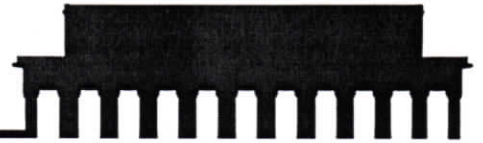


The Committee of 100 on the Federal City



www.committeeof100.net

October 1, 2017

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Evelyn Wrin

945 G Street, N.W.

Washington, D.C. 20001

202.681.0225

info@committeeof100.net

Mr. Danilo Pelletiere
Housing Development/Policy Advisor
Department of Housing and Community Development
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020

Re: Comments on “Inclusionary Zoning Implementation” Notice of Emergency and Proposed Rulemaking

Dear Mr. Pelletiere:

On September 1, 2017, the Department of Housing and Community Development issued a Notice of Emergency and Proposed Rulemaking of amendments to Chapter 22, entitled “Inclusionary Zoning Implementation”, of Title 14 (Housing) of the District of Columbia Municipal Regulations. We are writing on behalf of the Committee of 100 on the Federal City to offer comments on the proposal.

We commend DHCD for acting swiftly to issue this proposal. The Inclusionary Zoning program is an important tool for creating much needed affordable housing in the District of Columbia. In turn, implementation regulations governing the process and prerequisites for obtaining building permits and certificates of occupancy for Inclusionary Developments, the process for selecting eligible households and the responsibilities of IZ owners and tenants are critical for assuring the smooth operation of an effective IZ program.

In general, the Committee of 100 believes DHCD’s proposal does a good job of addressing recent Zoning Commission changes to the IZ program as well as incorporating additional streamlining and flexibility into the program’s implementation without compromising its integrity or effectiveness.

We do, however, have concerns about changes DHCD is proposing to the housing cost limitations currently found in Section 2213.5 (f) and (g) of the existing Inclusionary Zoning Implementation regulations. In particular, the Committee of 100 is concerned about DHCD’s proposed changes to allow IZ households to spend as high as 50% of annual income on housing costs.

Under DHCD’s existing Inclusionary Zoning Implementation regulations, IZ households are prohibited from spending more than 38% (for rentals) or 41%

(for purchases) of annual income on housing costs. To be eligible to rent or purchase an Inclusionary Unit, existing Section 2213.5 requires a Certification of Income, Affordability, and Housing Size that, among other things, certifies:

(f) For a For Sale Inclusionary Unit, that the Household will not expend more than forty-one percent (41%) of its Annual Income on mortgage payments, insurance, taxes, and condominium and homeowner association fees for the applicable Inclusionary Unit;

(g) For a Rental Inclusionary Unit, that the Household will not expend more than thirty-eight (38%) of its Annual Income on rent and utilities if not included in the rent for the applicable Inclusionary Unit.

DHCD's proposal revises these existing housing cost limitations: Existing 41% and 38% limits are changed to recommendations and a new limit of no more than 50% of Annual Income replaces them. Proposed Section 2214.3 requires a Certification of Income, Affordability, and Housing Size that, among other things, certifies:

(e) For a For Sale Inclusionary Unit, that the Household has been advised of the recommendation from DHCD that it should not expend more than forty-one percent (41%) and confirms that it will not expend more than fifty percent (50%) of its Annual Income on mortgage payments, Insurance, real property taxes, Utilities and condominium and homeowner association fees for the applicable Inclusionary Unit;

(f) For a Rental Inclusionary Unit, that the Household has been advised of the recommendation from DHCD that it should not expend more than thirty-eight percent (38%) and confirms that it will not expend more than fifty percent (50%) of its Annual Income on rent and Utilities

The Committee of 100 is concerned that raising the housing cost limit to as high as 50% of annual income could impose an undue and unsustainable financial burden on many IZ households.

As households set aside an increasing share of their earnings for housing, they have less available to pay for health care, transportation, food and other basic needs. Generally accepted housing policy since the 1980's recognizes that a household budget is burdened when housing costs are more than 30% of household income. To limit the financial strain on families and individuals, most housing subsidy programs such as public housing, Housing Choice Vouchers, and Low Income Housing Tax Credits attempt to limit housing costs so they do not exceed 30% of income.

Since its inception, the District of Columbia's Inclusionary Zoning program has incorporated housing cost limitations in the program. The maximum IZ rent and purchase prices take into account an ability to pay 30% of annual income toward the housing cost. Our understanding is that DHCD is neither proposing nor planning a change to this approach.

The change DHCD is proposing is a change to the certifications required to verify IZ household eligibility. Though there are currently over 10,000 households on the IZ registration list, it is our understanding that the goal of the proposed change is to expand the scope of who can qualify for IZ and thereby expand the

pool of eligible IZ households and the likelihood of successful IZ occupancy. The Committee of 100 believes an alternative exists that doesn't result in increased financial stress on low-income IZ households: Inclusionary Development Owners have the option of lowering rents or prices to ensure occupancy. DHCD's Inclusionary Zoning Maximum Income, Rent and Purchase Price Schedules repeatedly make clear that this is permitted under the program stating: "An Inclusionary Development Owner may lower the rents or prices to achieve a larger marketing band of income for marketing purposes to ensure occupancy.") If successful occupancy is a problem, we believe this is a more appropriate way of dealing with it.

For the reasons stated above, the Committee of 100 believes DHCD's proposed changes to the IZ housing cost limitations are ill-advised. We urge DHCD to retain the housing cost limitations currently found in Section 2213.5 (f) and (g) of DHCD's existing Inclusionary Zoning Implementation regulations.

Finally, the Committee of 100 wishes to note that DHCD's proposed amendments to the Inclusionary Zoning Implementation regulations do not address the Mayor or District of Columbia Housing Authority's right to purchase inclusionary units. This authority permits the Mayor and DCHA to intervene and preserve and expand affordable housing opportunities if the IZ market experiences difficulties. DHCD has indicated that implementing this authority will be addressed in proposed District Opportunity to Purchase Act (DOPA) regulations to be issued this fall. We look forward to the issuance of those draft regulations and stand ready to assist in any way we can.

Thank you for the opportunity to comment. If you have any questions, please contact Caroline Petti at (202) 529-0953 or carolinepetti@yahoo.com.

Sincerely,

Stephen A. Hansen, Chair
Committee of 100

Kirby Vining, Chair
Subcommittee on Housing

Caroline Petti, Member
Subcommittee on Housing