdensome for any of the involved parties, the value of the IZ program is compromised.
- Implement additional review and oversight from the Council, as it is a highly specialized affordable housing tool that needs to be examined specifically and judiciously. We believe that this would greatly benefit the IZ program.
- Annually gather the practical experiences of those who use the program or similar programs (like for-sale Affordable Dwelling Units) in order to make ongoing improvements.

Initial sales of IZ units

- The current Lottery Process is extremely burdensome for sales of IZ units and the minimal number of units actually sold through it is proof of it not functioning effectively. We **strongly** recommend: (1) the Regulations specifically indicate the Lottery process will be NOT be used for sales transactions for clarity, and (2) the difference between the Registration process and Lottery process be clarified.
- Marketing plans approved by DHCD should be the sole method for real estate professionals and developers helping to sell IZ units.
- Create a voluntary certification for REALTORS® in the IZ program to help identify buyers and ensure real estate professionals understand IZ sales transactions and the difference between IZ for-sale units and traditional homeownership. We suggest DHCD look into online options for such a course and allow REALTORS® to use this certification in their marketing.

Issue for IZ purchasers

- Provide homebuyer education that clearly explains the difference between IZ ownership and traditional ownership, including the resale process, inability to take out an equity loan, etc.
- Create a list of banks that will lend to those purchasing an IZ unit; as not all banks will provide mortgage financing for an IZ unit, this will speed up the sales process.
- Simplify the income verification process by requiring the same documentation that HPAP requires, or allowing the first-trust lender to verify income. The more streamlined the process is, the less likely there will be settlement delays.

Issues for IZ owners

- Simplify the resale formula. The algorithm in the current Regulations for Maximum Resale Price is entirely too complicated and nearly impossible for even the most experienced real estate professionals to understand or explain.
- Allow IZ owners to simply deed their property to anyone they choose. The "Sale by Heirs" section of the proposed IZ regulations is unclear and seems to indicate that any heirs must meet the income guidelines of the unit; we believe this provision will deter households from purchasing IZ units.
- Find adequate solutions to escalating condo fees and special assessments. This issue has plagued ADU owners living in market-rate buildings in DC, other jurisdictions with expensive housing markets and will also impact the IZ program.

- Revisit how improvements are calculated into resale value of an IZ unit. Current ADU owners are held to the same improvement guidelines and they should be surveyed to assess the guidelines' impact on owners' choice to maintain or upgrade their units. These are costs that will be passed along to the next buyer or the District.
- It is extremely important for DHCD to have the proper support to provide for the administration of the Inclusionary Zoning program. Until a solid foundation has been set for getting it working efficiently, DC should prioritize dedicated resources.
- DHCD could focus on outreach and education for helping the public understand the IZ program and how to use it. DCAR and Manna would be happy to participate in any such efforts.

In conclusion, DCAR and Manna are confident we share many of the same goals, as well as a commitment to the vitality of the citizens of the District of Columbia, as do our government officials. We would be glad to answer any questions and hope to continue working with all of the government entities charged with structuring and administering the IZ program in the future.

Thank you for your consideration of our views.

Sarah Scruggs
Manna, Inc.
Director of Advocacy & Outreach

Ed Wood
DCAR
2015 President

Suzanne Des Marais
GCAAR¹
2015 President

¹ The Greater Capital Area Association of REALTORS® (GCAAR) is DCAR's local-level REALTOR® Association representing nearly 9,000 REALTORS® in both DC & neighboring jurisdiction Montgomery County.

**Testimony on PR 21-137, Sense of the Council
In Support of Improving Inclusionary Zoning Resolution of 2015
Before Chairman Phil Mendelson, Committee of the Whole**

Council of the District of Columbia

April 28, 2015

By Sam Jewler

Jews United for Justice

Good afternoon and thank you Chairman Mendelson and the Committee of the Whole for the opportunity to testify today. My name is Sam Jewler, and I'm a community organizer with Jews United for Justice (JUFJ), a DC-based volunteer-driven organization that represents thousands of people in the local Jewish community who are working to improve life for all area residents. There's a great variety of ways the city can address affordable housing, and I appreciate the opportunity to testify today about one important piece – Inclusionary Zoning – which is starting to do its job, but could do it even better.

JUFJ was proud to be part of the coalition that won the original Inclusionary Zoning policy, and now that we see both the ways IZ works and how DC's affordable housing crisis continues to worsen, we feel the policy should be updated to do three things:

1. Increase the number of Inclusionary Zoning units produced overall;
2. Increase the number of units produced that are affordable for lower-income households;
3. Set maximum rent, purchase price, and eligibility thresholds in a manner that ensures affordability for an adequate pool of applicants.

When the original IZ program was created, the DC Council led the way with a resolution supporting the creation of the program and recommending its priorities for the Zoning Commission, which holds the main responsibility for this zoning-based program. Today, we are encouraging the Zoning Commission and Mayor to act to take a fresh look at the IZ program to ensure that we are making the most of this powerful tool. DC's IZ program requires that most new residential development set aside 8-10% of housing units to be affordable at 50% and 80% of AMI, but this is not enough. As the cost of living rises far faster than incomes, DC needs more affordable units at deeper levels of affordability.

