Stronger DHCD Oversight Needed for Inclusionary Zoning Program to Reach Housing Goals

November 20, 2024

A report by the Office of the District of Columbia Auditor

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Stronger DHCD Oversight Needed for Inclusionary Zoning Program to Reach Housing Goals

The Inclusionary Zoning program is a key initiative identified by the Mayor as a pathway toward the affordable housing goal of producing 36,000 new housing units and 12,000 new affordable units by 2025. The program is adding more units each year, but without effective oversight by the Department of Housing and Community Development (DHCD) there is no assurance the program is filling them with current and future residents who qualify for the IZ program. This audit examined whether DHCD implemented the IZ program effectively to provide housing for qualified applicants, and DHCD's ability to track and measure equity progress and improvements through the IZ program.

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The report findings include that DHCD did not:

- Ensure that IZ tenants' income was recertified annually which potentially allowed participants to remain in IZ units for which they were no longer eligible because their income exceeded their units' income requirement.
- Enforce the annual reporting requirements, which meant they were not able to track which units were vacant or who was living in occupied units.
- Ensure IZ units were filled timely and took on average more than 13 months to fill IZ units between DHCD issuing a post Notice of Availability letter to lease start date.
- Initiate enforcement action against property owners who violated IZ development covenant requirements and DCMR.

1,966

Total IZ units

18,024

Households registered with DHCD

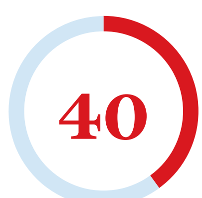
AVERAGE OF MORE THAN

13

Months DHCD took to fill IZ units

0

Enforcement during audit scope



Percent of sample properties that submitted annual reports

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Executive Summary

Office of the District of Columbia Auditor

Why ODCA Did This Audit

ODCA conducted this discretionary audit of the Department of Housing and Community Development (DHCD) to determine whether DHCD is implementing the Inclusionary Zoning (IZ) program effectively to provide housing for qualified applicants and to measure its equity progress and improvements.

What ODCA Found

- DHCD did not ensure IZ units were filled timely and took on average more than 13 months to fill IZ units between DHCD issuing a post Notice of Availability letter to lease start date.
- Although authorized by District of Columbia Municipal Regulations, DHCD's practice of allowing properties to maintain their own waitlist or conduct their own lottery to lease IZ units introduces a risk that units are leased to unqualified households and creates inequity within the program.
- DHCD did not ensure that IZ tenants' income was recertified annually which potentially allowed participants to remain in IZ units for which they were no longer eligible because their income exceeded their units' income requirement.
- DHCD did not enforce the annual reporting requirements, which meant they were not able to track which units were vacant or who was living in occupied units.
- DHCD did not initiate enforcement action against property owners who violated IZ development covenant requirements and DCMR.

What ODCA Recommends

- DHCD should determine whether additional FTEs are needed to meet the 102-day target for filling units in a majority of cases and request that additional staff through the annual budget process.
- DHCD should strengthen the requirements for obtaining a spot on the registered household list to reduce the risk of selecting unqualified households through the lottery process.
- DHCD should require Household Selection Plan properties to use DHCD's IZ registered household list to fill vacant units to ensure that District residents and workers are prioritized as a way to ensure program equity.
- DHCD should determine whether its existing Quickbase system can implement an automated function that sends an email to property owners and property managers reminding them of the importance and benefits of complying with income recertification and lease renewal requirements.
- DHCD should determine whether its existing Quickbase system can implement a process whereby properties can upload their annual report and receive confirmation of their submission.
- DHCD IZ annual reports should provide the Mayor and the Council with the number of vacant IZ units.
- DHCD should develop and implement IZ program enforcement standard operating procedures to include compliance checks and penalties and fines for properties that fail to comply with the IZ program, train staff on the standard operating procedures and impose penalties as appropriate.

Background

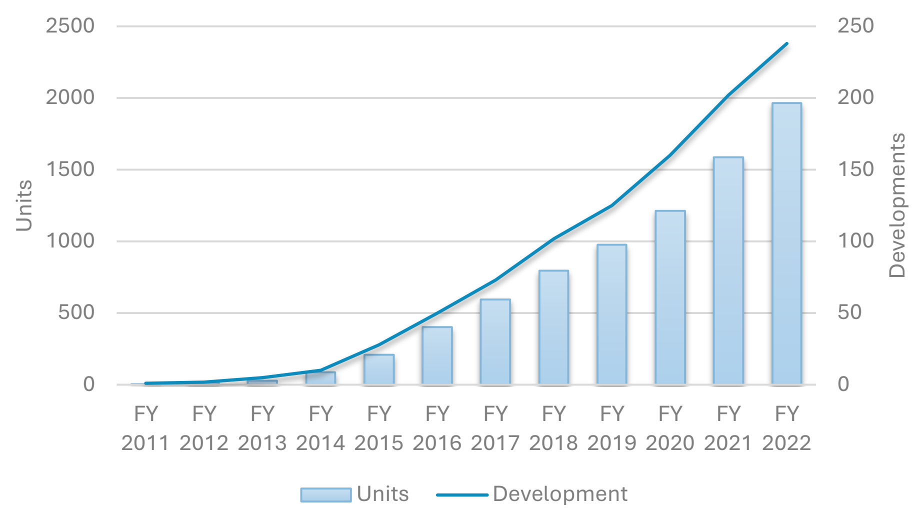
The Inclusionary Zoning (IZ) program in Washington, D.C., was enacted in 2006[1] and initiated through the Comprehensive Plan, which includes policies and actions that set priorities for the District's land use, public services, infrastructure, and capital investments.[2] A 2008 Mayor's Order designated DHCD as the authority responsible for administering the IZ program.[3] According to the D.C. Department of Housing and Community Development (DHCD) regulations for the program became effective in 2009 and the first units came to the housing market in 2011.

The regulations state that the IZ program was created to further the Housing Element of the Comprehensive Plan through increasing the amount and expanding the geographic distribution of adequate affordable housing available to current and future residents. The program utilizes the skills of private developers to produce quality affordable housing and zoning density increases to stabilize housing costs for low- and moderate-income households.[4]

The purpose of the program is to reduce the upward impact that market-rate development can have through increased affordable unit production with the goal of ultimately creating a full range of long-term housing choices for each District household regardless of size and income.[5]

The IZ program is one of many initiatives identified by Mayor Muriel Bowser as a pathway toward the affordable housing goal of 12,000 new affordable units to be produced by 2025.

Figure 1: Number of IZ Developments and Units (Cumulative) by Fiscal Year (2011–2022)



Source: ODCA Analysis

1 See Inclusionary Zoning Implementation Amendment Act of 2006. D.C. Law L16-275, effective March 14, 2007.
2 Office of Planning, "What is Inclusionary Zoning (IZ)?" Accessed May 1, 2023, https://planning.dc.gov/inclusionaryzoning.
3 Delegation of Authority – Inclusionary Zoning Implementation Act of 2006, see Mayor's Order 2008-59, April 2, 2008 (55 D.C. Reg. 5510).
4 11 DCMR § C1000.
5 Ibid.

As of September 30, 2022, 1,966 IZ units had been produced since the IZ program began and 18,024 households were registered for the IZ program (see Figure 2). In FY 2023, 413 new IZ units were produced, a record for a single year. The Mayor's affordable housing goal and the program's expansion are responses to the District's growing affordable housing crisis.

Figure 2: Inclusionary Zoning Unit Sizes as of September 2022

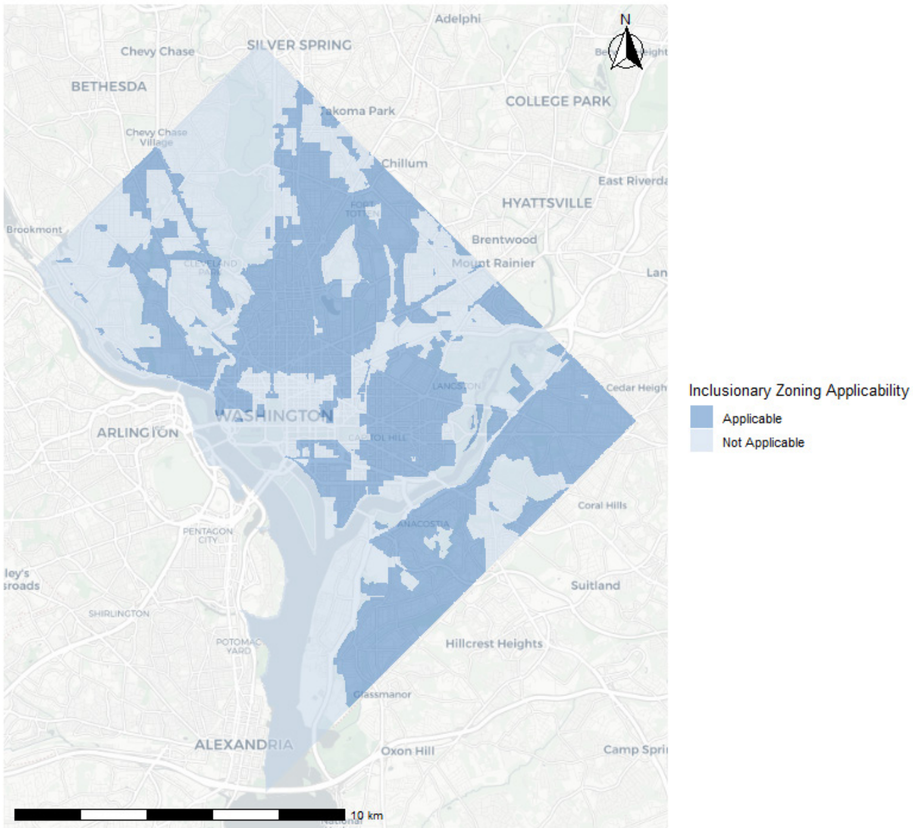
Unit Size	Unit Count
Studio	604
1-Bedroom	694
2-Bedroom	545
3- or 4-Bedroom	123
Total	1,966

Source: DHCD Inclusionary Zoning Annual Report for Fiscal Year 2022

Despite the need for affordable housing and the continued growth in the number of IZ units, the program has faced pushback from the DC Zoning Commission. In 2023, the commission halted a proposed expansion of the program aimed at requiring more affordable housing downtown and in other high-density neighborhoods. According to the Office of Planning, IZ does not apply to the single-family detached zones, which represent a significant portion of D.C.'s northwest quadrant and other areas of D.C. A major factor was the lack of developable tracts of land that were large enough to build 10 single-family homes since 10 units is the minimum that triggers IZ requirements.

Members of the Zoning Commission argued that requiring IZ in such neighborhoods could discourage other new residential development and hamper the District's economic recovery. These changes prevented IZ from moving into currently exempt downtown zones.

Figure 3: Map of District Illustrating Areas Subject to IZ Development Requirements



Source: Information Provided by D.C. Office of Planning

The IZ Process

According to the DCMR,[6] the District's Inclusionary Zoning (IZ) Program requires that 8% to 10% of the residential floor area be set aside for affordable units in most new residential development projects of 10 or more units. To begin the IZ process, the property developer must execute an Inclusionary Development Covenant (covenant) and send it to DHCD for approval. The covenant is a document that records the number of IZ units that will be built at the property and each unit's size and unit number. For each IZ unit in the new development, the covenant also establishes an income requirement. The income requirement for each unit is described in terms of Median Family Income (MFI), which means that the income of the approved household may not exceed the percentage of MFI cited in the covenant, and that the household's income upon lease renewal may not exceed 140% of the originally assigned MFI. These guidelines are established to discourage households from committing more than 38% of their annual income to rent and utilities. Once the covenant is approved by DHCD and recorded, the owner is required to file a written Notice of Availability (NOA) to notify DHCD of any IZ unit(s) that are available for rent or

6 11 DCMR § C1003.

purchase. DHCD reviews the NOA, approves it, and issues a post NOA letter to the owner. Information on the units is then placed on the DC Housing Locator website for IZ qualified participants to view.[7]

To become a qualified applicant, individuals must first complete orientation and online registration. Household eligibility is determined based on multiple affordable housing factors:

- Households are required to make no more than 50%, 60%, or 80% of the MFI.[8]
- Households must have a valid orientation certificate and registration in the IZ program/database.
- Households must have at least one person per bedroom.
- Housing costs may not exceed half (50%) of the applicant's income (before taxes).
- The applicant cannot be enrolled in a full-time college or university program.[9]
- The unit applied for must be the primary residence.
- The applicant or anyone who will live with the applicant may not own other residential property at the time of lease or purchase.[10]

Once a property's NOA is approved and the available units are posted on the DC Housing Locator website, DHCD sends an email to all qualified registered households asking interested households to click the link in the email to submit an entry. This allows DHCD to include them in a unit lottery, which is conducted by a DHCD housing specialist. Each DHCD-administered lottery prioritizes D.C. residency and D.C. employment status and selects a group of 10 IZ participants for each unit who are then able to continue with the selection process. The lottery selectees are then responsible for reconfirming their interest and sending the necessary documentation to DHCD and Housing Counseling Services (HCS) to confirm their eligibility. One of six DHCD specialists oversees the various steps in this process.

In October 2021, to alleviate some of the procedural pressures placed on DHCD specialists during eligibility confirmation, DHCD and HCS signed a grant agreement for HCS to provide housing counseling services for low- and-moderate-income persons. According to DHCD, HCS conducts income verification for IZ rental and sale units. Once an individual is selected through the DHCD lottery and indicates their interest to HCS, they must send documentation to HCS to prove their income eligibility. HCS has a dedicated staff of seven specialists and one program manager who are responsible for this process.

