

## DISTRICT OF COLUMBIA GOALS AND STRATEGIES FOR OVERCOMING IMPEDIMENTS TO FAIR HOUSING CHOICE

### I. Reduce Disproportionate Housing Cost Burden for Members of Protected Classes

- Housing costs in the District of Columbia are extremely high and have increased significantly in recent years. Members of protected classes that are disproportionately likely to be low-income, including Black and Hispanic residents and persons with disabilities, have borne the brunt of increased housing cost burden. Rising housing costs have resulted in the displacement of the many of these households while, for those who remain, many pay unsustainably high percentages of their incomes in rent. The objective of the following priorities is to reduce housing costs in targeted ways that alleviate these conditions for members of protected classes.
- A. Amend the District’s Inclusionary Zoning Program through a package of incentives and requirements that would result in nearly all developers to setting aside 20% or more of a property’s square footage as affordable.
- Currently, the Inclusionary Zoning (IZ) Program requires a set aside of 8 to 10% of square footage for affordable housing (the effective set-aside is somewhat higher when density bonus units are taken into account). This set aside percentage is low in comparison to cities and counties in some other strong housing markets, including suburban counties in the Region. At the same time, adopting a significantly higher set-aside requirement without making additional incentives available to offset the cost of providing affordable units could render IZ less effective in the event of a downturn in the real estate market. The District of Columbia should adopt a combination of incentives and requirements that result in an effective set-aside of 20% of square footage in nearly all new developments.
- B. Dedicate funding to enable non-profit affordable housing developers to purchase units produced through the District’s Inclusionary Zoning Program and rent those units to households with incomes at or below 30% of the Area Median Income.
- Additionally, the District’s Inclusionary Zoning Program does not produce units that are affordable to the lowest income households who are struggling the most with the effects of rising housing costs and who disproportionately include members of protected classes. For example, according to 2011-2015 CHAS data, 56.1% of Black households in the District are extremely low-income and have incomes at or below 30% of the Area Median Income as opposed to just 22.9% of all households. Although requiring developers to produce units for

extremely low-income households directly may undermine production goals under the IZ program, the District could still make units in these developments affordable to extremely low-income households by funding the purchase of such units by nonprofit affordable housing developers. Doing so would be similar in concept to Montgomery County, Maryland's program of purchasing IZ units to be managed as scattered-site public housing.

C. Broaden rent control protections.

- The District's rent control protections have exemptions that have decreased the policy's strength over time. In particular, units built after 1975 are exempt from rent control. Although exempting newly constructed units from rent control is a common practice that is intended to prevent rent control from being a deterrent to new housing development, it is a better practice to have the exemption function on a rolling basis. Instead of exempting units that are now 44 years old, an ordinance might exempt all units that were built within the past 15 years. Additionally, the rent control law exempts rental units owned by natural persons who own no more than four rental units. This exemption focuses on small landlords with relatively limited capacity and is not related to concerns about the effects of rent control on housing production overall. Rental units that fall within this exemption are likely to be disproportionately concentrated in areas that have more single-family homes and rowhouses and relatively few apartment buildings. The District should remove the exemption either entirely or in connection with any future zoning changes that permit the renting of accessory dwelling units, English basements, and other units that may not be currently permitted.
- Currently, the Rental Housing Act of 1985 allows for an annual adjustment in rent, based on the increase in the consumer price index. However, landlords may file a hardship petition to increase rents beyond the allowable rent increase in order to earn a 12% annual rate of return on their property investment. Although this exemption is designed to prevent financial hardship for landlords, the high threshold for a rate of return has served as a loophole in rent control and led some landlords to impose burdensome rent increases on tenants. The rate of return threshold is outdated and should be modified to reflect current market conditions. Another provision serves as a loophole to rent control. Landlords may propose a voluntary agreement that includes substantial rent increases but provides that only future tenants (or sometimes current tenants who are not members of the signing tenant association) will have to pay them. Often, landlords claim that these agreements will help raise funds for capital improvements. If 70% of current tenants agree, the increases may be enacted. This

practice undermines the intent of rent control and directly threatens housing affordability. The District should prohibit these agreements.