While IZ is delivering more than a thousand below-market-rate homes to the market over the next several years, most IZ units will be affordable at the highest part of the income range, 80% of area median income (AMI), or \$70,000 for a household of two. Few IZ units are being offered in the lower range at 50% AMI level, or less than \$44,000 for a household of two.

DC has lost more than half of its affordable rental units in the past decade. In that time, some 40,000 people of color have left the city. One out of every four people left in DC spends more than half of their total income on rent and utilities. This widespread burden is unsustainable for Washingtonians and undermines the fabric of our city. Strengthening our Inclusionary Zoning program will help regrow the city's affordable housing stock as the city continues to develop, without requiring extra effort from legislators to ensure some level of affordability each time a new project is proposed.

There is no one-size-fits-all solution to the housing crisis; the city needs to invest in multiple housing programs that each meet the unique needs of DC residents and that are proven to be effective.

As Jews we do this work because we have known the pain and struggle of displacement. All Washingtonians deserve the dignity of being able to come home from work and raise a family in a livable space that doesn't consume the majority of their income.

JUFJ supports and stands in solidarity with the testimony of the Coalition for Smarter Growth and DC Fiscal Policy Institute. We want our city to remain diverse and affordable for all.

Thank you for the opportunity to testify.

Testimony on PR 21 – 137

Sense of the Council in Support of Improving Inclusionary Zoning Resolution of 2015

Before the Honorable Chairman Phil Mendelson and the Committee of the Whole Roundtable

By

Tad Baldwin, 3507 Morrison St., NW, Washington, DC 20015 (as private citizen)

Good afternoon, my name is Tad Baldwin, and I'm here to support the Council resolution urging the Zoning Commission and Mayor Bowser to strengthen our Inclusionary Zoning program. From my work experience with the MPDU program in neighboring Montgomery County, revisions to this fine program will need to be made often as market conditions change and experience dictates. A program that needs continual modifications is always open to improvements and kept up to date. The collaboration of helpful members of the local development community, program beneficiaries, local government, and the Zoning Commission is needed to periodically adjust DCIZ. Even the positive changes recommended in PR 21-37 may require further fine-tuning in the years to come. The program demands a highly qualified staff and the close cooperation of all the governmental agencies involved to make program changes without unreasonable delay. I believe the skills are here, if properly organized. I appreciate that the Mayor and Council have made affordable housing a top priority and believe that the recommended adjustments will increase the IZ program benefits.

It is a good thing that few projects were subject to IZ in its early years (due to many projects being already approved and the harsh recession) so that time was allowed for some improvements.

My personal involvement with IZ began with my job as Director of Development with the Montgomery County Housing Opportunities Commission (their housing/finance authority) from 1975 until 1983, just as their IZ program was beginning to produce units. I helped purchase approximately 500 IZ sale units for rental to low and moderate income households. The units were scattered all over the county, preserving their affordability at a time when the price control period was a short five years, extended in later years. The DC Zoning Commission was wise to start with price controls for both sale and rental geared to the life of the building. I returned to the county in 1991 as president of a new non-profit, Montgomery Housing Partnership, and before retiring in 2001 had purchased an additional 50 IZ units for rental to moderate income families, largely in the higher income areas of the county, focusing on increased economic, ethnic, and racial integration.

As a long-term resident of the District, I volunteered and worked with the technical committee of the Campaign for Mandatory Inclusionary Zoning for four years prior to the program enactment in 2006 and have continued my involvement with the DC Campaign for IZ. Some of our key suggestions were not taken and a series of changes were made to adjust to program to fit the DC environment. Note that production is increasing rapidly, with 1,200 units in the pipeline, which should mute the claim that IZ is retarding development.

I am very happy that I can see from my home the construction progress on 5333 Connecticut Avenue which will shortly provide 19 affordable IZ rental units, the first new construction affordable units in Ward 3 that I'm aware of since we moved here 44 years ago.

I firmly believe that the DC IZ program is lowest cost method to create affordable housing units in diverse locations. Key elements of the Council's Resolution PR 21-137 should help strengthen the program by making the changes noted in your background information and testimony:

Thank you for the opportunity to testify.

Public Hearing Testimony— April 28th, 2015
Sense of the Council Resolution in Support of Improving Inclusionary Zoning
Council of the District of Columbia’s Committee of the Whole
by Elinor Hart

My name is Elinor Hart. My advocacy for inclusionary zoning dates back to 2004 when the Campaign for Inclusionary Zoning began. I want to commend and thank the Committee of the Whole for holding this hearing. And I want to thank and commend the sponsors and cosponsors of PR21-137 for developing and submitting this resolution. I am in full agreement with the resolution. It is critical that all six of its objectives be accomplished so that inclusionary zoning can do more to address DC’s desperate affordable housing crisis.

And because it is critical that all of the objectives stated in the resolution be accomplished as soon as possible, I want to explicitly address the issue of urgency—an issue that does not seem to be recognized by those in the executive branch who are in charge of planning and economic development. I’m assuming that the Council will adopt PR21-137 in the very near future and soon after that, the Secretary of the Council will send the resolution to the Mayor, the Office of Planning, and the Zoning Commission. It is my hope that the Mayor, the Office of Planning and the Zoning Commission will also receive from this Committee and from the Committee on Housing and Community Development a request for a date certain by which the effort to consider modifications to DC’s Inclusionary Zoning Program will be underway and a timeline to provide an idea of when the process of updating inclusionary zoning will be completed.

