

# The Committee of 100

on the Federal City



TESTIMONY OF THE COMMITTEE OF 100:  
ZONING COMMISSION 22-RT1, Sept. 22, 2022

The development industry has for too long been allowed to disrupt communities while giving back little or nothing in return. The District has allowed, even encouraged, development that maintains and hardens historic patterns of racial and economic segregation. An effective equity policy must create, adopt, and implement ways to interrupt these adverse consequences. It should lead to development being welcomed, rather than feared as a predator. This begins by identifying the unwanted outcomes, preventing them, or strenuously mitigating them, as other jurisdictions have begun doing.

As a threshold step, the equity standards must be included in the Zoning Regulations as mandatory requirements. Next, the standards cannot be a soft-edged, impressionistic evaluation of the project, and instead must rely on measurable standards and statistical analysis. The standards must address how a project impacts the surrounding community – not just the area within the project’s boundaries. OP should be required to produce “a planning analysis” and “measures of accountability” for zoning cases. We suggest they be included in zoning setdown reports and case reports as a means to measure whether or not the equity lens has been implemented.

Substantively, the Commission’s racial equity standards should take into consideration displacement of those both living at the project site and those living in a defined surrounding zone of impact and possible constructive displacement. The standards must consider the fact that displacement takes many forms and should be interpreted broadly. Small businesses can be displaced, a culture can be displaced. A well-documented instance of the latter includes the objections raised by newcomers to a business’s loudspeaker music that was a longstanding neighborhood tradition.

We recognize that the introduction of meaningful amounts of affordable housing into affluent neighborhoods such as those west of Rock Creek Park can be unwelcoming and prevent inclusion of newcomers, which presents a separate challenge for developers and the surrounding community. The standards must address this circumstance as well. The Equity Tool should evaluate whether proposed projects, particularly those in wealthier areas with a history of discrimination (including racial covenants) contain aggressive inclusionary zoning commitments.

Economic, Demographic, Housing Data Needed

The Equity goals can best be attained if housing and demographic data is both localized to DC and, to the extent possible, to the neighborhood and ~~not even the~~

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ZONING COMMISSION  
District of Columbia  
CASE NO.22-RT1  
EXHIBIT NO.21

development site at issue. The Office of Planning is the DC agency tasked with collecting and storing applicable census, economic, demographic and housing data. It should be charged with making accessibility to the data user-friendly, e.g., to individual DC citizens. It also should be charged with updating the data on a regular, perhaps annual, basis, since, as we have seen both with the 2009 financial meltdown and the 2019-22 pandemic, drastic changes in such data have resulted.

Because housing markets, including DC's, are segmented in numerous ways, care should be taken not to accept without rigorous economic analysis conclusions to be drawn from housing data, e.g. to assume that increases in luxury and high-income housing will have any significant positive effect on middle and low-income housing prices.

### Suggested mitigation steps

Generally. Overall, developer applicants should be required to demonstrate that their project will inflict no further injury on the lifeblood of the community in which they seek to build, including preservation of existing housing stock and home ownership. Applicants who cannot meet that burden must produce for Zoning Commission approval a rigorous mitigation plan. The Commission's racial equity policy must elicit constructive developer, neighborhood, ANC and individual participation if the equity analysis is to be effective. It will be most helpful if it incentivizes developers to view equity goals as positives for their projects.

### Housing

Those living on the site must be rehoused, either temporarily or permanently, with (for those in temporary housing) a guaranteed right of return to a unit appropriate for their household size. The right should be absolute (or at least first in line) with no disqualification for credit or law enforcement issues (as long as safety is not a risk). No certificate of occupancy should be granted until the developer demonstrates that previous tenants were provided with the opportunity to return. DC should provide vouchers to ensure that rents are affordable for the returnees.

There should be tracking of displaced households so that they can be invited back once the project is complete. The Zoning Commission should ask the Office of Planning to evaluate previously used tracking methodologies; propose and make available improved methodologies; propose practical means of oversight and enforcement of tracking within existing DC laws and regulations; and enlist the cooperation of those agencies with adequate authority and funding to do so.

If a formerly occupied vacant building is slated for redevelopment, the applicant must be required to show that the landowner did not engage in de facto eviction of the tenants by failing to maintain the property and other making life unbearable for tenants. Zoning relief should be conditioned on the applicant's showing. This will remove the incentive for landlords to abuse tenants in order to exploit the property's development potential. We are sure the Zoning Commission remembers the notorious Sanford Capital/City Partners case in Congress Heights. An effective equity policy can prevent some of these abuses on the front end and avoid protracted enforcement actions on the back end.

### Employment

As has been widely documented and acknowledged, the District's First Source requirements have never been meaningfully enforced, especially during the construction phase. First, the "best efforts" standard for compliance must be abandoned and replaced with mandatory requirements. Residents of working age facing

displacement should be considered prime candidates for First Source employment. One of the developers' favorite avoidance tactics is to enroll First Source applicants in "soft skills" training instead of training for job-related hard skills. Another is to funnel First Source hires into jobs for which developers receive a tax subsidy for a period of time and which are entirely unrelated to construction work. The Commission has the authority to impose requirements beyond those of the First Source law and should use that authority. The regulations must require developers to document their compliance, which shall be considered if the same principals seek further discretionary zoning relief.

### Conclusion

We view this Roundtable as the first step in an evolving process of reversing longstanding structural inequalities. While the Zoning Commission cannot do this alone, its authority is considerable. It can and must exercise its power vigorously. Thank you for the opportunity to comment.