## **II. Ensure Access to Safe and Habitable Homes**

- Housing conditions in many rental properties that are affordable to low-income households are abysmal. This includes conditions in properties owned by the D.C. Housing Authority that have been neglected due to inadequate federal financial support over the course of decades as well as conditions in privately owned buildings where landlords may be seeking to drive out tenants with rights under the Tenant Opportunity to Purchase Act. People of color within D.C. are disproportionately exposed to these conditions. Dangerous conditions can have direct adverse health consequences and can also fuel displacement and gentrification as whole buildings become uninhabitable and are ultimately demolished.
- A. Fully fund critical repairs to D.C. Housing Authority properties.
- The D.C. Housing Authority and the District of Columbia have a fundamental responsibility to ensure that their own tenants, who are disproportionately Black and disproportionately have disabilities, are able to live in safe, habitable conditions. Though the cost of critical repairs is high due to years of deferred maintenance, it is a necessary cost and a moral imperative. Unfortunately, Congress has failed to make more funding available for public housing repairs. In the absence of such funding, the District should fully fund critical repairs and enable D.C. Housing Authority residents to live in dignity.
- B. Target proactive, objective, and transparent inspection activity toward areas for housing code violations.
- In 2017, the Department of Consumer and Regulatory Affairs (DCRA) began implementing a proactive inspection program for multifamily rental properties with three or more units. This was a great improvement because complaint-based code enforcement systems are often fraught with inequity due to tenants' fears of retaliation. The robust data that DCRA has captured about the program allows for some conclusions about next steps for improving habitability. Overall, 25% of proactive inspections are conducted in Wards 7 and 8. That is proportional to the portion of District residents who live in Wards 7 and 8. At the same time, 39% of inspections that uncovered housing code violations were in Wards 7 and 8. As Black residents are concentrated in these wards, Black residents are likely disproportionately exposed to housing code violations. Given this dynamic, DCRA should prioritize proactive inspection activity in Wards 7 and 8, in particular. Standards for all inspections should be transparent, objective, and consistent.

### **III. Increase Access to Opportunity for Residents**

- Across a range of different dimensions, the disproportionately Black residents of certain neighborhoods have limited access to opportunity. Targeted investments and policy interventions can help to reduce these disparities.
- A. Increase investment in the clean-up of contaminated sites.
- Sites in the District that have been identified by the Department of Energy & Environment as cleanup sites are disproportionately located east of the river. At the same time, relatively few sites that have been remediated through the Voluntary Cleanup Program are located east of the river. This suggests a need for a greater targeted focus on identifying and then remediating contaminated sites in communities that have the greatest health burdens within the District.
- B. Incorporate an environmental justice analysis into the review of zoning and permitting applications that would result in new land uses that might result in environmental burdens.
- Land uses that result in localized environmental harms are concentrated in Wards 5, 7, and 8, all of which are predominantly Black. The District's Production, Distribution, and Repair Zone classification allows for these types of land uses and is also more commonly found in those same wards. One example is the prevalence of light industrial uses along the Red Line tracks in Eckington in Ward 5. The presence of machine shops within one block of rowhouses without any real buffer contributes to environmental health disparities. Going forward, the Office of Planning and other responsible parties could incorporate an environmental justice analysis into their approval processes in order to avoid such outcomes.
- C. Ensure equity in the quality of transportation infrastructure.
- The condition of roads and sidewalks in the District varies across neighborhoods in a manner that often coincides with patterns of racial segregation. When making investments in the maintenance of streets and sidewalks, the District should prioritize the reduction of those disparities when selecting projects.
- D. Heighten Inclusionary Zoning requirements within close proximity to Metrorail stations.
- In recent decades, neighborhoods near Metrorail service, particularly on the Red and Green Lines, have become much less heavily Black, as lower income families are pushed out by development and rising rents. In order to ensure continued access to transportation, it is critical that the District prioritize affordable housing as sites near Metrorail stations are redeveloped. The District has the necessary leverage to impose higher

set-aside requirements near Metrorail stations both because of the strong demand for market-rate demand for housing near transit and because of the cost savings associated with reduced or eliminated parking requirements. In modifying its Inclusionary Zoning program, the District should require that 30% of square footage be set aside for affordable housing at sites that are within ¼ mile of a Metrorail station.

