

The Committee of 100

on the Federal City



Performance Oversight Hearing of the Department of Housing and Community Development

DC Council Committee on Housing

February 14, 2024

DHCD is administering substantial federal and local funds, and its mission is among the most critical in providing and ensuring housing for the most vulnerable DC residents and families. With the substantial local and federal investment in housing programs, it is crucial that the Council and the public know basic information about who is being served. Each of the housing programs have targeted groups and individuals and we have assumptions about the age, race, gender, family status and ethnicity of who is being served but very little actual data. DHCD needs to bring us all up to date on the reach and results of their programs and include disaggregated data on who is benefitting.

Last year DHCD spent approximately \$37M in Department of Housing and Urban Development (HUD) funds as compared to over \$140M from the locally funded Housing Production Trust Fund. HUD requires DHCD to provide information on the racial and ethnic composition of families assisted with federal funds. For example, DHCD provided information about the beneficiaries of federally funded programs, including the number of persons in a household broken down by adults and children, the gender of beneficiaries of all HUD funded programs, and the age of beneficiaries. Are we getting the same information about beneficiaries of HPTF funded projects?

We know we aren't getting that level of information for the Inclusionary Zoning (IZ) program, which DHCD administers, because DHCD responded to the committee's FY22 question asking for the ward, age, gender, race/ethnicity, language, and household size with a curt "we don't track." In a follow-up to the committee, DHCD stated IZ is based on income and household size and that age, gender, race, and ethnicity are not asked due to federal Fair Housing anti-discrimination laws. And yet, HUD asked and received the same breakdowns for its programs based on income in the FY23 Consolidated Annual Performance Evaluation Report (CAPER). It

should be noted that the CAPER includes a Fair Housing analysis so it cannot be said that somehow HUD is unaware of the legal sufficiency of the information it seeks.

We ask the committee to demand that DHCD make it an urgent priority to collect and provide quarterly the IZ data it currently isn't collecting and to ensure that all housing programs incorporate these essential categories of information. The demographic data on IZ could reveal whether beneficiaries are the population most in need of IZ units and whether legislative and regulatory changes are warranted. The data is also important for racial equity analyses that the Council has mandated be considered in land use cases before the Zoning Commission.

We also urge the committee to ask DHCD about some of its responses to the FY23 CAPER Fair Housing Analysis of Impediments Update. This report is in response to HUD's 2011 Analysis of DC impediments to Fair Housing Choice (AI). In response to the HUD finding that DC has a pattern of segregated housing, DHCD states that it addressed the issue through Requests for Proposals (RFP) for the use of federal and local funds and the implementation of several local laws providing affordable housing. Specifically, DHCD cited the award of more points after an RFP for projects in high opportunity areas that are high need affordable housing areas. But there is no information whether this is an adequate incentive to reap a result. How many project applicants were from these incentivized areas and how many were funded? Since DHCD uses the RFP format as evidence of desegregating the city, what is the racial composition of the tenants who live in the funded projects and what is the racial composition of the areas where the funded projects are located? Is it justified that DHCD is citing the RFP process as leading to desegregated housing?

DHCD also cited the District Opportunity to Purchase Act (DOPA) as addressing the segregated housing finding, but last year in response to Question 118 from the committee, DHCD stated that the "District has not exercised its rights under DOPA."

Another program cited as addressing housing segregation is the Property Acquisition and Disposition Division (PADD). This division has been budgeted between \$1.1M and \$1.5M for the last four fiscal years, its staff cut in half, and has reported only one acquisition in 2021.

We question why DHCD is offering these programs as examples of its attack on segregated housing. We have attached our full comments to DHCD about its draft report on Fair Housing Impediments. C100 addressed three impediments where we found DHCD's explanations incomplete, and in some instances misleading. C100 appreciates the complexity of housing programs administered by DHCD, but with its high-profile mandate and its enormous funding the public needs consistent detailed data on DHCD's beneficiaries to determine if program purposes are indeed being met.

