



CONSORTIUM OF UNIVERSITIES OF THE WASHINGTON METROPOLITAN AREA

One Dupont Circle, NW, Suite 200, Washington, DC 20036-1110
(202) 331-8080 • (202) 331-7925 fax • (202) 331-7955 TTY • <http://www.consortium.org>

September 9, 2005

Carol Mitten
Chair
Zoning Commission
District of Columbia Office of Zoning
441 4th Street, NW
Suite 210 South
Washington, DC 20001

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Re Notice of Proposed Rulemaking, Z C Case No 04-33 (Inclusionary Zoning)

The purpose of this letter is to provide comments by the Consortium of Universities of the Washington Metropolitan Area on the above titled proposed rulemaking. Our comments will address both the Campaign for Mandatory Inclusionary Zoning (CMIZ) proposal and the Office of Planning (OP) proposal.

The Consortium of Universities represents the major institutions of higher education in the greater Washington region. Eleven of its 14 members have main campuses in the District of Columbia. The issue of zoning regulation in the District of Columbia is primarily of interest to the D.C. members that could potentially be governed by the campus planning process. Those members include American University, The Catholic University of America, Gallaudet University, The George Washington University, Georgetown University, Howard University, National Defense University, Southeastern University, Trinity University, and the University of the District of Columbia.

On behalf of these institutions, the Consortium of Universities supports the concept of providing affordable housing opportunity for District residents. However, we would recommend the addition of language to the proposals that would exempt university-owned housing from the inclusionary-zoning provisions. Without such an exemption, these proposals could impact dormitories and other forms of faculty and student housing.

In both the CMIZ and OP proposals, the new regulations would apply to any project with a threshold size of 10 or more newly constructed or substantially rehabilitated units. Depending on the definition of "unit," this provision could easily encompass improvements to or the construction of new dormitories, buildings which are generally comprised of dozens of individual units for the purpose of housing the hundreds or thousands of students who choose to live on campus.

Both proposals would cover entities that are seeking to increase floor area density. While the details of this provision differs slightly between the two proposals, it is also fairly common for area universities to seek a density increase when additional space is needed for university facilities, including student housing. Thus without clarification universities would be required to build "affordable" housing anytime they sought to meet city and neighborhood concerns to provide more student housing.

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ZONING COMMISSION
District of Columbia
CASE NO. 04-33
EXHIBIT NO. 155

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It seems clear that, due to the nature and function of university housing, it does not fall within the spirit of inclusionary zoning policies. Universities provide housing for a very specific purpose and to a very specific segment of the population. The point of university housing is to provide a temporary living space for students, faculty, and staff in order to facilitate the learning process and maximize efficiency on what are often highly insular campuses. Without university housing, many students with permanent homes outside of the D C area would be unable or unwilling to secure alternate housing, or seek housing in communities that have opposed student tenants.

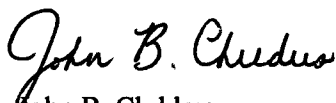
In contrast, the intent of the two zoning proposals is to ensure affordable housing is made available by those entities who offer housing to the public at large. This purpose can be discerned from the content of the proposals, which require that housing-providers that fall under the new regulations give priority to District residents, to those employed in the District, and those who fall below a certain income threshold. The proposals, by requiring a pricing methodology based on such standards as those developed by HUD, are attempting to facilitate the housing needs of low and moderate income District households. These goals, merits aside, inherently remain inapplicable to entities that are providing housing to a specialized population for a specific purpose. University housing is not marketed to the general public.

It is unlikely that either of these proposals is being written with the intent of encompassing housing offered by universities to specific populations, and the exclusion of such housing may seem like "common sense." But it is important to keep in mind that, without an express provision that makes clear the intent to exclude university housing, the proposals as they relate to university housing will be open to interpretation. A simple yet effective exemption will clear up any confusion.

It could be argued that universities could seek a waiver from these new regulations every time new housing facilities are constructed or whenever a density increase on university property is needed. And while waivers are available upon request, the procedure by which a waiver is obtained would add an unnecessary burden to universities while costing the District time and money — costs that could be avoided by simply excluding universities in the first place.

In sum, the Consortium and her member universities in the District strongly suggest that language be added to the inclusionary zoning proposals under consideration that exempt all housing approved by a campus plan as well as all housing, wherever located, restricted to students, faculty, or staff of a college or university.

Sincerely,



John B. Childers
President & C E O