Office of the District of Columbia Auditor

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

New units added each year but fill-rates are slow; DHCD pledges to correct issues with income recertification, lease renewal, and annual reporting requirements

November 20, 2024 (WASHINGTON) Despite a lack of enforcement that has enabled a culture of non-compliance at some of its properties, the District's Inclusionary Zoning program—one of the many pathways toward the city's affordable housing goals—has already implemented or is implementing many recommendations of a new audit published today by the Office of the D.C. Auditor (ODCA).

The IZ program's purpose is to use market-rate development to increase affordable unit production and ultimately create a full range of long-term housing choices for each District household regardless of size and income. Mayor Muriel Bowser is aiming to achieve the affordable housing goal of producing 12,000 new affordable units for D.C. residents by 2025.

Actions taken by the Department of Housing and Community Development (DHCD) included enforcement action against an IZ provider following a Management Alert issued by ODCA in June.

"We were pleased at the immediate action the agency took earlier this year," said D.C. Auditor Kathy Patterson. "We are pleased with DHCD's concurrence with nearly all 17 of ODCA's recommendations aimed at improving the IZ program's efficacy, including efforts to meet the 102-day target to fill IZ units from what an ODCA sample found was an average of more than 13 months."

Findings in the report include that during the audit's scope DHCD did not:

- Ensure that annual reporting requirements were enforced, which meant they were not able to track which units were vacant or who was living in occupied units.
- Ensure that IZ tenants' incomes were 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.
- Ensure that properties submitted renewal leases annually. Of the IZ properties in the report's sample, only one of 16 properties was found to have completed lease renewals in a timely manner. At six of the properties, some renewed leases were found and those, on average, were dated 147 days (five months) after the previous lease's expiration date. The remaining properties had not renewed any leases at the time of ODCA's site visits, putting the tenants into a month-to-month status on an expired lease.

- Initiate enforcement action against property owners who violated IZ development covenant requirements and DCMR.

The report’s recommendations included that:

- DHCD should determine whether additional full-time staff 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 be somehow configured to automate communication with property owners/managers and/or allow properties to 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

If ODCA finds issues during an audit that cannot wait until the audit is published it will issue a Management Alert Report, or MAR, to the agency. This audit includes a copy of the MAR that ODCA sent to DHCD in June of 2024 to inform the agency that ODCA had found that an IZ property owner was willfully failing to adhere to IZ requirements by charging more than $1,200 per month beyond the maximum allowable rent for each of its two IZ units during each unit’s initial lease period.

In addition, ODCA found that tenants of those two units were not IZ program participants, and the property owner failed to provide DHCD with the required annual report and leases and failed to verify the tenants’ income. DHCD concurred with ODCA’s MAR recommendation, began enforcement action, imposed appropriate fines for all IZ program violations, sent a Notice of Violation and a Notice of Default and Fine, and is working with the D.C Office of the Attorney General to take appropriate enforcement action.

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