Again, thanks to the Committee and to the sponsors and cosponsors of the resolution for giving the need to improve Inclusionary Zoning the attention it deserves.

Good afternoon.

My name is Steven Cook.

I am a Ward 5 resident.

I am a member of National City Christian Church at 5 Thomas Circle, NW, and active in the Washington Interfaith Network.

We at National City are committed to preserving and expanding affordable housing opportunities in the District as part of our ministry and are working with WIN and other churches in our neighborhood to identify opportunities to do this in our neighborhood.

Today, I am speaking on my own behalf.

I urge you to adopt the resolution in support of inclusionary zoning. We live in a city blessed with a newly vibrant housing market attracting newcomers attracted by opportunities and lifestyle the District offers.

However, this vibrancy has had the collateral effect of increasing rents and shrinking the supply of housing affordable to all the District's residents.

Inclusionary zoning is a valuable tool in maintaining the level of affordable housing. It ensures that affordable housing will continue to be supplied.

Inclusionary zoning is working. It requires developers to build affordable housing in exchange for allowing additional density at new projects.

Although it was implemented as the housing bubble burst and new construction came to a halt, inclusionary zoning is beginning to show results. As the housing market has revived, inclusionary zoning ensures that new affordable units will continue to become available. Now, 1200 affordable units are in the pipeline.

Inclusionary zoning also will ensure that those units will continue to be affordable as the affordability requirements continue to apply to those units.

There is room for improvement in the program. DHCD needs to finalize regulations that will allow for direct marketing of the affordable units by the developer.

But this program needs your support so that it can keep bringing more affordable housing to the market.

Thank you.

Steven Cook
201 Q St., NE, Apt. 3434
Washington, DC. 20002

Tanya Morris, ADU owner in Ward 1
Sense of Council in Support of Improving Inclusionary Zoning Resolution of 2015
Committee of the Whole Hearing
April 28, 2015

Good afternoon. Thank you Council members and thank you for the opportunity to speak with you today on behalf of affordable home ownership opportunities in the District of Columbia. I know the Council is trying to address the affordable housing problem in the city and improve the Inclusionary Zoning program. As an owner of a unit similar to IZ ownership units, I wanted to come out and testify today.

I am a resident of Ward 1 and I have been for 17 years. When I moved to Columbia Heights late in 1998, I was renting an apartment on 13th St. My landlord practically begged me to come see his newly renovated apartment because he wanted someone that he could trust not to destroy the property. Once I saw the apartment I was completely sold, not only on the apartment but with the neighborhood. Although there were many people who tried to persuade me not to move into what they considered a dangerous neighborhood with no convenient shopping to speak of and inadequate resources at best, I made up my mind to love Columbia Heights.

In 2005 I attended a town hall meeting with then Mayor, Anthony Williams and former Councilmember Jim Graham. In that meeting, community members were told that we had an opportunity become property owners in our neighborhood. This was exciting to me because by this time real estate in Columbia Heights was through the roof, rental properties were going away and I was very afraid that I would have to leave my community. In 2007 I purchased one of those units in the Kenyon Square condominiums and I'm happy to say that I only had to move a block away. At the time that I purchased my home, I was a single woman and this opportunity seemed right for me.

Soon after moving into my unit I married my husband and we took in an elderly friend of ours who is now 101 years old. Two years later we had a child and now there are three adults and a five year old living in a two bedroom condo. I worry that if we need to move, we will not make enough off the sale to buy something else, and we definitely will not be able to stay in Columbia Heights. A fellow ADU owner in my building has a one bedroom, got married, and has had to convert a closet into a nursery for her child.

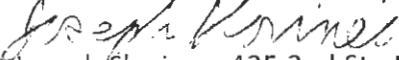
Today, I want to be sure that you understand the enormous burden placed on ADU owners when unreasonable resale restrictions are placed on their homes. I was unable to refinance my home because many banks don't want a restricted property. I am unable to access the equity in my home to make necessary repairs. Condo fees continue to rise and upkeep in your home is unavoidable, but for an ADU owner these two things can be a deal breaker. Owning a home in the District was like a dream come true, but I don't think it's really ownership if I never benefit from those things that really define it.

Thank you for the opportunity to testify today and I hope you take my situation into account as you think about how to improve the Inclusionary Zoning program.

From: jslovinec16@hotmail.com
To: clefevre@dccouncil.us
Subject: RE: April 28 hearing
Date: Mon, 27 Apr 2015 20:34:03 -0400

From: jslovinec16@hotmail.com
To: clefevre@dccouncil.us
Subject: April 28 hearing
Date: Thu, 23 Apr 2015 15:53:31 -0400

Elissa Silverman told me about the Committee on Whole Roundtable on Zoning on April 28 at 2 PM and I would like to testify yet please await a confirmation from me April 27.



Joseph Slovinc, 425 2nd St., N.W., Washington, D.C. 20001 Phone 393-1909

Resident of Community for Creative Nonviolence: I would like to talk about relating neighborhood economic development to zoning.

