



Inclusionary Housing Forum Report

August 2016



CPHA would like to thank Beyond the Boundaries for making this forum possible.

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Background

Citizens Planning & Housing Association (CPHA) held a forum on Baltimore City's inclusionary housing ordinance on July 22, 2016. The purpose of this event was to outline the challenges of producing inclusionary housing in general, how the current ordinance works, and to discuss potential improvements. This document is a summary of the forum and it also provides recommendations and further reading for moving forward.

Inclusionary housing is a practice that mandates developers reserve a certain percentage of all residential units for affordable housing under certain conditions set by a local government. The purpose is to create economically integrated communities and to produce affordable units that would not otherwise be constructed.

Baltimore's current inclusionary housing law was passed in 2007 partly due to the advocacy of CPHA and other stakeholders, including housing advocates, unions, and developers. However, the law has only produced approximately 37 units in the nine years of its existence. Meanwhile, rents continue to rise around the city while income remains stagnant. Currently about 55% of all renters in the city are paying more than 30% of their income in rent and are therefore classified as housing cost-burdened¹. At the same time, development continues to boom in some parts of the city and many are asking questions about who it is that benefits from these developments, many of which are publicly subsidized.

Forum

Our panel was moderated by CPHA board member and WBAL TV reporter Jayne Miller. The panel consisted of:

- Councilman Bill Henry
- Audrey McFarlane, Professor, University of Baltimore School of Law and CPHA Board Member
- Mel Freeman, Chair of Baltimore City's Inclusionary Housing Board
- Patrick Maier, Exec. Dir., Innovative Housing Institute
- Doug Schmidt, Workshop Development and Baltimore Developers Workgroup

¹ http://public.tableau.com/shared/56DXJZ4H3?:display_count=yes&:showVizHome=no

The panel began with a presentation by Ms. McFarlane on inclusionary housing in general and how the city's current inclusionary housing law functions. Her presentation can be [viewed here](#).

Councilman Henry explained that Baltimore's current inclusionary housing ordinance has produced very few units because a provision in the law designed to hold the developers financially harmless has been interpreted to mean that developers must be paid cash from the inclusionary housing offset fund if the affordable units are to be built. If there is no money in the fund, then the city issues a waiver, and the units are not constructed. This has occurred often over the life of the ordinance, including with a recent and very visible project: Port Covington. However, it should be noted that the developers in this case are currently working out a voluntary inclusionary housing provision along with other community amenities, although many community advocates feel this is not adequate.

Mr. Maier stated Baltimore's approach to inclusionary housing is different from that of any other city in the country. In most other cities with inclusionary housing laws it is mandated for developers to include affordable units and there is no hold harmless provision. In order to offset the cost for constructing these units, developers are allowed incentives such as density bonuses, that allow developers to construct more units than are otherwise allowed under the current zoning. Mr. Maier also noted that the city needs to recognize the economic value of non-cash incentives such as a rezoning and factor them into the discussion on inclusionary housing. He said that in addition to removing the hold harmless provision, the city should also tailor the ordinance to account for the reality that some housing markets in the city are stronger than others.

Jayne Miller asked about the the waiver exempting the Port Covington project from the inclusionary housing requirement. To answer the question, Councilman Henry explained how expensive it is to produce an inclusionary housing unit using the example of how the ordinance worked in one specific project, Mill #1. That project produced 5 affordable housing units at 85% of Area Median Income (AMI) at a cost of \$90,000 per unit. These were one bedroom units. The discussion that followed this point touched on the expense of these units, that few were built, and that the cost would look different in different parts of the City. For example, Councilman Henry mentioned that building 5 units at 85% of AMI would be lower in the Waverly neighborhood for example. In discussing the affordable housing units that have been built per the ordinance, Mr. Freeman mentioned that the few units that have been constructed have been at at 80-85% of AMI.

Mel Freeman said the ordinance isn't working, Schmidt agreed, but said the City needs to fund the affordable housing that the ordinance would require. Freeman said it should be a mandate for

the developers to provide affordable housing. Councilman Henry suggested that the ordinance should be tied to the zoning code, but he also said the code is already permissive, making it difficult to realistically provide many density bonuses.

