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April 24, 2006

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

Re Comments on Proposed Rulemaking, Zoning Case No 04-33
Text Amendment – Inclusionary Zoning

Dear Ms Schellin

Louis Dreyfus Property Group is submitting these comments to express its strong sense of concern over the proposed mandatory inclusionary zoning (MIZ) text amendments. In our judgment, the burden that will be imposed by this program will be so great as to pose a threat to the recent revival of the District's housing market.

The following specific comments are submitted as an attempt at potential damage control. We first recommend a set of new provisions, and then we suggest modifications to the proposed text.

Proposed New Provisions

A Establish a transition period to allow time for developers to adjust to the new program. Many of the problems of MIZ could be cured by an appropriate transition period, for example two years. This time frame would allow land prices to adjust gradually, and permit transactions premised on the regulatory scheme in place today to go forward.

B Establish a sunset provision that requires a reexamination of the MIZ after a reasonable time to determine whether the program is (a) effective and (b) harmful to the residential development community. We recommend a sunset provision of three years from the effective date of the program.

ZONING COMMISSION
District of Columbia
Proposed Changes to Existing Provisions
#04-33
Applicability (Section 2602)
CASE NO.
EXHIBIT NO. 214

(1) Planned Unit Developments (PUDs) should be exempted from the MIZ program (Section 2602.3). Such developments already mandate a desired mix of affordable housing and other community amenities, which is tailored to optimize the public benefits of a given project.

(2) Control periods “for so long as the inclusionary development exists” (Section 2602.4) are overly restrictive and raise serious equity issues. In the case of rental properties, they would extend well beyond the useful life of a building’s operating systems and, therefore, act as a disincentive for repair and renovation. In the case of for-sale properties, they would penalize low-income home owners by denying them the opportunity to build equity, effectively reducing them to “de facto renters.”

Set Aside Requirements (2603)

(1) The affordable set-aside requirements on bonus density, at 75% (stick-built) and 50% (steel and concrete) (Sections 2603.1 and 2), are set too high. They pose the risk that no affordable housing production will be accomplished by this mechanism, because it will be impossible to cover the development costs of the affordable units. The simple math is that it takes two market-rate sales to make up for the loss the developer takes on one affordable unit sale. Therefore, a 33% ratio of affordable units within the bonus density is a breakeven, and will stimulate no production of affordable units. We recommend that the ratio of affordable to market rate units within the bonus density should be set at 25% (3.1) for steel and concrete projects, in order to provide an incentive to produce such units.

(2) The allocation of set-aside AMI levels by zone districts appears arbitrary and does not conform to the rationale of relating 80% AMI thresholds to more costly high-rise construction and lower 50% AMI thresholds to less costly stick-built construction. For example, R-5-D and R-5-E are regarded as high-density zone districts and permit high-rise developments, yet the text amendment requires developments there to allocate half of total affordable set-aside units for households at 50% of AMI (Section 2603.3).

Development Standards (2605)

The requirement that “inclusionary units shall be reasonably dispersed” (Section 2605.9) should be modified to exempt premium-priced units (e.g., upper floor, full views), in order to reduce subsidy costs.

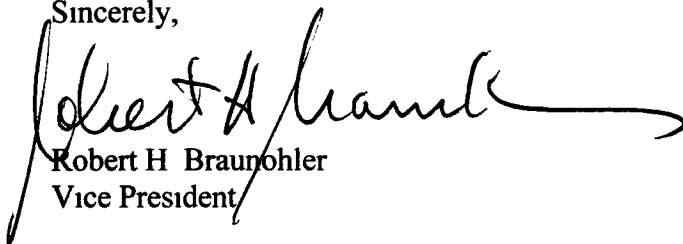
Exemption from Compliance (2606)

The process for obtaining relief from the MIZ program in cases in which the bonus density simply cannot be used is cumbersome. Developers wishing to provide housing, but finding the bonus density does not work on their site, will be

forced to wait months for an official determination. There should be a streamlined process for allowing relief to developers faced with this situation.

In conclusion, it is unfortunate that an incentive-based program, as originally proposed by the Office of Planning as a viable alternative, was not included within the scope of this proceeding. An incentive-based program would have provided a far more flexible alternative to the goal of creating affordable housing, with far less risk to the competitiveness of the District as a destination for residential development.

Sincerely,



Robert H. Braunschler
Vice President