It seems to have good ideas yet in addition to calling for units for low-income residents, I would like to have more of a sense of economic responsibility to the neighborhood from the developers. I particularly want the Committee on the Whole, either here or elsewhere, to pay attention to the needs of the Community for Creative Nonviolence where I reside. Past hearings only paid attention to the desire of Committee on Human Services to construct a new building next to CCNV on the same lot: there was no progress on jobs programs for the many unemployed residents there in 2013-2014 and we only got notices on the wall of two nearby new jobs: Walmart and Shirley Construction.

I especially wanted to ask the Committee of the Whole to pay attention to:

Mayor Bowser's first meeting on jobs for the homeless in my neighborhood on April 12 when Professor Dan Kerr of American University interviewed several homeless including myself on past job histories and obstacles since I worked for Share Group, a past Obama campaign fundraiser which Massachusetts closed in June 2014, and how a program for the wealthy, Georgetown Project Management, got WIA funds yet was not tuned into helping me get a job and end my unemployment since 2010 with only \$262 in the bank and no income.

I wanted to tell Elissa I wrote a letter to Mayor Bowser to ask for inclusion in her LEAP Academy for a program on Documents Management: it is a new academy. I had not heard from you since Vincent Orange's hearing yet I had trouble with a new selection.

I e-mailed Phil Mendelson on overtures to former President Clinton on input on WIA, Chicago, and Tiernan Reilly's partners.

Send

Insert

Save draft

Jose



Joseph Slovinec

jslovinec16@hotmail.com

To

Cc

~~news@action.clintonfoundation.org~~

DCCNY COUNCIL
OMIT EMAIL
USE IT AS: CLINTON FOUNDATION

Bcc

pmendelson@dccouncil.us

To: Former President Clinton

Draft saved at 9:18 PM

B / U **Aa** **A²** **A**

To: Former President Clinton
cc: Phil Mendelson
From: Joe Slovinec

I would like to tell the D.C. City Council on April 28 I want to ask you to work on 3 special jobs for me: telling us about how we could use Workforce Investment Act policies to try to select new classes partially related to my WIA program, Georgetown Project Management where I did not find a job; discuss overlapping issues in my job search involving Mayor Emanuel of Chicago and Mayor Bowser; and help me work on choosing a partner group among organizations involved with ex-Obama campaign worker Tiernan Reilly who wrote a letter of reference for me and then moved to Dublin, Ireland.

I wanted to add more yet it is a busy week.

The City Can Reasonably Provide A Spectrum of Affordable Housing Units with the Objective to Protect and Grow DC's Economic and Cultural Diversity.

Here's How:

1) Redefine affordable housing

- 0-50% AMI = “Affordable Housing”
- 50-80% AMI = “Workforce Housing”

2) Require more affordability unit production in new and renovated buildings

- 15-20% of residential space in new/renovated buildings can be designated as IZ units across a spectrum of “Affordable Housing” AMI levels.
- 5-10% of residential space in new/renovated buildings can be designated as IZ units across a spectrum of “Workforce Housing” AMI levels.
- **Plus:** 25% of new commercial space shall be set as “affordable” for small businesses.

3) Require Family-size Housing Units

- Affordable and Workforce Housing production must include family-size units, consisting of three to six bedrooms to guarantee a diversity of housing types
- The glut of studios/one bedrooms currently considered “affordable” at \$1500/month, does not help build an inclusive City, and they aren't serving DC's vulnerable working families.

DC for Reasonable Development (DC4RD)
dc4reality@gmail.com // dc4reason.com // 202-810-2768

Testimony of: Samone Hoston
Hearing on Sense of the Council on Inclusionary Zoning
Committee of the Whole
April 28, 2015

Thank you for giving me the opportunity to testify today. My name is Samone Hoston and I am a resident of Ward 6. I am a 4th generation resident and employee of the District of Columbia. I am here because I support affordable housing and am glad to see the Council wanting to make affordable housing programs like Inclusionary Zoning better.

Before I was a condominium owner, I rented an apartment in Ward 7. I found out about my condo, which is an Affordable Dwelling Unit in a mixed-income building, and programs like HPAP/EAHP through a flyer that was mailed to my office. I am grateful for all of this assistance, which gave me the opportunity to purchase a condo in a location that I normally would not have been able to afford. One of my concerns however (as it relates to my ability to gain equity access in my condo), is the resale restrictions that are in place. I did not have a clear understanding of how these restrictions would affect refinancing and using my equity. My ADU is located in downtown DC. When I moved into my condo there were meters outside of my building enforcing paid parking between 9:00a.m. – 6:30p.m., Monday – Friday. Months later it was changed to 7:00a.m. – 10:00p.m. Monday – Saturday, with no residential parking. The residents spoke to Council Member Tommy Wells regarding residential parking. Mr. Wells informed us that due to store fronts on the lower level of our building, we were not able to have residential parking on our street. Because of this, I applied for an equity loan to purchase a parking space in my building. I was told by multiple lenders and eventually by my own bank, that they will not finance the loan because of the 20 year resale restrictions on my unit.

