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facsimile transmission

To: Sharon Schellin
FAX: (202) 727-6072
From: Michael D. Huke
Date: April 24, 2006
Subject: Written Comments on Inclusionary Zoning
of Pages: 2 (including cover sheet)

Please see attached. The original will be sent via postal mail.

Should you have any questions please contact me at (301) 445-5000 ext. 111 or via email at MHuke@cihproperties.com.

Mike

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ZONING COMMISSION
District of Columbia
CASE NO. 04-33
EXHIBIT NO. 202

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District of Columbia
CASE NO.04-33
EXHIBIT NO.202

Sharon Schelling
Acting Secretary to the Zoning Commission
Office of Zoning
441 4th Street, NW Ste. 200-S
Washington, DC 20001

Re: Mandatory Inclusionary Zoning

April 24, 2006

Dear Ms. Schelling,

We are pleased to submit our endorsement of a Mandatory Inclusionary Zoning policy in the District of Columbia. What follows are the joint comments from Mi Casa Inc. and the Latino Economic Development Corporation.

We believe that the current high level of competitive investment occurring in DC should provide some public benefit in the form of strengthening the availability of affordable housing stock for the city's residents. Given the rapid loss of affordable housing in many of Washington's most diverse neighborhoods, this proposal could not come a moment too soon. Mandatory Inclusionary Zoning can be an important tool through which production of new units will ensure that the District's neighborhoods remain affordable to its most vulnerable populations, specifically, low-income people and recent immigrants. On reviewing the Notice of Proposed Rulemaking ZC Case No. (4-13), we urge you to consider the following necessary factors that we believe will make Mandatory Inclusionary Zoning successful in preserving Washington's cultural and economic diversity:

Mandatory Inclusionary Zoning

We heartily support the Zoning Commission's proposal that DC's Inclusionary Zoning program be mandatory.

Only a mandatory program will ensure that the program is predictable and consistent thereby allowing developers to factor in any costs that may be associated with affordable housing requirements and the value of benefits provided in exchange, such as density bonuses or other zoning variances, and can appropriately value land costs. This will allow all developers to compete on a level playing field with their competitors. Most importantly though, a Mandatory Inclusionary Zoning (MIZ) program is the only way to guarantee that the program will actually produce a significant number of affordable units.

As a certified housing counselor the Latino Economic Development Corporation (LEDC) works on a daily basis with Latino families to prepare them for home ownership. LEDC provides a variety of homebuyer education services, including loan packaging, individual counseling, group training and workshops, and tenant rights education. In the last three years, LEDC has packaged nearly 400 client loan packages for DC's Home Purchase Assistance program; of these, 61 families were able to purchase homes. Though we see this as a major accomplishment it is also devastating that the majority of families which

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completed the educational programs and qualified for homeownership were not able to purchase primarily due to the high costs of homes in the District and lack of affordable homeownership options. As a non-profit affordable housing developer, Mi Casa Inc. works with low-income tenants and potential homebuyers to provide them with quality affordable housing. We emphasize the need to produce and preserve affordable units as a means to ensure that the rich diversity of Washington's neighborhoods continues. Both organizations witness on a daily basis the dire need for more homeownership and housing opportunities that are affordable to people below the area median income.

Lower Income Targets for Affordable Units

We support lower income targets for affordable units (i.e., the provision of the maximum number of units affordable to income ranges below 50% AMI, and between 51-80% AMI).

The vast majority of residents who make up the communities that we support live at means far below the area median income. These are families who live and work in Washington, DC, but are currently being pushed out of the District or paying a disproportionate and burdensome percent of their income on housing costs. Through a MIZ program the District has a tool to promote the creation of rental and homeownership options that will be affordable to them.

The Campaign for Inclusionary Zoning has submitted comments and examples demonstrating that an MIZ program in the District could serve some households at 50% AMI and below (while causing no net loss to the developer). They also demonstrate that inclusionary high rise units could be targeted to families with AMI under 60% AMI in combination with some inclusionary units targeted to families below 80% AMI without causing economic harm to the developer.

We urge the Zoning Commission to create a program which will reach those families with the greatest need for affordable housing.

Long-term Affordability Requirements

We support long-term affordability (minimum 99 years) for a variety of housing types produced under this policy. We urge the Commission to mandate long-term affordable housing creation and preservation through methods like limited equity cooperatives and landtrusts that have very long-term affordability restrictions. The District could be a progressive example to other jurisdictions through developing a program that will ensure housing for its lowest income residents for many years to come.