Mr. Schmidt noted that Baltimore can be a difficult place to do development in part due to its high property tax rate. If an affordable housing requirement were to be put in place, many of these developments would not be possible. Ms. McFarlane responded by noting that Baltimore too often sells itself short and needs to realize it may not be as weak a market as it is perceived. She recommended there be further research and discussion into this matter. Patrick Maier mentioned how zoning changes for developments should help offset the cost of providing affordable housing, especially in stronger market areas.

A question from the audience was about the City's weak real estate market. Schmidt responded by listing several hurdles to development in the City including a low level of an assessable tax base, regulatory issues, many tax exempt properties, and related issues. He also talked about how new development provides benefits to the City even when it receives incentives. He cited an example a project where he developed a former paint factory. Due to incentives provided by the City he cleaned up toxic chemicals at the site, paid a transfer tax and other taxes, and provided more jobs than had previously existed.

A question from the audience was about how the City seems to automatically give a waiver from the Inclusionary Housing Ordinance because there isn't any money in the housing fund established by the ordinance. While this has been the case for a long time, it received a lot of attention with the Port Covington project. There was discussion by many about how the ordinance should not work this way. Schmidt suggested a better accounting / review of what costs are covered by any tax increment financing (TIF). This led to a broader discussion between the panel and audience about an improved decision making process and information for incentives, requirements, and other key issues related to development in the city.

Another question from the audience was about what "making a developer whole" really meant. It can be looked at several ways. Councilman Henry suggested that the City should take a different look at how it currently defines this concept. While Schmidt was open to ways to improve the ordinance, he made it clear that developers can only be pushed so far because they need to make a profit. Mr. Schmidt did agree with the other panelists that the law wasn't working but that the solution is to provide better funding so the developers can construct more units.

There was also a question from the audience about the cost of parking requirements and how eliminating or reducing them could lower the cost of housing. This led to a discussion about the city's proposed new zoning code, known as Transform Baltimore. Mr. Maier noted that the city was missing an opportunity by not reducing density requirements in Transform Baltimore so that developers would have an incentive to take advantage of density bonuses and voluntarily build affordable housing. Councilman Henry agreed with this view and even suggested that perhaps Transform Baltimore (which has been in the works for years) should not be passed until the next Council comes on board. Several in the audience did not agree with this, wanting to move forward with both efforts separately.

In response to a question about why there were TIFs for projects such as Port Covington but not for areas like West Baltimore, Councilman Henry noted that that in his view, the city has completely walked away from community development and left some of our most vulnerable neighborhoods at the mercy of the market.

There were also some questions from the audience about whether the Port Covington TIF would take away money for city services from other areas of the city since the money generated by the project would go towards funding infrastructure at the site and not towards city services. Councilman Henry said this was taken into consideration with regards to the TIF application, but he had some concerns about certain budget items the application claimed would have no effect on city finances. Councilman Henry felt some of these predictions were not accurate. There was also a general sentiment by most in the audience that more information, transparency, and scrutiny is needed for these projects.

Audience Polling

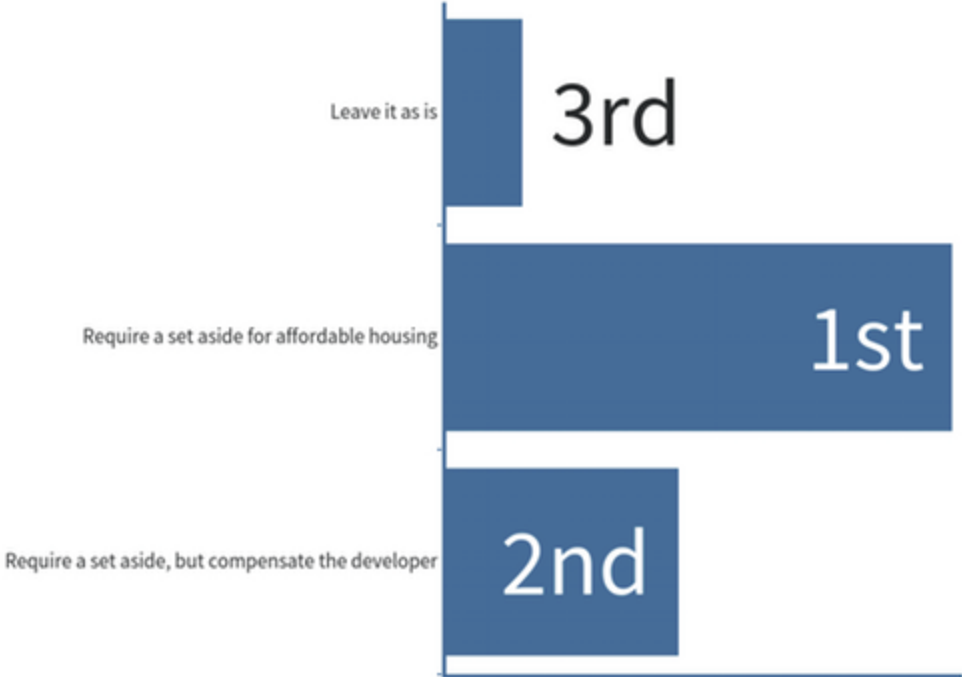
After the questions and answers from the audience, CPHA then used instant polling software to get direct feedback from participants. These questions and the audience responses are posted below:

Improving Baltimore’s inclusionary housing ordinance is an important part of addressing the city’s housing issues:

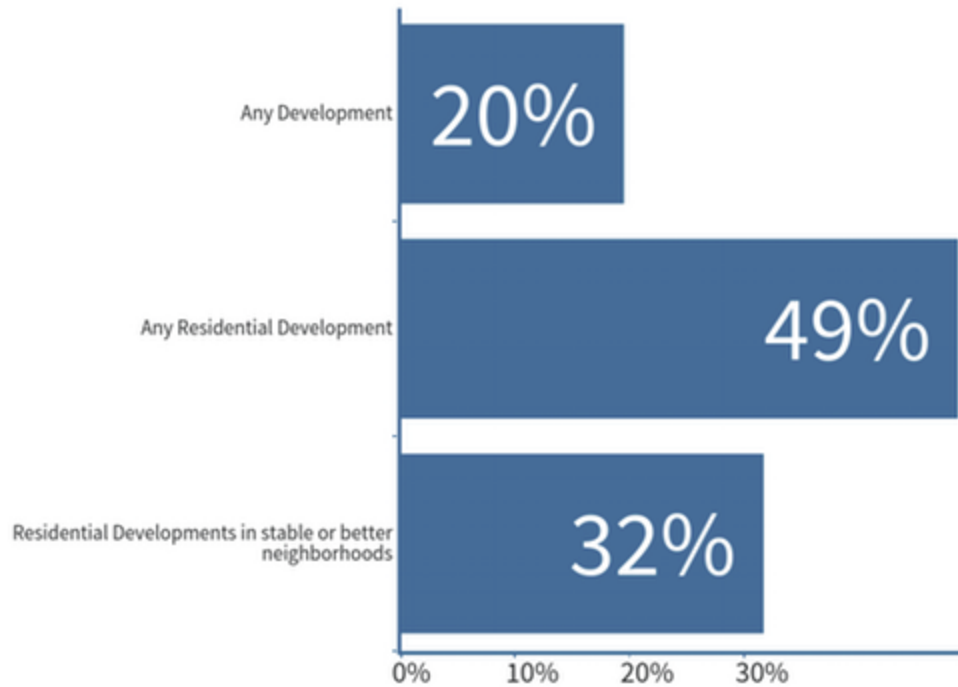


Note: the response above may be hard to see, but the green smiley face on the right means “strongly agree” and the red angry face on the left means “strongly disagree.” The responses are shown as dots or pin markers on the faces, and the vast majority are on the “strongly agree” response.