The regulations require DHCD to conduct the first lottery for all IZ units. If units are not filled through the first lottery, DHCD will conduct additional lotteries to fill units.[11] However, if DHCD has already conducted one lottery and an IZ development owner would like to fill units using an alternate process, the owner must submit a Household Selection Plan application and receive approval.

7 DHCD Inclusionary Zoning Steps for developers https://dhcd.dc.gov/sites/default/files/dc/sites/dhcd/service_content/attachments/2019-12-16%20IZ%20Steps%20for%20Developers.pdf.
8 On April 1, 2021, the MFI in Washington, D.C., was $129,000 for a household of four. On April 18, 2022, the MFI rose to $142,300.
9 Council of the District of Columbia, "DC Code § 6–1041.06, Ineligibility of Students." Accessed March 14,2023. https://code.dccouncil.gov/us/dc/council/code/sections/6-1041.06.
10 https://dhcd.dc.gov/service/inclusionary-zoning-iz-affordable-housing-program.
11 14 DCMR § 2211.

Objective, Scope, and Methodology

Objectives

The objectives of this audit were to:

1. Determine whether DHCD is implementing the IZ program effectively to provide housing for qualified applicants.
2. Assess DHCD's ability to track and measure equity progress and improvements through the IZ program.

Scope

The audit scope for Objective 1 was October 1, 2019, to September 30, 2022 (FYs 2020 through 2022). Objective 2 reviews October 1, 2010, through September 30, 2022 (FYs 2011 to 2022).

ODCA completed site visits at 16 IZ properties between January and March 2024.

Methodology

To address our objectives, we:

- Reviewed DHCD's FY 2020, FY 2021, and FY 2022 IZ Annual Reports to the Council of the District of Columbia.
- Reviewed D.C. Code and D.C. Municipal Regulations.
- Reviewed DHCD's draft policies and procedures and assessed internal controls.
- Assessed DHCD's internal IZ program database, Quickbase, to determine the number of IZ properties, their locations, and the number of units at each.
- Reviewed property-specific documentation to determine the number of IZ units and their general characteristics (e.g., number of bedrooms and bathrooms, designated MFI level).
- Sampled and examined eight IZ properties, one in each ward, that used DHCD's lottery process to fill vacant units.
- Sampled and examined eight IZ properties, one in each ward, that used a Household Selection Plan to fill vacant units.[12]
- Reviewed IZ properties' development covenants and post Notice of Availability letters to determine the correct MFI, size, and allowable rent for each unit.
- Assessed Household Selection Plan properties to determine whether applications were submitted to DHCD and property owners maintained required waitlists.
- Reviewed the DC Housing Search website to determine whether any vacancies existing at sampled IZ properties were being advertised.
- Compiled and analyzed data pertaining to IZ unit characteristics such as rents charged, the time it

12 One property was an HSP property noted in Ward 7 but was later found to be constructed in Ward 6. The only HSP in Ward 8 listed in DHCD's Quickbase system was later found to be constructed in Ward 7.

took to fill new units, and renewal lease dates.

- Reviewed and gathered information on previous audits and reports that mention affordable housing or the IZ program.
- Interviewed current DHCD officials, HCS employees, IZ property owners and managers, Office of the Attorney General employees, D.C. Council staffers, housing advocates and associations, and a former IZ program tenant.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS), except for a scope limitation for objective two. DHCD does not maintain demographic information on IZ tenants and as a result we were unable to assess the racial equity of the program. However, the audit team determined the biggest risk to program equity centered on properties' use of Household Selection Plans. We determined that only 11 HSPs on file at DHCD were dated earlier than the year 2020. The audit team used FY 2020 to FY 2022 to identify inequities in filling units. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Results

Even though DHCD was primarily focused on the goal of ensuring residents are placed in units timely rather than prioritizing IZ properties' compliance with annual program requirements, the agency was slow to fill units. DHCD did not ensure income certifications and leases were renewed annually or that IZ property owners submitted annual reports. Because the audit scope coincided in part with the COVID-19 public health emergency, ODCA discussed the impact of the pandemic on DHCD's ability to adhere to IZ program regulations and procedures. DHCD reported that during COVID selectees were hesitant to move into a new apartment with multiple shared spaces and often were unresponsive during the initial lottery process. Through interviews with DHCD and property managers, we determined that while the COVID-19 public health emergency led the District to impose rent freezes it would not have impacted either DHCD's ability to monitor properties or property owners' ability to submit required IZ program documentation. It is also important to note that the 16 site visits completed by the audit team occurred in 2024, more than two years after the rent freeze ended. Therefore, the information and viewpoints communicated by interviewees during those visits are accurate reflections of current practices and procedures.

DHCD did not ensure IZ units were filled timely and took on average more than 13 months to fill IZ units between DHCD issuing a post NOA letter to lease start date.

According to the District regulations,[13] DHCD established a 102-day timeline to get IZ units filled upon receiving a notice of availability (NOA) from a property owner. After receiving a post NOA letter from DHCD, the property owner must list each IZ unit on the DC Housing Locator website to be verified by DHCD. DHCD then notifies eligible households and asks for confirmation of interest. Afterward, DHCD runs the lottery and alerts the selectees. The selectee, property, and DHCD then work together to produce necessary eligibility and income documentation and sign a lease. The same schedule is outlined in DHCD's procedures titled "Inclusionary Zoning Steps for Developers."

DHCD did not ensure the established 102-day guideline to fill available units was met for 311 of the 368 units reviewed.[14] DHCD missed the 102-day target by an average of 10 months. At the 16 properties sampled (see Appendix A for a map and list of the 16 properties), units took on average 386 days (approximately 13 months) to fill during the initial lottery process. This time was calculated from the date on DHCD's post NOA letter to the unit's lease start date.

Some properties took significantly longer to lease units. One property took an average of 618 days to fill their 11 units. The property issued NOAs in the middle of 2020 and did not begin filling half of their units until 2023. On the other hand, two properties in our sample, one with 37 units and one with 2 units, took 85 and 86 days respectively on average to fill their units. While these properties serve as evidence that the timeframes established in DCMR can be met, the audit team noted that the property management team had to sort through an overwhelming number of inquiries quickly and walk applicants through each step

13 14 DCMR § 2207 See generally Title 14, Chapter 22 of the DCMR.

14 The 16-property sample was comprised of 414 units, however, only 368 had enough information for the audit team to determine the amount of time it took to fill the unit. The units without a time to fill calculation either did not have a lease on file with the property or DHCD or, did not appear on a Notice of Availability.

of the process to fill the units timely.

DHCD has draft procedures for filling units in a timely manner, but there are several process points where delays typically occurred. DHCD's IZ program staff and leadership referenced the growing size of the program and the relatively small staff as the primary reason for delays in their process. With each DHCD specialist managing 30 or more IZ properties it was difficult for them to remain aware of deadlines and send out timely reminders to properties and applicants. IZ specialists are also responsible for administering 2,000 Affordable Dwelling Units,[15] which expands their workload.

DHCD did not have an automated system to alert the specialists when different steps in the initial lottery process were due. Rather, specialists and applicants must individually track the deadlines, and the specialists manually send reminders for documentation. DHCD's lack of finalized policies and procedures for program management meant that specialists were left on their own to determine how to handle these deadlines for documentation collection. Quickbase, DHCD's current online infrastructure for document retention, tracks unit information like household size and MFIs but is not public facing and does not send reminders to applicants or specialists.

In addition, property managers were not aware of or did not understand their role in the IZ process. Many were unaware of whom to contact with issues and questions about lottery administration. During our interviews and site visits with IZ property managers in our sample, many explained that they had either not completed the National Center for Housing Management course[16] or had questions even after attending the training.

Some of those who had a positive training experience nevertheless explained that unique questions and situations not covered in the training came up when they participated in their first IZ lottery, which made it difficult for the properties to meet desired timelines. Challenges we noted included properties being unsure of how to advertise their units on DCHousingSearch.org as required by the regulations,[17] when to conduct tours for prospective tenants, and how to communicate with HCS. Such situations required frequent, protracted communication with DHCD and HCS to obtain answers to complete the process for leasing new units. DHCD and HCS staff clearly stated that this level of communication was not feasible given their limited staff size compared to the number of units they administer.

We also spoke with property managers responsible for their property's IZ program who had received little information or orientation from their predecessor. Through interviews with DHCD and our interactions with the properties in our sample, we learned that personnel turnover in the property management

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15 DHCD specialists manage ADU units in addition to their IZ units. ADU "is an umbrella term applied to the for-sale and for-rent homes that are locally restricted for occupancy by households whose income falls within a certain range and are offered at a below-market rate" https://dhcd.dc.gov/page/inclusionary-zoning-and-affordable-dwelling-units-program-cbos on May 4, 2023.

16 The National Center for Housing management course is entitled "Managing Inclusionary Zoning and Affordable Dwelling Unit Compliance."

17 14 DCMR § 2207.6 requires that "[w]ithin seven (7) days after receipt from DHCD of the maximum purchase price or rent for each Inclusionary Unit listed in the Notice of Availability, the Owner shall register the Inclusionary Unit for which the Notice of Availability was filed with the Housing Locator Website and notify DHCD in writing of such registration. DHCD shall not conduct a lottery for an Inclusionary Unit prior to receipt of such notification." https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=14-22.

profession is common, both when a property owner switches management companies and when an employee leaves the property management company. The lack of proper transition of responsibilities causes new management to be unaware of where an IZ property was in the lottery process.

Another common point of delay came with lottery selectees' interest and approval. Properties, DHCD, and HCS all reported that it was not uncommon for the scheduled 30 days to elapse with none of the selectees expressing strong interest in the IZ units. HCS specialists estimated that often less than half of the selectees reach out to send documents. As a result, properties needed consecutive lotteries to initially fill units.

Even when there is interest in specific units from lottery selectees, HCS explained, applicants' missing and/or incomplete paperwork slows the approval process and therefore delays filling the unit. Specialists said in interviews that most of their wasted time was in tracking required documents. This was especially difficult as there was no shared repository through which HCS and the selectees could view real-time updates on missing or incomplete documentation.

With the ever-growing need for affordable housing in the District, timely and efficient operation of the initial lottery system is imperative. As of September 30, 2022, according to DHCD there were 1,966 IZ units and 18,024 households registered for the IZ program. DHCD's IZ Annual Report for Fiscal Year 2023 indicated another 413 IZ rental units came onto the market, the most ever in a single year. The size of the registered household list compared to the number of new units coming available means that delays in filling units have the potential to cause increased build-up in those waiting for affordable housing. In addition, despite the thousands waiting, not only are units sitting vacant for an average of 386 days but eight units in our sample have remained vacant since their original NOA with many units vacant for more than 1,000 days.

Delays and obstacles in the process have the potential to discourage applicants from participating in the IZ program. District residents in more immediate need of housing may not have the resources to wait the nearly 400 days to go through the IZ process. Additionally, applicants without consistent access to the internet and who have trouble obtaining required documentation may be disproportionately burdened by the delays, unclear deadlines, and income verification intricacies.

Given the number of IZ units created each year, DHCD, HCS, and the properties must work together to fill new units more efficiently. Otherwise, the average time needed to fill units will continue to significantly exceed program guidelines and delay the move-in of individuals and families in need of housing.

Recommendations

1. DHCD should determine whether additional FTEs are needed to meet the 102-day target for filling units in a majority of cases and request that additional staff through the annual budget process.
2. DHCD should determine whether its existing Quickbase system can send reminders to staff, property owners and managers, and applicants about deadlines in the initial lottery process, income recertification, and lease renewals.
3. DHCD should improve training, including determining whether it should be more frequent and more targeted toward property owners as well as how training could better communicate the importance of notifying DHCD of property management turnover.

4. DHCD should update existing supporting reference materials to address common questions and process points that properties can refer to after their initial training is completed.
5. To reduce instances where multiple lotteries are necessary to fill a unit, DHCD should generate larger selectee lists in their initial lotteries while making available a pool of additional interested applicants once the 30-day window of document collection ends.
6. DHCD should implement a mandatory Housing Counseling Services (HCS) checkpoint midway through the verification period to update applicants on what is still outstanding, and work with HCS to implement an online portal that accepts and tracks IZ applicants' document submissions.
7. DHCD should strengthen the requirements for obtaining a spot on the registered household list to reduce the risk of selecting unqualified households through the lottery process.

Although authorized by District of Columbia Municipal Regulations, DHCD's practice of allowing properties to maintain their own waitlist or conduct their own lottery to lease IZ units introduces a risk that units are leased to unqualified households and creates inequity within the program.

Some IZ properties were authorized to maintain their own waitlists despite the 18,024 registered households on DHCD's registered households list. Our analysis of DHCD records showed that there were 52 Household Selection Plan properties out of 237 developments from inception to the end FY 2022 that opted to maintain their own waitlist. During our scope DHCD identified 22 properties that maintained their own waitlist.

D.C. regulations state: "DHCD may permit, in its sole and absolute discretion" a property to use its own selection plan commonly known as Household Selection Plan (HSP) to rent an IZ unit provided that "more than three (3) months have passed since the Notice of Availability was submitted…and at least one (1) lottery has been conducted [by DHCD]."[18]

According to DHCD instructions for HSP properties, there are several procedures in place that are designed to keep DHCD and HCS apprised of a property's use and maintenance of its HSP, of which a property-maintained waitlist is a key component. The HSP waitlist should record the applicants' IZ orientation date, student status, date and time of applicant inquiry, contact information, size of desired IZ unit, income level, modified unit features needed for a household member who has a disability, and whether applicants are District residents and/or employees. (see Appendix B for DHCD's HSP application.) These instructions state a property using an HSP to lease up vacant units should email their waitlist to HCS during the certification process.

ODCA found that households with an IZ certificate could approach properties directly and complete the leasing process, while other registered households waited on DHCD's list to be selected through the lottery process. We sampled eight properties that used HSPs to fill vacant units after DHCD had conducted at least one initial lottery. All eight HSPs on file with DHCD indicated the property would use a waitlist to select applicants.

