AFFORDABLE HOUSING AND HOMELESSNESS ISSUE BRIEFS

DC AFFORDABLE HOUSING ALLIANCE

July 22, 2010

Issue Briefs Enclosed on the Following Topics:

- Overview of Affordable Housing and Homelessness Issues in the District of Columbia
- Housing Production Trust Fund
- Tenant Opportunity to Purchase
- Local Rent Supplement Program
- Emergency Shelter
- Permanent Supportive Housing
- Preservation of Existing Affordable Housing & Distressed Properties
- New Communities
- Accessible housing for persons with disabilities
- Public Land: Mixed Income Housing Amendment Act
- Home Purchase Assistance Program
- Tax Abatements
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- Commercial Linkage
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- Zoning for housing changes

OVERVIEW OF AFFORDABLE HOUSING AND HOMELESSNESS IN THE DISTRICT

The lack of affordable housing has long been a problem in the District. For some residents, this means that they are forced to live in housing that eats up nearly all of their paycheck, leaving little for other basic necessities such as food and clothing. For many others, the cost of housing is so high that they are forced to double up in homes and apartments, move out of their community, or live in their cars or out on the streets. The economic recession and housing market collapse have had a devastating effect on the District's economy and its residents. With a growing number of families experiencing unemployment and reduced income, it's very likely that DC's affordable and homelessness housing problems have continued to worsen.

Even before the recession hit, DC residents were finding it harder and harder to secure affordable housing in the District. A recent report from the DC Fiscal Policy Institute showed that since 2000, DC rents have risen faster than in most major cities and have outpaced the incomes of most DC households.[i] The National Low Income Housing Coalition has calculated that in order to afford the fair market rent for a two-bedroom apartment, a minimum wage earner must work 139 hours per week, year-round.[ii] At the same time, DC lost over one-third, or 23,700, of its low-cost rental units, and two-thirds, or 43,000, of its low-cost homeowner occupied units. With that huge loss of affordable housing, it's not surprising that nearly two in five DC households have housing affordability problems.[iii]

The District's existing stock of affordable housing is not sufficient to house those in need and is continually threatened. At the end of September 2009, there were more than 26,700 households on the DC Housing Authority waiting list including 23,511 households of which 13,001 designated themselves as homeless for the Housing Choice Voucher Program.

Over a given year, approximately 16,000 people are homeless in DC which means that DC has one of the highest homelessness rates in the country.[iv] Overall, a five percent increase in the number of homeless was reported between 2009 and 2010.[v] Family homelessness in DC has risen dramatically over the past two years, increasing by 25 percent from 2008 to 2009 and by an addition 14 percent from 2009 to 2010. The Homeless Services system in DC consists of emergency shelter, transitional housing programs, and permanent supportive housing to homeless and formerly homeless DC residents.

The increase in homelessness has put DC's shelter system virtually at capacity since the summer of 2009. In many instances, there has not been enough space to accommodate the families and individuals that have applied for shelter. At DC General just this past winter, the number of homeless families in need far exceeded the number of spaces available and resulted in severe overcrowding. When they are turned away from shelter, some families have restored to sleeping in their cars. The District has placed more emphasis on moving chronically homeless individuals and families into permanent supportive housing. Yet it is not clear that to the government has been able to provide enough emergency shelter for residents who are ineligible for or not yet enrolled in the permanent supportive housing program.

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[i] DC Fiscal Policy Institute, *Nowhere to Go: As DC Housing Costs Rise, Residents are Left with Fewer Affordable Housing Options.* February 5, 2010. Available at: www.dcfpi.org

[ii] National Low Income Housing Coalition "Out of Reach" 2010, available at http://www.nlihc.org/oor/oor2010/data.cfm?getstate=on&state=DC.

[iii] A 'housing affordability problem' is defined by the U.S. Department of Housing and Community Development as a household paying more than 30 percent of their income on housing.

[iv] Washington Legal Clinic for the Homeless, Homelessness and Poverty in Washington, DC, available at: http://www.legalclinic.org/about/facts.asp

[v] A Regional Portrait of Homelessness, The 2010 Count of Homeless Persons in Metropolitan Washington, Prepared by the Metropolitan Washington Council of Government's Homeless Services Planning and Coordinating Committee, May 2010.

HOUSING PRODUCTION TRUST FUND

For more information on the Housing Production Trust Fund please contact Bob Pohlman at bpohlman@cnhed.org or at 202-745-0902

What is the Housing Production Trust Fund?

Administered by the Department of Housing and Community Development (DHCD), the District's Housing Production Trust Fund (HPTF) has supported the production of over 7,000 units of affordable housing since 2002. It is the primary source of financing for the production and preservation of all types of affordable housing including homeownership, rental housing, supportive housing, tenant-purchased housing and the preservation of federally funded project-based Section 8 buildings at risk of being lost.

Unlike some housing trust funds, the District's is targeted very intentionally at producing and preserving affordable housing for what federal guidelines define as "very low income" households. Authorizing legislation requires that not less than 80 percent of the Fund be directed to serve these households - 40 percent of the Fund must be used to house those whose income is less than 30 percent of area median income (AMI) ($30,810 for a family of four), 40 percent whose income is from 30 to 50 percent of AMI ($51,350), with the remainder available to serve households up to 80 percent of AMI. Recently the Trust Fund has also been used to support bonds issued for DC's New Communities projects.

The Trust Fund has proven to be a very effective tool for attracting private funds to the production and preservation of affordable housing, leveraging nearly $3 for every $1 it provides. It is the city's most flexible production tool and can be combined with federal Low Income Housing Tax Credits, tax-exempt bonds, other federal funding sources and the District's Local Rent Supplement Program to develop projects for every sector of the housing continuum from special needs supportive housing through affordable homeownership.

Background on the Housing Production Trust Fund

The District of Columbia's Housing Production Trust Fund was created in 1989. But without a dedicated funding source, only a few million dollars went into the Fund in the decade that followed. In 2002, legislation introduced by then Mayor Williams was approved by the DC Council reinvigorating the Fund by pledging to it a dedicated stream of 15 percent of the District's recordation and transfer taxes.

The Fund received an initial $25 million pledged from the sale of the old Department of Employment Services building to the Newseum, and then thrived with proceeds from the recordation and transfer taxes of $50 million per year starting in FY 2004 to a high of $59 million in FY 2007. With the downturn in the economy and even more severe contraction in the real estate market, tax receipts have plunged nearly 70 percent to $18 million in FY 2010. From this reduced level of funding $6 million is pledged to debt service on bonds issued to finance New Communities, leaving only $12 million in FY 2010 funding to finance affordable housing projects already in the pipeline.

Based on DHCD's latest report, HPTF will spend down nearly all of its fund balance by September 30, 2010, at which time the report projects a balance on hand of less than $4 million with projects waiting in the pipeline needing more than $80 million. The impact is that no new projects can be financed for the foreseeable future without displacing projects already waiting for funding. The impact on tenants in buildings put up for sale or in buildings already purchased but awaiting renovation is devastating. There will be little assistance available from the District without more funding in the HPTF. Nonprofit affordable housing developers are at risk as well. Without HPTF financing or Local Rent Supplement Program rent support, new projects cannot be brought online, and the established capacity to produce affordable housing by a number of nonprofits may be lost.

In December 2008, the DC Council unanimously approved the "Housing Production Trust Fund Stabilization Amendment Act of 2008" to stabilize funding for HPTF at $70 million for FY 2010 and $80 million for FY 2011, with future years funded at that level plus inflation. Because the legislation was passed in advance of the annual budget process, it was enacted "subject to appropriation," which means the law does not go into effect until the proposed funding amount is appropriated in the budget. Due to the revenue shortfall, neither the Mayor nor the Council could find the funds in the FY 2010 or FY 2011 budgets to fund this legislative promise.