#### **IV. Increase Community Integration for Persons with Disabilities.**

- Compared to most states, the District of Columbia has relatively robust community-based services and supports for persons with a variety of different types of disabilities. Also to a much greater extent than elsewhere, these services are often available for individuals to start receiving right away, without having to sign up for and remain on a waiting list for years. Although there are quality control issues that have undermined successful community integration for persons who were not getting the services that providers had been engaged to offer, the availability of supportive services is not the main barrier to community integration. Instead, securing safe and affordable housing is the bigger issue. Although a much wider array of locally-funded housing programs is available in the District than elsewhere, District-funded tenant-based rental assistance programs run up against the obstacle posed by high market rents. These high rents have driven some residents with disabilities out to Maryland.
- A. Implement allowable rent standards based on the D.C. Housing Authority's payment standards for all tenant-based rental assistance programs.
- The D.C. Housing Authority has in large measure solved the problem of Housing Choice Voucher holders not being able to find units by having neighborhood-based payment standards that go up to as high as 175% of the Fair Market Rent. Other, more targeted programs that help individuals with disabilities live in private rental housing are not as generous. For example, for the Department of Disability Services' program, the maximum rent for a two-bedroom unit is roughly \$1,800. In the District's most expensive neighborhoods, the D.C. Housing Authority's payment standard for a two-bedroom unit is \$3,113. Although matching the D.C. Housing Authority's payment standards would increase the cost of providing housing on a per capita basis, doing so would help ensure that persons with disabilities who have deep ties in the District are able to remain.
- B. Provide funding for accessibility retrofits in community residential facilities.
- There are 99 community residential facilities for persons with disabilities in the District with a total of 666 beds. Very few of these facilities are accessible to persons with ambulatory disabilities. The District should make funding available for accessibility retrofits in order

to ensure that a physical disability is not the reason why a person with a psychiatric disability is unable to live in a community-based setting.

**V. Promote Housing Choice and Redress Segregation and Exclusion.**

- The legacy of redlining, restrictive covenants, and other discriminatory practices continues to have a strong impact in the District, which remains highly segregated by both race and income. This continuing segregation is closely tied to the disparities in resources and access to opportunity discussed within this analysis. In addition, as cost pressures rise for District residents, it is important that all areas of the District jointly contribute to meet our affordable housing needs.
- A. Expand affirmative marketing requirements and resources for housing mobility counseling services.
- Numerous stakeholders raised concerns regarding the lack of publicly-distributed, accurate information about the availability affordable options and inclusionary units, even for specific buildings they are familiar with in their current neighborhoods. DCHFA and DC HCD should develop requirements for broader, more concerted marketing and outreach (including to voucher holders) of inclusionary units and tax credit developments.
  - DCHA does have a growing mobility counseling program that voucher holders may opt to participate in if seeking to move to a range of locations throughout the District, such as areas with high-performing schools. However, the need for such programs will expand as DCHA continues its redevelopment plans. Additional resources would enable DCHA to expand such counseling services, including both mobility counseling and other aspects of tenants' needs and rights. Furthermore, DCHA should begin planning to enact policies providing for advance choice-mobility counseling for residents in buildings undergoing RAD conversions, as required by the RAD statute.
- B. Implement the Mayor's Housing Plan so as to ensure meaningful new housing options, including for low-income families.
- There are significant imbalances in the distribution of affordable and subsidized housing among the District's Wards. The District has taken some positive steps to address this, including incentives to develop tax credit properties in Economic Opportunity Areas as designated by the Qualified Allocation Plan, and in the Mayor's Housing Plan, which calls for additional housing production across the eight wards. While the Housing Plan establishes general principles for balanced development, DCHCD should enact a detailed implementation plan that will ensure this vision achieves its intended goals. This plan should provide for sufficiently deep affordability; choices for families (i.e., large bedroom

units) in high-opportunity areas; prioritize incentives and oversight for production in high-opportunity areas; and ensure careful siting of any new construction in Wards with existing concentrations of affordable housing, to avoid further reinforcing such concentration, and to ensure that new affordable construction in those areas is combined with other resources and community development strategies.

C. Address exclusionary impacts of zoning and planning policies.

- To address deeply entrenched patterns of exclusion and residential segregation, the District of Columbia should consider modifying its Comprehensive Plan to reduce the amount of land that is zoned only for single-family homes, especially in high-opportunity areas. Currently, many areas in the District are essentially off-limits to multifamily housing, resulting in very little housing supply being added in much of the city. It is especially difficult to site affordable housing in areas west of Rock Creek Park in part because of a lack of an appropriately zoned sites. The prevalence of single-family zoning in these areas also steers high-density market-rate development toward gentrifying neighborhoods east of Rock Creek Park, thus exacerbating displacement pressures. Significantly reducing the amount of residential land that only permits single-family homes may help to increase the overall supply of housing in the District and will allow for more density and a greater mix of housing types including duplexes, fourplexes, and apartment buildings that are more accessible to a wider range of incomes. Building more types of housing may help increase the overall housing supply in the District, improve access to high-opportunity neighborhoods for low and middle-income families, and address multiple contributing factors to fair housing issues. Reforms to zoning policies west of Rock Creek Park should include both the legalization of 2-4 unit structures in areas currently zoned for single-family homes and multi-family zoning that allows for the development of apartment buildings on major corridors including but not limited to Connecticut Avenue, Wisconsin Avenue, and MacArthur Boulevard.
- The District updated its zoning code in 2016 to reduce minimum parking requirements for new buildings and allowed by-right development of accessory apartments in nearly all residential zones in the city. While these were beneficial changes, further action should be taken. The District should consider eliminating all minimum parking requirements in the city and imposing parking maximums in order to help reduce construction costs for multifamily buildings. In addition, the District should consider streamlining requirements to help reduce the cost and complexity of constructing accessory apartments as well as other multifamily buildings. Doing so could help make projects more feasible and improve the overall supply of housing.