18 14 DCMR § 2211.4.

To assist properties, DHCD created an Excel spreadsheet that properties could use to maintain their waitlist. The waitlist format was also designed to allow DHCD and HCS to monitor interested applicants at HSP properties. During our review of HSP properties, we found none of the eight properties in our sample used the waitlist format created by DHCD.

Only one of the eight HSP properties in our sample submitted a copy of their waitlist to HCS for review as required. However, this property did not collect all required data[19] from interested applicants. The property explained their practice was to email all waitlist applicants when a unit became available, regardless of the household size or MFI, and then allow the first person who visits the property to apply.

During interviews with properties in our sample, property managers said they kept lists but did not record IZ certificate information or prioritize District residents and D.C. employees. Overall, these eight properties were not aware of the HSP waitlist requirements.

In addition, not all HSP properties sampled were advertising unit vacancies on the DC Housing Search website. Three of the eight HSP properties we visited had vacancies at the time that were not advertised on DC Housing Search as required by their plans.

HCS did not enforce the requirement that properties submit their waitlists along with applicants' information. HCS specialists described difficulties getting properties to submit waitlists and said HCS would still certify a potential tenant to fill a vacancy for a property using an HSP without being provided a waitlist from the property. HCS's review of the waitlist ensures that properties are prioritizing District residents and workers as required in HSP application.

As noted previously in Finding 1, through interviews and our own experiences during fieldwork, company and employee turnover in the property management industry is common. Interviewees told us that when an employee or management company stops managing a development, they typically do not inform their successor of their IZ duties and responsibilities or the status of the property's IZ units. Furthermore, DHCD and HCS are not notified of these changes and often did not have up-to-date contact information. This also contributes to property managers being unaware of how to properly run an HSP and compile and manage a waitlist, because they do not receive IZ program communications and updates from DHCD.

DHCD's practice of allowing a property to lease IZ units using its own housing selection plan can create inequity because it allows the property to select a household that is not registered with DHCD.

Properties' use of HSPs, though permitted by DCMR, subverts the intent of District-administered lotteries, which is to give as many interested households as possible a fair chance of being selected to rent an IZ unit. Further, if DHCD does not have full awareness of IZ placements they are unable to track and measure the equity of the program.

By not maintaining a proper waitlist or submitting it to HCS and DHCD as required, a property management company that uses its own HSP may, either inadvertently or intentionally, fail to comply with

19 DHCD's application for a Household Selection Plan includes data that properties should collect on the waitlist. This data includes IZ orientation date, student status, date and time of interest, applicant contact information, requested unit size, income level, accessibility requirements, conflict of interest disclosure, and preference type.

IZ program requirements to prioritize District residents and District workers. There is a real possibility that properties could be leasing to people who, though income qualified by HCS, are not on DHCD's household registry and are not a D.C. resident or worker, although the program should prioritize them according to D.C. Code.

Recommendations

8. DHCD should ensure Housing Counseling Services reviews Household Selection Plan (HSP) properties' household lists prior to conducting an income certification for an applicant at an HSP property.
9. DHCD should require Household Selection Plan properties to use DHCD's IZ registered household list to fill vacant units to ensure that District residents and workers are prioritized as a way to ensure program equity.

DHCD did not ensure IZ tenants' income was recertified annually which potentially allowed participants to remain in IZ units for which they were no longer eligible because their income exceeded their units' income requirement.

D.C. regulations impose specific annual responsibilities upon both IZ property owners and tenants. The regulation specifies that the tenant must state whether they intend to renew their lease and if so, they must recertify their eligibility.[20]

With regard to initiating the recertification process, per DHCD guidelines, properties and not the tenant are responsible for starting the renewal process: "The IZ/ADU lease renewal process is initiated by the property. Do not provide DHCD forms to tenants and do not collect income re-certification documents for any renewing tenants; this will be handled by Housing Counseling Services, Inc. (HCS)."[21]

DHCD did not ensure that properties completed income recertification for tenants and submitted renewal leases annually. Of the IZ properties in our sample, we found that only one of 16 had completed any lease renewals in a timely manner. At six of the 16 properties, we found some had renewed leases. On average those renewed leases were dated 147 days (five months) after the previous lease's expiration date.

The remaining nine properties had not renewed any leases at the time of our site visit. The units requiring renewal leases had expired by an average of 293 days (10 months). We found that in those instances where leases had not been renewed, the tenants were in a month-to-month status and their rent had not increased, that is, the tenants were being charged the rent specified in the expired lease.

During site visits, property managers generally did not seem to understand the renewal process and believed the tenant should initiate the process. Although initial contact should be made by the property, most correspondence thereafter is between the tenant and HCS. HCS said they try to send the property a spreadsheet with updates on each tenant's renewal status; property managers stated such updates are

20 14 DCMR § 2217.1.
21 DHCD Income Certification Property Instructions for IZ/ADU Renewals.

rarely provided and tenants and properties alike were often unsure of where they were in the process.

DHCD, HCS, and the properties similarly stated that HCS prioritizes new leases over renewals, which causes delays. HCS specialists also said properties do not submit renewal information 60 days before IZ lease expirations, which impacts HCS's ability to conduct and approve tenants' income recertifications so that properties and tenants can sign renewal leases timely.

HCS also assigned some blame to tenants themselves, saying they do not respond to inquiries regarding their interest in renewing and recertifying their income. Because they are already in their IZ unit, some tenants tend to "drag their feet," which also contributes to delays.

Without adhering to the annual income certification and lease renewal requirements, DHCD and HCS cannot identify IZ program participants whose income has increased such that they are at a higher MFI level or even perhaps no longer eligible to participate in the IZ program. Furthermore, participants staying in units for which they are no longer eligible prevent eligible IZ participants from occupying the units.

Property owners are also impacted by instances where tenants' leases have expired. Each year, DHCD publishes a "Maximum Income, Rent and Purchase Price Schedule" that specifies the amount of rent an owner may charge according to unit type and MFI levels. During our audit scope, the maximum rent allowed on a typical unit (e.g., 1-BR apartment at 80% MFI) increased by $20 to $60 each year. To apply permissible rent increases, however, an IZ unit owner must renew a tenant's lease to receive the new rent amount published by DHCD.

Recommendations

10. DHCD should determine whether its existing Quickbase system can implement an automated function that sends an email to property owners and property managers reminding them of the importance and benefits of complying with income recertification and lease renewal requirements.
11. DHCD should collaborate with Housing Counseling Services and publish enhanced guidance to increase awareness and understanding of the renewal process among property owners and property management companies.

DHCD did not enforce the annual reporting requirements, which meant they were not able to track which units were vacant or who was living in occupied units.

DHCD does not ensure properties submit annual reports each year. We sampled 16 properties and determined most properties have not adhered to the annual report requirement. IZ development covenants, which are signed by the property's owner, include Article IV 4.7 on the rental of inclusionary units that states the Inclusionary Development Owner shall provide an annual report to the District Agency regarding the rental Inclusionary Units.

D.C. regulations specify the information that should be included in the annual report. Among other items, owners must provide specific information about unit occupancy and for any units that were vacated during the year, the number of days the units were vacant, as follows:

Annually within fifteen (15) days after the anniversary of the first lease agreement for an Inclusionary Unit in a Rental Inclusionary Development, the Inclusionary Development Owner shall submit a report to DHCD setting forth the following information for the entire Rental Inclusionary Development:

a. The number of Rental Inclusionary Units, by Bedroom count, that are occupied;
b. The number of Rental Inclusionary Units, by Bedroom count, that were vacated during the previous twelve (12) months;
c. For each Rental Inclusionary Unit vacated during the previous twelve (12) months, the unit number of the unit that was vacated, the number of days the unit was vacant (or a statement that the unit is still vacant), and the date on which a Notice of Availability was provided to DHCD pursuant to §2206, if applicable;
d. For each occupied Rental Inclusionary Unit, the names of all occupants, whether each occupant is over or under the age of eighteen (18), the Household size, and the Household's Annual Income as of the date of the most recent Certification of Income, Affordability, and Housing Size;
e. A sworn statement that to the best of the Inclusionary Development Owner's information and knowledge, the Annual Income of each Eligible Household occupying each Rental Inclusionary Unit complies with the income limits applicable to the Rental Inclusionary Unit;
f. A copy of each new and revised Certification of Income, Affordability, and Housing Size provided in accordance with §2214.3 or §2217.1;
g. A copy of each new and revised Declaration of Eligibility provided in accordance with §2214.2 or §2217.1;
h. A copy of each lease signed in the preceding year;
i. A certification that for each Rental Inclusionary Unit that became available over the course of the reporting year Households were selected to occupy the Rental Inclusionary Units pursuant to a lottery or the approved marketing plan; and
j. Which, if any, units were re-designated and to which MFI level or to market rate.[22]

It is important to note that because a property's first annual report isn't due until shortly after the first anniversary of the execution of its first IZ unit lease, not all 16 properties within our sample were required to submit an annual report for each year in our scope. For example, some properties in our sample didn't start leasing their first IZ unit until 2020, which means their first annual report would not have been due until 2021. However, we found no evidence, either in DHCD's Quickbase system or their electronic files, that 15 of the 25 required annual reports were submitted.

22 14 DCMR § 2217.10.

Figure 4: Sample Properties' Compliance with Annual Report Requirements

Calendar Year	Sample Properties' Annual Report Submissions			
	Submitted	Required	Not Required	Sample Total
2020	0	0	16	16
2021	1	4	11	16
2022	5	7	9	16
2023	4	14	2	16
Total	**10**	**25**		

Source: ODCA analysis

According to DHCD employees and property managers, the factors that contribute to the apparent non-compliance include the administrative burden on DHCD and a lack of understanding and awareness among property managers exacerbated by employee turnover.

Additionally, ODCA concluded that requiring properties to email their annual reports to DHCD rather than upload them to a shared portal could also be a contributing factor. During one of our site visits, a member of the property management staff recounted that DHCD had notified the property several times that it had not received a particular annual report despite the property saying it had submitted the report several times. The property management team showed us prior annual reports that were submitted. This anecdote suggests there may be instances where a property's annual report submission goes unnoticed in DHCD's email inbox.

Further, DHCD acknowledged that working and communicating with developments to ensure they submit required annual reports is an area for agency improvement. DHCD stated properties often don't respond and seem not to want to deal with the IZ program. Some properties send their reports, even though DHCD does not ask, and others do not. A recent "Updates and Reminders" email from DHCD to IZ property owners and managers provided these instructions: "Annual Reports. Reporting is a yearly IZ/ADU development owner obligation. Reports must be emailed to the DHCD specialist with a copy to iz.adu@ dc.gov."

DCMR strongly suggest that the annual reports are designed to be the primary mechanism through which DHCD is able to identify occupied and vacant units and gather data it could use to monitor and analyze the length of vacancies. Without annual reports DHCD is unaware of the number of vacant units. We analyzed 414 units and determined there were a total of 22 vacancies at nine of the 16 properties when we visited.

Without annual reports, DHCD is also severely limited in its ability to spot check or audit properties' compliance with IZ program requirements. The information asked for in those reports along with the required attachments, such as leases and income certifications, are designed to give DHCD much of the information it needs to provide effective oversight. Further, properties' failure to submit required annual reports prevents DHCD from having the ability to provide useful information to the Council and the public about the efficacy of the IZ program.

Recommendations

12. DHCD should ensure it maintains and periodically verifies current email addresses for IZ property owners and their authorized representatives.
13. DHCD should perform compliance checks to ensure properties are abiding by the IZ development covenant.
14. DHCD should determine whether its existing Quickbase system can implement a process whereby properties can upload their annual report and receive confirmation of their submission.
15. DHCD IZ annual reports should provide the Mayor and the Council with the number of vacant IZ units.

DHCD did not initiate enforcement action against property owners who violated IZ development covenant requirements and DCMR.

DHCD's enforcement authority is explained in DC Code, in standard terms in the development covenants signed by IZ property owners, and in DCMR. DC Code states in part:

> **(b)** In addition to such fines, penalties, and fees as may be established pursuant to subsection (a) of this section, the following fines shall be imposed for violations of § 6-1041.02:...
>
> **(2)** Any person found to have rented an inclusionary unit for a rent greater than that permitted by the Mayor shall pay a fine equal the amount by which the rent paid exceeded the rent allowed plus 10%. The fine amount shall continue to be paid until the owner provides proof satisfactory to the Mayor that the rental payment has been reduced to the maximum allowed.
>
> **(3)** All other violations of the Inclusionary Zoning Program are Class I infractions and subject to the fine schedule set forth at 16 DCMR § 3201.1....[23] [24]

Article VI of the Inclusionary Development Covenant that the District and a property owner enter into prior to the construction of IZ units, titled "Default; Enforcement and Remedies," defines default and associated penalties as follows:

> The lnclusionary Unit Owner shall be deemed to be in default of this Covenant, if the lnclusionary Unit Owner violates or fails to comply with any provision of the: (i) lnclusionary Zoning Act, (ii) Covenant, and/ or (iii) Certificate of Inclusionary Zoning Compliance, and such violation continues beyond any cure period....[25]

23 D.C. Official Code § 6-1041.04.
24 16 DCMR §3201 sets a $2,000 fine for the first offense of a Class 1 infraction, $4,000 for the second offense, and $8,000 for the third offense. The fine for a fourth offense (and subsequent offenses) is set at $8,000.
25 Article 6.3 establishes the right to cure period. "If a violation occurs under this Covenant or the IZ Laws, the District Agency shall provide the Owner with written notice setting forth with particularity the alleged violation and shall provide at least thirty (30) days to cure the alleged violation, prior to the District Agency declaring an event of default and exercising its remedies. The District Agency may extend the cure period in its sole discretion."