Policy Recommendations

The progress the District has made in producing and preserving affordable housing and helping tenants purchase and renovate their buildings since FY 2002 will come to a halt in FY 2011 unless more funding is provided to the HPTF.

The terms of the "Housing Production Trust Fund Stabilization Amendment Act of 2008," established a minimum level of funding for the HPTF by dedicating for FY 2011 the first $80 million of real estate recordation and transfer tax to the Fund subject to appropriation. This legislation should be implemented as soon as possible to address the pipeline of affordable housing projects waiting to be funded and for tenants seeking to purchase and renovate their buildings. Because of the continuing weak economy and reduced revenue collections, the District should seek to achieve this level of funding in the near term by devoting additional one-time resources, such as proceeds from the sale of land, to the Fund. As revenue growth resumes, the District should implement the aforementioned Stabilization Amendment Act by increasing funding from real estate recordation and transfer taxes dedicated to the Fund each year to reach the $80 million promised level of guaranteed funding.

TOPA AND DISTRICT FUNDING FOR THE TENANT OPPORTUNITY TO PURCHASE ACT

For more information on TOPA and District funding for the Tenant Opportunity to Purchase Act contact Robert Pohlman at bpohlman@cnhed.org or Anne Smetak at anne@legalclinic.org.

Background on TOPA and the Tenant Opportunity to Purchase Act

One of the most important tools in the preservation of affordable housing in the District is the Tenant Opportunity to Purchase Act (TOPA). TOPA gives tenants a first right to purchase their buildings when a landlord intends to sell. The right gives tenants the opportunity to preserve their building as affordable housing and to decide what form that affordability should take. Some tenants elect to keep their properties rental, while others elect to create affordable condominiums or limited equity cooperatives. Through either outright acquisition by a tenant association or assignment of their rights to a nonprofit developer, tenant associations have been able to preserve their homes as affordable for the long term.

When tenants are able to exercise their TOPA rights they stem displacement, preserve affordable housing, improve poor building conditions, and create homeownership opportunities for themselves and their neighbors. Unfortunately, the right has become effectively meaningless in recent years due to a lack of available funding for both tenant acquisition and rehabilitation. DHCD has indicated that it will not have funds for new projects until 2012. In order to make the right a viable option for tenant associations in the District, it is crucial that sufficient resources be identified and made available for tenant purchases under TOPA.

Policy Recommendations

First, the District must identify a sufficient and meaningful source of financing for tenant purchase projects. The Housing Production Trust Fund, which was long the main funding stream for affordable housing development and financed over 7,000 affordable units since 2002, is drastically oversubscribed and underfunded. At the end of FY 2009 DHCD had a backlog of over 1,300 units of affordable housing needing $60 million in Trust Fund dollars and all indications are that the fund will soon be broke. There is simply no money available in the Trust Fund to finance new tenant purchase projects and will not be for the foreseeable future. A meaningful TOPA program requires significant District investment through the Trust Fund or other dedicated funding stream.

Second, the District must ease the way for tenants to access non-District funds for tenant purchase by revisiting its restrictive regulations. In the last year, DHCD imposed new regulations on the First Right Purchase Assistance Program that make it very difficult if not impossible for low-income tenant purchases to obtain funding. The District must revisit those regulations and ensure that the program not place unnecessary restrictions on tenant purchases.

Third, the District must explore alternative sources of funding for tenant purchases. In the past year, the main source of funding offered by DHCD for tenant purchases has been the Low Income Housing Tax Credits and New Markets Tax Credits programs. Although the access to those programs may be useful for certain deals, they are not appropriate or possible funding sources for many tenant purchase deals. The District must work with advocates to identify meaningful funding streams to facilitate tenant purchase deals.

To preserve TOPA as a meaningful right for tenants and a tool in the preservation of affordable housing, the District must commit to ensuring sufficient funds are available for tenant purchases. Without such a commitment, TOPA will cease to help either tenants or the District and will become a meaningless law.

LOCAL RENT SUPPLEMENT PROGRAM

For more information on the Local Rent Supplement Program please contact Amber Harding at amber@legalclinic.org or at 202-328-5503.

What is the Local Rent Supplement Program (LRSP)?

LRSP is a tool used to provide housing for District residents with extremely low-incomes, including those with special needs, by preserving and producing affordable housing and by providing direct rental assistance in the form of vouchers.

District residents have been suffering through an affordable housing crisis for years. As poverty and homelessness have risen, federal affordable housing funding has declined, leaving thousands of District households on the D.C. Housing Authority waiting list with no hope of relief. LRSP was created to be a flexible locally controlled funding tool to create adequate affordable housing to meet the pressing need.

Background on the Local Rent Supplement Program

LRSP started in Fiscal Year 2007. In the first year of the program, LRSP was funded at $11.7 million. In FY 2008, the program was funded at $19.4 million. In FY 2009, LRSP was approved for funding at $21.4 million, but the $2 million increase was cut in fall 2008; the same $2 million increase was approved and then cut again in FY 2010, so no new households were served in that fiscal year. For FY 2011, a $1 million increase has been appropriated.

With the funding in FY07 and FY08, the following has been accomplished:

- **Up to 680 households are using tenant-based vouchers at any given time.** The tenant-based program is modeled after the federal Housing Choice Voucher Program. The vouchers are used in apartments and houses across the District to make up the difference between what low-income households can pay (roughly 30% of income) and the actual rent.
- **At least 1,038 project- and sponsor-based affordable housing units have been approved for construction or are already created.** Project-based supplements are tied to particular buildings, like the federal Project-based Section 8 program, and cover the difference between what a qualified tenant can afford to pay and the actual costs of providing the housing. Sponsor-based supplements are funded in a similar way, but the awardee has the flexibility to use the funds in different buildings or even to lease private units with the funds. Applicants who serve community members with special needs by providing a wide range of supportive services with the housing are awarded a preference in the competition, making the program a natural match for implementation of the Mayor's Permanent Supportive Housing/Housing First Initiative.
- **In FY10, the Council approved use of unexpended funds in FY10 for capital-gap financing of projects that had stalled.** This will allow for completion of approximately 500 units already approved in 2007 and 2008, but it will not fund any other new units.
- **Some of the project-based units are preserving housing for extremely low- income residents who could otherwise be displaced.** LRSP can be used to pay a portion of the rent or limited equity coop fees for tenants who are purchasing their building but cannot afford their share of the cost.

LRSP leverages millions of private-sector dollars, such as private donations, conventional debt or bond debt, and tax credit equity, to create affordable housing. Use of LRSP provides the owner sufficient rent to operate the building and repay private sector debt, significantly reducing the amount of financing required from the HPTF. And housing provided through LRSP saves the District $11,000 - $21,000 a year per person or family as compared with emergency homeless shelter services.

Because LRSP is locally funded and controlled, it provides an opportunity to create a more streamlined, efficient program that better meets the needs of District residents and is tailored to our community. Already, the D.C. Housing Authority has worked with community stakeholders to modify the sponsor-based program to eliminate several barriers to affordable housing for DC residents.

Policy Recommendations

LRSP can be used to meet many of the District's goals, including implementation of the Comprehensive Housing Task Force recommendations, the Mayor's Permanent Supportive Housing/Housing First Initiative, the Homeless No More plan and the federally-mandated "Olmstead" or De-institutionalization plan; elimination of the D.C Housing Authority's waiting list; neighborhood stabilization; and development of a stronger, more inclusive community.

But LRSP cannot accomplish any of this without consistent and adequate funding each year. Because of increases in costs for rents and operation, flat funding of the program will result in fewer households served each year. LRSP needs annual modest increases just to serve the current participants in the program. Funding must be increased above the base line and above inflation to make additional housing units possible; the urgent need for affordable housing combined with the need to use current development capacity (before that capacity is further eroded by the recession) makes it urgent to use program funding to develop more housing units now.