Nancy MacWood, Vice Chair, Committee of 100 on the Federal City

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February 1, 2024

Committee of 100 on the Federal City Comment on
DHCD Draft 2023 CAPER Fair Housing Analysis of Impediments

The Committee of 100 on the Federal City (C100) is commenting on the DC Department of Housing and Community Development (DHCD) 2023 CAPER Fair Housing Analysis of Impediments Update prior to DHCD submitting the document to the Housing and Urban Affairs Department (HUD). The DHCD analysis responds to the 2011 Analysis of Impediments to Fair Housing Choice (AI). DHCD summarizes each impediment in the CAPER and presents how policy, funding, and regulatory changes address the finding and move productively to promote housing choice, racially and economically integrated neighborhoods, and to accommodate a diverse population.

The C100 has chosen a few impediments that are key to fair and equitable housing and that are profoundly influenced by public policy, law, and regulatory implementation. We urge DHCD to further update the CAPER based on our suggestions before submitting the document to HUD.

Impediment #1 finds that DC has a pattern of segregated housing. DHCD states that it has addressed this issue through **Requests for Proposals (RFP)** for the use of federal and local funds and the implementation of several local laws providing affordable housing.

While the Consolidated Request for Proposals for Affordable Housing Projects updated August 15, 2023 awards the most potential points – 25 – to projects located in high opportunity areas that are also high need affordable housing areas (Near Northwest, Rock Creek West, and Capitol Hill), it awards the second most potential points -15- to projects located in four other areas where the Black resident population declined and the White resident population substantially increased between 2000-2017. One of these areas, Central Washington, is exempt from Inclusionary Zoning requirements except on limited blocks and another, the Waterfront area, is a high cost redeveloped and redeveloping area. There is no explanation for why DHCD is incentivizing these four areas and whether the incentive for

projects in Near Northwest, Rock Creek West, and Capitol Hill would have more positive results if the other areas were not so competitive. Since DHCD states that this incentive is maximizing the impact of DHCD resources and DHCD is citing the changes to the RFP as addressing segregated housing it would be useful for DHCD to list how many of the total proposal applicants were from each incentivized area and how many were funded. DHCD should also state the racial composition of tenants at developments funded for the purpose of achieving desegregated housing. The RFP alone seems to have no relationship to the goal of desegregation.

DHCD should provide more context for how the **District Opportunity to Purchase Act (DOPA)** has helped to desegregate housing in the District. This program authorizes the mayor to purchase housing units in buildings where at least 25% of the units are affordable. It was created in 2008 but regulations were not finalized until 2018. C100 is unaware that DHCD has purchased any affordable units although it has been notified of many opportunities where tenants are unable to exercise their TOPA rights when buildings are marketed for sale. DHCD should clarify for HUD how DOPA has been implemented, if indeed it has. Otherwise, this program should not be listed as furthering desegregation.

DHCD should also provide information on how the **Property Acquisition and Disposition Division (PADD)** is actively addressing a pattern of segregated housing in the District. The annual funding for this program has effectively remained unchanged at \$1.5 million for several fiscal years while the staff has been cut in half. C100 urges DHCD to explain how this program is addressing Impediment #1.

Another law that DHCD cites as addressing segregated housing is the **Public Property Surplus and Disposition Act**, which is administered by the Deputy Mayor for Planning and Economic Development (DMPED). The law requires an affordable housing set aside of 30% when developments on disposed public land are near Metrorail Stations. There are exemptions in the law that authorize the mayor to waive the affordable housing requirement and contract for less affordable housing. While any affordable housing is good, opportunities to address known deficiencies in furthering fair housing should not be weakened. C100 notes that the Office of Planning, which is under DMPED, recently included in a rezoning request of public land a provision for substantially less affordable housing than the required 30% per the applicable law. OP gave no reason for backtracking on the requirement other than efficiency. It is important that these lost opportunities and lack of consistency be explained by DHCD when it cites laws, such as the Public Property Surplus and Disposition Act, as effective ways the District is creating opportunities to address segregated housing patterns. DHCD told the DC Council last year that it does not keep records of the race or gender of affordable housing program participants so C100 questions how DHCD can assert that it is addressing segregated housing through this program.

