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April 24, 2006

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DC OFFICE OF ZONING
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Ms Sharon Schellin
Acting Secretary to the Zoning Commission
DC Office of Zoning
441 Fourth Street NW, Suite 200 South
Washington, DC 20001

Re **Zoning Commission Case No. 04-33**
Text Amendment – Inclusionary Zoning

Dear Ms Schellin

As providers of affordable housing in the District of Columbia for nearly 40 years, we write to express our reservation and concern over the proposed inclusionary zoning legislation (MIZ) and to recommend several changes to elements within the proposed language. While the intent is laudable, we believe the proposed legislation will create excessive costs in terms of the direct expenditures to create the affordable units as well as the time lost while negotiating the impact on a project by project basis. The proposed legislation is particularly damaging to projects in predevelopment since acquisition and other planning costs have been sunk without regard to the effect these changes will mandate. As written, the legislation would be overly burdensome to the point of discouraging developers from creating housing in the District.

Specific comments follow

Applicability - Section 2602.1 (b)

The 10-unit minimum would make it extremely difficult for smaller developers to create housing and is in contradiction to the city's efforts to promote local small and minority businesses operating in the District. A 50-unit minimum would be more inclusionary for local entrepreneurs and more manageable in terms of administrative costs.

ZONING COMMISSION
District of Columbia

CASE NO. 04-33
EXHIBIT NO. 200

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Applicability – Section 2602.1 (c) (ii)

The proposed text amendment seeks to include new single family dwellings, row dwellings or flats, in the Inclusionary Zoning program if they are constructed concurrently or in phases on contiguous lots that are in common ownership. This section should be revised to acknowledge that those projects that have received approval from the Zoning Commission, the Board of Zoning Adjustment, or the Office of Planning (through planned unit development, special exception and/or variance approval, and large tract review approval) should be exempt from the Inclusionary Zoning program. Similarly, large scale phased projects that have filed for site development building permits for the entire project should exempt the entire project from the Inclusionary Zoning program.

As an example, the 75 single family homes currently in production at Asheford Court (the former Camp Simms site) in Ward 8 have obtained Large Tract Review approval. Site development permit applications for the entire project have been filed and the initial building permits will be filed within the next 30-45 days. The homes at Asheford Court have been priced based on the cost of the land and development, with an appropriate set-aside of affordable units. Should the affordability matrix change as building permit applications are filed for the individual single family homes, the project would become untenable for the developer and could prohibit the construction of all 75 single family homes.

Applicability - Section 2602.3

The list of exempted zone districts should include Transfer Development Receiving (TDR) zones since such zones already provide for the additional density offered as an incentive by the new legislation.

Applicability - Section 2602.4

Controlling the sale of housing units “for so long as the inclusionary developments exists” denies low-income and first-time homeowners the opportunity to build equity and create wealth through homeownership. It would also strip owners of motivation to perform enhancements to the property beyond routine maintenance. We recommend establishing a 20 year control period for units sold to eligible families; 20 years would preclude ‘flipping’ real estate while offering low and moderate income families a fair and equitable opportunity to invest for their future.

Set-aside Requirements - Section 2603.1

We recommend that the amount of inclusionary units that are to be provided based on the bonus density achieved be set at 50% when the primary method of construction does not employ steel and concrete frame structures and 35% when steel and concrete frame structures are used.

Bonus Density - Section 2604.2 and 2604.3

There is no information contained in the table or text regarding R5A through R5D.

Development Standards - Section 2605.3

Housing produced under Federal or District housing programs are already encumbered with program restrictions designed to promote the development of affordable housing and should therefore be exempt from mandatory inclusionary zoning.

Applicability Date

As a District-based firm with a solid history of creating, owning and managing affordable housing, we are very concerned about passage of this text amendment and urge the Commission to phase the implementation of this program such that the housing market can adjust to the new requirements.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bradley J. Fennell', with a stylized, cursive script.

Bradley J. Fennell
Senior Vice President