EMERGENCY SHELTER IN THE DISTRICT OF COLUMBIA

For more information on emergency shelter, contact Nassim Moshiree, nassim@legalclinic.org or at (202) 328-1261.

The Homeless Services system in the District of Columbia consists of emergency shelter, transitional housing programs, and permanent supportive housing for homeless and formerly homeless DC residents.

What is Emergency Shelter in the District?

The continuum includes 2,740 emergency shelter beds and 1, 235 transitional housing beds available to single year round. From November to March each winter, additional shelter beds are opened nightly in order to meet the District's legal obligation to shelter people when the temperature falls at or below 32 degrees. There are currently 980 men's beds, 352 women's beds, and 262 family units in the emergency shelter system.[1]

While individuals in the emergency shelter system are placed in communal style shelter (multiple beds in one room, shared facilities), District law requires that families be housed in apartment-style units, but due to an increase in demand and decrease in funding, alternatives to communal shelter are lacking. The D.C. General emergency shelter, a communal style shelter initially opened as a hypothermia shelter for families, has remained open year round due to an increase in demand and decrease in funding for homeless services.

Quick Facts about the purpose of emergency shelter:

- Serves as the very basic safety net
- Ensures that those experiencing a housing crisis have a stable and safe place to stay the day they become homeless
- Can be either 12-hour low-barrier shelter (for individuals) or 24-hour temporary shelter (for families).
- When coupled with case management services, helps people connect to resources that will help them address issues that lead to homelessness.
- Prevents children from missing school, developing long-term physical and mental health problems, and entering the foster care system.
- Allows domestic violence victims to leave their abusers.
- Meant to be a short-term solution with housing as the long-term goal.

Background on the state of emergency shelter in the District:

The latest annual Point in Time Count of literally homeless individuals in the Metropolitan D.C. region reveals a 5% increase of homeless persons from 2009 to 2010. The Count indicates that family homelessness is driving the upward trend in total District homelessness,

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[1] Nightly Census data provided by the Community Partnership for the Prevention of Homelessness, dated July 19, 2010.

although the number of single homeless people counted was 2.1% (or 82 individuals) higher than in 2008.[2]

- The number of homeless families in the District rose by 13.8% (or 97 families) since January of 2009. This is on top of a 22.6% increase from 2008-2009, meaning that over the past two years, family homelessness has increased in the District by 36.3%.
- Since the summer of 2009, District shelters have been filled or close to capacity every night. This past winter, the city faced a significant shelter capacity crisis for families.
- Over the past two years, funding for homeless services has been cut despite a steady rise in demand for services. Inadequate shelter space led to severe overcrowding at the D.C. General hypothermia shelter this past winter, endangering the lives of its residents until federal housing money allowed the District to reduce some of the burden in March of 2010.
- Still, there are currently 135 units at D.C. General, all of which are occupied, and according to the latest DHS Weekly Shelter and Housing Report, there are currently 543 families on the waitlist for emergency shelter.[3]

The emergency shelter system is significantly strained at a time when homelessness is on the rise as a result of the continuing economic recession. With an increased need but no increase in funding, the District is dangerously close to failing to meet both its moral and legal obligation to provide life-saving services to families and individuals.

Policy Recommendation:

While housing is the best solution to ending homelessness, without adequate emergency shelter, countless homeless individuals and families will be forced to sleep on the streets, in parks or in other unsafe, unsanitary places. As the number of people seeking emergency shelter is expected to increase over the next year, so too should District funding and capacity for Homeless Services.

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[2] Metropolitan Council of Governments: The 2010 Count of Homeless Persons in Metropolitan Washington, found at http://www.mwcog.org/uploads/pub-documents/ql5fXlw20100513103856.pdf

[3] Statistics for the week of July 12, 2010 – July 18, 2010, available at http://ich.dc.gov.

PERMANENT SUPPORTIVE HOUSING PROGRAM

For more information on the Permanent Supportive Housing Program please contact Andy Silver at andy@legalclinic.org or (202) 328-5516.

The Homeless Services system in the District of Columbia consists of emergency shelter, transitional housing programs, and permanent supportive housing for homeless and formerly homeless DC residents.

What is the Permanent Supportive Housing Program?

The Department of Human Services (DHS), which administers the Permanent Supportive Housing Program (PSHP), describes the program as "an initiative developed to provide permanent housing and supportive services to chronically homeless individuals and families with histories of homelessness to ensure housing stabilization, maximum levels of self-sufficiency and an overall better quality of life."[1]

DHS uses a vulnerability assessment, which is administered by shelters, outreach workers, and day programs, to prioritize to whom DHS will offer placement in the program. When there is an opening in the program, DHS refers the most vulnerable individual (or family if there is availability for families) to one of the nonprofit providers that DHS contracts with to provide case management services. A case manager works with the individual or family to find appropriate housing where the participant is able to use a rental subsidy which they receive through the PSHP.

Once PSHP participants are in a stable housing environment, with the assistance of their case manager, they are able to focus on their health, income, and any issues which may have led to or contributed to their homelessness.

Background on the Permanent Supportive Housing Program

The District announced the creation of the Permanent Supportive Housing Program (PSHP) on April 2, 2008 with the first participants entering the program that fall. DHS has used local and federal resources to grow the PSHP to serve over 1,000 formerly homeless individuals and families.

Policy Recommendations

The *Homeless No More Plan* (the District's 10-year plan to end homelessness) called for the creation of 2,500 new units of permanent supportive housing by 2014. The District needs to double the size of the PSHP over the next few fiscal years in order to meet this goal and end chronic homelessness in the District. Numerous studies across the country have shown that it is less expensive for a jurisdiction to provide permanent housing for people who are chronically homeless than it is to provide emergency shelter or no shelter at all. The District has a moral and financial obligation to increase the size of the PSHP until no individual or family is forced to endure long-term homelessness.

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[1] DC Department of Human Services, http://www.dhs.dc.gov/dhs/cwp/view,a,3,q,641329.asp

PRESERVATION OF EXISTING AFFORDABLE HOUSING

For more information contact Anne Smetak at anne@legalclinic.org or 202-328-1260.

Overview of Preservation Existing Affordable Housing

The District is faced with a serious shortage housing affordable for low-income tenants. Between 2000 and 2007, the District lost 23,700 units—a full 34 percent of the units—of housing affordable to the lowest income renters.[1] Rents, meanwhile, continue to increase at an alarming rate. The median gross rent increased over 25 percent between 2000 and 2007.[2] The National Low Income Housing Coalition has calculated that an individual making minimum wage must work 139-hours a week, 52 weeks a year, to afford the fair market rent for a two-bedroom apartment in the District.[3]

Federally subsidized housing provides an important source of truly affordable housing in the District, as it is typically affordable for tenants at and below 30 percent of Area Median Income. The District's limited stock of federally subsidized housing is not sufficient to meet the need and is continually threatened. A report in 2008 showed that 68 percent of all of the District's project-based subsidized housing units have affordability restrictions that will expire in the next 14 years.[4] In the project-based Section 8 program alone, the District has lost more than 2,000 units of affordable housing since 2000.[5]

The need for the limited affordable housing stock is staggering. The D.C. Housing Authority currently has a wait list of nearly 30,000 households in need of affordable housing assistance; more than 14,000 of those households self-identified as homeless. A recent report found that four out of every five low-income District households spent more than 30 percent of their income on housing in 2007.[6] A full 62 percent of low-income households spent more than half of their income on housing.[7] The number of low-income District households experiencing such a heavy housing costs burden increased significantly between 2000 and 2007. Low-income tenants faced with such a significant housing cost burden are at a serious risk of becoming homeless.

