

The Committee of 100

on the Federal City



May 3, 2023

Dear Chairman Mendelson:

The Committee of 100 on the Federal City submits these recommendations concerning the Mayor's proposed Budget Support Act (BSA) as well as the proposed budget for FY2024. While most of our recommendations have been submitted previously to various Council members and Committees, we hope the recommendations haven't been lost in the flurry of budget related activity over the last month. Further, as you will see, our comments address the shortage of funding for affordable housing. Consequently, we recommend that the priorities contained in the BSA and the overall budget be the subject of analysis by the Council Office of Racial Equity.

I. Budget Support Act

The Mayor's bill, introduced on March 31, proposes to revise many protections enacted by the Council. The proposed changes would weaken existing requirements for affordable housing, labor agreements, tenant rights and environmental building standards. These changes are buried in the 79-page bill. In general, we have been surprised at how little public attention the proposed BSA received this year (and in previous years), and how changes to existing law can be made without proceeding through regular order. We draw your attention to the following provisions.

A. Land Purchases for Affordable Housing (Title II, Subtitle A). This Subtitle would authorize the Mayor to purchase existing or proposed rental or ownership housing and to lease the land to a developer for an indeterminate period with a requirement that half of the proposed units (including existing units) be set aside for households with incomes of up to 80% MFI. This provision is problematic because it exempts the project from the provisions of the Public Land Surplus and Disposition Act, which requires more expansive affordability set asides that benefit households at up to 50% MFI. The proposal would also exempt projects from First Source requirements as well as requirements that rents absorb no more than 30 percent of income; public input and Council approval requirements are also waived. Another problem is that the proposal could lead to acquisition of rent controlled units and buildings for conversion to means-tested housing, creating no new housing and depriving those on fixed incomes who do not qualify for means-tested housing of lower-than-market-rate rental housing.

While we appreciate that the Housing Committee last week lowered the affordability set-aside and added notice requirements, we nevertheless recommend that the Council reject this provision and request that the Mayor ask the Chairman to introduce stand-alone legislation on her behalf to reconcile new land acquisition with other acquisition programs such as the Tenant Opportunity to Purchase Act (TOPA) and the District Opportunity to Purchase Act (DOPA), and

to make explicit the same income and labor requirements as the Public Land Surplus and Disposition Act.

B. Housing Production Trust Fund (Title II, Subtitle D). This Subtitle proposes a new definition of affordable dwelling unit (ADU) for households with incomes up to 120% MFI even though there are no affordable housing programs that subsidize rents at that income level. This new definition would open the door for the Housing Production Trust Fund to finance buying and selling both ADUs and IZ units. We fail to understand the policy justification for this proposal. The Council should reject this amendment and ask the Mayor to follow regular legislative order so that her proposal benefits from a thorough review and public hearing by the Housing Committee.

C. Downtown Housing (Title II, Subpart G). This Subtitle would expand the current tax abatement for housing downtown, reduce the affordability set aside, and exempt property owners from First Source requirements as well as the Tenant Opportunity to Purchase Act - for 15 years. In the existing market there is an economic incentive for owners to convert empty office buildings to housing. Thus, we question whether the tax abatement is needed. However, in any case, the tax benefit should be conditioned on compliance with the existing requirement that 15% of units be set aside for households at 60% MFI. The Mayor would lower the set-aside to 8 percent. Given the structure of downtown buildings, an 8% set-aside is what would be required under Inclusionary Zoning without any tax abatement. C100 has long argued that downtown residential developments should be subject to IZ. We appreciate that the Housing Committee last week retained current affordability requirements and added a requirement that some of the residences have three or more bedrooms and reduced the TOPA exemption to 10 years. Nonetheless, we recommend that this provision be closely reviewed. It makes no sense to us that the Council would tolerate the Zoning Commission's refusal to extend IZ to downtown and compensate by reducing public revenues through a tax abatement program that would achieve the same percentage of affordable housing units.

D. Building Energy Performance Standards (Title VI, Subtitle E). Despite the worsening climate crisis, the Mayor proposes pausing implementation of the Building Energy Performance Standards (BEPS) for 3 years. Further, the Mayor has proposed rescinding unspent federal funds that DC had committed to helping buildings serving low-income residents improve their efficiency and comply with BEPS. We point out that under existing law, building owners can ask for a hardship waiver. These changes should be eliminated from the BSA. DC has been a leader in addressing climate change. The Mayor's proposal, if accepted, would be a step backwards.

II. Overall Housing Budget

We recognize that budget trends point to the need for fiscal restraint. With growth slowing and the exhaustion of COVID funds, tough decisions must be made. However, the shortage of affordable housing may be the most serious problem facing DC and the region. As the Council makes tough decisions within tight budget constraints, we recommend restraint in cutting needed housing programs, including the two described below.

A. The Mayor proposes \$8M for the Emergency Rental Assistance Program (ERAP), down from \$43M this year. A 9% increase in rent, even for rent-stabilized apartments, and an unstable job market all but guarantee that the number of residents facing eviction, housing instability, and homelessness will grow. The need for greatly increased funding is self-evident.

B. By our estimates, the Housing Production Trust Fund (HPTF) should receive \$220 million in new money, as half of all tax revenues the City collects above projections are to be moved into the HPTF. Instead, the mayor's budget proposes \$100 million, down from \$500 million this year. Affordable housing developers say the reduction in funding will halt production of many TOPA, rehabilitation and new construction projects that are lined up and ready to go, wasting both time and money through delay.

C. The Mayor proposes increasing funding for the Housing in Downtown tax abatement program from \$6.8M to \$41M in FY 2028. We question whether this is the best expenditure of public funds, particularly since it is questionable whether significant amounts of affordable housing will be built. Is a tax incentive 5 years into the future likely to jump start the downtown comeback? And do we want to build a new downtown neighborhood premised on no families and no inclusion of lower income households, including Black and Brown residents?

As noted at the outset, because of its impact on affordable housing, we recommend that the priorities contained in the BSA and the overall budget be the subject of analysis by the Council Office of Racial Equity.

Thank you for your attention to these critical issues.

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