> [A]n event of default under this Covenant shall also be a civil infraction for the purposes of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 … and may be grounds for revocation of any building permit and certificate of occupancy for the market rate portions of the Inclusionary Development.

With regard to revoking an IZ property's certificate of occupancy, the regulations state: "DCRA[26] shall not revoke a building permit or Certificate of Occupancy…except for a willful, substantial violation of the Inclusionary Zoning Act or this chapter." [27]

Despite properties' non-compliance with income recertification, lease renewal, and annual report requirements, DHCD did not initiate enforcement actions against any property owners during our scope. DHCD was aware of instances where property owners did not adhere to IZ program requirements, such as the submission of their property's annual report, but we found no evidence that DHCD provided owners with written notice of the alleged violation and at least thirty (30) days' notice to cure.

Although staff are aware of enforcement requirements, DHCD employees acknowledged during interviews that they do not have the staff and information technology capability necessary to effectively monitor compliance and then initiate enforcement action based on the monitoring which officials said is "very labor intensive." They added: "DHCD is responsible for monitoring the IZ program and property managers. The lack of monitoring has been partly because of property management issues and resources." When DHCD specialists are closely involved in the IZ process it forces the property manager to adhere to the process.

In addition to resource limitations, DHCD had not finalized an enforcement policy and procedures. Policies have been in draft status since 2023. An enforcement policy is necessary because it would explain to DHCD personnel the fundamental steps required to carry out the enforcement policy and describe when program personnel are expected to initiate enforcement action.

DHCD's lack of enforcement has enabled a culture of non-compliance at some IZ properties and undermines the integrity of the program. Even though IZ development covenants and DCMR establish penalties that could be imposed against property owners for non-compliance, the lack of finalized, defined, and well-publicized enforcement policy and procedures contributes to an understandable assumption by IZ property owners that they need not expect consequences for failing to comply with program requirements such as income recertifications, lease renewals, and submission of annual reports.

As noted earlier in this report, the majority of properties we sampled had not complied with income recertification, lease renewal, and annual reporting requirements. However, at one property in our sample, 5301 Connecticut Avenue N.W., we noted a more significant instance of non-compliance.

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26 The Department of Buildings (DOB) and the Department of Licensing and Consumer Protection (DLCP), will serve residents, businesses, and visitors of the District of Columbia, taking on responsibilities previously under the Department of Consumer and Regulatory Affairs' (DCRA) purview. This transition will allow each agency to enhance their consumers' experiences through promoting their health, safety, and quality of life.

27 14 DCMR § 2224.2.

Based on our review of emails between DHCD and the property's owner and agents and other information, we concluded that despite DHCD's attempts to ensure the property leased its two IZ units to qualified program participants, the property instead leased its two IZ units to non-program participants at monthly rents substantially higher than those allowed by DHCD. Monthly rent for each of the IZ units was more than $1,200 higher than allowed in the property's post NOA letter. For example, the 2-bedroom unit designated at 60% MFI was leased for $3,113 per month rather than $1,680. Due to the severity of non-compliance at 5301 Connecticut Avenue N.W., ODCA issued a Management Alert Report (MAR) on June 21, 2024, to DHCD and recommended immediate enforcement action. Recommendation 16 below was originally included in the MAR. (See Appendix C for the full MAR and DHCD's Response)

Though noted at only one property in our sample, property owners who commit major violations, such as the leasing of IZ units far above permitted monthly rents as observed at 5301 Connecticut Avenue N.W., should be held accountable and penalized as appropriate. Otherwise, the culture of non-compliance will likely continue among IZ property owners because they will assume even the most egregious program violations bear no consequence. (See Appendix D for a full chronology of correspondence between DHCD and the owner of 5301 Connecticut Avenue, N.W.)

Recommendations

16. DHCD should develop and implement IZ program enforcement standard operating procedures to include compliance checks, penalties, and fines for properties that fail to comply with the IZ program, train staff on the standard operating procedures and impose penalties as appropriate.
17. DHCD should immediately begin enforcement action and impose appropriate fines for all Inclusionary Zoning program violations at 5301 Connecticut Avenue N.W.

Conclusion

The IZ program is one of many initiatives identified by the Mayor as a pathway toward the affordable housing goal of producing 36,000 new housing units and 12,000 affordable units by 2025. The program is producing more units each year, but without effective oversight by DHCD there is no assurance the program is filling the units with current and future residents who qualify for the program. DHCD did not adhere to D.C. Code, D.C. Municipal Regulations, or IZ development covenants to fill units, recertify tenants' income, renew leases, and submit annual reports. We also determined DHCD is unable to track and measure the equity of the household selection plan process because DHCD does not ensure properties using their own household selection plans were prioritizing District residents and District employees. That lack of enforcement has enabled a culture of non-compliance at some IZ properties, which threatens the integrity of the program, and impedes the District's ability to increase affordable housing for those in need.

Summary of Report Recommendations

Our audit identified 17 recommendations that could improve operations of the Inclusionary Zoning Program at the Department of Housing and Community Development (DHCD).

Findings	Recommendations
DHCD did not ensure IZ units were filled timely and took on average more than 13 months to fill IZ units between DHCD issuing a post Notice of Availability letter to lease start date.	**1.** DHCD should determine whether additional FTEs are needed to meet the 102-day target for filling units in a majority of cases and request that additional staff through the annual budget process. **2.** Determine whether its existing Quickbase system can send reminders to staff, property owners and managers, and applicants about deadlines in the initial lottery process, income recertification, and lease renewals. **3.** DHCD should improve training including determining whether it should be more frequent and more targeted toward property owners as well as how training could better communicate the importance of notifying DHCD of property management turnover. **4.** DHCD should update existing supporting reference materials to address common questions and process points that properties can refer to after their initial training is completed. **5.** To reduce instances where multiple lotteries are necessary to fill a unit, DHCD should generate larger selectee lists in their initial lotteries while making available a pool of additional interested applicants once the 30-day window of document collection ends. **6.** DHCD should implement a mandatory Housing Counseling Services (HCS) checkpoint midway through the verification period to update applicants on what is still outstanding, and work with HCS to implement an online portal that accepts and tracks IZ applicants' document submissions. **7.** DHCD should strengthen the requirements for obtaining a spot on the registered household list to reduce the risk of selecting unqualified households through the lottery process.

Although authorized by District of Columbia Municipal Regulations, DHCD's practice of allowing properties to maintain their own waitlist or conduct their own lottery to lease IZ units introduces a risk that units are leased to unqualified households and creates inequity within the program.	**8.** DHCD should ensure Housing Counseling Services reviews Household Selection Plan (HSP) properties' household lists prior to conducting an income certification for an applicant at an HSP property. **9.** DHCD should require Household Selection Plan properties to use DHCD's IZ registered household list to fill vacant units to ensure that District residents and workers are prioritized as a way to ensure program equity.
DHCD did not ensure IZ tenants income was recertified annually which potentially allowed participants to remain in IZ units for which they were no longer eligible because their income exceeded their units' income requirement.	**10.** DHCD should determine whether its existing Quickbase's system can implement an automated function that sends an email to property owners and property managers reminding them of the importance and benefits of complying with income recertification and lease renewal requirements. **11.** DHCD should collaborate with Housing Counseling Services and publish enhanced guidance to increase awareness and understanding of the renewal process among property owners and property management companies.
DHCD did not enforce the annual reporting requirements which meant they were not able to track which units were vacant or who was living in occupied units.	**12.** DHCD should ensure it maintains and periodically verifies current email addresses for IZ property owners and their authorized representatives. **13.** DHCD should perform compliance checks to ensure properties are abiding by the IZ development covenant. **14.** DHCD should determine whether its existing Quickbase system can implement a process whereby properties can upload their annual report and receive confirmation of their submission. **15.** DHCD IZ annual reports should provide the Mayor and the Council with the number of vacant IZ units.
DHCD did not initiate enforcement action against property owners who violated IZ development covenant requirements and DCMR.	**16.** DHCD should develop and implement IZ program enforcement standard operating procedures to include compliance checks, penalties and fines for properties that fail to comply with the IZ program and train staff on the standard operating procedures and impose penalties as appropriate. **17.** DHCD should immediately begin enforcement action and impose appropriate fines for all Inclusionary Zoning program violations at 5301 Connecticut Avenue N.W.

Agency Comments

On September 13, 2024, we sent a draft copy of this report to the District Department of Housing and Community Development (DHCD) for review and written comment. DHCD responded with comments on October 24, 2024. Agency comments are included here in their entirety.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Office of the Director

October 24, 2024

VIA EMAIL: Kathy.Patterson@dc.gov

Kathleen Patterson
District of Columbia Auditor
Office of the District of Columbia Auditor
1331 Pennsylvania Avenue NW, Suite 800 South
Washington DC 20004

RE: Responses to the Draft Report entitled, "Stronger DHCD Oversight Needed for Inclusionary Zoning Program to Reach Housing Goal"

Dear Ms. Patterson:

Thank you for the opportunity to respond to the Office of District of Columbia Auditor (ODCA) audit report dated September 13, 2024. The Department of Housing and Community Development (DHCD) appreciates the time and effort that facilitated the audit and the resulting recommendations.

The mission of DHCD is to produce and preserve opportunities for affordable housing and economic development and to revitalize underserved communities in the District of Columbia. DHCD focuses on three strategic objectives:

1. producing and preserving the supply of quality affordable housing;
2. increasing homeownership opportunities; and
3. revitalizing neighborhoods, promoting community development, and providing economic opportunities.

Inclusionary zoning (IZ) is one of the tools to accomplish those goals. DHCD and the Bowser Administration are committed to the IZ program. IZ does not require District or Federal funding, but instead relies on the private sector to create mixed-income communities. IZ units are created by private developers as part of otherwise market-rate developments, so one of the few tools creating affordable housing in highly desirable areas, near amenities such as public transportation, jobs, restaurants, and grocery stores.

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For Fiscal Year 2023, the IZ program produced 413 new affordable housing units, the most units produced in a single year. To date, the program has produced nearly 2,400 IZ units.

Response to Recommendations

1. DHCD should determine how many additional FTEs are needed to meet the 102-day target in a majority of cases and request additional staff through the annual budget process.

   Response: DCHD is actively engaging in efforts to reach the 102-day target. Meeting this target is primarily dependent on property owner and management participation. Because participation may vary, the agency is unable to determine how many additional FTEs may be necessary to meet this target.

2. DHCD should determine whether its existing Quickbase system can send reminders to staff, property owners and managers, and applicants about deadlines in the initial lottery process, income recertification, and lease renewals.

   Response: Concur. Quickbase does not currently send reminders externally. Cost prohibitive licensing fees for each property owner and/or manager would be required for this process. Quickbase already sends reminders to DHCD staff, and reminders are provided to owners by the DHCD staff. DHCD will look into a process where electronic reminders can be sent to external parties.

3. DHCD should improve training, including determining whether it should be more frequent and more targeted toward property owners as well as how training could better communicate the importance of notifying DHCD of property management turnover.

   Response: Concur. DHCD contracts with the National Center for Housing Management (NCHM) to hold regular training for property managers and owners. DHCD also tracks IZ property owners and includes them on communications from the department. DHCD will begin using an updated form covenant during this or the next quarter that will clarify the reporting requirements for the property owner and will include an obligation for IZ property owners to notify DHCD of any change in management.

4. DHCD should update existing supporting reference materials to address common questions and process points that properties can refer to after their initial training is completed.

   Response: Concur. Reference materials are regularly reviewed and updated quarterly, as needed. These materials are provided to property manager attendees at the NCHM training sessions for continued reference. Additional process support, including outlining next steps, is provided in writing, in response to the receipt of a Notice of Availability (NOA) (see Appendix 1).

5. To reduce instances where multiple lotteries are necessary to fill a unit, DHCD should generate larger selectee lists in their initial lotteries while making available a pool of additional interested applicants once the 30-day window of document collection ends.

   Response: Concur. This is current in the DHCD process for lotteries.

6. DHCD should implement a mandatory Housing Counseling Services (HCS) checkpoint midway through the verification period to update applicants on what is still outstanding, and work with HCS to implement an online portal that accepts and tracks IZ applicants' document submissions.

   Response: Concur. HCS is in the process of implementing an online portal that accepts and tracks IZ applicants' document submissions that will be implemented no later than June 2025. This will allow applicants to see real-time anything that is still outstanding.

7. DHCD should enhance the requirements for obtaining a spot on the registered household list to reduce the risk of selecting unqualified households through the lottery process.

   Response: Concur. DHCD is exploring this recommendation, including the possibility of randomly selecting some households to be income certified and then given priority for upcoming available units.

8. DHCD should ensure Housing Counseling Services reviews Household Selection Plan (HSP) properties' household lists prior to conducting an income certification for an applicant at an HSP property.

   Response: Concur. DHCD has requested that HCS and Latino Economic Development Center (LEDC) review waiting lists of properties with approved HSPs.

9. DHCD should require Household Selection Plan (HSP) properties to use DHCD's IZ-registered household list to fill vacant units to ensure that District residents and workers are prioritized and to ensure program equity.

   Response: DHCD modified the process and now sends emails to all registered households once an HSP is approved, in order to start the property-specific waiting list. However, to clarify, all IZ units must go through at least one DHCD-administered lottery, using DHCD's IZ-registered household list. If that lottery is not successful in filling the unit, property managers may request additional lotteries or submit HSPs, which explain how they will fill the units. DHCD has a template HSP, which allows property managers to create their own waiting lists, following the lottery priorities for District residents and workers.

10. DHCD should determine whether Quickbase's existing capabilities can implement an automated function that sends an email to property owners and property managers reminding them of the importance and benefits of complying with income recertification and lease renewal requirements.

Response: Quickbase sends reminders to staff. DHCD is exploring other software solutions to accomplish these tasks for external parties.