Policy Recommendations

The District Should Preserve Project Based Section 8 Properties. A significant source of the District's federally subsidized affordable housing stock is the project-based Section 8 program. These properties have private owners, but receive a federal operating subsidy

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[1] D.C. Fiscal Policy Institute, Nowhere to Go: As DC Housing Costs Rise, Residents Are Left with Fewer Affordable Housing Options 1 (Feb. 5, 2010), *available at* www.dcfpi.org/wp-content/uploads/2010/02/2-5-10housing1.pdf.
[2] Tatian, Peter, Urban Institute: Foreclosures and Renters in Washington DC 10 (Apr. 2009), *available at* http://www.urban.org/uploadedpdf/411882_DC%20RentersandForeclosures.pdf
[3] This calculation was done by the National Law Income Housing Coalition, and the data can be found at www.nlihc.org/oor/oor2010/data.cfm?getstate=on&state=DC.
[4] Id. at 11-12.
[5] NeighborhoodInfo DC, District of Columbia Housing Monitor: Section 8 Multifamily Report (Winter 2008).
[6] DC Fiscal Policy Institute, *supra* at 2. Low-income refers to households with incomes below 30% of Area Median Income.
[7] Id.

directly from the federal government that keeps rents affordable for tenants at or below 30% of AMI. Unfortunately, there are a limited number of these properties remaining in the District. And, although the federal government is committed to funding the existing properties, it is not offering or creating any new project-based Section 8 properties. If a property is lost, those truly affordable units are not and cannot be replaced, because the District cannot afford to replicate the federal government's deep operating subsidy. The District must take affirmative steps to ensure that these properties and the irreplaceable federal operating stream are preserved.

The District Should Maintain Rent Control. The District's rent control laws provide a crucial mechanism to protect and preserve existing affordable housing that does not receive a federal operating subsidy.[8] Under the current version of rent control, a landlord can implement only one rent increase each year, and that increase typically cannot exceed the consumer price index, plus 2%. See D.C. Code § 42-3502.06. For 2010, the consumer price index was 0.5% percent and the standard limit on increases in rent controlled buildings was 2.5%. This limit on the frequency and size of rent increases is crucial to the protection of the existing stock of affordable housing and to protect tenants from unbearable rent increases.

It is important to note that the District's rent control laws do not impose unreasonable rents or burdens on housing providers. Rather, the laws represent a careful balance between the needs of tenants and the fiscal interests of landlords. The District must preserve rent control and ensure that these affordable units are not lost at an unbearable cost to the District's tenants and to the District itself.

The District Should Utilize Code Enforcement as a Tool in Affordable Housing Preservation. Effective housing code enforcement can be an important tool in the preservation of affordable housing. Historically, poor housing code enforcement by the District government resulted in a significant portion of the affordable rental stock being permitted to fall into disrepair. Disreputable landlords repeatedly utilized poor conditions as a means to push tenants out of their buildings so the properties could be converted to a higher income use, such as condominiums.[9]

DCRA has taken steps in recent years to improve housing code enforcement, including imposing a proactive inspections program. It is important that such programs be maintained and expanded. If poor conditions in rental properties are caught early and landlords are forced to make repairs through the imposition of meaningful sanctions, tenants will not be forced to suffer and entire buildings will be preserved.

Unfortunately, because of the historically poor code enforcement, there remain rental properties in serious states of disrepair. When DCRA inspects a building that was permitted to deteriorate to this level, DCRA closes the building, which renders the existing tenants

[8] Rent control generally covers rental buildings constructed before 1976. Details regarding its reach and various exemptions can be found at D.C. Code § 42-3502.05.

[9] For some examples of poor conditions being permitted to fester in rental properties and landlords profiting from the decay, please see the Washington Post series "Forced Out," available at www.washingtonpost.com/wp-srv/metro/forcedout/index.html.

homeless with very little notice. Tenants are given a short hotel stay through the Office of the Tenant Advocate, but are generally left with few options to locate alternate housing. Buildings vacated in this manner are rarely repaired and resurrected as affordable rental properties. Rather, the building closure has the perverse result of rewarding a landlord for its malfeasance with an empty building and few sanctions. This is an unacceptable result that diminishes the District's affordable housing stock and must be rectified.

District agencies must work together to ensure that buildings in poor condition are preserved and tenants are not rendered homeless. A coordinated effort between agencies could ensure that necessary repairs are made to the building so it could be promptly returned to the rental stock. These repairs could be accomplished through use of the Nuisance Abatement Fund, legal action, sanctions, or a transfer of ownership to an affordable housing developer. Ideally these repairs could be made without displacement of the tenants. If temporary displacement were necessary, resources must be provided to ensure that tenants are not rendered homeless. Above all, the District must exercise its authority to recoup funds expended due to a landlord's malfeasance. Such a coordinated effort by the District would preserve and improve the affordable housing stock, benefit tenants, and improve local communities.

NEW COMMUNITIES

For more information on the New Communities program please contact Jenny Reed at reed@dcfpi.org or at 202-408-1080

What is New Communities? New Communities is a major redevelopment initiative by the District that will take four largely low-income neighborhoods and re-develop the low-income public housing complexes and the immediate surrounding community into mixed income neighborhoods with improved community amenities. The areas to be developed are Northwest One (Ward 6), Barry Farms (Ward 8), Lincoln Heights/Richardson Dwellings (Ward 7), and Park Morton (Ward 1).

The New Communities program promotes a comprehensive approach to revitalization of underserved neighborhoods and includes both a *physical* capital plan — which involves the building of both mixed-income housing and renovated or new community facilities such as schools and libraries — and a *human* capital plan — which involves connecting residents to services in the community such as job training, youth development, and substance abuse treatment, to name a few.

The program is run by the Deputy Mayor for Planning and Economic Development which lists the following as objectives of the program: protect and expand affordable housing; promote mixed-income communities; create economic opportunities through better jobs, education, training, and human service programs; rebuild community anchors like schools, libraries and recreation centers; engage residents in the decision-making process and the design of their community.[i]

In addition, there is a commitment from DMPED to provide one-for-one replacement of the affordable housing units that are torn down, nearly all of which are subsidized to be affordable to those with incomes at or below 30 percent of area median income ($30,810 for a family of four). All residents who lived in the units prior to demolition are supposed to be able to return to the housing, regardless of income. Another commitment from DMPED is to 'build first' whenever possible so that residents will not be uprooted from their community.

Background on New Communities: All of the New Communities projects have begun the re-development process, yet each are in various stages of implementation, and no site has had a large majority of the proposed new development built. All four sites have had re-development plans approved by the DC Council. For each project, progress has been stalled because of the economic recession and housing market collapse. Information on the stage of each New Communities project is limited and below is a summary of each projects stage based on currently available information.

Northwest One, located in Ward 6, was the first New Communities project to begin the development process. Starting in 2004, residents met with city officials to begin intensive community planning that resulted in a development plan that was approved by the DC Council in July 2006. In 2008, the Walker Jones education campus was built providing a new school, library, recreation center, and athletic fields for the community. As of 2010, progress has yet to be made on the Temple Courts building, consisting of low-income housing, which was demolished in late 2007. In the spring of 2010, it was announced that construction would begin that summer of 2010 on the former Golden Rule apartments, also low-income housing, into a new mixed income project titled the SeVerna.

Lincoln Heights/Richardson Dwellings, according to the Deputy Mayor for Planning and Economic Development, is moving forward. Design work will be completed in October 2010, and construction is expected to being the following year, and completed by 2017. In September 2009, a groundbreaking was held on the Haynes Street project which is expected to build 26 new mixed-income housing units, nine of which will be replacement units for residents of Lincoln Heights/Richardson Dwelling communities.

Barry Farm, Park Chester, Wade Road New Community, according to the Deputy Mayor for Planning and Economic Development, is moving forward. Design work will be completed in October 2010, and construction is expected to being the following year, and completed by 2012. In May of 2010, a groundbreaking was held on the Sheridan Terrace site which is situated to become Sheridan Station and would include 344 units of mixed income housing, including 114 replacement units to house residents of the Barry Farm community.