Even more importantly, my son started college a year ago. I have been paying the out of pocket tuition that is not covered in loans and grants. I assist as much as I can to help him through school but it bothers me that I cannot do more. I am a homeowner with neighbors whose homes they can leverage for many things, and here I am not able to assist my only son with college tuition and expenses to the level that he needs and that I had planned on doing. Not to mention that the condo board has raised our condo fees once a year, every year since the condo owners took ownership 5 years ago which has truly created a financial hardship for me and my son. I have been a responsible homeowner that started off with superb credit and have done everything that I am supposed to do to become a homeowner. However, to be denied the opportunity to access my own home's equity for something as slight as purchasing a parking space or as essential as putting my son through to college, not to mention the escalating condo fees is very infuriating. Although this is a great program that allows citizens the opportunities they normally wouldn't have when transitioning from renter to owner, it is crucial that the city ensures that the programs work well and that the resale restrictions placed on the units do not take away from what it means to be a true homeowner. Affordable housing is very important to me and I do not want to see others go through what I have experienced. We need housing programs that meets the needs of all District residents.

I thank you for your time and for the opportunity to testify today.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING**



Public Roundtable on
PR 21-137, Sense of the Council in Support of Improving Inclusionary Zoning
Resolution of 2015

Testimony of

Eric D. Shaw
Director

Before the
Committee of the Whole
Council of the District of Columbia

April 28, 2015, 2:00pm
Room 123
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, D.C. 20004



Good afternoon Chairman Mendelson, members, and staff of the Committee. I am Eric Shaw, Director of the Office of Planning (OP), and I am pleased to be here before you to discuss the District's Inclusionary Zoning Program. I would like to thank the Committee for holding this roundtable on one of the District's tools for creating more affordable housing.

Inclusionary Zoning (IZ) is a tool used around the country to typically provide moderate levels of affordable housing through land use and development controls. The District's program applies to most projects of 10 units or more of new construction and requires 8 to 12.5 percent of the project be affordable to households earning at or below 50 percent and 80 percent of the Area Median Income (AMI). These requirements vary based on the zoning, the type of construction, and the amount of bonus density the project achieves.

In 2005, in order to design the program and balance the affordability requirements with bonus density, OP worked extensively with the development community to understand the economics of their projects and the impacts that the affordability requirements would have on their development. OP's goal in 2005 was to ensure that IZ would not impede the District's burgeoning revitalization by trying to keep land values and developer return constant before and after IZ was applied. In 2007, the financial collapse occurred and IZ was delayed until 2009. In the six years prior to IZ's implementation, the District averaged 7 percent of the region's total production of new housing. In the six years since IZ was implemented in 2009, the District has averaged 15.3 percent of the region's production of housing.

Since IZ's inception, OP has worked closely with the Department of Consumer and Regulatory Affairs (DCRA) and Department of Housing and Community Development (DHCD) to actively track and monitor the Inclusionary Zoning Program's growth and productivity and identify any issues as the program grows. The program now includes 88 projects totaling 734



affordable IZ units that have filed applications and are in various stages of development. In addition, OP is tracking another 123 projects in various stages of predevelopment that have the potential of delivering another 1,940 units over the next several years for a total of over 2,600 affordable units through the IZ program. Included in these numbers are 42 projects subsidized by the District of Columbia that, while they are exempt from IZ administration, still have to provide approximately 640 long-term affordable units that will remain after the subsidy's affordable housing controls expire.

Of the 88 projects that have filed IZ applications, 63 received bonus density ranging from 9 percent and over the 20 percent permitted by IZ where overlays granted them more. Of the 25 projects that are not achieving bonus density, most were well below their base matter of right potential, indicating other factors affecting their sites' capacity. None of those projects sought out relief from the IZ regulations. To date IZ has delivered a total of 118 affordable units. Of the 105 rental units, 61 have been leased, and of the 13 for-sale units, 11 are sold or under contract.

The Zoning Commission established four types of development projects to which IZ should not apply. OP is currently tracking through various stages of development 68 projects that are exempt from IZ for one reason or another. These include:

- Timing: Grandfathered projects with development rights were granted prior to IZ (29 projects);
- Geography: Projects where there is no bonus density to give or the bonus would have been inconsistent with neighborhood character (27 projects); and
- Use: Projects where new construction produced fewer than 10 units or did not represent a 50 percent expansion (10 projects). The most notable of these is the residential component of the Washington Hilton on Connecticut Avenue.



In 2014, the Urban Institute completed a review of the District’s IZ program as part of a Housing Needs Assessment requested by the Office of the Deputy Mayor for Planning and Economic Development. The Urban Institute found that IZ does not target incomes where there is the greatest need, but the District’s IZ program targets household incomes comparable to other jurisdictions. Most programs listed in the review targeted between 60 and 70 percent of AMI while the District targeted both lower and higher incomes at 50 and 80 percent of AMI. However, the other programs did require slightly higher set-asides of at least 15 percent of units. The Urban Institute also found that the District’s balance between long-term affordability and asset development for low-income households is comparable to a number of jurisdictions across the country and saw “no reason why this policy could not be successful in DC.” Additionally, the Urban Institute noted the District may want to provide flexibility for units that go unleased or sold for a significant period of time and concluded that many of the steps taken by DHCD’s proposed Administrative Regulations should speed up the process of getting completed units leased or sold.