11. DHCD should collaborate with Housing Counseling Services (HCS) and publish enhanced guidance to increase awareness and understanding of the renewal process among property owners and property management companies.

    Response: Concur. DHCD communicates with both HCS and the Latino Economic Development Center (LEDC) on at least a monthly basis regarding process improvements. Those improvements are shared in the IZ quarterly update emails that are sent to property owners and managers.

12. DHCD should ensure it maintains and periodically verifies current email addresses for IZ property owners and their authorized representatives.

    Response: Concur. DHCD tracks IZ property owners and their authorized representatives and includes them on periodic emails.

13. DHCD should perform compliance checks to ensure properties are abiding by the IZ development covenant.

    Response: Concur. DHCD is exploring how best to perform compliance checks to ensure properties are abiding by the Inclusionary Development Covenant.

14. DHCD should determine whether its existing Quickbase system can implement a process whereby properties can upload their annual report and receive confirmation of their submission.

    Response: Concur. Quickbase is not able to implement a process whereby properties can upload their annual report, as Quickbase is only accessible to government employees who have Quickbase licenses. DHCD will explore other software solutions to accomplish these tasks.

15. DHCD should provide the Mayor and the Council with the number of vacant IZ units in their IZ Annual Reports.

    Response: Concur. DHCD will continue to explore the best way to provide this information accurately as information can change daily.

16. DHCD should develop and implement IZ program enforcement standard operating procedures to include compliance checks, penalties and fines for properties that fail to comply with the IZ program and train staff on the standard operating procedures and impose penalties as appropriate.

Response: Concur. DHCD is working to finalize IZ program enforcement standard operating procedures as recommended and train staff on these procedures.

17. DHCD should immediately begin enforcement action and impose appropriate fines for all Inclusionary Zoning program violations at 5301 Connecticut Avenue N.W.

    Response: Concur. DHCD sent a Notice of Violation and a Notice of Default and Fine and are working with the DC Office of Attorney General to take appropriate enforcement action.

DHCD Objects to Report Finding Regarding Length of Time to Fill IZ Units

Respectfully, DHCD objects to the methodology used in this Audit to calculate the average time required to fill an IZ unit. In order to effectively measure the average time, DHCD recommends using the listing date on dchousingsearch.org, which is approved by DHCD, as the starting point through the date when an income certification is approved for a household. Starting from the receipt of the Notice of Availability (NOA) from the property manager to the date the unit is occupied accounts for processing that can only be done by the property manager/owner and is not a measure of DHCD's performance.

DHCD used the same 16 properties that ODCA sampled and, excluding 2 of the IZ-exempt properties described below with units at 30% and 120% median family income (MFI), the average time from the date the dchousingsearch.org listings were approved by DHCD until households were income certified by a community based organization (CBO) was 170 days. This is a much more accurate timeframe to determine the effectiveness of the IZ program, since so much of the process before and after that is outside of DHCD's control. And if property management starts the lottery process 60-90 days before applying for the Certificate of Occupancy (CofO), as recommended by DHCD, the units should be filled 80-110 days after issuance of the CofO, which likely tracks how long the market-rate units at the same developments take to occupy. Another factor to consider is that property managers frequently prioritize filling market-rate units over IZ units, since the revenue is much higher.

To summarize the process, properties are directed to provide DHCD with an NOA approximately 60-90 days before they expect their CofO. DHCD conducts a site visit to ensure the bedrooms meet the IZ definition and then provides a Post-NOA letter, indicating the maximum allowable rent or purchase price and providing next steps. However, there is frequently time and effort expended by DHCD before the Post-NOA letter is finalized to ensure that all the required information requested for the NOA is provided. This can include property-specific details such as information about additional utility fees, amenity fees, tenant insurance requirements, etc. In some cases, the NOA is incorrectly sent in advance of site visits and prior to a CofO being issued.

The Post-NOA letter also provides the property management with a summary of the lottery process. The next step is that the property management must list the units on dchousingsearch.org and instructions are provided in the Post-NOA letter. The property management is requested to notify DHCD once that is done so DHCD can review and verify the listings are correct. Again, there is usually some back and forth between the property management and DHCD around this step, which results in additional delays.

Once the dchousingsearch.org listings are approved, DHCD sends notice to all registered households meeting the income and household size requirements for the specific units. The notice provides information about the unit, including the dchousingsearch.org listing, and typically gives a week for households to enter the lottery. Within a few days of the lottery closing, DHCD staff does data cleanup to ensure households entering the lottery meet the requirements, randomly selects households and notifies the households, property management and CBO which will be conducting the income certification.

Households are encouraged to contact the property management to view the units and ask any property-specific questions. They are also required to confirm interest in the unit to the CBO. Upon receipt of the confirmation of interest, the CBO requests households to submit documentation for income verification. The income verification process also includes back and forth between households and the CBO. Households are given a list of documents needed but rarely provide everything requested and frequently the documents provided trigger the need for further documents based on the specific household's income situation.

Once a household is approved by a CBO, the household and property are notified. The household then has to apply with the property and most properties have their own requirements for residents, such as credit, background and/or criminal history checks. If a household meets those requirements as well, the household and property typically sign a lease, but frequently the lease doesn't start for at least 30 days, so that households can provide notice to their current landlords and make arrangements to move.

Please note that of the 16 properties ODCA sampled, 4 are technically exempt from IZ. Properties are exempt from IZ if they receive Federal and/or District funding which requires more affordable housing than IZ and during the term of that funding, the properties follow the funding rules as opposed to IZ rules. In an attempt to provide housing to as many of the IZ-registered households as possible, DHCD conducts IZ lotteries for some IZ exempt developments, but these properties typically have a much higher percentage of affordable units than IZ developments and other complexities which make the lease-up period longer than traditional IZ properties. One of these properties included 33 units available at 30% MFI and the other included 26 units at 120% MFI. These income levels are outside the scope of the IZ program, and each involve additional complexities.

At least 2 of the 16 sample properties were large buildings that released their units in separate waves and 3 other of the 16 sample properties were part of multiple building developments, which also released and completed their units in waves. 1 other of the 16 sample properties specifically requested DHCD to postpone the lottery due to a shortage of property management staff. That property developer incorrectly identified the number of bedrooms in some of the units at the time of building permit, which required the property to re-submit a Certificate of Inclusionary Zoning Compliance (CIZC) to the Department of Buildings (DOB), which added months to the lottery/leasing process.

DHCD Objects to Report Characterization of Zoning Commission

In consultation with the Office of Planning (OP), DHCD wishes to clarify how the audit report addresses the decisions of the Zoning Commission (ZC) in designing the IZ program and improving it over time. The paragraph beginning "*Despite the need for affordable housing and the continued growth in the number of IZ units, the program has faced push back from the DC Zoning Commission...*" demonstrates insufficient information on the actions the ZC has taken and appears to confuse the reasons behind exempting single-family detached zones and the downtown D zones from IZ.

The ZC has acted several times to achieve deeper affordability and increase the productivity of the IZ program. The zoning code amendment process requires extensive public hearings where the ZC is required to weigh the testimony from a range of stakeholders. The ZC has always acted to maximize the productivity of the IZ program, while ensuring the program does not threaten overall new housing supply and cause a loss of broader affordability. The audit report does not address the actions the ZC has taken since the IZ program's inception. For this reason, attached as Appendix 1, is a timeline of the IZ policy formulation and implementation with the ZC case numbers, along with resulting improvements to the IZ program productivity. Anyone interested may dive deeper into the ZC cases to research the key drivers behind the ZC's decisions.

Single-family detached zones were exempted from IZ for the simple reason that there is insufficient vacant land large enough to build ten units and trigger IZ requirements. Select downtown D zones were exempted because there is no bonus density available to offset the required IZ set-aside; thus the cost of the IZ units would be absorbed by a reduction in land value, which directly limits the ability to get financing. A lack of financing or an increased cost of financing is a disincentive to the private market to invest in more housing and would threaten the conversion of office buildings to residential use. The ZC's decision was based in part on the knowledge that the Mayor and Council created the Housing in Downtown (HID) tax abatement, which requires IZ levels of affordable housing. The first three projects using the HID abatement were announced by the Deputy Mayor for Planning and Economic Development in September 2024.

DHCD Objects to Minor Mention of COVID Impact

DHCD also objects to the minor mention in the report of the effect COVID-19 had on the process of filling IZ units. The scope of the audit related to the time required to fill IZ units is October 1, 2019, to September 30, 2022. The COVID-19 pandemic nearly shut down the world in March 2020 and for most of that time. Over a thousand District residents died from COVID and over 160,000 were hospitalized. Millions of people lost their jobs or had reduced hours or pay due to COVID and people took extreme measures to avoid close contact with others. Many people moved out of urban areas to more remote cities. This was especially an issue in multi-family buildings, where most IZ units are – as people did not want to share elevators, hallways or common elements with others. Most IZ units also had little or no outdoor areas. Also, property management and leasing staff stopped working and processing applications or move-ins. This most certainly had an impact on the time it took to fill IZ units during the audit time period – also completely outside of DHCD's control.

DHCD Proposes Corrections to the Report

There is an error in the portion of the report titled 'The IZ Process'. The report indicates that DHCD issues an NOA. However, property management submits NOAs to DHCD and as described above, DHCD reviews them to ensure completeness and once complete (which is typically after additional information is requested and received), DHCD issues a Post-NOA letter.

The penultimate paragraph of the same section inaccurately describes the services covered by the grant agreement between DHCD and HCS. Instead, DHCD suggests the following:

> In October 2021, DHCD executed a grant agreement with HCS to include HCS conducting income verifications for IZ rental and sale units, in addition to the other services HCS had been providing to residents, including housing counseling services. This was a major improvement for the IZ program, which has standardized and streamlined the income verification process. Prior to this change, property management was responsible for conducting income verifications for rental properties and 6-7 community based organizations (CBOs) were responsible for conducting income verifications for sale properties. DHCD tried various methods of training property managers and CBO staff and supervising the process, but it was inconsistent and required a lot of DHCD oversight. Instead of DHCD training hundreds of property managers, who frequently leave specific properties or the industry, and reviewing their work, DHCD now trains a handful of housing counseling professionals, and the income verification process has gone from taking on average 3-4 weeks to less than 1.

In general, DHCD considers the process of filling IZ units with qualified tenants to be a shared goal between DHCD and the property management. DHCD does its best with the resources it has to train property managers on the process, but since IZ is a law in DC, it's incumbent on property owners, management professionals and landlords to be familiar with their obligations. The two properties mentioned in the Audit Results that took 85 and 86 days on average to fill their units are the perfect example of shared responsibility. DHCD shares the goal of property owners, developers and managers of filling IZ units as quickly as possible, but some developers and property managers do not do their share of the work and instead delay the process and have unreasonable expectations of DHCD's role.

The report confuses the two training courses offered for IZ. The report cites the IZ/ADU training course entitled "Inclusionary Zoning (IZ) Orientation for Prospective Renters & Owners" in relation to property managers. That course is intended for individuals seeking affordable housing and explains the process for them, regarding registering for and being selected in the lottery. But DHCD also created and offers a training course specifically for property managers: Managing IZ and ADU Compliance Training Course. The slides for that course explain in detail the process required by the IZ program for property owners and managers, including explaining many of the issues mentioned in the report that property managers claim to have.

In addition, the Post-NOA letter referred to above includes specific instructions for property management to list available units on dchousingsearch.org and the next steps. Language from DHCD's form Post-NOA letter is attached as Appendix 2.

Finally, and importantly, DHCD requests the title of the ODCA report be revised to more appropriately reflect the positive effect of the inclusionary zoning (IZ) program. DHCD suggests something along the lines of 'Inclusionary Zoning Program effectively provides affordable housing without direct District funding and could benefit from additional resources to provide enhancements."

Thank you again for your efforts and assistance in improving the IZ program. Feel free to reach out to me or Gene Bulmash, at (202) 442-7168 or gene.bulmash@dc.gov, should you require additional information or clarification.

Sincerely,

Colleen Green
Director

cc: Chris Earley, Deputy Director
Gene Bulmash, Housing Preservation Officer
Betsy Cavendish, EOM

Attachments

Appendix 1

Timeline of the IZ policy formulation and implementation with the ZC case numbers, along with resulting improvements to the IZ program productivity

IZ Policy Formulation and Implementation Timeline
2006 Case # 04-33(A-E): Zoning Commission adopts Inclusionary Zoning (IZ) into the Zoning Regulations. Major policy elements include:

- o Targets households at 50 and 80 percent of the Median Family Income (MFI), weighted toward 80 percent of the MFI.
- o Establishes required minimum set asides based on construction type, of 8 to 10 percent of the residential square footage or 50 to 75 percent of the bonus density achieved.
- o Provides 20 percent bonus density with height and lot occupancy changes to many zones to accommodate the increased density:
- o Bonus density exists for the life of the project; therefore, affordability requirements should also exist for the life of the project;
- o Subsidized dedicated affordable housing projects automatically qualify for the bonus density enabling those projects to build more affordable housing, provided projects meet the IZ minimum for the life of the project: and
- o IZ should not apply if bonus density is not theoretically achievable.
- IZ should not apply to:
- o Projects with development approvals granted prior to the effective date of the regulations.
- o Single-Family detached zones because of insufficient developable land large enough to trigger the minimum 10-unit development.
- o Certain residential uses such as dormitories and embassy housing.
- o Certain zones where changes to height and lot occupancy necessary to accommodate the bonus density are out of character with Historic Districts, Overlays, or other conditions such as Georgetown, Anacostia, Eighth St SE, Naval Observatory, R-5-E (now RA-5).
- o Downtown zones where bonus density is not achievable due to the permitted Floor Area Ratio (FAR) under the Federal Height Act of 1910 is already maximized.