The Park Morton site in Ward 1 has just had a master developer selected by the District. The new development is expected to replace the current Park Morton housing complex with 523 units of new mixed-income housing, a 4,000 square foot community center and a 10,000 square foot park. A playground and basketball courts on the Park Morton site were recently renovated. No date for a groundbreaking has been announced.

Upcoming challenges

Funding for the physical capital and human capital plans. New Communities is a major multi-year undertaking that is expected to be accomplished with a mix of both public and private funds. The amount of public investment needed for Northwest One alone is estimated to be some $150 million to $200 million. Even though the remaining planned communities are estimated to be less expensive than Northwest One, the total price tag could top a $500 million dollars.

The economic recession has had a significant impact on New Communities, stalling progress and limiting available funding on both the private side and the public side. This has stretched out the timelines for most of the New Communities sites, particularly Northwest One which was slated to begin development right as the recession hit. The District will need to come up with creative ways to dedicate more funding to the projects if they want them to continue moving forward as DC climbs out the recession and finances remain tight.

The City has been using portions of the Housing Production Trust Fund to borrow the money to execute Northwest One, but due to the economic recession, funding available from the HPTF is limited. Furthermore, after all of the projects are done the District could need some $45 million per year to cover debt service on New Communities. With the current tight fiscal times and the District very near its limit on the amount of debt service it can issue, a dedicated funding source may be more appropriate.

Human Capital, which includes case management and connecting resident with services like job training and youth development, will be a significant and expensive portion of each project, in addition to the physical development costs. As the timelines for physical development stretch out, the District will need to continue to provide funding for human capital costs much longer than originally anticipated.

Housing for Very Low Income Households. The District has committed to a one-for-one replacement of affordable units, but a viable plan for making the new housing affordable for families that make less than $20,000-$30,000 per year is still outstanding. There has also been little discussion of whether New Communities projects will create homeownership opportunities for formerly renting families with extremely low-incomes. If not, the City will likely have to address the issue associated with creating new developments in which most (if not all) of the market rate tenants and many of the moderate income tenants are owners while all of the low-income tenants are renters.

The mix of affordable housing available. All of the development plans for the New Communities sites contain the guiding principle of a mixed-income residential development and call for a mix of housing where: one-third of the units are available for those making less than 30 percent of area median income (less than $30,810 for a family of four), including the one-for-one replacement units; one-third are available for those making between 30 percent and 80 percent area median income (between $30,810 and $82,160 for a family of four); and one-third at market rate for those making above 80 percent area median income (over $82,160 for a family of four). However, despite the District request that the development contain this mix of housing, it isn't clear if each development will adhere to these standards.

For example, it has been reported that the developers for Northwest One submitted a plan that nearly doubled the amount of market rate housing and the mix of housing at the site may now be: 64 percent of market-rate housing, 12 percent for households making less than 30 percent of area median income, and 24 percent for households making less than 60 percent of area median income.[ii] Considering that Northwest One is in a gentrifying area, the District is losing an opportunity to build more housing for very-low income residents, which is badly needed.

Length of time residents have been displaced from the community. Due to the economic shortfall and the housing market collapse, the New Communities initiatives have been stalled. This has had the effect of increasing the length of time residents have been displaced from their communities and lessens the chances that residents will return when housing has finally been built.

For example, while residents of Temple Courts in the Northwest One were supposed to be housing in the neighborhood while the new housing was built, many were re-located to all parts of the District, but especially to Southeast DC. For many, especially those with children, the move has forced them to change schools and churches and many have now settled into their new neighborhoods after being gone for three years. With ground not having been broken, new housing could be four to five years away at least and residents may not want to uproot from their neighborhood again, especially if it means taking kids out of schools.

Another issue is what will happen to the low-income housing if residents don't choose to return. Nearly all residents that have been displaced have section 8 vouchers so that they continue have affordable housing. If they decide not to return, it is unclear how the city will pay for the subsidies needed at the new housing to make the housing affordable to very low-income residents.

Effects of the Surrounding development. One of the criteria for choosing a New Communities area is that it be in the "path of gentrification." Considering the amount of resources and funding the District will put into each New Communities area, some planning should be directed toward what happens to that area should it, a few years down the line or by the time development in underway, sit in the middle of a completely "gentrified" neighborhood, as is the prediction for the Northwest One area and is currently the situation for Park Morton. The City should ensure it can preserve what it created, particularly for the extremely low-income residents.

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[i] Deputy Mayor for Planning and Economic Development, New Communities Initiative Objectives, available at: http://dcbiz.dc.gov/dmped/cwp/view,A,1365,Q,605517.asp

[ii] Ken Johnson, Northwest One Unfolds, DC Mud, 3/12/2008, available at: http://dcmud.blogspot.com/2008/03/northwest-one-unfolds-new.html

ACCESSIBLE HOUSING FOR PEOPLE WITH DISABILITIES

For more information on accessible housing for people with disabilities please contact Amber Harding at amber@legalclinic.org or at 202-328-5503.

Overview of Accessible Housing

2010 marks the 20th anniversary of the passing of the Americans with Disabilities Act, an event that many in the disability community hoped would signify the beginning of full integration into all areas of life and society for people with disabilities. There are more people with disabilities living alongside their able bodied neighbors than ever before. Unfortunately, the amount and quality of accessible housing in the nation's capital still does not adequately address the need.

The disability community is diverse. Each individual comes with different strengths, attitudes, and needs and because of this, accessibility takes on many different forms. This makes the issue of accessible housing nuanced and too often ignored. Because of this diversity, disability prevalence statistics can range approximately from 10 percent[1] to 20 percent[2] of the population and often do not include the number of people living in institutions. Regardless of the statistic being used, it is certain that a significant number of individuals require accommodations in housing.

Accessible housing is defined through accessibility standards within the Fair Housing Act (FHA) and the Uniform Federal Accessibility Standards (UFAS). The Americans with Disabilities Act and Section 504 of the Rehabilitation Act provide protection for people with disabilities against discrimination in government funded housing assistance programs and the renting, purchasing, or financing of housing.

Several government departments and community entities are attempting to meet housing needs in the District. Some of the main agencies include the Department of Housing and Community Development (DHCD), the DC Housing Authority (DCHA), the DC Housing Finance Agency (DCHFA), the Deputy Mayor's Office for Planning and Economic Development (DMPED), and private developers.

DHCD, DCHA, and DCHFA have launched a housing locator site at www.dchousingsearch.org, which allows individuals to search for housing based on a variety of accessibility features. Additionally, in the past year, DHCD funded the creation of approximately 600 rental units, of which 40, or nearly seven percent, are fully accessible according to the UFAS. Finally, the Comprehensive Plan and the Comprehensive Housing Strategy Taskforce Report, both released in 2006, set a goal to have 8 percent of the housing stock in DC accessible to people with physical disabilities.

While the District is working on several fronts to increase the opportunities people with disabilities have to gain long term accessible housing in the community, the supply fails to keep up with the demand. Even individuals with disabilities who can obtain housing choice vouchers (formerly Section 8) still have difficulty finding a placement to use the vouchers because of the extreme lack of accessible options. Furthermore, comprehensive quality data in regards to accessible

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[1] Erickson, W. Lee, C., & von Schrader, S. (2010). 2008 Disability Status Report: District of Columbia. Ithaca, NY: Cornell University Rehabilitation Research and Training Center on Disability Demographics and Statistics.
[2] U.S. Census Bureau

housing in the District do not exist and it is difficult to fully understand the extent of the problem. Much of the data that is currently collected relies on self reporting of landlords, which does not yield reliable information because landlords are often unfamiliar with accessibility standards.

Integrating people with disabilities into the community through accessible housing and other housing supports is beneficial for everyone. Making these opportunities available will prevent homelessness as well as unnecessary, costly, and overall harmful institutionalization of people with disabilities.