Despite the production in the pipeline, expectations for IZ have been high, and the need for affordable housing in the District is great. Many perceive that the program is under performing. However, when OP worked with the Zoning Commission to design the program, OP estimated in 2006 it would produce approximately 170 units per year or about 10 to 15 percent of the District’s total annual production of new affordable units. In fact, in FY14, 23 projects totaling 163 IZ units filed applications. FY15 could see as many as 30 or more projects file applications with a total of over 250 affordable IZ units. Most importantly, the program is delivering affordable housing in high-cost areas of the city such as Wisconsin and Connecticut



Avenues, Dupont Circle, U Street and Adams Morgan. OP believes IZ is therefore a key tool for fulfilling the District's vision of achieving and sustaining a diverse, vibrant and inclusive city.

With this said, the program can do better and OP is committed to working with the Zoning Commission and DHCD to improve the program. The key point is that any adjustments made to the Inclusionary Zoning program should follow a transparent and judicious process that includes stakeholders and thorough analyses so that the District can take into account the potential impacts and make informed decisions on how to make our Inclusionary Zoning Program a model for the country.

I just returned from the American Planning Association's annual conference in Seattle, Washington, and I can tell you from my conversations with other Planning Directors that many cities across the US are struggling with similar issues of affordable housing and maximizing IZ's potential. The main questions for IZ programs across the country are: should it achieve a few units at very low incomes or should it achieve a greater number of units for more moderate incomes and rely on other subsidies to serve the lower household incomes? We look forward to continuing to work with the Zoning Commission, DHCD, and the community to address these questions and identify ways to increase the program based on thoughtful analysis.

Thank you for the opportunity to testify today and I look forward to answering any questions the Committee may have.



District of Columbia City Council
Committee of the Whole
Public Roundtable on PR 21-137 – Improving Inclusionary Zoning
April 28, 2015

Testimony by:
Jim Campbell, Principal
Somerset Development Company

My name is Jim Campbell, principal and co-founder of Somerset Development Company, a private, for-profit developer based in Washington, DC, specializing in multifamily development. Somerset develops market rate housing, affordable housing and mixed-income housing. I have worked on inclusionary housing development and finance for over thirty years, in Boston, San Francisco and DC.

While there are procedural and administrative provisions of the program that can be improved, the economics of DC's Inclusionary Zoning program work. Access to capital is the primary factor for a developer to be able to proceed with a proposed development; and access to capital has not been impaired by IZ by any stretch of the imagination.

Before starting Somerset in 2000, I spent nine years managing the investment activity for two multi-billion real estate investment funds that invest pension capital. We placed approximately \$1 billion annually in real estate investments around the country, a large percentage of which was in multifamily. As an institutional investor we were agnostic with regards to local inclusionary zoning requirements. Simply, did the proposed project meet our financial benchmarks for making an investment decision: cash-on-cash return, internal rate of return on invested capital and investment multiple.

As a developer, we at Somerset are not agnostic regarding this issue because we want to structure deals that incorporate a mix of incomes. However, for our market transactions, our capital partners are still driven by meeting those benchmarks. We currently have two large,

very exciting projects in DC that incorporate a significant inclusionary component for low and moderate income – Portner Place on U Street and Channel Square in the Southwest Waterfront. While neither of these projects are directly covered by IZ, the financial analysis necessary to calibrate the amount of affordability that is supportable while still meeting those investor benchmarks is identical to the analysis under IZ.

DC's Inclusionary Zoning program is structured to achieve, to a large extent, a return neutral impact of the IZ requirements. The combination of the density bonus – which has to be analyzed in the context of marginal costs – and the natural market forces of land valuation keep DC's residential market driven by the basics of supply and demand without negative impact of the IZ requirements. Inclusionary zoning has not hindered the flow of capital responding to the current market demand for housing.

Certain improvements to the program that the Council, the Office of Planning and the Zoning Commission should consider include:

- Taking steps to ensure developers can utilize any density bonus;
- Consider reducing the target income level for rental units below 80% AMI, perhaps with a compensating increase in the density bonus;
- Consider having variation in the density bonus depending on location, since market rents relative to income-restricted rents significantly affect the value of the density bonus. OP could do a periodic review of median market rents compared to income targeted rents by neighborhood or other geographic area.
- Providing a provision for residents who are initially income qualified to remain in their unit even if their income goes up somewhat. The Low Income Housing Tax Credit Program could serve as a model, which allows a resident who is initially qualified to exceed the income limit in the future by up to 40% of the income limit. If the income goes up further, the resident is not displaced but that unit is considered market and the next available vacant unit must be rented to an income qualified tenant.

- Allow private landlords to directly market their IZ units to income qualified residents. Obviously a verification system would need to be in place.
- Look for ways to improve the review time for approval of the density bonus.
- Consider requiring condo fees to be based on relative value taking into account the income and restricted equity covenants.

Thank you for your consideration, and I urge the Council to support PR 21-137.

Testimony of Kirby Vining before the Council of the District of Columbia, Committee of the Whole, April 28, 2015, Testimony Supporting Council Passage of B21-0010, Amending the Surplussing Act of 1939.

I heartily support Council passage of B21-10 which would increase the force of the Surplussing Act to include cases where more than one property and community would be directly affected by the surplussing of District-owned property. This bill adds needed detail to cover the realities encountered in some cases of disposal of property and I applaud these efforts to alter legislation to cover these practical contingencies.

