

Memorandum



CITY OF DALLAS

DATE November 2, 2018

TO Members of the Economic Development & Housing Committee: Tennell Atkins, Chair, Rickey D. Callahan, Vice-Chair, Lee M. Kleinman, Scott Griggs, Casey Thomas, II, B. Adam McGough, Mark Clayton, Kevin Felder, Omar Narvaez

SUBJECT Amendments to Chapter 20A to Outline the Procedures for Monitoring Developers' Compliance with Mixed Income Housing Development Bonuses

On Monday, November 5, 2018, the Economic Development and Housing Committee will consider an amendment to Chapter 20A that outlines the procedures for monitoring developers' compliance with mixed income housing development bonuses.

Summary

Staff are proposing amendments to the Dallas Development Code to allow for mixed income housing development bonuses and to Chapter 20A of the Dallas City Code to create regulations that set forth the manner in which a developer identifies households that are eligible to lease reserved dwelling units, the applicable rents that must be charged, and the documentation that must be reviewed and maintained during the 15 year affordability period, among other items. This memorandum summarizes the proposed amendments to Chapter 20A.

Background

The Zoning Ordinance Advisory Committee (ZOAC) considered amendment to the Dallas Development Code to allow for mixed income housing development bonuses (formerly referred to as incentive zoning) at 12 public meetings between June 22, 2017 and September 6, 2018, and on September 20, 2018, ZOAC recommended the proposal move to the City Plan Commission. On October 4, 2018, the City Plan Commission (CPC) recommended approval of the amendment.

The proposed amendments to Chapter 20A create the regulatory framework that guides a developer's compliance with mixed income housing development bonuses. This regulatory framework is summarized below.

Once a developer voluntarily decides to obtain a mixed income housing development bonus, the developer will be required to file restrictive covenants in the real property records of the county in which the housing development project is located that will bind the developer and any future owners (Owner) to create and maintain reserved dwelling units for lease to and occupancy by households earning incomes within designated ranges of incomes, as provided in the Dallas Development Code, for a period of at least 15 years. Proof of filing of the restrictive covenant must be provided to the Department of

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Sustainable Development and Construction (SDC) at the time the Owner files for a building permit.

After the residential structure or structures are built, and prior to marketing any units for lease, the Owner will be required to draft and obtain City approval of an affirmative fair housing marketing plan. The Owner should also draft written policies related to tenant selection, applicant screening, wait lists, occupancy standards, and unit transfers, among other items.

Once households start applying to lease reserved dwelling units, the Owner will be required to identify households who are eligible to lease the units. The eligibility determination will include reviewing documentation provided by applicants to identify: family size, annual income, and adjusted income. The proposed ordinance directs Owners to use guidelines set forth in the Housing and Urban Development (HUD) Handbook 4350.3 to make eligibility determinations. At lease renewal, the Owner is not required to review source documentation to verify a household's eligibility to continue leasing a reserved dwelling unit; instead, the Owner may allow eligible households to recertify their eligibility. However, once every 6 years during the affordability period for the development, the Owner must recertify the eligibility of all eligible households using source documents.

After making the initial eligibility determination about a household, the Owner will identify whether the household's income is within the range of incomes for which units are reserved, and whether any of the available units are dwelling units of adequate size for the household. Each eligible household must be charged an affordable rent, which is defined as a monthly tenant rental housing payment, less an allowance for utilities, that does not exceed 30 percent of an eligible household's adjusted income.

During the term of the affordability period, the Owner will be required to maintain documentation of compliance with the ordinance and such documentation is subject to audit by the City. Should the City determine that the Owner is not in compliance with the ordinance, the City will provide written notice of any deficiencies and an opportunity to cure. For any deficiencies that are not timely cured, the City may cite the Owner, seek specific performance, or, for substantial deficiencies, extend the affordability period.

Issues

Staff anticipate that some developers who are interested in applying for a mixed income housing development bonus will not have previously developed a project that included an affordable housing component. Staff will need to educate these developers about their responsibilities early in the development process so that developers can make an informed decision regarding whether to obtain a mixed income housing development bonus and can successfully comply with the terms of the ordinance.

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Fiscal Impact

If mixed income housing development bonuses are approved by Council via the adoption of the proposed amendments to the Dallas Development Code and Chapter 20A, there will be costs associated with the staff time required to administer the ordinances. A fee study is underway to determine the estimated cost to administer the ordinances and staff will use the results of the fee study to select a proposed fee that would be charged to developers who apply for and obtain a mixed income housing development bonus.

Departments/Committee Coordination

Administering mixed income housing development bonuses will require coordination amongst the Sustainable Development and Construction Department, the Department of Housing and Neighborhood Revitalization, the Office of Equity and Human Rights and the Department of Planning and Urban Design.