Policy Recommendations

Community Integration and Neighborhood Accessibility

- Accessible housing should be scattered throughout the District and throughout buildings. People with disabilities should have ample opportunities to select housing in the location they choose.
- Ensure accessibility and convenience in the area around housing units including curb cuts in the sidewalk, proximity to public transportation and other amenities such as restaurants and grocery stores.

Assess Implementation of the Comprehensive Housing Strategy Taskforce Report

- Evaluate the Report's Recommendation 4 and all subparts to identify areas that have and have not been fulfilled.
- Establish an action plan to implement unmet recommendations and achieve comprehensive housing for people with disabilities.

Eligibility for Housing

- Eligibility preference should be given to individuals exiting institutional facilities to live in the community and individuals at risk of entering institutions.
- DC should reduce as many barriers as possible to meeting eligibility requirements. This includes providing support to individuals with disabilities who need assistance filling out applications for housing or housing assistance programs, accommodating individuals who have poor credit or high medical debt due to their disability, and proactively identifying other ongoing barriers to eligibility that are related to disability status.
- Provide legal assistance for individuals experiencing housing discrimination.

Rent Control

- Currently, the rent is controlled in the District by a maximum percentage at which landlords can raise rent each year. This percentage is capped at CPI for individuals with disabilities and older adults. This cap should be extended to include individuals with mental illness.

Data on Accessible Housing

- Experts on accessibility should visit housing sites to assess the quality of accessibility accommodations and collect this data more accurately. Data should then be made widely available and accessible to the public.

Construction Codes: Visitability

- Update codes to include visitability standards. Visitable homes are not fully accessible but have reduced barriers that allow people with disabilities to visit their friends and neighbors in their homes. Visitable homes have: one entrance with zero steps; 32 inches clear passage through all interior doors, including bathrooms; and at least a half bath on the main floor.
- Update codes to enforce that a minimum of 8 percent of new units must be accessible.

Universal Design

- Raise awareness about universal design principles and provide incentives for new developers to use universal design techniques.
- Expand the Handicapped Access Improvements Program to provide financial assistance for DC residents to renovate their homes incorporating universal design elements.

MIXED INCOME HOUSING AMENDMENT ACT, Bill 18-050

For more information, contact: Cheryl Cort, Coalition for Smarter Growth
cheryl@smartergrowth.net, 202-244-4408 x 112 or Jenny Reed, D.C. Fiscal Policy Institute,
jenny@dcfpi.org, 202-408-1080

What a Mixed Income Housing bill can do

Bill 18-050 would require that a percentage of housing developed on land disposed of by the District government must be affordable to low- and moderate-income residents. This bill addressed one of the key barriers to producing affordable housing – finding land.

District-controlled land provides a great opportunity to develop affordable housing. The city controls or expects to control a number of large parcels of land, including properties along the Anacostia waterfront and the Walter Reed campus, which could be used to develop a substantial amount of new housing. Moreover, the District can leverage the value of the land it controls to ensure that a portion of the housing developed on it is affordable, without necessarily requiring additional subsidies. While the city has asked for affordable units in its solicitations, it has been inconsistent with the affordability requirements it ultimately agrees to with private developers. This bill would ensure that sufficient levels of affordability are incorporated into every city land disposition deal where public land is used for private residential development.

The Committee on Economic Development held a hearing on the bill on February 17, 2010. We are eager to advance the bill, incorporating the following recommendations.

Policy Recommendations

- **Thirty percent set aside:** While current practice by the DMPED is to solicit proposals for residential development with a 30 percent set aside, DMPED has been inconsistent with the final number of units and income targeting. The law that transferred the Anacostia Waterfront Corporation lands to DMPED, however, preserves a clear 30 percent set aside standard. This bill would extend a set aside standard to all public lands. We recommend increasing the current bill's 20 percent proposed set aside to 30 percent, consistent with the city-owned Anacostia Waterfront lands. The Southwest Waterfront and West Library are examples of projects advancing with the 30 percent set aside for very low income residents.

- **Income targeting to address the housing needs of D.C.'s low income families:** City-owned land is a precious opportunity to help meet the housing needs of low-income families. The greatest affordable housing challenges are faced by D.C. residents with the lowest incomes. Similar to the income targeting for Anacostia Waterfront lands, we ask that half of the set aside for rental units be affordable to families with incomes under 30 percent of area median income (AMI) and the other half must be affordable to households earning between 30 percent and 60 percent of AMI. For ownership units, we recommend that half of the units be affordable to households earning less than 60 percent AMI, and the other half up to 80 percent

AMI. The number of ownership or rental affordable units should be proportionate to the market rate component of the project, or offer all rental units. The rental units provide for D.C. families facing the greatest housing needs.

- **Leverage land value to provide affordability:** Ensure that the affordable housing benefit is achieved by using the land value of the public parcels. The significant value of the public lands should be the first source of subsidy to achieve the affordability of the units. The cost of the affordable units should be fully subtracted from the land value before any additional housing subsidies are requested. Also, the affordable housing units should be the first priority among community benefits on the public lands.

HOME PURCHASE ASSISTANCE PROGRAM

For more information on the Home Purchase Assistance Program please contact Jenny Reed at reed@dcfpi.org or at 202-408-1080

What is the Home Purchase Assistance Program (HPAP)? The HPAP program provides down-payment and closing cost assistance to help low-income first-time homebuyers. The program is run by the Department of Housing and Community Development who contracts with four community-based organizations around the District to accept applications for HPAP loans and help counsel potential applicants about home buying and using HPAP. Those organizations are: Housing Counseling Services, Inc. (Ward 1), the Latino Economic Development Corporation (Ward 1), University Legal Services (Wards 6 & 8), and Lydia's House (Ward 8). All applications for the program are run through the Greater Washington Urban League for processing and approval.

The maximum amount of down-payment assistance is $40,000 and the maximum amount of closing cost assistance is $4,000. Total assistance amounts are based on a complex scale of income and family size.[i]

Background on the Home Purchase Assistance Program. The HPAP program has been operating in the District since the late 1960's and has taken many forms — beginning as a $16,000 forgivable bridge loan and then shifting toward its present form as a interest-free loan where payments are deferred for the first five years, and then the entire loan amount is paid back in monthly installments over the following 40 years.[ii]

The HPAP program provided roughly $20,000-$30,000 in loan assistance through the 1980's, 1990's and early 2000's.[iii] When the District's economy began to grow in the late 1990's and more rapidly in the early 2000's, home prices skyrocketed. As a result, the purchasing power of HPAP assistance became less useful to low- and moderate income families trying to buy a home in the District. Because of this, in 2006, funding for HPAP increased substantially which supported an increase in the number of families served, as well as an increase in the maximum HPAP loan — from $30,000 to $70,000.

HPAP is funded with a mix of both federal and local funds. Funding was expanded substantially in FY 2007 and FY 2008 to support the increase in loan assistance. However, starting in FY 2009, funding for HPAP fell significantly, falling from $28 million in FY 2008 to $20 million in FY 2009. As funding for HPAP has fallen, the District has chosen to reduce the loan amounts from $70,000 to $40,000 in order to continue to try and serve more individuals. Yet, the total number of first-time homebuyers receiving HPAP loans also has fallen with the reductions in funding. In FY 2008, 508 first-time home-buyers were funded with HPAP. By FY 2009, that number had fallen to 320.

In FY 2009, the average home purchase price of an HPAP recipient was $230,400 and the average income was $45,817. [iv] Ward 7 had the highest number of HPAP loans (129), followed by Ward 8 (48), and Ward 1 (40).

One of the major concerns with the HPAP program today is if the lowered loan amount is still able to help provide enough purchasing power for low- and moderate residents to buy a home in the District. While home prices in DC began to fall in 2008, reports from DC's Chief Financial Officer estimate that home prices will being to stabilize and slightly increase from FY 2010-FY 2011 and beyond. Average home prices fell from $612,000 in FY 2007 to $568,000 in FY 2009 and are estimated to increase to $583,000 by FY 2011. Even though average home prices are expected to be below FY 2007 prices by FY 2011, they nonetheless remain well out of reach of the average HPAP buyer in 2010.