However, "methinks it protesteth too much." No changes to hearing legislation make any difference if the public voice at those hearings is ignored, as it was at the June 2013 McMillan public surplussing hearing or the November 2014 Roundtable on the McMillan surplussing. No legislation can prevent elected officials from discarding the public voice. So while this legislation is honorably intentioned, it masks the more serious problem of including the public voice. Why have such hearings at all if decisions have already been made? Thank you.

Kirby Vining
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Testimony of: Samone Hoston
Hearing on Sense of the Council on Inclusionary Zoning
Committee of the Whole
April 28, 2015

Thank you for giving me the opportunity to testify today. My name is Samone Hoston and I am a resident of Ward 6. I am a 4th generation resident and employee of the District of Columbia. I am here because I support affordable housing and am glad to see the Council wanting to make affordable housing programs like Inclusionary Zoning better.

Before I was a condominium owner, I rented an apartment in Ward 7. I found out about my condo, which is an Affordable Dwelling Unit in a mixed-income building, and programs like HPAP/EAHP through a flyer that was mailed to my office. I am grateful for all of this assistance, which gave me the opportunity to purchase a condo in a location that I normally would not have been able to afford. One of my concerns however (as it relates to my ability to gain equity access in my condo), is the resale restrictions that are in place. I did not have a clear understanding of how these restrictions would affect refinancing and using my equity. My ADU is located in downtown DC. When I moved into my condo there were meters outside of my building enforcing paid parking between 9:00a.m. – 6:30p.m., Monday – Friday. Months later it was changed to 7:00a.m. – 10:00p.m. Monday – Saturday, with no residential parking. The residents spoke to Council Member Tommy Wells regarding residential parking. Mr. Wells informed us that due to store fronts on the lower level of our building, we were not able to have residential parking on our street. Because of this, I applied for an equity loan to purchase a parking space in my building. I was told by multiple lenders and eventually by my own bank, that they will not finance the loan because of the 20 year resale restrictions on my unit.

Even more importantly, my son started college a year ago. I have been paying the out of pocket tuition that is not covered in loans and grants. I assist as much as I can to help him through school but it bothers me that I cannot do more. I am a homeowner with neighbors whose homes they can leverage for many things, and here I am not able to assist my only son with college tuition and expenses to the level that he needs and that I had planned on doing. Not to mention that the condo board has raised our condo fees once a year, every year since the condo owners took ownership 5 years ago which has truly created a financial hardship for me and my son. I have been a responsible homeowner that started off with superb credit and have done everything that I am supposed to do to become a homeowner. However, to be denied the opportunity to access my own home's equity for something as slight as purchasing a parking space or as essential as putting my son through to college, not to mention the escalating condo fees is very infuriating. Although this is a great program that allows citizens the opportunities they normally wouldn't have when transitioning from renter to owner, it is crucial that the city ensures that the programs work well and that the resale restrictions placed on the units do not take away from what it means to be a true homeowner. Affordable housing is very important to me and I do not want to see others go through what I have experienced. We need housing programs that meets the needs of all District residents.

I thank you for your time and for the opportunity to testify today.

Suzanne Des Marais, GRI, Associate Broker
President, Urban Square, LLC DBA 10 Square Real Estate
2015 President, Greater Capital Area Association of Realtors®
2011 President, District of Columbia Association of Realtors®

Written Testimony to Council of the District of Columbia
Committee of the Whole Public Round Table on
PR 21-137, Sense of the Council in Support of
Improving Inclusionary Zoning Resolution of 2015
28 April 2015

My name is Suzanne Des Marais. I am a Ward 5 home owner and resident, and a Ward 1 business owner. I have been a full time practicing real estate broker in the District of Columbia for over 14 years and have helped clients buy and/or sell real estate in all eight wards of DC.

I am the current President of the Greater Capital Area Association of Realtors® (GCAAR), a past president of the District of Columbia Association of Realtors® (DCAR), and a current member of the Housing Opportunities Committee for the National Association of Realtors® (NAR).

My team and I have represented developers in the settled sales of five of the total of eight inclusionary zoning (IZ) for sale units sold to date. We additionally have one IZ unit under contract, and a pipeline of units for sale delivering well into 2017.

I am here to express support for the overall goals of the DC IZ Program to provide affordable housing opportunities in new development, in exchange for bonus density.

I have personally attended four settlements for new home owners of inclusionary zoning units. In each case, owning a home, especially in the current competitive, fast paced, expensive DC housing market, was otherwise not a likely option. IZ truly provides an affordable housing opportunity.

Non-equity based benefits to moderate income purchasers of IZ units

- Psychological benefits of home ownership including sense of stability and vested interest in community
- Displacement prevention as neighborhoods becoming increasingly expensive to live in
- Stable housing costs and opportunity to develop savings

Recommendations from the point of sale

I believe this is a worthwhile program and that it can be made much more workable.

My role as a real estate broker is to coordinate the parties involved in a transaction. Inclusionary Zoning Units are the most complicated transaction that I have ever participated in. For each single transaction, my team acts as a bridge through the qualifying and then ultimately through the sales process, between policy and regulations (communication with the multiple city agencies that touch IZ), the developer, DCHousingSearch.org, the community based organizations (CBO) that qualify income, the first trust lender, the appraiser, the termite inspector, the Greater Washington Urban League (who administrates the second trust), the two home inspectors (as many as four inspections), the title company, and finally, the consumer.