- D. Incorporate a cross-agency fair housing and equity analysis into the review of public housing redevelopment plans and planned unit developments.
  - Some recent large scale development and redevelopment efforts have not sufficiently addressed the needs of large families with children, persons with disabilities, and Black residents of the District, in particular. By incorporating a fair housing analysis in the review process for redevelopment plans and planned unit developments at an early stage, the District's Office of Planning could catch issues such as the distribution of unit sizes in proposed developments while it is still feasible to amend plans.

**VI. Increase Access to Proficient Schools and Disrupt the Cycle of Residential and School Segregation**

- Patterns of housing segregation and housing policies in the District have a significant impact on school segregation and access to proficient schools, and some D.C. education policies reinforce and enhance the effects of housing segregation.
- A. Ensure that families with housing assistance have access to high performing schools.
    - One of the most direct steps that D.C. can take to address disproportionate access to proficient schools is to fully implement the Mayor's Housing Initiative, with an emphasis on developing a fair share of deeply income targeted apartments with large bedroom sizes in the highest performing D.C. elementary school zones, and giving preference in those units to families with children in neighborhoods with the lowest performing school zones in the District. The D.C. Housing Authority can also play an important role by giving affirmative assistance to families in these low performing school zones who have Housing Choice Vouchers and who wish to move to an apartment in a high performing school zone.
  - B. Explore revisions to school assignment boundaries and feeder patterns to avoid reinforcing segregation.
    - When DCPS next revisits its school assignment zones, it should avoid reinforcing housing segregation in its drawing of assignment zones, including possible consideration of non-contiguous assignment zones. Well in advance of the 2023 redrawing of assignment zones, DCPS should embark on a study of its options, including a community engagement process (possibly modeled after the recent community engagement process in NYC District 15).
  - C. Explore revisions to the lottery system to avoid reinforcing segregation.

- Permitting individual schools to prioritize nearby residents accentuates the impacts of housing segregation and limits access of low income children to proficient schools, because families in those attendance zones take up most or all of the available seats, and because of the relative lack of affordable housing in those school zones. This problem can be partially addressed over time by a strong preference for at risk students in all DC elementary schools, or a set-aside of seats for at risk students in the most proficient schools.

D. Protect students from school displacement.

- Where low income students are displaced from their neighborhood school by economic pressures, DCPS should consider guaranteeing continued access to the school for the displaced students, in much the same way that homeless students are guaranteed a continued seat in the school.

E. Address the lack of student transportation services.

- The lack of student transportation enhances the impact of housing segregation and lack of access to proficient schools. It is unclear why D.C. is the does not offer transportation for elementary school students, as most other school districts do. For many low income families in Wards 7 and 8, the lack of a yellow school bus means that their elementary school children have no realistic choices in other parts of the city. DCPS may want to consider offering student transportation to elementary school students in the lowest performing schools zones in the city.

F. Improve school ranking systems to avoid reinforcing segregation.

- More nuanced school ranking systems, that give more weight to student diversity, school climate, and yearly progress, and better marketing of a diverse range of schools to new residents of the city could help to expand access to highly proficient schools for low income students and students of color.

## **VII. Expand Outreach and Education around Fair Housing Rights and Resources**

A. Expand Fair Housing Outreach and Education

- The District should provide more resources to outreach and education to ensure that residents know what fair housing means, what protections are offered under fair housing laws, and where they can go to proceed when they have fair housing claims. In particular, the District should expand outreach to stakeholders from marginalized groups such as persons with disabilities, low-income seniors, the LGBTQ community, and immigrant groups to provide education regarding housing discrimination.

- The District, either through OHR or through funding to nonprofit partners, should also direct education efforts at real estate industry trade associations and their members. Education efforts should focus on areas, such as source of income discrimination and criminal background screening, in which District law is stronger than federal law.

#### Increase Fair Housing Enforcement

- OHR should receive more funding and staff capacity to help it to better fulfill its enforcement duties. The District should also consider providing more support for fair housing testing in order to detect subtle forms of housing discrimination, including discrimination on the basis of source of income as well as discrimination against traditionally overlooked groups such as LGBTQ seniors.