Policy Recommendations

Increase the maximum amount of closing cost and down payment assistance in the HPAP program. As home sales being to rise again in the District, which they are expected to start to do in 2010, the purchase power of the current maximum HPAP loan size will be limited. In order to help more low- and moderate income homebuyers, the District should increase the maximum loan amount to help these low- and moderate income DC residents continue to be able to afford homes in the District as prices rise.

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[i] To see the varying assistance levels, visit: http://www.gwul.org/docs/HPAPGuidelines.pdf

[ii] Coalition for Non-Profit Housing and Economic Development, *An Affordable Continuum of Housing — Key to a Better City*, July 2010. Available at: www.cnhed.org

[iii] Ibid.

[iv] Greater Washington Urban League, *Home Purchase Assistance Programs Annual Report 2009*.

AFFORDABLE HOUSING TAX ABATEMENTS

For more information on Affordable Housing Tax Abatements please contact
Bob Pohlman at bpohlman@cnhed.org or call 202-745-0902

What are Affordable Housing Tax Abatements?

Affordable Housing Tax Abatements occur when the District of Columbia forgives all or some portion of residential real property tax on housing for a period of time in exchange for the owner making some or all of that housing affordable to households with incomes below agreed upon levels. Property tax is a significant part of operating cost for affordable housing. If forgiven it could reduce operating costs (see example below) by $100 or more per month per unit.[i] As a result an affordable housing provider could lower rents by that amount or could assume more private debt and reduce the amount of upfront development finance assistance requested from the District of Columbia's affordable housing finance programs such as the Housing Production Trust Fund.

Typically, tax abatements granted for affordable housing are for a fixed period of time or for the life of the building, so long as the terms and conditions of affordability are met.

Background on Tax Abatements for Housing

Under current District law, certain types of affordable rental housing are already exempted from real property taxation. These include housing owned and operated by a "public charity," which is typically housing accompanied by supportive services for residents with disabilities or other special needs. Multi-family rental housing assisted through a federal U.S. Department of Housing and Urban Development program and owned by a non-profit is also eligible for a tax exemption. Other affordable rental housing, even if owned by a non-profit, is not tax exempt and must bear the full burden of real property taxation. Additionally, housing for persons with special needs provided by a public charity can be subject to real property taxation if financed with the federal Low Income Housing Tax Credit Program, because the program mandates that there be a for-profit general partner involved with the property for the life of the credits.

Tax abatements can be a useful tool for affordable housing development and operation. However, the District currently uses a piecemeal approach to awarding these abatements which lacks criteria for awards and a rigorous and transparent evaluation of whether the project need and public benefits gained merit the abatement. This has allowed a number of developers of market rate housing with small set asides of affordable units to seek property tax abatements, some even after their projects have been completed.

In addition the budgetary process for granting tax abatements is cumbersome and inefficient. Before a tax abatement can be approved by the DC Council, a fiscal impact statement is required from the District's Chief Financial Officer (CFO) certifying the potential loss of revenue from forgone taxes. Unless the mayor has already included the proposed abatement in his budget submission to the Council, however, the abatement cannot be granted until new revenues or reduced spending is identified to offset the projected revenue loss. At times this leads to questionable shifts in funding for abatements with limited public benefits, while significant delays can occur in granting tax relief for affordable housing projects where abatements are clearly warranted. Also, in instances where affordable special needs housing projects owned by non-profits are being redeveloped using Low Income Housing Tax Credits, the properties have often been previously exempt. Thus there is no real loss of current revenue from an abatement. The CFO, however, typically determines an estimate of lost revenue based on future revenue that would not be collected if the abatement was granted, thus making it more difficult for affected non-profits to obtain an abatement despite the lack of any real revenue loss.

Policy Recommendations

The District should set aside a capped amount in the budget each year for property tax abatements for affordable housing. In determining the use of these funds, the District should:

- Provide guidelines on when abatements will be permitted and how public benefits will be measured.
- Provide some type of preference for abatements for projects that were tax exempt prior to redevelopment and thus result in no loss of current revenue.
- Delegate administration of affordable housing abatements to the Department of Housing and Community Development, requiring the agency to determine the amount of abatement needed to finance the development and/or operation of affordable housing projects granted an abatement.

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[i] Example: assume a renovated or new rental property has an assessed value of $140,000 per unit. Applying the residential property tax rate of $.85 per $100, annual property tax would total $1,190 or approximately $100 per month.

FORECLOSURES

For more information on Foreclosures please contact Jenny Reed at reed@dcfpi.org or at 202-408-1080

Background on Foreclosures in the District: One of the most devastating outcomes of the economic recession and housing market collapse has been a rapid increase in foreclosures. A foreclosure can result if the homeowner falls behind on their mortgage payments and results in the mortgage lender selling the property to recoup past due payments.

While some of the surrounding counties in the Washington metropolitan area have been hit much harder by foreclosures than the District, the District has still seen a rapid increase in foreclosures in the past three years. In fact, in DC, foreclosures have consistently risen since 2006, increasing from 229 foreclosure notices filed in the first quarter of 2006, up to 911 foreclosure notices files by the first quarter of 2009 — a nearly 300 percent increase.[i]

A major factor in the rapid increase in foreclosures was the use of subprime lending. In DC, African-American homebuyers, homebuyers in neighborhoods East of the River, and homebuyers with lower incomes were more likely to obtain have received a sub-prime loan than others groups.[ii] In 2009, Wards 4, 7, 5, and 8 have seen the highest levels of foreclosures, respectively. While sub-prime lending continues to make up the larger portion of foreclosures, prime loans are starting to become a larger and larger share of foreclosures. This likely means that unemployment — and the resulting lost income — is now becoming one of the critical factors leading to a foreclosure.

Because of the concentrated use of sub-prime loans in certain area of DC, another major concern of the rapid increase in foreclosures is devastating effect they can have on neighborhoods. A large amount of foreclosures in a particular area can destabilize a neighborhood, leading to a rapid increase in vacant property and declining home values. The U.S. Department of Housing and Urban Development has led a response to this problem through the Neighborhood Stabilization Program. DC's Department of Housing and Community Development has received $2.8 million of this funding to help stabilize neighborhoods and has chosen to allocate the funds to Ivy City — which has a homeownership rate of just 12.7 percent and a total housing vacancy rate of 60 percent — and the Trinidad neighborhoods.[iii]

Foreclosures do not affect only homeowners. Renters can also be displaced by foreclosures. In the District, this is especially concerning as the majority of DC residents are renters. A report on renters and foreclosures in DC by the Urban Institute noted that, in a foreclosure process, typically only the owner of the home is notified about a foreclosure and there is no legal requirement to notify tenants as well. Therefore, according to a report, renters are often unaware their home may be in foreclosure, unaware of the rights they have as tenants in the District, and as a result may be unnecessarily displaced from their home in the process.[iv]

In response the rapid rise in foreclosure and the devastating effect they can have on individuals and neighborhoods, the Capital Area Foreclosure Network was formed (CAFN). The CAFN was launched by the Metropolitan Washington Council of Governments and the Nonprofit Roundtable of Greater Washington and includes local government representatives, non-profits, and funders to help prevent foreclosures in the Washington metropolitan region. The group provides outreach, assistance and information for both renters and homeowners affected by foreclosures.

Policy Recommendations

Increased funds for outreach, prevention, and assistance for residents affected by foreclosures. In the District, a number of community-based non-profits provide outreach and housing counseling services to both renters and homeowners. However, these organizations have seen a substantial increase in the number of residents seeking assistance because of the foreclosure crisis. Additionally, community based organizations are finding that too often, residents in the District are unaware of their rights in a foreclosure process or how to get assistance. Additional funds for outreach and services would help these organizations meet the demand for foreclosures assistance.