Staff Recommendation

Staff recommends that the Economic Development and Housing Committee vote to forward the proposed amendments to City Council for consideration.



David Noguera
Director, Department of Housing & Neighborhood Revitalization

Chris Caso, City Attorney (I)
Carol A. Smith, City Auditor (I)
Billerae Johnson, City Secretary
Preston Robinson, Administrative Judge
Kimberly Bizer Tolbert, Chief of Staff to the City Manager
Majed A. Al-Ghafry, Assistant City Manager

Jon Fortune, Assistant City Manager
Joey Zapata, Assistant City Manager
Nadia Chandler Hardy, Assistant City Manager and Chief Resilience Officer
M. Elizabeth Reich, Chief Financial Officer
Directors and Assistant Directors

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**Economic Development and Housing Committee
November 5, 2018**

**Maureen Milligan, Interim Assistant Director
Housing & Neighborhood Revitalization
City of Dallas**



Presentation Overview

- Purpose
- Background
- Proposal
- Recommendation



Purpose

- Brief the Committee on proposed amendments to Chapter 20A of the Dallas City Code to create regulations for monitoring developers' compliance with mixed income housing development bonuses
- Seek Committee approval to forward amendments to City Council for consideration

Background

- Today, Committee was briefed on proposed amendments to the Dallas Development Code creating regulations for mixed income housing development bonuses
- Proposed Development Code amendments address the regulations that apply to the reserved dwelling units in properties that take advantage of mixed income housing development bonuses
- Proposed amendments to Chapter 20A set forth the manner in which an owner identifies households that are eligible to lease reserved dwelling units, the applicable rents that must be charged, and the documentation that must be reviewed and maintained during the 15 year affordability period, among other items



Proposal

General Strategies:

- Create a regulatory framework to identify the standards for compliance and track compliance without consuming unnecessary time and resources
- Adopt HUD eligibility regulations when appropriate
 - Utilize established HUD training and regulatory guidance

Proposal

Household Eligibility Determinations

- Owner must assess household's eligibility prior to approving a household to lease a reserved dwelling unit and on an annual basis
- Eligibility determinations must be performed in accordance with the HUD Handbook 4350.3 unless ordinance specifically exempts compliance
 - Determine family size and annual income in accordance with handbook
 - Use Part 5 method of determining income
- Use source documents to verify household's eligibility at initial lease; self-certification by household at lease renewals
 - At project's affordability period years 6 and 12, owner must re-certify all eligible households using source documents

Proposal

Affordable Rent

- Rent that may be charged for a reserved dwelling unit will vary depending on household's adjusted income
 - Affordable rent = rent is no more than 30% of eligible household's adjusted income

Tenant Selection and Other Written Policies

- Ordinance requires that policies must be *created* but does not dictate the *terms* of the policies
 - Applicant screening, tenant selection, wait list, occupancy standards, unit transfers, etc.
 - Owner may not discriminate against households using vouchers

Affirmative Fair Housing Marketing Plan

- Plan must be approved prior to marketing any units for lease
- Plan must describe the advertising, outreach and other marketing activities that will be used to inform underserved renters of the available reserved dwelling units
 - City will provide form

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Proposal

Other regulations

- Reserved dwelling unit must be eligible household's primary residence
- No sub-leasing/short-term rental of reserved dwelling unit
- Financial assistance received by students in excess of amounts received for tuition is included in annual income

Proposal

Reporting Requirements

- Quarterly status reports
 - For the reserved dwelling units, provide: unit number and unit type, household income, certification/re-certification date, rent, etc.
 - City will provide form

Recordkeeping and Audit/Inspection

- Owner must maintain required documentation in the eligible household's file
- City may audit files and inspect reserved dwelling units (and non-reserved dwelling units for comparison purposes)

Proposal

Notice and Opportunity to Cure

- Written notice of deficiency must be provided to owner
- 30 day corrective action period for failure to file quarterly status report
- 90 day corrective action period for other deficiencies

Enforcement

- Affordability period will be extended for period of significant non-compliance
- Restrictive covenants may be enforced through specific performance (i.e. City could seek court order requiring non-compliant owner to provide reserved dwelling units)
- Violation of ordinance is also a Class-C misdemeanor offense

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Proposal

Modification of 20A-4.1 (Housing Voucher Incentives)

- Replace “density bonus” with “mixed-income housing development bonus or increased development standards for a multi-family use in a planned development district.”

Recommendation

Staff recommends that the Economic Development and Housing Committee vote to forward the proposed amendments to City Council for consideration.

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**Economic Development and Housing Committee
November 5, 2018**

**Maureen Milligan, Interim Assistant Director
Housing & Neighborhood Revitalization
City of Dallas**

