

**PUBLIC HEARING BEFORE THE ZONING COMMISSION
OF THE DISTRICT OF COLUMBIA**

On Chapter 26 – Inclusionary Zoning (IZ)

Petition Filed By
The Coalition for Smarter Growth, et al.,

To Amend Chapter 26, Inclusionary Zoning (IZ)
(Z.C. Case No. 04-33G) and
Alternative Text Recommended by the Office of Planning

Testimony of Jeffrey H. Gelman, Esq.
Partner, Saul Ewing, LLC

441 4th Street, N.W. * April 14, 2016
Washington, D.C. * 6:30 p.m.
Suite 220 *

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Good evening, Chairman Hood, and members of the Zoning Commission. I am Jeff Gelman, a partner at the law firm of Saul Ewing LLP. I have been practicing affordable housing law in Washington for the past 30 years representing well in excess of 100 for-profit and non-profit affordable housing developers. I thank you for the opportunity to provide testimony on the Petition filed by the Coalition for Smarter Growth and the recommendations of the Office of Planning.

Based upon my experience, I urge the Commission not to lower the area median income levels of inclusionary zoning because to do so would actually hinder the City's objectives of providing more affordable housing for DC residents who need assistance, for the following reasons.

First, to do so would be contrary to Mayor Bowser's initiatives for "building pathways to the middle class" and to provide work force housing for the City's firemen, police, teachers and others in the workforce.

Second, there are indisputably lower income residents in the 60% to 80% area median income ("AMI") category in Washington who are in serious need of housing assistance.

Third, the statistics do not reveal the truth. It is not true that older Class B and C apartment buildings through rent control or other programs are meeting the needs of these lower income families. Insufficient federal and local housing policies and programs have forced low income families in the 60% to 80% AMI category to move away from DC or to accept less than adequate housing.

Fourth, there are no remaining Federal housing programs that target families in the 60% to 80% AMI category. Based on Congressional Budget Office data through 2014, the federal government provides annually approximately \$51 billion in low-income assistance,

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approximately 75% of which goes to households of no more than 30% AMI, and the balance assists households of no more 50% AMI.

Fifth, there are very few District funds that target the 60% to 80% AMI level. Only 20% of the DC Housing Production Trust Fund is required by statute to target households with incomes between 51 and 80% AMI, which allows the District to limit even this 20% of funds to 60% AMI. The most productive affordable housing program in the nation and in the District is the low-income housing tax credit, which targets less than 60% AMI.

Advocates who are now pressing for lower AMI levels were also arguing just a few years ago for the importance of assisting typical working DC families. I quote ***“as the District seeks to keep more working households in the city, DC should focus assistance below 80 percent AMI ... so typical working DC families can be helped. With limited housing aid available, it needs to be used more wisely to help struggling DC working families find a home they can afford.”*** [Emphasis added] That quote came from Cheryl Cort and Matt Schuneman of the Coalition for Smarter Growth in a February 6, 2012 article addressing the topic of a “continuum of affordable housing needs.” The full quote is set below in my written testimony. The article correctly notes, of course, that the greatest need for housing assistance lies below 60%, but the article also correctly notes that the District also needs to “help struggling DC working families find a home they can afford.”

In conclusion, a housing policy that does not provide a continuum of housing assistance through the 80% AMI level undermines the Mayor’s initiatives and fails the residents of this City by making this City more and more a city of the rich and the poor, without assistance for lower income working families in the 60% to 80% AMI category to find sufficient and affordable housing. Studies have shown that housing subsidies, particularly for the very low income and extremely low income, serve as a disincentive of those families to seek improved employment opportunities and higher income levels (Congressional Budget Office, September 2015 *Federal Housing Assistance for Low-Income Households* – page 3), and common sense tells us that is due in part to the fact that there is an insufficient path out of poverty when it comes to governmental housing policy. Government policy abandons families in the 60% to 80% AMI category that are still in need for housing assistance to be able to reach higher sustainable financial income levels.

Thank you for the opportunity to provide this testimony today. I am happy to answer any questions you may have.

See DC Fiscal Policy Institute “What’s Affordable ‘Workforce Housing’ for the District of Columbia?” February 6, 2012: “The greatest housing challenges by any measure – cost burden, shortage, availability – are faced by DC residents earning well below 60 percent AMI. Thus, programs for the lowest income households should be strengthened. ***Beyond that, as the District seeks to keep more working households in the city, DC should focus assistance below 80 percent AMI (\$76,400 for a family of three), so typical working DC families can be helped. With limited housing aid available, it needs to be used more wisely to help struggling DC working families find a home they can afford.”*** [Emphasis added] That quote came from Cheryl Cort and Matt Schuneman of the Coalition for Smarter Growth in a February 6, 2012 article addressing the topic of a “continuum of affordable housing needs.” This article noted that six of the top 8 job categories for DC residents fall below 80% AMI, and that there appears to be surplus of affordable and available housing units, citywide, for those households earning above 80 percent AMI, and concluding that “80 percent of AMI should be the logical upper limit for targeting affordable housing assistance.”