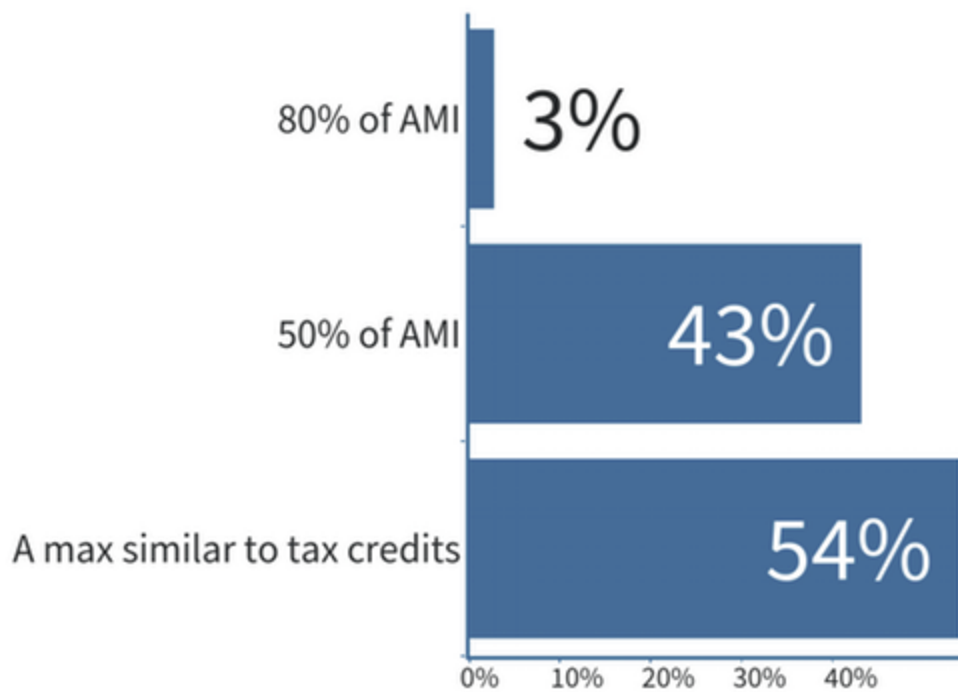
What should be done with the inclusionary housing ordinance?



What should trigger the inclusionary housing ordinance requirements?



At what levels of Area Median Income (AMI) should the units be set?



List your top three steps for improving the inclusionary housing ordinance? (this was an open-ended question)

Popular answers to this question included making the construction of affordable housing mandatory, scrapping the current ordinance and starting over, and better funding for the inclusionary housing units

In three words or less, what do you think is the most important thing that should be done with the inclusionary housing ordinance? (this was a Word Cloud response)



List your suggestions for moving ahead with the inclusionary housing ordinance. (open-ended question)

Popular answers to this question included building a coalition, improved enforcement of the current law, and prioritizing people over developers.

Conclusion

CPHA was pleased to see all our panelists agree that the current inclusionary housing law is not working as effectively as it needs to in order to create affordable housing and economically integrated communities. However, CPHA is also aware of the lack of consensus for how to specifically improve the law. We find the arguments of both developers and affordable housing advocates to be compelling. Developers are certainly being truthful when they discuss the pressures placed on them by funders who demand certain profit margins that can be difficult to obtain. At the same time, Baltimore remains a segregated city and faces a lack of affordable housing. While it is unfair for the burden of providing affordable housing to fall solely on developers, they do need to be part of the solution. CPHA looks forward to working with all stakeholders on finding a solution to this pressing issue. Currently Councilman Henry is working on a bill to improve that existing ordinance and CPHA is hopeful that this forum provided helpful information and insight.

This is the second of five forums in CPHA's 75th Anniversary Forum Series. Our first forum discussed Tax Increment Financing (TIFs). The final report is available [right here](#).

CPHA plans to address the following topics in forums over the next few months:

- Strategies for tackling vacancy and redevelopment: Vacants to Value, CORE Program, and Green Network Plan.
- Moving forward with fair housing in the region.
- An analysis of BaltimoreLink, the proposed improvements to Baltimore's bus system: strengths, weaknesses, and recommendations.
- How we address accountability in City government through the CityStat program.

As a non-profit organization, CPHA relies on the support of the general public. Please consider making a donation at www.cphabaltimore.org/supportcpha.

Further Reading on Inclusionary Housing

Inclusionary Housing:

Creating and Maintaining Equitable Communities

https://www.lincolnst.edu/pubs/3583_Inclusionary-Housing

Is Inclusionary Zoning Inclusionary?

A Guide for Practitioners

http://www.rand.org/pubs/technical_reports/TR1231.html

Separating Fact from Fiction to Design Effective Inclusionary Housing Programs

<http://www.nhc.org/#!2016-fact-and-fiction/jfbck>