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[i] Neighborhood Info DC, District of Columbia Housing Monitor, Spring 2009, available at: http://www.neighborhoodinfodc.org/housing/DCHousingMonitor_2009_2/

[ii] Peter Tatian, Foreclosures and Renters in Washington, DC, The Urban Institute, April 24, 2009, available at: www.urban.org

[iii] Coalition for Nonprofit Housing and Economic Development, *An Affordable Continuum of Housing — Key to a Better City*, July 2010, available at: www.cnhed.org

[iv] Tatian, 2009

COMMERCIAL LINKAGE PROGRAM: USING DEVELOPMENT FEES TO HELP MEET THE NEED FOR HOUSING CREATED BY COMMERCIAL DEVELOPMENT

For more information, contact Elinor Hart, hart1651@juno.com, 202-387-2966

What is a commercial linkage program?

Commercial linkage programs charge large commercial developments one-time fees which help pay for the affordable housing needed by the people employed by commercial developments. The cities of Boston, San Francisco, and Seattle as well as a number of Washington area suburban jurisdictions collect linkage fees from commercial developments that meet or exceed significant size thresholds. These fees are charged on a per square foot basis.

Commercial linkage programs are justified by the need for affordable housing created by economic development projects. Before establishing commercial linkage programs, cities and counties typically conduct nexus studies to quantify the relationship (or nexus) between commercial development and the need for housing for low and moderate income workers.

Commercial Linkage in DC

In 2006, the Comprehensive Housing Strategy Task force recommended that a nexus study be done for DC and that a commercial linkage program be established in the District. In 2007, the DC Office of Planning commissioned Bay Area Economics (BAE) to conduct a nexus study.[1] According to the study, the need for affordable housing created by commercial development is so great that a per-square-foot fee of $64.55 can be legally justified. BAE, however recommended that the District's commercial linkage fee not exceed $10 per square foot. Bay Area Economics also recommended that the fee be phased in over a period of two years to make it possible for development financing to cover commercial linkage fees.

Recommendations

Given, the severity of DC's affordable housing crisis and the strength of the office market here, the Affordable Housing Alliance recommends that DC establish a commercial linkage program as soon as possible. We concur with Bay Area Economics' recommendation that the program be phased in over a two-year period.

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[1] Electronic versions of the study, "Commercial Linkage Fee Nexus Analysis," are available from DC Fiscal Policy Institute. Contact Jenny Reed, reed@dcfpi.org.

INCLUSIONARY ZONING: INTEGRATING AFFORDABLE HOUSING INTO NEW DEVELOPMENT TO BUILD INCLUSIVE NEIGHBORHOODS

For more information please contact: Cheryl Cort, Coalition for Smarter Growth, cheryl@smartergrowth.net or at 202-244-4408, ext. 112

What is Inclusionary Zoning?

D.C. enacted Inclusionary Zoning (IZ) into law in late 2006. The final regulations for the law went into effect on August 14, 2009. IZ requires that all new residential developments of 10 units or more set aside 8-10 percent of the homes affordable to families earning low and moderate incomes in exchange for the right to build additional units.

Income targeting for IZ means that households earning 50-80 percent of the area median income (AMI) can buy or purchase a unit. For a family of four this amounts to household income between $51,350 and $82,160. At low density sites, the set-aside of affordable units is 10 percent of the total, with half of the units offered to households earning 50 percent of the area median income, and the other half offered to households earning 80 percent AMI. For higher density sites, the law requires that 8 percent of the units be offered to households earning up to 80 percent of AMI. To compensate the developer, the zoning rules allow 20 percent more housing on site. Thus this program creates new affordable housing opportunities using non-monetary benefits through a zoning density bonus.

D.C. residents and people who work in D.C. are given first preference for the affordable units. They apply to become eligible for lotteries conducted by the city through http://dchousingsearch.org/. The city established coordinators in Department of Housing and Community Development to administer the program. The Official website: http://dhcd.dc.gov/dhcd/cwp/view,a,1243,q,647468.asp

Background

This kind of policy is practiced by hundreds of jurisdictions around the country including Montgomery, Fairfax and Arlington. Montgomery County, MD was the first to implement IZ back in the 1970's. Since then, IZ helped create over 11,000 units of affordable housing in the County, though most of these units were lost to market rates due to the expiration of control periods. The D.C. Zoning Commission decided to require that the IZ units maintain their affordability for families with low and moderate incomes for the life of the building to avoid the problem of expiring terms experienced by Montgomery County.

In practical terms, IZ means that expensive condo buildings will also include some units affordable to people earning moderate incomes. For example, a 70 unit building would likely have 8 percent moderately price condos, or a total of 6 condos. This policy would provide affordable housing opportunities throughout the city with few exceptions – wherever housing is being built. Similar to Montgomery County's experience, the program is projected to be one of the most productive housing programs in the city – providing approximately 170 units a year once the housing market recovers -- at virtually no cost to the city.

Recommendations

Since IZ went into effect in August 2009, few new residential projects have moved forward and none were subject to the law due to the housing market slowdown. As the housing market recovers, IZ will produce affordable units in a way that helps maintain the diversity of housing choices throughout city neighborhoods.

We urge public officials to monitor implementation and ensure that program administration has appropriate resources to help developers, building owners and applicants receive the guidance they need for a well-functioning program.

ZONING FOR HOUSING CHOICES: HOW LAND USE DECISIONS CAN CREATE MORE AFFORDABLE HOUSING IN DC

For more information on zoning choices contact Cheryl Cort, cheryl@smartergrowth.net or at 202-444-4408 x 112

Background

Land use policies that restrict or pre-empt compact transit-oriented housing around Metro stations and transportation corridors contribute to the chronic undersupply of housing in highly accessible locations. This undersupply results in fewer housing choices for low wage employees, teachers, young families, and seniors needing more affordable homes and access to transit. Additionally, zoning and development review processes often unnecessarily make housing more difficult and costly to build, and prevent the creation of accessory apartments. Zoning requirements have often required more parking than is needed, consequently raising construction costs and reducing overall densities, thereby excluding households from otherwise living in walkable neighborhoods well-served by transit.

The city is updating its zoning rules to ensure they meet today's needs rather reflect the views of the 1950s when the zoning code was written. This can help provide updated zoning approaches to accommodate needed housing while enhancing existing neighborhoods. Transit-oriented development (TOD) and better managing parking are two important tools for increasing the supply of affordable housing.

Transit-oriented development zoning encourages new businesses and housing -- including affordable housing -- in locations and densities sufficient to support efficient bus or rail transit service and to allow for more errands to be accomplished by walking or bicycling. At most D.C. Metro stations and along major bus corridors, infill development with ground floor shops can help create safer, walkable neighborhood centers while significantly addressing housing demand. New development and redevelopment near high frequency transit service should provide sufficient housing at net densities of 30-200 units per acre, depending on the type of transit and the scale of the neighborhood. Placing low density housing at Metro station wastes the potential to accommodate growth in a way that reduces environmental impacts and gives people more travel choices. In adjacent residential neighborhoods, encouraging accessory dwelling units in homeowners' homes can provide a seamless way to create new affordable housing opportunities in existing houses.

Policy Recommendations

- Identify vacant sites and underutilized land for reuse as mixed housing and commercial space.
- Rezone unneeded industrial land for mixed use near Metrorail stations and major bus corridors. Encourage building housing above commercial space.
- Manage parking to reduce its impact on housing costs. Where D.C. government agency controls land or provides subsidies for residential development, require that parking be sold separately from housing; and reduce parking supply by offering transit passes, ZipCar memberships and other incentives to reduce the need to own a car. Manage on-street residential parking to ensure that new construction is not forced to add costly parking.
- Support urban pedestrian-oriented design standards that enhance the quality of new development and enhance the existing neighborhood.
- Support standards for permitting accessory units that increase their availability and affordability.