LEDC is currently working with tenants in buildings where the Section-8 federal rent subsidy is set to expire in the next year or so. Mi Casa Inc. works with low and very low-income tenants to assist them through the tenant purchase process, and every day we witness more and more buildings at risk of being lost to high-end development. In many cases forming limited equity cooperatives or a land trust is the only way to ensure this vital stock of affordable housing is secured. Without important technical assistance and public support, buildings which only a few years ago were seen as a major part of DC's

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affordable housing stock are now severely at risk and the tenants -- many which come from the most vulnerable groups of people including the elderly and disabled -- are at risk of displacement.

Furthermore, long-term affordability requirements will work towards the goal of creating buildings and neighborhoods which are culturally and economically diverse. It will provide security to families by providing them with stable housing costs and allowing them to put down roots in a community without fear of displacement. Our communities look to homeownership as both a wealth-building tool -- which we believe can be achieved through an IZ program that offers a variety of homeownership options -- and a base for long-term stability. We recognize that homeownership and long-term affordable housing can provide families with security of tenure, stability of housing costs and equity buildup. This security will allow Latinos and other minorities to fully participate in their communities -- becoming invested in the area public schools, creating neighborhood small businesses and joining civic life.

We encourage the Zoning Commission to create a mandatory IZ program which will work for the long-term.

Shared Equity/ Equity Recapture

We support shared equity/ equity recapture for the minimum amount of the subsidy invested in the project (i.e., the difference between the price to the buyer and the market value) to be recaptured whenever the buyer sells the unit. This recapture should be returned directly to the production of future affordable housing. We urge the Commission to consider other forms of equity recapture provisions that would be in place over an extended period of time. In addition to equity recapture, we recommend other initiatives that could enable for-sale units to remain affordable for longer periods of time, such as right-of-first-refusal to an affordable housing developer (at a price minus the subsidy owed) in exchange for waiving equity recapture. Overall, we encourage the Commission to consider flexible but long-term means of unit or equity recapture for the provision of future affordable units that will benefit both the buyer (i.e., they should enable a low-income buyer to accrue a fair amount of equity) and support the development of future replacement affordable housing.

IZ Should Apply to PUDs

The Zoning Commission is considering excluding PUD projects, which will significantly undermine the goals of the IZ program, particularly the production of affordable housing. PUDs are more commonly proposed near Metro stations and in other high growth areas, the same areas where we expect MIZ to apply, and are critical to linking low and moderate income residents to job opportunities and good public transit. The Campaign for Inclusionary Zoning estimates that if the IZ program covered PUDs it would generate 50-300 units/year. If PUDs are excluded, the number of units created could be reduced significantly. We believe that an effective and responsible MIZ program must include units created through PUD projects.

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REAL ESTATE • MANAGER, BUILDER & DEVELOPER

April 21, 2006

Ms. Sharon Schellin
Acting Secretary to the Zoning Commission
Office of Zoning
441 4th Street, NW
Suite 200-S
Washington, DC 20001

RE: Inclusionary Zoning Case No. 04-33

Dear Members of the Zoning Commission for the District of Columbia:

I am a member of the DC Building Industry Association (DCBIA). As you know, DCBIA represents residential and commercial builders and developers operating within the District of Columbia. It is my experience that DCBIA fully understands the importance of developing and maintaining high-quality affordable housing, and its members create the overwhelming majority of the affordable homes developed within the city.

I have heard members of the Council and Office of Planning state that they have contacted many of the stakeholders within the District of Columbia concerning the proposed Inclusionary Zoning regulations, and that there is a basic consensus within the development community that the Inclusionary Zoning regulations, although perhaps not perfect, are acceptable as drafted.

I strongly disagree with that statement. It is my judgment that the only clear consensus of DCBIA members is that the Inclusionary Zoning program will not reach its goal as presently drafted.

I am a part of that consensus. The program penalizes residential development. Market forces are the incentives that should be used to achieve the objectives of advancing mixed-income affordable housing. The disincentives in the rule changes can cause severe unintended consequences, retarding affordable housing production and threatening the health of the DC housing market.

Sincerely,

Michael D. Huke
Chairman and CEO

Cc: All Members of the District of Columbia Council
DC Office of Planning
Mayor's Office

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