

July 13, 2016

D.C. Zoning Commission
 One Judiciary Square
 441 4th Street, NW
 Washington, DC 20001

Re: Case # 04-33G – Inclusionary Zoning Exemptions

Dear Commissioners,

Since my testimony on 4/14/16 that existing rent-controlled buildings should be exempt from IZ when they are expanded with floor area greater than 50%, OP issued a report dated 5/13/16 indicating that DHCD will “review the two programs and resolve any conflicts between them either administratively or by legislation if necessary.” I am writing to request again that the Zoning Commission declare that existing rent-controlled buildings will be exempted from IZ, while IZ would still apply to the addition. The reasons are both economic and practical as set forth below. Without these items resolved, and just a promise to review, owners are left in limbo.

Economics.

1. In Exhibit A, we present an analysis of 4 existing rent controlled buildings¹ and how the rents compare to IZ rents at both the 80% and 50% AMI levels. As you can see, **rent control actually achieves a comparable or higher level of affordability than IZ and therefore owners of rent-controlled buildings are already bearing their share of below-market rents.**
2. Tenants paying IZ-level rents in rent controlled buildings cannot be slotted into IZ units because 1) IZ units are fixed and not moveable, and 2) tenants under rent control don’t have annual income certification requirements and cannot be required to comply, **so the impact really is a double whammy of rent-impaired units.**
3. CIM is in the process of considering a greater than 50% addition to a rent controlled building. IZ will certainly apply to the addition. However, proceeding with the project will also subject the existing building to IZ, effectively requiring the set-aside of 5-6 existing units at rents that will not cover their operating expenses, effectively reducing them to \$0 economic value. **This a) is non-competitive, because it sets the bar for the project higher than what our competition faces to build, and b) in the case of our project, kills it.**

Administration.

1. **Rents under rent control and IZ are set in different ways.** Rent control dictates the inflation of rents. IZ sets rents based on income levels. A building subject to both, I suppose, would need to set rent and escalate rents at the more constraining of the two affordability regimes and comply with reporting requirements for both. This is overly complex and burdensome for property staff to administer.
2. **Concentration of IZ units in new building.** An idea suggested to me over the phone by OP, but never considered to my knowledge by the Zoning Commission was that the IZ units applicable to the existing rent controlled building be accommodated in the addition. This however, is non-competitive because it increases the % of IZ units in the new building, which are the best units with the highest rent potential (at least 31 years newer than the existing rent-controlled units),

¹ This analysis was also provided to OP on 5/6/16. We can expand this analysis by 9 buildings if requested, that I believe will demonstrate the same trend.

ZONING COMMISSION
 District of Columbia
 ZONING COMMISSION
 District of Columbia
 CASE NO. 04-33G
 EXHIBIT NO. 240

and is inconsistent with the premises of IZ from the beginning not to concentrate these units. By way of example, a 50-unit stick-built addition to a 100-unit building would trigger fifteen (15) IZ units (10%) as I understand it, which if accommodated all in the new building represents a 30% IZ requirement!

IZ was not written to apply to existing buildings, creating ambiguities.

1. Some old existing buildings are constructed of masonry or timber or materials not 100% known to ownership in order to determine "primary method of construction," so does 8% or 10% affordability apply (1003.2 and 1003.3)?
2. IZ requires that inclusionary units are comparable to market-rate units but also says interior amenities are consistent with contemporary standards for "new housing." Existing rent-controlled buildings are at least 31 years old and may be 100+ years old with a wide variety of finish levels, none of which reflect "new housing" standards. (1005.3 and 1005.3)

The issues raised above are based only on cursory review and I am sure there are more. Please feel free to contact me at 301-469-3586 with any questions or if I can be of assistance in this matter.

Sincerely,



Terra Weirich
2300 Ontario Rd. NW
Vice President, CIM Group

Cc: Art Rogers, Lauren Pair, Chris Marshall (via email)

Representative Profile of Rent Controlled Buildings in Comparison to IZ Rent Levels

Lease Vintage	Building 1 (85 units)			Building 2 (276 units)			Building 3 (88 units)			Building 4 (99 units)		
	% of Units ¹	% discount ²	Avg. Rent PSF	% of Units ¹	% discount ²	Avg. Rent PSF	% of Units ¹	% discount ²	Avg. Rent PSF	% of Units ¹	% discount ²	Avg. Rent PSF
< 5 years	64%	0%	\$2.56	70%	0%	\$2.62	74%	0%	\$3.15	71%	0%	\$2.23
5 - 10 years	2%	8%	\$2.37	7%	3%	\$2.53	20%	21%	\$2.22	8%	7%	\$2.07
10 - 20 years	13%	28%	\$1.85	8%	27%	\$1.92	0%	n/a	n/a	8%	17%	\$1.86
20+ years	12%	54%	\$1.18	9%	48%	\$1.35	0%	n/a	n/a	6%	28%	\$1.62
IZ rent for comparison:³												
80% of AMI	8-10%	14%	\$2.19	8-10%	18%	\$2.15	8-10%	6%	\$2.97	8-10%	5%	\$2.12
50% of AMI	8-10%	46%	\$1.37	8-10%	49%	\$1.34	8-10%	41%	\$1.85	8-10%	41%	\$1.32
% of units below 80% AMI level rents	32%			21%			42%			39%		
% of units below 50% AMI level rents	11%			6%			5%			2%		

Notes:

- (1) Percentages do not sum to 100% due to vacancy
- (2) Discount calculated relative to <5 year average rent PSF
- (3) Monthly 2015 IZ rent for a 1BR at 80% AMI is \$1,638/mo and at 50% of AMI is \$1,024/mo.