The **Inclusionary Zoning (IZ)** program is cited by DHCD as another program that creates affordable housing and contributes to housing access for low-income residents. This

program was implemented in 2008. It's produced 2,376 affordable units for residents with incomes between 60-80% of the median family income (MFI) for the DC region. The MFI for the region, \$152,000, is substantially higher than the Black household median income in the District, which is \$54,401. Even 60% of the regional MFI, which is the current IZ maximum income eligibility standard, is an unattainable income threshold for most DC Black households. It is reasonable to ask DHCD to document how many Black households have benefitted from IZ when DHCD is citing this program as addressing housing segregation patterns. Has IZ changed this pattern? Again, we don't know if DHCD refuses to collect data on race.

Impediment #4 finds that the high cost of housing in DC creates a barrier to housing choice. DHCD states that it has addressed this impediment through investments of the **Housing Production Trust Fund (HPTF)**, which has gap financed 11, 214 affordable housing units for residents at 80% MFI or below.

C100 is concerned that DHCD is not accurately presenting the mandate of HPTF and the reality that the program has not produced as much deeply subsidized housing as required. Even when the required percentage of funded units by income range was more equal, DHCD was overwhelming funding units at the 80% MFI range. Since the Council amended the law to require 50% of HPTF allocations for extremely low-income, 30% MFI, household housing, DHCD has not complied.

The need for housing that is affordable is not limited to households considered extremely low income, the impact of supply and demand, however, is most acute at this income level. It is imperative that DHCD use public funds, local and federal, to produce the supply that is not being produced on the private market. DHCD should explain in more detail how it is using the HPTF to expand housing choice for extremely low-income households per its statutory mandate.

Impediment #5 finds that 12,000 housing units were exempt from IZ requirements because they were in the pipeline prior to the finalization of IZ regulations, but many are still benefiting from the exemption despite asking and receiving extensions due to not being shovel-ready. DHCD does not address this situation or the support from the Office of Planning for these extensions. Instead DHCD reports on how many IZ units have been produced and that the income eligibility for rental units has been lowered to better address the reality of the housing affordability crisis in the District.

C100 believes it is insupportable to extend IZ exemptions based on applications filed prior to the finalization of the regulations over 15 years ago. All these exemptions should be nullified. Whether these "pipeline" projects will be built is questionable and thus, whether removing the exemptions will result in more affordable housing is uncertain. A more predictable outcome would result from the Office of Planning and DHCD supporting the removal of statutory exemptions from the program. Most of the downtown zones are exempt from IZ even as the geographic boundaries of downtown have expanded enormously. The mayor has

unveiled an ambitious plan to revitalize downtown with major new housing projects and the transformation of vacant office space into housing. The projected new residents would more than triple the downtown population, yet the Office of Planning is resisting calls to include IZ affordable housing requirements in the plan.

The downtown area, known as Central Washington, saw a substantial population increase from 2000 to 2017 that accompanied a steep decline in the Black population. With no requirement for affordable housing for low-income DC households, who are predominately Black residents, the demographics of the area will surely continue to trend White. Financial incentives may be conditioned on some affordable housing but the opportunity to ensure that every project includes affordable housing will be lost and the prospect of less housing choice and another segregated neighborhood, perhaps the largest neighborhood in DC, will be likely.

In conclusion, C100 urges DHCD to provide relevant data that demonstrates that its programs are reaching the Black community and other protected classes. The DHCD report should be results-oriented and provide a deeper dive into who benefits from the cited programs.

Submitted by,

Nancy MacWood, Vice Chair, Committee of 100 on the Federal City