

Testimony for ZC Case 14-1. Text Amendments to Penthouse Regulations

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April 30, 2015**

My name is Jon Kardon, I am Senior Development Manager at Level 2 Development, and have been with the company for nearly ten years. Level 2's portfolio consists of six mixed-use, residential projects ranging from 150 – 500 units, located in neighborhoods throughout the District, including 14th Street, Takoma, and Union Market.

I am testifying in support of the proposed text amendments to the rooftop penthouse regulations, as I believe these changes will support the city's ongoing efforts to provide more housing supply and increase the pipeline of affordable housing.

I encourage the Zoning Commission to vote in support of the proposed text amendments and to ease the penthouse restrictions with maximum leeway. I am supportive of the proposed amendments allowing for an increased height of twenty feet and up to two stories of habitable space (when permitted by the Height Act). I support the proposal to count the portion of the Penthouse that is dedicated to dwelling units towards the existing Inclusionary Zoning set-aside requirement. I am also supportive of other measures to ease Penthouse regulations, such as deleting the requirement that penthouse walls be of equal height and exempting the enclosed Penthouse area from building FAR, allowing the 1:1 setback and the 1/3 of roof area limitation to dictate penthouse size.

With these modifications, developers and architects will have a variety of options to make use of penthouse space, including creating penthouse units, offering rooftop amenities, and making use of second stories of penthouses for two-story residential units, two-story amenities, or for mechanical areas. These uses can be implemented without disruptions to our capital city skyline.

By opening up these opportunities, the District would see a direct increase in the creation of affordable housing through the applicable Inclusionary Zoning set-aside requirement. In addition, the resulting increase in the pipeline of housing supply would help balance out the continued demand for housing in the city, effectively easing pressures on market-rate housing prices. In addition, by opening up opportunities to activate Penthouses with habitable dwelling units and amenity spaces, DC would be able to compete on a grander scale with other metropolitan areas to attract new residents that seek a special place to call home.

While I am supportive of applying the existing Inclusionary Zoning set-aside requirement to the Penthouse dwelling unit areas, I am opposed to the alternative proposal requiring that the affordable housing set aside be provided at 50% AMI. As you are aware, the DC Council recently held hearings on Inclusionary Zoning regulations, and the Zoning Commission will likely contemplate amendments to these regulations later this year. I believe that any linkage of the affordable housing set-aside should continue to be zone-specific and construction-type specific at this time, and should be thoughtfully reviewed as a comprehensive policy by the Zoning Commission and amended as needed. If a 50% AMI Inclusionary Zoning set-aside were to be required for the attributable Penthouse dwelling unit square feet across all zones and construction types, there is a great risk that developers may shy away from constructing dwelling units on Penthouse spaces to avoid the financial impact of the 50% AMI set-aside. This effect would defeat the goals of providing more housing supply and increasing the pipeline of affordable housing.

With the proposed text amendments to the rooftop penthouse Zoning Regulations, the Zoning Commission should seize the opportunity to encourage developers to provide more housing and affordable housing to meet the demand of our fast growing city, and allow for market-driven, creative uses to activate habitable Penthouse space. Thank you for your time and consideration.

ZONING COMMISSION
District of Columbia
ZONING COMMISSION
CASE NO. 14-13
EXHIBIT NO. 77