- **Production:** 2009 – 2017 IZ delivers an average of 85 units per year with 21% of those units targeted at 50 percent of the MFI.

2014 Case #14-13: Zoning Commission adopts amendments to the Zoning Regulations to allow habitable penthouse space, consistent with amendments to the Height Act, including:

- Applying IZ to new residential habitable space; and
- Providing a housing linkage requirement for non-residential penthouse habitable space; and
- Applying these requirements to all parts of the city, including zones and geographic areas, otherwise exempt from IZ.
- Contributions to the Housing Production Trust Fund (HPTF) to date from penthouse payments in lieu exceed $38 million.

2016 Case # 04-33G: Zoning Commission adopts amendments to the IZ regulations that:

- Shift the income targets to 60 percent of the MFI for rental developments to achieve deeper affordability.

- Maintain the application of IZ for habitable penthouse space, at 50 percent of the MFI or Payment in Lieu (PIL).
- Permit developments of less than 10 units to voluntarily opt in to the IZ program.

- **Production:** 2018 – 2021 first IZ units deliver reflecting the 2016 changes. IZ production increases to an average of 165 units per year with 49 percent of units at or below 60 percent of the MFI.

2021 Case # 20-02: Zoning Commission adopts IZ Plus which:

- Increases the minimum percent of affordable units required from the matter of right requirement to 18 to 20 percent of the residential use based on a sliding scale of bonus density achieved through a zoning map amendment. To date, 32 zoning map amendments have been approved or are in process with IZ Plus which increase the potential number of IZ units almost tenfold, from about 380 to as much as 3,600.

2021 Case #'s 21-02 & 21-05: Zoning Commission adopts two separate IZ-XL amendment cases which:

- Apply IZ to previously exempted areas including Georgetown, Anacostia, Eighth St SE, Naval Observatory, and R-5-E (now RA-5).
- Apply IZ to existing non-residential buildings being converted to residential use.
- Increase the height of buildings required to provide a minimum of 10 percent IZ units from 50 feet to 85 feet.

- **Production:** 2022 – Current IZ production has increased to an average of 395 units per year with 66 percent at or below 60 percent of the MFI.

2023 Case # 21-23: Zoning Commission decides not to apply IZ to exempt Downtown zones because there is no bonus density available to offset a required IZ set-aside. The cost of the IZ units would therefore cause a reduction in land value. Reduced land value directly limits the ability to get financing; a lack of financing or an increased cost of financing is a disincentive to the private market to invest in more housing and would threaten the conversion of office buildings to residential use.

Appendix 2

Language from Post-NOA letter explaining how property managers should list IZ units on dchousingsearch.org and the next steps in the lottery process:

Next Steps:

1. List Unit(s) on DCHousingSearch.org
Within **seven calendar days** of this letter you must list the unit(s) on the District's Housing Locator Website (www.dchousingsearch.org) with rent(s) no greater than those specified in the last column of the table above and email me the links. Should you require assistance with posting the ads, the housing locator staff can be reached at (877) 428-8844. DHCD will not conduct the lottery until we receive the links. If this step is not completed within seven days of receipt of this letter, you may need to reissue the NOA. You may either make one listing for each row in the chart above, or one listing for each individual unit.

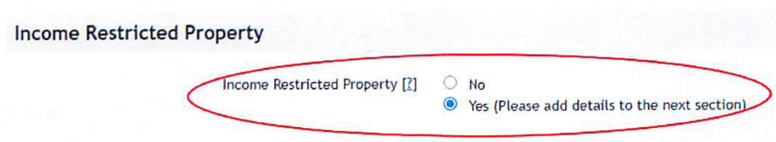
Provide the following information in the posting:

a. Add IZ icon.

(Check the "Yes" button by IZ/ADU Lottery, and the "No" button by IZ/ADU Non-Lottery to make the IZ icon appear on the listing)

b. Add the R icon to let viewers know the unit is income restricted.

(Check the yes button by Income restricted Property to make the **R** icon appear on the listing)



c. In the Comments section for each unit type, add the maximum income information from the chart in the beginning of this form. For example, in the case of 80% MFI studio units:

"Total maximum annual incomes (pre-tax amounts, projected over the next 12 months) for all persons who will live in this 80% MFI unit, by household size:

$86,650 (1 person)
$99,000 (2 people)"

2. Add Required Language to All Marketing Materials

All marketing and advertising of Inclusionary Developments must contain the following statement:
"Pursuant to the District of Columbia Inclusionary Zoning program, income restricted units are available at this development. Please contact the Department of Housing and Community Development at www.dhcd.dc.gov regarding the availability of such units and requirements for registration in the Inclusionary Zoning program."

Ensure that this language appears on the website for the development in a reasonably sized and legible font as well as all print and electronic marketing materials for the development. Forward links and/or copies to DHCD for our records.

3. DHCD Notifies Eligible Households of Available Unit(s)

Once DHCD receives notice and confirms that each unit/unit type is listed on DCHousingSearch.org and has conducted a site visit or reviewed architectural floorplans, we will email a lottery link to potentially qualified households and allow 7 calendar days for their responses.

4. DHCD Conducts Lottery

No later than 21 days after sending the lottery link to potentially qualified households, DHCD will conduct the lottery and send notification to selectees. DHCD will randomly select typically 4 households per unit, and rank the households based on our established criteria. DHCD will then email the list of selectees to you and notify selectees by email.

5. Touring & Property Application

When you receive the ranked list, we strongly encourage you to invite all selected households to open houses or virtual tours for the units. Households must pass both the property's application process and the IZ income eligibility process (with Housing Counseling Services, Inc., or "HCS"). It's up to you if you run your application first or wait for HCS to approve applicants, but they must pass both before signing a lease. Please make sure applicants understand that even if they pass the property's checks, they cannot schedule any move-in details or sign a lease until HCS emails their approval for the applicant. Pay attention to the ranking numbers; you should only run applications for the #1 ranked households unless you hear from them that they are not interested (in which case you could move to #2 and so on and so forth) or until HCS sends you an approved applicant.

6. **HCS Approval**
HCS will review all required documentation for each applicant and will notify the leasing agent if a lease may be executed with the selected applicants. **DO NOT SIGN A LEASE UNTIL YOU RECEIVE WRITTEN HCS APPROVAL**. This approval will include a signed "Certification of Income, Affordability and Housing Size" or COIAHS form from HCS. This document will become an attachment to the lease.

7. **Execute Lease**
By **60 days after the lottery** (unless extensions are given by you) households must execute a lease and IZ Lease Rider.

8. **Lease-Up Report (Rentals Only)**
As households are approved and lease units, start filling in the Lease-Up report for the property. This is the same Excel sheet as the Annual Report.

ODCA Response to Agency Comments

We appreciate DHCD's comments on the draft report and are pleased with DHCD's concurrence with nearly all 17 recommendations, as well as DHCD's comment that it is "actively engaging in efforts to meet the 102-day target" to fill IZ units. We also appreciate that DHCD noted they have either implemented or will be implementing many of our recommendations. We are pleased to see specific actions cited in DHCD's responses aimed at improving the IZ program's efficacy, such as:

- "DHCD will begin using an updated form covenant during this or the next quarter that will clarify the reporting requirements for the property owner and will include an obligation for IZ property owners to notify DHCD of any change in management."
- [Housing Counseling Services] is in the process of implementing an online portal that accepts and tracks IZ applicants' document submissions that will be implemented no later than June 2025."
- "DHCD is exploring how best to perform compliance checks to ensure properties are abiding by [their] Inclusionary Development Covenant."
- "DHCD is working to finalize IZ program enforcement standard operating procedures as recommended and train staff on these procedures."

In its response to the draft report, DHCD noted an objection to "the methodology used in this audit to calculate the average time required to fill an IZ unit. In order to effectively measure the average time, DHCD recommends using the listing date on dchousingsearch.org, which is approved by DHCD, as the starting point through the date when an income certification is approved for a household. Starting from the receipt of the Notice of Availability (NOA) from the property manager to the date the unit is occupied accounts for processing that can only be done by the property manager/owner and is not a measure of DHCD's performance."

As we explained during our September 24, 2024, exit conference with DHCD, ODCA did not use the date on which DHCD received the NOA from a property as the start date for our time-to-fill calculations. Rather, to calculate each IZ unit's time-to-fill, we used the date on DHCD's "post NOA letter" as the start date, and the unit's lease date as the end date. Therefore, in the final report, we edited the language to clarify this point. Through discussions with DHCD, we also determined that properties exempt from the Inclusionary Zoning program (due to other housing requirements) follow the same DCMR regulations on time-to-fill.

DHCD also asserts that the date on which a household's income certification is approved, rather than the date on which the household signed a lease, should be the end date used in the time-to-fill calculation. DHCD writes: "This is a much more accurate timeframe to determine the effectiveness of the IZ program, since so much of the process before and after that is outside of DHCD's control."

The 102-day timeframe that ODCA uses as its criteria for assessment is clearly defined in DCMR. Even more compelling is the "factor to consider" that DHCD notes in its own response, that **"property managers frequently prioritize filling market-rate units over IZ units, since the revenue is much higher."** (emphasis added.) That reality, noted by DHCD, is a strong reason why the 102-day guideline for filling IZ units exists in DCMR: to dissuade property owners from accepting the benefits of the IZ program (i.e., bonus density) while ignoring the needs of the individuals whom the IZ program is intended to serve.

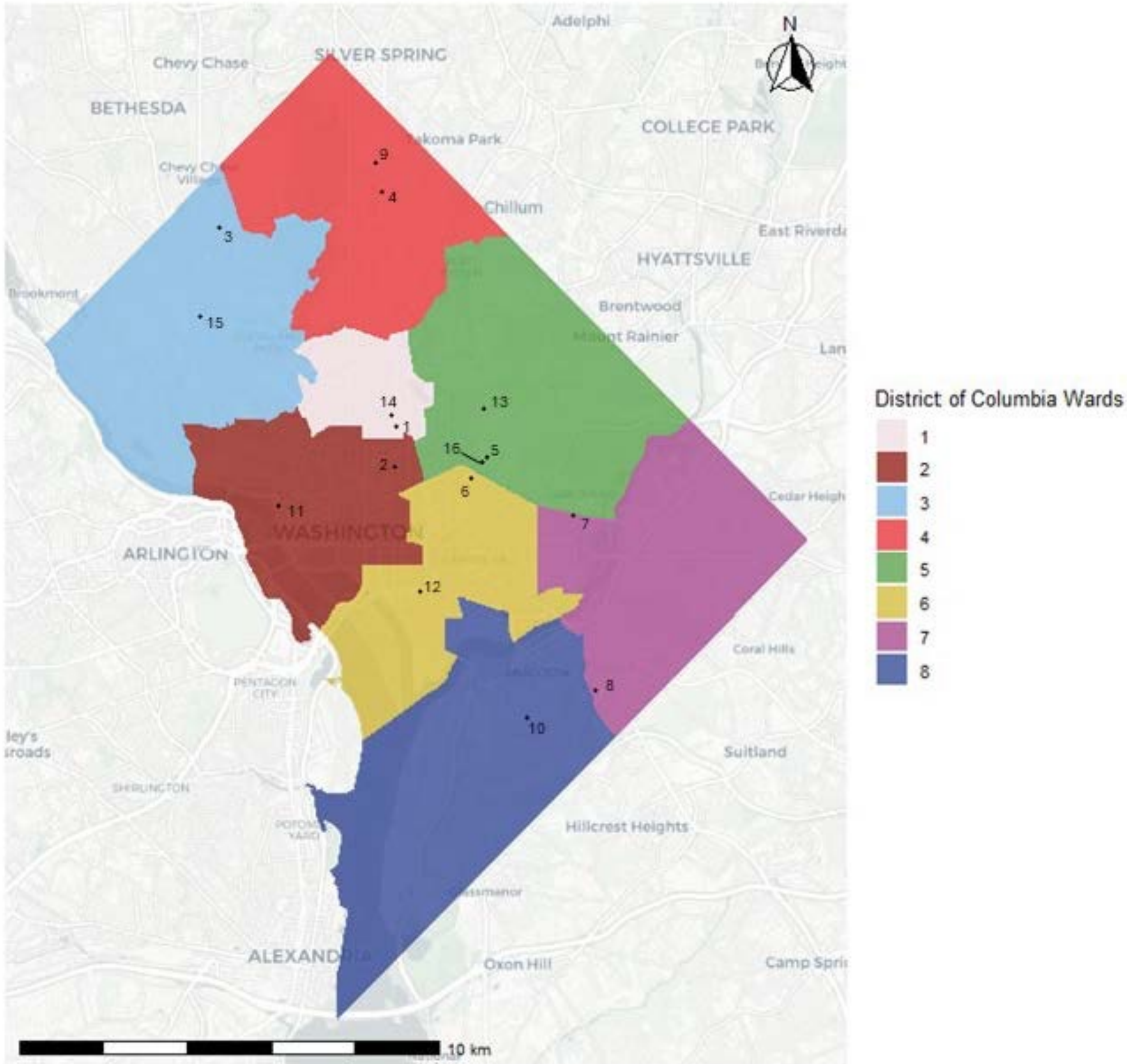
ODCA acknowledges that the COVID-19 pandemic was an unprecedented time, but it also provided an opportunity for DHCD to perform compliance testing and identify areas for improvement. We are pleased to see DHCD is willing to implement our recommendations and thank DHCD for its efforts and collaboration during the audit.