I would like to stress that I have personally invested countless hours and made financial investment in my own staff to get these five units to closing. During the administrative regulations review process, I contributed to detailed comments regarding suggested improvements to the IZ process that have already been submitted. Policy goals aside, it is critical that our experiences on the hands on sales side, as well as those of the developers, and those who are knowledgeable on the rental side be incorporated into making this a less complicated and smoother process.

Conclusion

I will be the first person to tell you that administratively there are a lot of things to work out. However, since we are starting to actually settle units, I have to say that the IZ purchase program is beginning to work in terms of

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Written Testimony to Council of the District of Columbia
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administration. Start up has been slow and there have been many obstacles to smooth implementation, but I believe that we are on the way to providing more opportunities in DC for moderate income individuals and families to purchase homes.

Although focus tends to be on the limited number of units produced so far, we have relationships with several developers with numerous units preparing for delivery. We anticipate a significant increase in the for-sale IZ units coming on the market over the next few years.

In conclusion, I am here today to encourage the DC Council to vote for the resolution asking the Zoning Commission to look at ways to revise and strengthen the Inclusionary Zoning Program. I look forward to continuing to share our experiences on the sales transaction side to help improve the administration of the program.

7 **A PROPOSED RESOLUTION**
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10 PR 21-137
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13 **IN THE COUNCIL OF THE DISTRICT OF COLUMBIA**
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18 Resolution in support of amendments to the inclusionary zoning regulations, Chapter 26 of Title
19 11 of the District of Columbia Municipal Regulations, a program that requires new and
20 rehabilitated residential developments to include housing units permanently affordable to
21 low and moderate-income residents in exchange for permitting housing developers to
22 obtain additional zoning density as a matter of right.
23

24 **RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,** That this
25 resolution may be cited as the “Sense of the Council in Support of Improving Inclusionary
26 Zoning Resolution of 2015.”

27 **Sec 2. The Council finds that:**

28 (1) The District of Columbia housing and rental market is among the most expensive in
29 the country.

30 (2) Many of the District’s residents spend higher than 30 percent of their annual income
31 on housing costs.

32 (3) The Inclusionary Zoning (IZ) regulations in the District of Columbia are a critical
33 component of the city’s overall strategy to create and preserve affordable housing units. The
34 regulations require developers constructing new residential units to produce a certain number of
35 additional affordable units to be rented or sold at a price below market rate. The regulations
36 create two levels of affordability: 80 percent of Area Median Income (AMI) and 50 percent of
37 AMI. Prices are formulated so that an individual earning either 80 percent or 50 percent AMI
38 will spend between 38 to 41 percent of his or her annual income on housing. To ensure the
39 financial feasibility of these mandates, developers are provided with bonus density, enabling the
40 construction of an increased number of market-rate units above what the applicable zoning
41 regulations would otherwise permit.

42 (4) As of May 2014, 477 IZ units in 57 projects have been constructed, are under
43 construction, or are planned. Of these, 78 percent of the units are priced at the 80 percent AMI
44 level; the remaining 22 percent of units are priced at the 50 percent AMI level. According to
45 2013 data from the U.S. Census Bureau, the Washington, D.C. area had the highest median

46 income in the United States at \$90,149. AMI includes income data from Maryland and Virginia
47 residents, in addition to District residents.

48 (5) Many District residents earn below 80 percent AMI and are in need of affordable
49 housing options.

50 (6) To the extent that the IZ regulations can be revised so that developers are required to
51 produce more affordable units and at deeper affordability levels, the more effective a tool IZ will
52 be for the city. Such revision, however, must not be so great as to discourage, or make
53 financially unfeasible, future residential development plans.

54 (7) Construction of residential units is at an all-time high in the District. The sooner any
55 revision is made to the IZ regulations, the more impactful the revision will be.

56

57 Sec. 3. For these reasons, it is the sense of the Council that the Zoning Commission and the
58 Mayor must urgently revise the Inclusionary Zoning regulations, Chapter 26 of the zoning
59 regulations, to accomplish the following objectives:

60

61 (1) Increase the number of Inclusionary Zoning units produced overall;

62 (2) Increase the number of units produced that are affordable for lower income households;

63 (3) Set maximum rent, purchase price, and eligibility thresholds in a manner that ensures
64 affordability for an adequate pool of applicants;

65 (4) Achieve greater affordability by lowering the upper affordability limits for moderate
66 income households;

67 (5) Ensure that the zoning density bonus needed to support the cost of IZ units is available
68 and usable, by allowing greater flexibility, within the parameters of the Comprehensive Plan, and
69 offer additional bonus density as necessary to compensate for increased affordability;

70 (6) Clarify the intended role for qualified non-profits, the Mayor and the DC Housing
71 Authority in exercising the right of first refusal to purchase and then rent units to low income and
72 very low-income residents.

73

74 The Zoning Commission and the Mayor should act with care and thoroughness in their review of
75 the existing regulations, the market, and all possible alternatives, when determining the best
76 course of action to achieve these objectives.

77

78 Sec. 4. The Secretary to the Council of the District of Columbia shall transmit copies of this
79 resolution, upon its adoption, to the Mayor, the Office of Planning, and the Zoning Commission.

80

81 Sec. 5. This resolution shall take effect immediately.