

AFFORDABILITY RESTRICTIONS — AN ISSUE OF FAIRNESS AND EQUITY

Manna has been an active supporter and long-time member of DCBIA. Because we are a non-profit developer of affordable housing, we often find ourselves on opposite sides of development issues from DCBIA. In all cases, there is mutual respect and understanding. On the issue of fairness in affordability restrictions currently being placed on or contemplated for low income homebuyers by DC government agencies, we find ourselves sharing the same position and in agreement.

By affordability restrictions we mean the following: When an owner or developer of housing receives some type of development benefit from the city; e.g., loans, grants, increased density, etc., there is usually some affordability restrictions applied to the project. The primary type of restrictions includes:

- Those that keep housing affordable for long periods of time — called the “control period.” The periods can be 10, 15, 20, 30 years and more. **The current Mandatory Inclusionary Zoning text amendment proposes the time period be in perpetuity, and that usually requires resale to another person in the same income category as the original buyer.** This requirement will mean very little prospect of equity buildup by the homeowner, even though he/she must secure a mortgage and assume full responsibility and liability for the home as any other owner would.
- Limiting capital gains or profit upon resale for control periods of 5–40 years or more.

The recent trend in the city toward more severe restrictions has been demonstrated by DHCD in its word and actions and by the Zoning Commission in its Mandatory Inclusionary Zoning proposed text amendment, which includes a control period for the life of the “inclusionary development.” For many years the ability to accumulate equity in a home has been the major factor in helping people move up the economic ladder and break cycles of persistent poverty. That ability is now being severely limited or taken away by the affordability restrictions currently being proposed.

We believe long term control periods and capital gains restrictions are patently unfair to the homeowner. Here’s why:

1. While the motivation for these onerous restrictions is tied to the preservation of affordable housing for more than one generation, they place the burden for achieving the goal, which we agree with, on the one group least able to afford it. The result, not the intent, discriminates against low income persons — who are primarily minorities in the District — and negatively affects their ability to improve their financial status from the real estate development occurring in the city. Now that there is enormous wealth being generated, why are we placing onerous restrictions on what low income people can derive from the boom, but not others who are beneficiaries of public policies and tax benefits?

We believe in restrictions that balance both the opportunities for equity gain and recapture of public/private subsidies with reasonable control periods for resale; say 5–10 years.

2. In America, homeownership has always provided certain financial and emotional benefits that rental housing has not and cannot provide. Those benefits include equity buildup that enables



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President
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owners the use of home equity loans to finance children’s education, business ventures and/or investments and many other uses, which are readily accepted by the general public. Recent studies show other benefits like positive self-esteem, neighborhood improvement, crime and social service reductions, etc. resulting from homeownership. That is one of the reasons homeownership is often referred to as the American Dream.

3. Long term affordability restrictions have an extremely adverse impact on low income, first-time owners in the future, when compared with the advantages available for what are commonly known as “market rate” middle and upper income buyers. For example, the limitation would require the first-time low income buyer to sell to another buyer in the same

income category, or AMI (Area Median Income), for a long or very long period of time; e.g., 15, 20 or 30 years. This means that the first-time buyer could easily have to sell at a loss if he/she must sell within 5–10 years. There is no provision to mitigate this likely loss that we are aware of. In addition, increases in AMI can be overwhelmed by modest increases in interest rates to harm the owners.

If public officials and policymakers want to continue trends of creating a permanent underclass of low income citizens in DC, affordability restrictions such as the ones being proposed and being implemented will accelerate and expand the process to a much greater degree than is now occurring.

4. The restrictions also ignore very common life situations and don’t recognize the needs and aspirations of low income buyers. The restrictions simply deal with housing units and their permanent affordability; not people’s needs and aspirations and their right to improve their lives through homeownership. We understand the dimension of this issue because we’ve discussed it at length with aspiring low income participants in our home-buyer education program on a regular basis.
5. People often relocate geographically for a variety of reasons: job changes, marriage, having children, illness or disability. In other words, there are good reasons for relocating before control periods expire. Affordability restrictions such as those now proposed can substantially limit equity build-up during the control period, even though general home values would have increased significantly, causing any seller to incur dramatic increases in housing costs with very little equity take-out to cushion the increase.

Why should low-income homeowners be penalized in an unreasonable and unfair manner for needing to move?

6. Most future affordable homeownership housing in the city will be multi-family ownership. Condo fees, coop maintenance costs, insurance costs, education costs, etc. will continue to rise. Low income buyers, without any cushion to fall back on, such as home equity loans for emergencies, will be under great financial pressure to keep their houses and prevent foreclosure in case of unforeseen emergencies.

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7. Low income people buy because they want to bequeath a valuable asset to their children or grandchildren. Severe affordability restrictions adversely affect this valid reason for homeownership and prevent wealth transfer among generations, which is common among the middle and upper income brackets. Rather than making it more difficult for this transfer to occur as the current restrictions do, we need to make it easier.
8. Long term affordability in every neighborhood is a laudatory goal, and we agree with it — but its burden shouldn't be placed solely or disproportionately on the shoulders of low income persons who have aspirations and work hard to become homeowners. Individual homeownership must continue to be used to enhance community and individual stability, to catalyze neighborhood revitalization, and to promote wealth sharing and wealth creation and hope for a better future. For the majority of Americans who are fortunate enough to be homeowners, their homes represent their most significant asset. Stripping the opportunity for financial gains and equal opportunity from low income homeowners is unfair and discriminatory.

In our opinion, the results of these restrictions make certain that low income homeowners will remain stuck in their low income status and do not offer them a vehicle to rise out of it. In effect, low-income homeowners become glorified renters. While they may have the guarantee of an affordable housing unit for a period of time, they are refused the opportunity to share in the enormous wealth being generated around them.

There are existing legal structures available to provide long term affordability; e.g., rentals, limited equity coops and community land trusts. There are also recapture mechanisms that can be used to recycle subsidies back into affordable housing without limiting access to equity build up after purchase. These can and should be used by governments and housing producers to accomplish long term affordability goals — but don't saddle the low income homeowners with the sole

and primary responsibility for achieving it. There are a better ways to address the affordable housing crisis where everyone gains something and no one group — especially hardworking, low income citizens — are treated unfairly. ■

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