Appendices

Appendix A

Locations and Descriptions of the
16 Inclusionary Zoning Properties in ODCA's Sample

Locations and Descriptions of the 16 Inclusionary Zoning Properties in ODCA's Sample



Locations and Descriptions of the 16 Inclusionary Zoning Properties in ODCA's Sample

Sample #	Address	Ward	How Units Were Filled	# of IZ Units	MFIs	Unit Sizes
1	2009 8th Street Northwest	1	DHCD	10	60%	Studio, 1, 2
2	1338 8th Street Northwest	2	DHCD	24	50%, 80%	1,2
3	5301 Connecticut Avenue Northwest	3	DHCD	2	60%	1,2
4	917 Sheridan Street Northwest	4	DHCD	2	60%	1,2
5	440 Penn Street Northeast	5	DHCD	37	50%, 60%	Studio, 1, 2, 3
6	1220 3rd Street Northeast	6	DHCD	14	50%, 80%	1,2
7	633 21st Street Northeast	7	DHCD	2	50%, 60%	2
8	2219 Town Center Drive SE	7	DHCD	79	80%, 120%	Studio, 1 2
9	6800 Georgia Ave NW	4	HSP	2	50%	1,2
10	2910 Stanton RD See	8	HSP	16	50%	1,2
11	2601 Virginia Ave NW	2	HSP	18	60%	Studio,1,2
12	600 4th St NW	6	HSP	19	50%, 80%	Studio, 1,2,3
13	600 Rhode Island Ave NE	5	HSP	11	60%	Studio,1,2
14	965 Florida Ave NW	1	HSP	132	30%, 50%	Studio, 1, 2
15	20 Ridge Square NW	3	HSP	37	50%, 60%	Studio, 1, 2
16	1320 4th St NE	6	HSP	9	80%	Studio, 1, 2, 3

Appendix B

DHCD's Household Selection Plan Application

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT IZ/ADU OFFICE
1800 Martin Luther King Jr. Avenue SE | Washington, DC 20020
202-442-7221 | iz.adu@dc.gov | www.dhcd.dc.gov

Household Selection Plan

Inclusionary Zoning Units and Affordable Dwelling Units

Instructions
Purpose: The purpose of this form is for owners of Inclusionary Zoning Units (IZ Units) and/or Affordable Dwelling Units (ADUs) to provide the Department of Housing and Community Development (DHCD) with the required Household Selection Plan (HSP) for their development projects in accordance with DHCD rules, regulations, policies and procedures. This form is applicable to both Rental and For-Sale development projects. **How to Submit**: A HSP should be emailed to the DHCD specialist assigned to the project and to iz.adu@dc.gov. Include "Household Selection Plan" and the development address in the subject line.

Development Information			
Development Name (and Marketing Name, if different)			
	Washington, DC		
Street Address			Zip Code
Development Website			
Development Project Owner			
Owner's Street Address	City	State	Zip Code
Phone Number	Email Address		
Owner's Authorized Representative			
Authorized Representative Address (if different from Owner)	City	State	Zip Code
Phone Number	Email Address		

Listing of Affordable Units on the Housing Locator

Check the applicable box for this development. The Owner or Owner's Agent must register all available affordable units (either initial or subsequent offerings) on www.dchousingsearch.org (and inform DHCD of the posting in writing) within seven (7) days of:

☐ (For IZ Units) receipt of post-NOA and/or resale pricing information from DHCD (for initial occupants) or an NOA is submitted to DHCD (for subsequent vacancies)

☐ (For ADU rentals and initial sales) this HSP is approved by DHCD (for initial occupants) or an NOA is submitted to DHCD (for subsequent vacancies)

Rev: 7/1/24

☐ (For ADU resales) receipt of resale pricing information from DHCD

Applicant Selection Process – IZ/ADUs
Note: The District priority and student status procedures below are required for IZ Units and encouraged for ADUs.

District priority: Priority must be given first to IZ applicant households who live in the District and second to IZ applicant households who have one or more members that work in the District ("District" applicant category). Otherwise, applicants are in the "Miscellaneous" category. The Miscellaneous category is only used in the event that there are an insufficient number of qualified applicants from the District category. (District category status is verified by the Certifying Entity/Authority for the development.)

Student status: As a pre-screening question, inquire if the applicant is a full-time college or university student. If the answer is yes, the applicant does not qualify for the IZ program (unless they can prove they are a dependent of their parents/guardians AND the income and household size of the parent/guardian household qualifies for the IZ or ADU program).

Respond to the following questions. If editing any of the existing suggested responses, use track changes or strike-out the existing text.

1. **Data. What information/documentation will you collect from households/individuals interested in applying for the affordable units (at a minimum the information listed below)?**
   a. Date of completed IZ Orientation (IZO). The applicant must have taken IZO within the last two years. The date of this class will be recorded for the applicant record. If the household has not yet taken this orientation, the applicant cannot be added to the waitlist. Provide the contact information for the Community Based Organizations (CBOs) that offer this training. Applicant can be added to the wait list after meeting this requirement.
   b. Student status (required for IZ applicants and recommended for ADU applicants). Is applicant a full-time college or university student (yes or no)?
   c. Student follow-up question. If student status is "yes," is the applicant a Dependent of Parents or Guardians whose Household would otherwise meet the requirements for the Inclusionary Zoning Program (yes or no)?
   d. Date and time of record. This is the date and time the applicant was added to the waitlist.
   e. Contact information. Household contact first name, last name, phone & email.
   f. Requested unit size(s). Number of bedrooms requested for the household. Per HUD guidance (4350.3 REV-1), "[i]t is good practice to avoid including [family size] data on the property waiting list. This information is not directly relevant to tenant selection and might result in discrimination against some applicants." Contact DHCD for occupancy guidelines.
   g. Income level. Based on the total estimated gross income (over the next 12 months) from all sources for everyone that will live in the unit, indicate which MFI level the household income falls within (e.g. 50%, 80%, etc.).
   h. Accessibility requirements. What (if any) accessibility features are needed for the household members?
   i. Conflict of interest disclosure. Specify if the applicant works for or is related to someone who works for one of the following: the property, the same management company or sales team used by the property, the property owner's company, or any other entity associated with the property.
   j. Preference Type: (required for IZ applicants, and recommended for ADU applicants)
      i. Priority 1: District residency status (applicant or at least one member of the applicant's intended household lives in DC)
      ii. Priority 2: District work status (applicant or at least one member of the applicant's intended household works in DC)
      iii. Priority 3: Miscellaneous (meeting neither the criteria for DC residency nor work status)

2. **System. What software or tracking system will you use to track the information above?**
   ☐ a. An Excel worksheet will track interested applicant data (DHCD will provide a 3-tab Excel worksheet for Priority 1, Priority 2 & Priority 3 households).
   ☐ b. The development will use an alternate method (provide details):

____

3. **Selection Method. Will this property use a waitlist or lottery to select IZ unit/ADU applicants? Describe in detail how you will manage applicants from initial inquiry to lease-up/contract.** (For IZ Units, description must include how District and Miscellaneous category applicants will be handled. For ADUs, preference for District applicants is encouraged.)
☐ Waitlist Sample Text – When a unit becomes available, the property will contact the first 4 - 10 households with DC residency priority who are interested in the unit type available via email and invite them to apply. Priority is given in order of sign-up (1 through 4 or 10). If the household does not reply within 7 days or is otherwise ineligible for the unit, they will be removed from the list. Those that respond and are eligible but do not proceed because a higher-ranked household moves forward may retain their position on the list. The property may periodically update their waiting lists to verify that households are still interested in/eligible for the requested units. (Also state at what point you would close a wait list.)
☐ Lottery (describe in detail) - ____
____

4. **Special Situations. Describe how the following IZ unit/ADU applicants will be handled using the property's selection method.**
   a. Conflict of interest applicants (as described above in 1.1.i.).
      i. These applicants may not occupy any of the first 10 spots on the initial applicant data list (waitlist) for a unit; and
      ii. Provide a copy of any conflict of interest policies or procedures (which may supersede paragraph i. above).
   b. Current property tenants in:
      i. IZ units/ADUs (requesting an IZ unit/ADU of a **different** bedroom count). If an existing tenant in an IZ unit/ADU at the property requests (and is eligible for) an IZ unit/ADU of a different bedroom count, this applicant may be placed at the top of the waitlist for the desired unit type and contacted first should such a unit become available. To apply, they would need to meet the income and household size requirements of a new household (not a renewing one).
      ii. IZ units/ADUs (requesting a different IZ unit/ADU of the **same** bedroom count). If an existing tenant in an IZ unit/ADU at the property requests a different IZ unit/ADU of the same bedroom count, this applicant may be placed at the top of the waitlist (but under section 4.b.i applicants above) for the desired unit type. To apply, they would need to meet the income and household size requirements of a new household (not a renewing one).
      iii. Market rate units (requesting to move to an IZ unit/ADU). If an existing tenant in a market rate unit at the property requests (and is eligible for) an IZ unit/ADU, this applicant may be placed at the top of the waitlist (but under section 4.a.a.i, 4.b.i, and/or 4.b.a.ii applicants) for the desired unit type. To apply, they would need to meet the income and household size requirements of a new household (not a renewing one).

5. **Attachments. Attach the application for your property and any other information or forms that are given to prospective applicants. List the attachments below. Add or delete lines as needed.**
   a. Application
   b. List of all required and optional fees for the property, including description, amount, frequency and whether mandatory or optional
   c. Other: ____
   d. Other: ____

6. **Income certification. Outline the process for certifying a household's income or identify the Certifying Entity/Authority.**
Household income and size will be verified by the current designated DHCD Certifying Entity, which as of 1/13/22 is Housing Counseling Services, Inc. (HCS).

7. **Household size certification. Outline the process for certifying household size.**

Rentals: All names that appear on the Certification of Income, Affordability & Housing Size form (COIAHS) issued by HCS must also appear on the property application and the lease, to include both adults and minors. Any guarantors or co-signers that will not live in the unit must be labeled as "guarantor" or "co-signer" on the lease so it is clear that they do not live in the unit. The COIAHS is an attachment to any IZ lease.

Sales: The names of all household members (adults and children) will be listed on the Certification of Income, Affordability & Housing Size form (COIAHS) issued by HCS. The COIAHS becomes an exhibit to the contract. All adults must also sign a Declaration of Eligibility and those Declarations of Eligibility will be attached to and recorded with the deed. The primary applicant listed on the lottery selectee list or waitlist must be on title. It's up to the applicant whether they add any other adults from the COIAHS to the title. Someone from outside the household (not on the COIAHS) cannot be on the title.

8. **Criteria. Explain your screening criteria for all applicants at this property. In addition, explain how you will minimize fees for applicants. (E.g., will the property process applications one at a time, so that applicants do not pay unnecessary fees and/or waive or reduce fees for IZ/ADU applicants?)**
   - ☐ a. Income (provide minimum amount): ____________________
   - ☐ b. Credit (provide minimum score): ____________________
   - ☐ c. References (if required, state how many): ____________________
   - ☐ d. Criminal Background Check* (if checked, attach list of prohibited offenses): ____________________
   - ☐ e. Other: ____________________
   - ☐ f. Other: ____________________

** Note that as of 10/1/17, criminal background inquiries cannot be made in the District of Columbia until after a provisional offer of housing has been made to an applicant. For more information, contact the DC Office of Human Rights at (202) 727-4559 or ohr.dc.gov.*

9. **Third-party verification. If a third-party vendor is used to evaluate any of the screening criteria for applicants, provide the name of the vendor, which criteria they will evaluate and who will make the ultimate decision (third-party vendor or leasing team).**
   - ☐ Name of Vendor: ____________________
   - ☐ Criteria Evaluated: ____________________
   - ☐ Decision Maker: ____________________

Certification	
I certify under penalty of perjury that the information provided in this form is complete and true to the best of my knowledge and I acknowledge that the making of a false statement is punishable by criminal penalties under Title 22 of the District of Columbia Official Code. I further acknowledge that DHCD may rely on this information as true and complete. I further acknowledge that I will provide any relevant documentation requested by DHCD to support this HSP. Any updates to this plan will be communicated to DHCD as soon as they occur. This plan will be re-sent to DHCD on an annual basis (whether any changes have been made or not). If no changes have been made, the prior copy may be forwarded with an updated date and signature.	
Signature:	Date:
Printed Name:	
Department of Housing and Community Development of the District of Columbia 1800 Martin Luther King Jr. Avenue, SE, Washington DC 20020 (202) 442-7221	

Appendix C

Management Alert Sent to DHCD and Agency's Response

Office of the District of Columbia Auditor

June 21, 2024

Colleen Green
Director
Department of Housing and Community Development
1800 Martin Luther King Jr. Avenue, S.E.
Washington, DC 20020

Management Alert: 5301 Connecticut Ave Property LLC is in violation of D.C. Code and Inclusionary Zoning program regulations

The Office of the D.C. Auditor (ODCA) writes this Management Alert to inform you that 5301 Connecticut Avenue N.W. is an Inclusionary Zoning (IZ) property with two IZ units whose owner, 5301 Connecticut Ave Property LLC, is willfully failing to adhere to IZ requirements and has charged more than $1,200 per month beyond the maximum allowable rent for each of its two IZ units. The specific concerns we raise here are:

- The tenants of the two units were not IZ program participants.
- The tenants were charged more than $1,200 per month above the maximum allowable rent.
- The property owner failed to provide DHCD the required annual report and leases.
- The property owner failed to verify tenants' income with Housing Counseling Services (HCS).

It is our understanding that DHCD was aware that IZ program participants selected by DHCD did not move into the property's IZ units but did not know that the units were subsequently leased to individuals who were not IZ program participants.

We determined that the tenants of the two IZ units were charged $32,172 more than allowed per IZ program requirements during the initial lease periods (10/22-10/23, 4/23-4/24) and significantly more if units have been continuously rented after the initial lease period. One unit is a 1-bedroom at 60% MFI with a maximum rent[1] of $1,400 and the second unit is a 2-bedroom at 60% MFI with a maximum rent of $1,680.

According to D.C. Code, "[a]ny person found to have rented an inclusionary unit for a rent greater than that permitted by the Mayor shall pay a fine equal [to] the amount by which the rent paid exceeded the rent allowed plus 10%. The fine amount shall continue to be paid until the owner provides proof satisfactory to the Mayor that the rental payment has been reduced to the maximum allowed."[2]

[1] Inclusionary Zoning Program 2021 Maximum Income, Rent and Purchase Price Schedule.
[2] D.C. Code § 6-1041.04 (b)(2).

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The D.C. Code also states that all other violations of the Inclusionary Zoning Program including those not pertaining to rent or sale prices above the amount permitted are class I infractions subject to a fine schedule found in the D.C. Municipal Regulations.[3] By not submitting annual reports[4] or ensuring tenants' income certifications,[5] the property owner is in violation of program regulations. All appropriate enforcement should be pursued.

Article VI of the Inclusionary Development Covenant, "Default; Enforcement and Remedies" provides further enforcement guidelines and describes penalties in addition to fines as follows:

> 6.1 The Inclusionary Unit Owner shall be deemed to be in default of this Covenant, if the Inclusionary Unit Owner violates or fails to comply with any provision of the: (i) Inclusionary Zoning Act, (ii) Covenant, and/ or (iii) Certificate of Inclusionary Zoning Compliance, and such violation continues beyond any cure period....[6]
>
> 6.2.3 [A]n event of default under this Covenant shall also be a civil infraction for the purposes of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 ... and may be grounds for revocation of any building permit and certificate of occupancy for the market rate portions of the Inclusionary Development.

Figure 1 provides information on units' monthly lease amounts and the total amount the owner of 5301 Connecticut Avenue N.W. overcharged its two tenants during their original lease period. It includes the total amount overcharged if units were continuously rented above the maximum allowable rents, and the fines associated with the amount charged in excess of the maximum allowable rents.

[3] D.C. Code § 6-1041.04(b)(3).
[4] An annual report containing specified information is required by the Covenant signed by the property owner and District government.
[5] 14 DCMR § 2214.
[6] Article 6.3 establishes the right to cure period. "If a violation occurs under this Covenant or the IZ Laws, the District Agency shall provide the Owner with written notice setting forth with particularity the alleged violation and shall provide at least thirty (30) days to cure the alleged violation, prior to the District Agency declaring an event of default and exercising its remedies. The District Agency may extend the cure period in its sole discretion."

Figure 1: Information on amount the owner of 5301 Connecticut Avenue N.W. overcharged two tenants

Unit #	Maximum Allowable Rent	Monthly Rent per Lease	Initial Lease Period	Overcharged during initial lease period	Fine for the initial lease period	Amount overcharged if continuously rented	Fine if continuously rented
002	$1,680	$3,113	4/27/2023 – 4/26/2024	$17,196	$18,915.60	$20,062	$22,068.20
104	$1,400	$2,648	10/4/2022 – 10/3/2023	$14,976	$16,473.60	$26,208	$28,828.80
			Total	**$32,172**	**$35,389.20**	**$46,270**	**$50,897.00**

Source: ODCA analysis

Recommendation

1. Immediately begin enforcement action and impose appropriate fines for all Inclusionary Zoning program violations at 5301 Connecticut Avenue N.W.

Please let me know by Friday, June 28, 2024, if you have moved forward with this recommendation and provide documentation of your action. If you have any questions on this Management Alert, please feel free to contact me. This Management Alert and your response will be made public when we issue a final report on our ongoing audit of the Inclusionary Zoning program.

Thank you for your consideration. I look forward to continuing to work with you and members of your staff with the goal of improving the District government and benefiting the residents of the District.

Sincerely yours,

Kathy Patterson

Kathleen Patterson
District of Columbia Auditor

cc: Betsy Cavendish, EOM
Gene Bulmash, DHCD

Agency Comments

On June 21, 2024, we sent a copy of this Management Alert Report to the Department of Housing and Community Development (DHCD) for review and written comment. DHCD responded with comments on August 1, 2024. ODCA included agency comments and the letter DHCD sent to the property owner. We did not attach the property covenant that was included with DHCD's response.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Office of the Director

AUG 0 1 2024

VIA EMAIL: Kathy.Patterson@DC.Gov

Kathleen Patterson
District of Columbia Auditor
1331 Pennsylvania Avenue NW, Suite 800 South
Washington, D.C. 20004

Re: Management Alert: 5301 Connecticut Ave Property LLC is in violation of D.C. Code and Inclusionary Zoning program regulations

Auditor Patterson:

Thank you for your June 21 correspondence notifying us of the violations your team discovered at the property referenced above. As recommended, we immediately began enforcement actions and sent a Notice of Violation to the property, a copy of which is enclosed. We will follow up with the property owner to verify the amount of rent collected in excess of the amount allowed and if necessary, work with the Office of Attorney General to ensure that the excess amount and any applicable additional amount is repaid and applied to the Housing Production Trust Fund.

We will also make sure that the current tenants meet the inclusionary zoning requirements and that going forward the amount collected is not more than allowed. Let me know if you have any questions or need anything further.

Sincerely,

Colleen Green
Director

cc: Betsy Cavendish, Executive Office of the Mayor
Gene Bulmash, Inclusionary Zoning Program Manager

Enclosure

Department of Housing and Community Development | 1909 Martin Luther King, Jr. Avenue, SE, Washington, DC 20020 | 202.442.7200 | dhcd.dc.gov

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Office of the Director

JUL 09 2024

Via Certified Mail, Return Receipt Requested and Email: Jessica@thymeholdings.com; hello@thymeholdings.com; accounting@thymeholdics.com **and** leasing@onestreet.one

5301 Connecticut Ave Property LLC
c/o Thyme Holdings
3220 N Street NW #113
Washington DC 20007

5301 Connecticut Ave Property LLC
5301-5303 Connecticut Ave. NW
Washington DC 20015

Re: Inclusionary Zoning Notice of Violation
5301 Connecticut Avenue NW

To whom it may concern,

Our records reflect that 5301 Connecticut Ave Property LLC (Owner) is the owner of the inclusionary development at 5301 Connecticut Avenue NW (the Development). As you know, the Development is subject to an Inclusionary Development Covenant dated September 5, 2018, and recorded on September 21, 2018 as document number 2018095266 (the Covenant, a copy of which is enclosed), the Inclusionary Zoning Implementation Amendment Act of 2006 and related regulations (collectively the IZ Program Rules).

The IZ Program Rules require the Owner to complete certain steps to conduct a lottery for the Inclusionary Zoning units when they first became available for occupancy and limit the amount of rent that can be collected for those units. It appears that the Owner failed to complete the lottery process and leased the IZ units (#002 and #104) to individuals outside of the IZ program and has been collecting more than the maximum allowable rent. The property is also in default of the annual reporting requirement for IZ rental developments and has not ensured tenants' income certifications though the DHCD-selected Certifying Entity.

Within thirty (30) days of receiving this notice, you are requested to send the following information to Gene Bulmash at gene.bulmash@dc.gov:

1. Copies of all leases and IZ lease riders (past and present) for units #002 and #104.

2. Contact information (phone and email address) and dates of occupancy for all tenants that have lived (or presently live) in units #002 and #104.

Department of Housing and Community Development | 1909 Martin Luther King, Jr. Avenue, SE, Washington, DC 20020 | 202.442.7200 | dhcd.dc.gov

3. Full tenant ledger (listing of all fees charged by the property and all payments made by or on behalf of the tenants) from first occupancy of each unit to present for units #002 and #104.

4. A fully completed IZ annual report for the property (template enclosed).

This letter is written notice of the violation as required by the IZ Program Rules. To cure the violation, you must provide the requested information and fully cooperate to ensure Qualified Tenants reside in the IZ units and that rent in excess of the allowable amount is and was not charged.

If you are responsive to this request and fully cooperate, DHCD may be willing to waive or reduce some of the penalties and enforcement options. If you are unresponsive, we will pursue the maximum fines and penalties available, up to and including possible loss of Certificate of Occupancy for all rental units at 5301 Connecticut Ave. NW. Please contact Gene Bulmash, Inclusionary Zoning Program Manager, at (202) 442-7168 or gene.bulmash@dc.gov if you have any questions or want to discuss this matter.

Sincerely,

Colleen Green
Director

Enclosure: Inclusionary Development Covenant
Annual Report Template

cc: Julia Wiley, General Counsel
Gene Bulmash, Inclusionary Zoning Program Manager

Appendix D

Chronology of Events Regarding Units at 5301 Connecticut Avenue, N.W.

<u>5301 Connecticut Avenue Inclusionary Zoning Chronology:</u>

The following chronology was written by ODCA based on interviews with DHCD's IZ manager, IZ specialist and the Executive Director for 5301 Connecticut Avenue. The timeline information was based on reviews of emails between DHCD's IZ specialist and the Executive Director for 5301 Connecticut Avenue NW and between ODCA's Audit Supervisor and the Executive Director. ODCA also reviewed 5301 Connecticut Avenue NOA, and covenant provided by DHCD.

July 2018: The legal team at 5301 Connecticut Avenue reached out to DHCD to inquire about the potential to receive an IZ exemption. They believed they were qualified due to exclusively leasing to voucher holders through DHCA. DHCD told them "The issue appears to be that the property's commitment with DCHA is only for 1 year and if the tenant receiving the voucher moves out, there is no obligation on the property to continue working with the program." Ultimately, it was decided that DHCD "would not consider the property to be IZ Exempt." They elaborated "I'm not sure who told you that, but regardless of whether it's the standard voucher program or HALO program, unless there's a long-term contract in place requiring the property to provide more affordable housing than IZ would require and an Exemption Letter is issued by DHCD, my opinion is that it's not exempt from IZ."

September 2018: 5301 completed the IZ Covenant requirements and they were recorded with DHCD.

September 2020: DHCD reached out to the property to determine when the units would begin to come available for rent. Property management gave an estimate of "by the end of the year." DHCD then reminded the property that they need to "complete & submit the NOA (attached) before you apply to DCRA for your CoO" and additionally will need to "ensure that 1 or more staff take the required NCHM IZ/ADU income certification training before CoO."

January 2022: The property emailed the NOA to DHCD to be reviewed—stated that the real estate agent submitting was scheduled to take the IZ/ADU course soon.

February 2022: DHCD emailed Notice of Availability for the property's 2 IZ units (Unit 002 and Unit 104) to the property management company. Once they corrected the rent prices to be in line with the IZ program ($1,400 & $1,680) DHCD approved the NOA.

March 2022: DHCD conducted an initial lottery for both units and sent the list of lottery selectees to property management company.

May 2022: DCHD emailed property management company: "Has [lottery selectee] signed a lease yet? If so, please send me a copy of the signed lease & rider & if not, please let me know the status." The property replied, "Unfortunately, [lottery selectee] did not qualify for the unit due to her low credit score."

August 2022: DHCD emailed property management contacts again: "It looks like households were approved by HCS for units 104 & 2, but we have not yet received the leases and IZ lease riders. As a reminder, these are due immediately after signing. Would you mind forwarding the documents for both units?" They received a response stating that the IZ units are still available while being informed of a change in property management. The previous selectees were turned away due to "credit challenges."

Later in the month, the property alerted DHCD that "the property is under new management, therefore The ONE Street Company had to take down the listing so the new property management company Nest (hello@nest-dc.com) can take over the marketing, listing and application/screening process."

DHCD was not aware of when this transition took place and inquired about what happened to the two approved applicants. They are again told that "both applicants were [rejected] due to credit challenges." The property noted that "Adam (from HCS) was notified via email."

DHCD followed up about filling the vacant units but were then told that "the building hasn't even begun leasing. There has been a major dc water issue that's being worked on for months now."

October 2022: The tenant signed a lease on 10/4/22 that expired on 10/4/23 for Unit 104. Monthly rent was $**2,648** and the unit was listed as a 1BR at 60% MFI. (Per the schedule effective 6/25/2021, max rent for a 1BR/60% MFI was $**1,400**.)

April 2023: The tenant signed a lease on 4/27/23 that expires 4/27/24 for Unit 002 . Monthly rent is **$3,113** and the unit was listed as a 2BR at 60% MFI. (Per the schedule effective 6/25/2021, max rent for a 2BR/60% MFI should be **$1,680**.)

September/October 2023: DHCD emailed the property: "1. Has either one been leased? If yes, forward the leases and lease riders please. 2. If not, we need to do another lottery for these units. Please submit the NOA form (attached)."

The old contact then forwarded DHCD's contact to Thyme Management Company who looped in their accountant and property manager. DHCD told the property "If not, we need to do another lottery for these units. Please submit the NOA form (attached). "

March 2024: In an interview with the audit team, the 5301-property manager stated confidently that it was an "either/or" situation, that the property could rent such units to "either IZ program participants or voucher holders." He said he received training from both DHCD and Housing Counseling Services.

The property manager initially said the units "were leased up but never moved in," explaining there had been a problem with the water in the building and that DC Water had not approved the building's certificate of occupancy, which prevented people from moving in." After a follow-up about the August 2022 emails between the property and DHCD he corrected himself and said that the property never signed leases with the IZ lottery winners.

June 2024: The Office of the DC Auditor issued a Management Alert Report with the subject: "5301 Connecticut Ave Property LLC is in violation D.C. Code and Inclusionary Zoning program regulations." ODCA recommended immediately beginning enforcement action. DHCD confirmed receipt of the report on 6/21/2024.

About ODCA

The mission of the Office of the District of Columbia Auditor (ODCA) is to support the Council of the District of Columbia by making sound recommendations that improve the effectiveness, efficiency, and accountability of the District government.

To fulfill our mission, we conduct performance audits, non-audit reviews, and revenue certifications. The residents of the District of Columbia are one of our primary customers and we strive to keep the residents of the District of Columbia informed on how their government is operating and how their tax money is being spent.

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